



July 27, 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, Director of Development plan@co.crook.or.us and Crook County Attorney’s Office eric.blaine@co.crook.or.us

From: Dawn Ann Hudson (Objector and Concerned Citizen)
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As a newer resident (arriving in Central Oregon after 2009) at the junction of SW Houston Lake Road and SW 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 walking through this Crossing Trails Destination Resort Modification process, I am uncovering more information that is of deep concern that is completely relative and relevant to the matter titled above.

Within my previous objection, I voiced concerns regarding the timeline and its inconsistency with documents that I had available. I currently have more evidence and information to make a more informed statement that the County Planning Development Commission made historical procedural errors and subsequently blatant and exceptionally costly, current mistakes (not just scrivener’s errors) in processing the Crossing Trails Destination Resort Application.

I’m going to call upon the County’s own code in working through my new “modified” objection based according to current code parameters as stated below:

18.172,100 – REVOCATION OR MODIFICATION OF PERMIT

3) The hearing authority shall hold a public hearing on any proposed revocation or modification requested by the hearing authority or the permittee after giving written notice to the permittee and other affected persons as set forth in this title. The hearing authority shall hold a public hearing on any proposed revocation or modification after giving written notice to

*the permittee and other affected persons as set forth in this title. **The hearing on the decision, which is subject to revocation or modification, is subject only to either the standards, criteria and conditions that were applicable when the original permit was issued or in effect at the time of the revocation or modification, whichever is less restrictive.** The hearing authority shall render its decision within 45 calendar days after the conclusion of the hearing. (Ord. 330 § 10 (Exh. I), 2022; Ord. 323 § 6 (Att. A), 2021; Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 18 § 9.100, 2003)*

FACTS:

All of these documents confirm that the Crook County Court approved DR-08-0092 on January 2, 2009

January 9, 2009 – Crook County Court Final Decision – Crossing Trails Resort Development Plan

October 20, 2010 – Crook County Court Final Decision – Appeal No. 08-281 Record No. 2010-105 – Decision Imposing a Local Appeal Fee (this is NOT a Land Use Decision).

August 9, 2013 Crook County Letter – Receipt of request for an extension to 818 Powell Butte, LLC

October 27, 2016 Crook County Letter – Receipt of request for an extension to 818 Powell Butte, LLC

PROCEDURAL ERRORS:

August 9, 2013 – Extension letter was written in the authority of the Assistant Planner. Since Ordinances 330, 323 or 317 were not yet in effect, The authority of this letter should have been designated for the signature of the Crook County Director – it was not.

October 27, 2016 – Extension letter was written in the authority of the Planner. Again, since Ordinances 330, 323 or 317 were not yet in effect, I believe the authority of this letter should have been designated for the signature of the Crook County Director – it was not.

MISTAKES:

August 13, 2013 Extension Receipt Letter Response – Letter begins with information pertaining to Owner: 818 Powell Butte LLC; DR-08-0092 Crossing Trails Destination Resort and in Paragraph 2 Sentence 3 records that the Application was approved by the Crook County Court on January 2, 2009 with an expiration date of June 26, 2011.

There is no correlation between January 2, 2009 and June 26, 2011 in any of the paperwork available to the public.

There is no Land Use Decision regarding Crossing Trails that was made on November 3, 2010. So there is absolutely no correlation between January 2, 2009 and any Land Use Decision dated November 3, 2010.

Crook County Final Decision – Appeal No. 08-281 (Alexander et al) – was in regards to Local Appeal Fees. ***It was NOT a Land Use Decision*** and as stated in the final paragraph on Page 8 of Crook County Record 2010-105 “....the decision became final October 20, 2010.

However, this same letter goes on to make the monumental mistake of imposing and including the timeline and expiration deadlines for CU DES 003-06; RMG Destination LLC for Remington Ranch Destination Resort. Imposing and associating the incorrect timeline and incorrect expiration dates of the Remington Ranch Destination Resort Application upon the Crossing Trails Destination Resort Application is a mistake.

I would like to challenge the County, that neither the Applicant nor the County ***ever submitted or received correspondence regarding application expiration*** for Crossing Trails Destination Resort prior to April 2, 2013 in regards to 18.172.060(2)(c) – to fulfill its due obligation to meet its first deadline of January 2, 2013; the Applicant would have needed to submit an extension request prior to January 2, 2013.

I also challenge the County to produce correspondence that it informed the Applicant of Crossing Trails Destination Resort that its/his/her expiration date was in fact November 3, 2010 prior to August 9, 2013. Because if the previous correspondence cannot be produced, the Applicant missed his first deadline of January 2, 2013 and the permit is void.

October 27, 2016 Extension Receipt Letter Response - Letter begins with information pertaining to Owner: 818 Powell Butte LLC; DR-08-0092 Crossing Trails resort and in Paragraph 2 Sentence 3 records that this Application was approved by the Crook County Court on January 2, 2009 with an expiration date of June 26, 2011.

Again, there is no correlation between January 2, 2009 and June 26, 2011. Again, there is absolutely no correlation or connection between January 2, 2009 and any Land Use Decision of November 3, 2010.

There is no Land Use Decision regarding Crossing Trails that was made on November 3, 2010.

Crook County Final Decision – Appeal No. 08-281 (Alexander et al) – was in regards to Local Appeal Fees. ***It was NOT a Land Use Decision*** and as stated in the final paragraph on Page 8 of Record 2010-105 “....the decision became final October 20, 2010.

Again, this same letter goes on to make the monumental mistake of imposing and including the timeline expirations for CU DES 003-06; RMG Destination LLC for Remington Ranch Destination Resort. Imposing and associating the incorrect timeline and incorrect expiration

dates of the Remington Ranch Destination Resort Application upon the Crossing Trails Destination Resort Application is a mistake.

October 27, 2016 Extension Receipt Letter Response – Item 3. Sentence 2 – uses bold and underline script to emphasize “**Final** two year extension is granted setting the current expiration to **November 3, 2018**.”

Even though the date of expiration is incorrect, How can the October 25, 2018 letter below exist if the County employee issued a “**Final** two year extension” in 2016?

October 25, 2018 Extension Receipt Letter Response – Item 1. “...Four years after the Crook County Court’s final approval on November 3, 2010”. It have already proven that Crook County Court’s Final Decision was documented as January 2, 2009.

Again, the County Planning Director is confusing the timeline of Remington Ranch Destination Resort, Owner: RMG Destination LLC with the Conditional Use Permit for Crossing Trails Destination Resort, Owner: 818 Powell Butte, LLC.

October 30, 2020 Extension Receipt Letter Response – County Planning Director finally publishes the correct timeline for Crossing Trails Destination Resort but then follows with a second letter dated November 10, 2020. Again, Paragraph 2, Sentence 2 and Sentence 3 are incorrect and a mistake.

The Final Opinion and Order of LUBA No. 2009-018 was December 17, 2009. Again, Crook County Appeal No. 08-281 (Alexander et al) – is regarding Local Appeal Fees. ***It is NOT a Land Use Decision***, based on CCC 18.172.005(13) - Land Use Decision. A final decision or determination made by a Crook County approval authority that concerns the adoption, amendment, or application of the statewide planning goals, a comprehensive plan provision, a land use regulation, or a new land use regulation where the decision requires the interpretation or exercise of policy or legal judgment.

Planning Commission (Tentative) Staff Report 217-22-00008-PLNG – Page 3 Paragraph 7 – generally refers to a “remand” from LUBA; however, LUBA 2009-018 Final Land Use Decision was dated December 17, 2009. If this paragraph refers to Crook County Appeal No. 08-281, Record 2010-105 (Alexander et al), this is incorrect and a mistake; as previously stated that this hearing ***was NOT a Land Use Decision***.

Planning Commission (Tentative) Staff Report 217-22-00008-PLNG – Page 3 Paragraph 8 – The Original Approval was set to expire on November 3, 2014. Again, for all the reasons written above this is incorrect and a mistake.

Summary Statement pertaining to Mistakes:

While current County staff state that the above information is no longer relevant to the current Crossing Trails Destination Resort Modification; ***I completely disagree***. I contend that

because the County has not been able to correctly follow, appropriately document and exercise its due diligence for accuracy within the past 13 years and 6 months since Crossing Trails Destination Resort's Final Decision; making its ability to be credible and reliable in the decision-making process is questionable at best. I feel that it definitely is the County's responsibility to its constituents to confirm through evidence in how it determined the timeline for Crossing Trails Destination Resort by making all correspondence regarding expiration dates and extensions between the County and the Applicant available to the public for review.

It is also relevant to follow and abide by the current Crook County Code, as Appeals do not change the timeline of a Final Decision for a Conditional Land Use Permit. The County Director has no administrative determination to change a Final Decision date.

Therefore, I believe that through the evidence that I have provided, I am confident that the Conditional Land Use Permit issued to 818 Powell Butte, LLC expired on January 2, 2021. I believe this current "modification" process and all of its costly processing is a mute point because the permit is expired and void and the application is in fact no longer valid or active.

Even though it is within Crook County Code that the Director has administrative determination to give a permit extension and it is not a land use decision as stated in CCC 18.172.005(13) - Land Use Decision. A final decision or determination made by a Crook County approval authority that concerns the adoption, amendment, or application of the statewide planning goals, a comprehensive plan provision, a land use regulation, or a new land use regulation where the decision requires the interpretation or exercise of policy or legal judgment.

I believe there is accountability on the County's part because it gave the Director's role that administrative determination through updates to the Crook County Code. I argue that it is the County's responsibility to monitor and provide accuracy of administering and enforcing state law, collecting taxes, accessing property, recording public documents, conducting elections and issuing permits/licenses to the administrative positions in which it gives authority.

If the County fails at providing these services accurately to its constituents by continuing to make mistakes over a period of 10 years without any internal cross-checking mechanism or procedures; I think an Appeal to correct such information would be right and just.

DESTINATION RESORT OVERLAY MAP - LACK OF DUE DILIGENCE AND ADMINISTRATIVE RESPONSIBILITY:

The Destination Resort Overlay Map was established in 2002. According to OAR 660-015-000 it is the County's responsibility to evaluate and report every 30 months to the State that this map is not only in compliance with its current Comprehensive Plan but also in compliance with eligibility of Oregon's Statewide Planning Goals & Guidelines Goal 8: Recreational Needs according to the most updated code.

OAR 660-015-0000(8) Implementing Measures(1)(a) Adopt a map consisting of eligible lands for large destination resorts within the county. The map shall be based on reasonably available information, and shall not be subject to revision or refinement after adoption **except in conformance with ORS 197.455**, and 197.610 to 197.625, but not more frequently than once every 30 months. The county shall develop a process for collecting and processing concurrently all map amendments made within a 30-month planning period. A map adopted pursuant to this section shall be the sole basis for determining whether tracts of land are eligible for siting of large destination resorts under the provisions of this goal and ORS 197.435 to 97.467

I will contend that the 2002 Destination Resort Overlay Map is no longer pursuant to ORS 197.455 and can no longer be the sole basis for determining whether tracts of land are eligible for siting of large destination resorts. I understand this to have happened when ORS 197.455 (2) was updated to delete the terminology “High Value Farm Land” and restated the definition of “High-Value Crop Area” to include “field crops” as follows:

[ORS 197.435 \(Definitions for ORS 197.435 to 197.467\) to 197.467 \(Conservation easement to protect resource site\):](#)

(2) “High value crop area” means 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 does not revise the requirements of an agricultural land goal or administrative rules interpreting the goal.

(3) “Map of eligible lands” means a map of the county adopted pursuant to [ORS 197.455 \(Siting of destination resorts\)](#).

According Merriam-Webster Definition of Field Crop: an agricultural crop (such as hay, grain, or cotton) grown on large areas

According to the USDA Oregon Hay Reports I believe there is enough substantial evidence to prove consistency of the \$1,000 per acre per year in Crook County over the past decade.

Summary Statements for Destination Resort Overlay Map:

At the time the State regulation changed the definition from High Valued Farm Land to High-Valued Crop Area, it was the County’s obligation to its constituents, schools and neighborhoods to update the Destination Resort Overlay Map. I challenge that the County can no longer argue that its map is “the sole basis for determining whether tracts of land are eligible for siting of large destination resorts.” because it is ***NO LONGER PURSUANT to ORS 197.455***.

