

**Hannah Elliott**



**From:** Dawn Ann Hudson <morning.grace325@gmail.com>  
**Sent:** Thursday, June 30, 2022 1:58 PM  
**To:** Plan; Eric Blaine  
**Subject:** Crossing Trails Destination Resort Modification - Objection  
**Attachments:** DR-08-0092 Objection Final.pdf

**CROOK COUNTY**  
**JUN 30 2022**  
**PLANNING DEPT**

Good afternoon,

Attached is a document with items of objection.

Thank you for your time.

Kind regards,

Dawn Ann Hudson  
9719 SW Houston Lake Road  
Powell Butte, OR 97553

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June 30, 2022

## **Memorandum of Objection to the Modification of Crossing Trails Destination Resort – DR-08-0092**

Submitted via email to: Crook County Planning Commission [plan@co.crook.or.us](mailto:plan@co.crook.or.us), Director of Development [plan@co.crook.or.us](mailto:plan@co.crook.or.us) and Crook County Attorney's Office [eric.blaine@co.crook.or.us](mailto:eric.blaine@co.crook.or.us)

From: Dawn Ann Hudson (Objector and Concerned Citizen)  
9719 SW Houston Lake Road  
Powell Butte, OR, 97753  
[morning.grace325@gmail.com](mailto:morning.grace325@gmail.com)

As a newer resident (arriving in Central Oregon after 2009) at the junction of SW Houston Lake Road and S. Parrish Lane, I formally request:

1. that this memorandum be entered into record as my objection for Crossing Trails Destination Resort - Modification DR-08-0092
2. to receive notice of any hearing or decision regarding Crossing Trails Destination Resort DR-08-0092
3. Be allowed to speak, ask questions and present evidence at any and all hearings and appeals related to Crossing Trails Destination Resort DR-08-0092

In advance, I appreciate my rights of freedom under national, federal and state laws that allow me, as an American citizen, to participate in important decision-making issues within my county.

As a constituent of Crook County, I look forward to hearing what the County has to say in regards to my information.

### **Fact:**

On January 2, 2009, the Crook County Court approved the application for a Conditional Use Permit for Crossing Trails Destination Resort that was approved by the Crook County Planning Commission on September 9, 2008 and the Crook County Planning Commission subsequently issued its written decision on October 22, 2008. This started the time period for the Applicant regarding any future extensions that needed to be requested in writing and accompanied with appropriate extension fees.

### **Fact:**

The above dates are verifiable via the Crook County Court Final Decision in the matter of a LUBA Remand of an Appeal Fee request for Alexander et al. heard on October 6, 2010 and recorded by the County on October 20, 2010; where the County Court plainly states that the date of approval for Crossing Trails Destination Resort DR 08-0092 was January 2, 2009. The context of the Remand for Appeal Fees does not amend, modify, revoke or reject the approved application of the Applicant of Crossing Trails Destination Resort DR-08-0092, and therefore, would not effect the application approval date of January 2, 2009.

Pursuant to 18.160.070 (1) A conditional use shall be void after four years unless development action has been initiated, the proposed use has occurred or the county has granted an extension of the time in accordance with subsection (2) of this section.

(2) The county shall grant two-year extensions to the four-year time period set forth in subsection (1) of this section as planning director decisions pursuant to CCC 18.172.060(2).

**QUESTION:**

Can the County prove to its constituents that the Applicant (818 Powell, LLC) of Crossing Trails Destination Resort DR-08-0092 gave the timely written requests and paid the appropriate extension fees prior to each and all extensions according to CCC 18.172.060(2)(e)(i) and 18.172.060(2)(e)(ii) – prior to edits made to the Crook County Code changed by Ord. 330 § 10 (Exh. I), 2022; Ord. 326 § 7 (Att. A), 2021; Ord. 323 § 6 (Att. A), 2021; Ord. 321 § 4, 2020 or Ord. 317 § 6, 2020 – as these were not in effect when the extensions may have been granted for January 2, 2013 and extension on January 2, 2015?

Can the County prove to its constituents that the Applicant (818 Powell, LLC) of Crossing Trails Destination Resort DR 08-0092 gave the timely written requests and paid the appropriate extension fees prior to January 2, 2017 and January 2, 2019 according to CCC 18.172.060(2)(e)(i) and 18.172.060(2)(e)(ii) – prior to edits made to the Crook County Code changed by Ord. 330 § 10 (Exh. I), 2022; Ord. 326 § 7 (Att. A), 2021; Ord. 323 § 6 (Att. A), 2021; Ord. 321 § 4, 2020 or Ord. 317 § 6, 2020 – as these were not in effect when the extensions may have been granted; and gave the timely written request and paid the appropriate extension fee prior to January 2, 2021 for CCC 18.172.060(2)(e)(i) and 18.172.060(2)(e)(ii)- not including Ord. 330 § 10 (Exh. I), 2022; Ord. 326 § 7 (Att. A), 2021 as these were not in effect when the extension may have been granted.

**Fact:**

On October 30, 2010, Crook County Director, Ann Beier, wrote a letter to the Applicant of Crossing Trails Destination Resort DR-08-0092, 818 Powell, LLC that indeed confirmed that the Remand of Appeal Fees Final Decision for Alexander et al. recorded by the County Court on October 20, 2010 had nothing to do with the time periods and fees for the extension of the Conditional Use Permit in regards to Crossing Trails Destination Resort DR 08-0092.

In this letter, Crook County Director, Ann Beier, also confirmed the final extension date in which the Applicant needed to satisfy CCC 18.160.070 (3) in regards to “initiate development” as January 2, 2021.

To date, there has been no initiation of development and according to the original Crossing Trails Final Decision Page 55 No. 44 – “No plats for individual phases shall be recorded, ***no construction of overnight units or infrastructure shall commence*** nor shall the sale of individual lots occur prior to the execution of Memorandum of Understanding related to transportation facilities and wildlife mitigation and any other conditions requiring said memorandum, except as approved by the County Court. Failure to abide by this condition may result in County enforcement action.”

**QUESTION:**

Can the County provide its constituents with the proper Memorandum between the Applicant and the Oregon Department of Transportation and the Oregon Department of Fish & Wildlife and any other local, state or federal agency required by the County?

**Fact:**

**Oregon Statewide Goal 8 - Destination Resort Siting – Eligible Areas (1)(a):**

... A map adopted by the County may not allow destination resorts approved under the provision of this goal to be sited in any of the following areas:

(a) Within 24 air miles of an urban growth boundary with an existing population of 100,000 or more unless residential uses are limited to those necessary for the staff and management for the resort:

**FACTS:**

1. The T15S R15E Tax Lot 100, 106, 109 and 110 are 26 land miles (17.33 air miles) from Bend's Northeast Urban Growth Boundary.
2. According to the US Census – Bend, Oregon has a population of 102,059 on July 1, 2021 and estimate it to increase by 2.77% by the end of 2022.
3. Page A 5 & 6 of Crossing Trails Destination Resort Modification **IGNORES** this by describing "Vacation Villas (400 Units): These units range in size from 1,600 SF to 2,000 SF. These units are fee simple ownership units with leased parcels."
  - "Simple Ownership" - Fee simple is a legal term used in real estate that means: full and irrevocable ownership of land, and any buildings on that land. Fee simple is the highest form of ownership — it means the land is owned outright, without any limitations or restrictions other than local zoning ordinances.

**\*\*\*Crossing Trails Destination Resort is no longer properly sited according Oregon Statewide Guidelines**

**Oregon Statewide Goal 8 – Destination Resort Siting – Eligible Areas (1)(b)**

- (b) On a site with 50 or more contiguous acres of unique or prime farm land identified and mapped by the United States Natural Resources Conservation Service or its predecessor agency; or ***within three miles of a High Value Crop Area except that "small destination resorts"*** may not be closer to a high value crop area than one-half mile for each 25 units of overnight lodging or fraction thereof;

**Oregon Statewide Goal 8 Definitions:**

**High-Value Crop Area** -- an area in which there is a concentration of commercial farms capable of producing crops or products with a minimum gross value of \$1,000 per acre per year. ***These crops and products include field crops,***

small fruits, berries, tree fruits, nuts, or vegetables, dairying, livestock feedlots, or Christmas trees as these terms are used in the 1983 County and State Agricultural Estimates prepared by the Oregon State University Extension Service. The High-Value Crop Area Designation is used for the purpose of minimizing conflicting uses in resort siting and is not meant to revise the requirements of Goal 3 or administrative rules interpreting the goal.

**FACTS:**

1. Crossing Trails Destination Modification Page B-3 18.116.030 Definition is **INCORRECT**.
2. Crossing Trails Destination Modification states on Page B-14 “18.116.050 Standards for small destination resorts. **This criterion is not applicable to this application since it not considered a “small destination resort”.**”
3. Township 15 South, Range 15 East, Section 17 Tax Lots 100, 106, 109 and 110 are **ALL** within 3 Miles of High-Value Crop Areas.

**Oregon Statewide – Guidelines for Goal 8**

**“A. PLANNING**

1. An inventory of recreation needs in the planning area should be made based upon **adequate research and analysis of public wants and desires.”**

As proven by Crook County Voters on May 20, 2008 voted 4,409 to 2,333 in favor of advisory ballot Measure 7-47 to remove the Destination Resort Overlay Zone Map (Eligibility Map) – this was recognized by the County Court and signed into record on October 7, 2009, **Powell Butte, as a community, DOES NOT WANT NOR DESIRE a destination resort within its city limit boundaries.**

According to all the information provided above, the Conditional Use Permit for Crossing Trails Destination Resort is **EXPIRED and VOID**.

**POINTS OF CONCERN/CONTRADICTION**

**Fact:**

There is a current copy of the Crossings Trails Development Plan – Modification; yet there is no County Approved Final Development Plan available:

**QUESTION:**

Can you please supply the original Crossing Trails Approved Development Plan and when it was originally submitted to the County that fulfilled all the 45 Conditions of Approval documented in the Crossing Trails Final Decision dated January 2, 2009 that would satisfy 18.116.110 and consequently 18.172.040 – prior to the indoctrination of Ord. 330 § 10 (Exh. I), 2022; Ord. 326 § 7 (Att. A), 2021;

Ord. 323 § 6 (Att. A), 2021; Ord. 321 § 4, 2020 or Ord. 317 § 6, 2020 – as the Approved Development Plan should have been required prior to any ‘modification’; but also so that it can be determined and seen what is a “modification” and what is “materially different” according to 18.116.110?

“**Materially Different**” - change in type, scale, location or other characteristics of the proposed development such that finding 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 the aspects of the proposed development that are materially different from the Approved Development Plan.”

**Fact:**

The County is **not** presenting an Amended Development Plan but they are presenting a Development Plan – Modification.

However, from the Conditions of Approval set forth in the Crossing Trails Final Decision and required by the Applicant, according to 18.116.110, an Approved Development Plan for Crossing Trails should be available for public access and noted as to when the County received the initial Development Plan and when that initial Development Plan was approved by the County that was to include all Conditions of Approval.

**QUESTION:**

Can the County provide its constituents with the date that they received a Development Plan from the Applicant and the date that the County approved such Development Plan?

However in comparing the Final Decision with the Development Plan Modification:

1. It is “**materially different**” comparing the Final Decision Page 43 Paragraph 10 through Page 45 Paragraph 1 – that states that the water resources for the Crossing Trails Destination Resort will be provided by Avion water wells drawn from the Deschutes Regional Aquifer and not the Powell Butte Aquifer.

and

Atwell, LLC’s Conceptual Water and Sewer Plan in the Development Plan Modification that states:

The water system approach consists of two components: 1) Water Conveyance and 2) Water Service

1) The conveyance includes:

- Drill a new well to the subject property or exercise service agreement through a water purveyor to the subject property
- Build water reservoir

2) The Water Delivery consists of constructing mains within the right of way under the road surface (minimum of 10-foot separation from sewer). The sizing of the water mains is dependent upon number of units within each phase. Water design will accompany each phase of development and will be subject to review and approval by the water provider and the County to ensure the appropriate sizing.

**CONTRADICTS:** Final Decision Conditions of Approval No. 26 - "Potable/domestic water shall be provided by Avion or another commercial water company drawing from the Deschutes Regional Aquifer.

2. It is "**materially different**" when comparing Crossing Trails Final Decision Page 45 Paragraph 5 through Page 46 Paragraph 2 which states:

#### *Sewer Facilities*

...

As described in the Master Plan, Applicant will use a septic tank effluent pump ("STEP") and septic tank effluent gravity ("STEG") system. Primary treatment of sewage will occur in the septic tanks. Effluent will flow from the tanks into the collection system. Where topography will not allow for gravity flow from the tanks, a pumping system will lift effluent to the collection system. Applicant will use membrane bioreactors ("MBR") technology for wastewater treatment. Disposal and reuse options will focus on subsurface drip disposal systems, and seasonal drip irrigation reuse. Any re-use water with the potential for human contact, such as water features, will be treated to "Level IV," suitable for any use except direct consumption. Septic tank solids and biological treatment solids will not be treated on site, but instead will be appropriately transported for off-site processing and disposal in accordance with state and local requirements.

and

Atwell's Conceptual Water and Sewer Plan in the Development Plan Modification that states:

The sewer system also consists of two components: 1) Waste Water Treatment and 2) Sewerage Collection

- 1) The Waste Water consists of a community sewage systems **that will treat the waste water and discharge the treated effluent it on the resort property;** and
- 2) The Sewerage Collection consists of constructing mains within the private road surface (minimum 10-foot separation from water). The sizing of the sewer mains is dependent upon number of units within each phase. Sewer design will accompany each phase of development and will be subject to review and approval by DEQ and County to ensure the appropriate sizing.

**REQUIRED:** Final Decision Conditions of Approval No. 29 – Prior to tentative approval for the first phase of the resort, Applicant shall submit evidence to the Crook County Planning Department documenting DEQ approval of the WPCF permit from DEQ for the resort's sewage treatment facilities.

#### **QUESTION:**

Can the County provide its constituents with the evidence/proof that the WPCF permit was acquired for the new water and sewer plan prior to approval?