



Hannah Elliott

From: Hannah Elliott
Sent: Monday, August 1, 2022 4:50 PM
To: Karen and annette
Cc: Will VanVactor; John Eisler
Subject: RE: Kolodzie/Jones 3rd Objection

CROOK COUNTY
JUL 27 2022
PLANNING DEPT

Good afternoon Annette,

We deeply apologize for the delay. Mr. VanVactor gets a great deal of emails and he thought the front staff had also received this one. We will get it posted now. In the future, if you could make sure to include plan@co.crook.or.us in your submittals so that the front staff can get them posted for you right away.

Thank you,

Hannah Elliott

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From: Annette Kolodzie <atkjuniper@gmail.com>
Sent: Friday, July 29, 2022 12:09 PM
To: Will VanVactor <Will.VanVactor@co.crook.or.us>
Cc: John Eisler <John.Eisler@co.crook.or.us>
Subject: Re: Kolodzie/Jones 3rd Objection

Hi, Will. I do not see that our 3rd Objection has been posted on the Crossing Trails website. I am checking to make sure you have received it, and it is part of the case records.

Thank you, and have a good weekend.

From: Annette Kolodzie <atkjuniper@gmail.com>
Date: Wednesday, July 27, 2022 at 4:08 PM
To: Will VanVactor <Will.VanVactor@co.crook.or.us>

Cc: John Eisler <John.Eisler@co.crook.or.us>, Annette Kolodzie <atkjuniper@gmail.com>

Subject: Kolodzie/Jones 3rd Objection

Will,

Please find attached the Kolodzie/Jones 3rd Objection to the Application for Modification of Crossing Trails, for formal submission into the case records.

Thank you for your assistance,

Annette Kolodzie

[CAUTION:This email originated from outside of the organization. DO NOT CLICK LINKS or open attachments unless you recognize the sender and know the content is safe]

Disclaimer: Please note that the information in this email is an informal statement and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

**Third Objection and Comments to the Modification Application
for the Crossing Trails Destination Resort, DR 08-0092**

Submitted to the Crook County Planning Commission, Director of Development, via email 27 June 2022

Annette Kolodzie and Karen Jones (the "Objectors")
P.O. Box 126 Powell Butte, Oregon 97753

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

1. that this Third Objection and Comments 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; and
3. to be allowed to present testimony/evidence on this Objection at any and all hearings or appeals related to Crossing Trails Destination Resort for DR 08-0092.

Objectors submit their third Objection and Comments to the Modification Application for the Crossing Trails Destination Resort, DR 08-0092, as follows:

1. New Arguments/Information Regarding the Contention the Conditional Use Approval is Void or Should Be Revoked.

In the Staff Report (p. 6), the Staff notes that Crook County Code (CCC) provides that "a request for extension to a land use approval" is administrative decision by the director and not subject to appeal. Objectors here are not challenging the requests for extension; we are challenging the director's ability to unilaterally change the CCC definition of the date the land use decision became final under 18.172.090 (3).

If the date the land use decision (conditional use approval for Crossing Trails, DR 08-0092) was the date of the County Court decision on remand from LUBA, would not the director have had to comply with CCC 18.172.090(3) and issue a written notice to all parties and all who submitted testimony as required by that section? It makes no sense to have needed to do that here because no land use decision was involved in the County Court decision on remand from LUBA, which dealt only with the appeal fees.

On page 6 of the report, the Staff notes that the County cannot collaterally attack its decision about the permit extensions if those decisions are land use decisions. Thus, the collateral attack doctrine does not prevent the director or the County from correcting the ministerial or administrative error of applying the incorrect final decision date to the approval of Crossing Trails.

For reasons described previously and herein, that is the only equitable thing for the County to do.

Objectors also point out that CCC 18.172.060 (2) gives only the planning director the ability to grant extensions. The extension letters from August 2013 and October 2016 were not signed by the director.

The Staff point out on page 56 of its report that the conditional use provision of CCC 18.160 no longer apply to destination resorts after the model code was adopted and CCC 18.16 began to govern all EFU zones. As Objectors understand it, that change repealing CCC 18.24 and replacing it with CCC 18.16 occurred in 2019. The last extension of the Crossing Trails approval was after that, in November 2020. That creates a quandary for the County and the Applicant, for the destination resort provisions do not provide for the length of the approval. It is in 18.160 that the validity of conditional use permits is made 4 years, not the 2 years for land use approvals under CCC 18.172.060 (2)(b).

Objectors do not disagree that it was proper to apply the four-year initial approval period for Crossing Trails; however, it is in 18.160 that the length of the **extensions** for Crossing Trails was specified as 2 years. CCC 18.172.060 (2)(d) only provides that the director can grant four extensions but does not say the length of those extensions. So, what provision did the County apply to the extension request in 2020, if CCC 18.160 was not relevant at that time?

There is another argument Objectors raised that conditional use permit is void that was not addressed in the Staff report. That contention is that the CCC 18.160.070 (1)(2) provide that a conditional use is void if development action, defined as substantial construction towards completion, is not initiated within the 12-year period allowed for the conditional use. It has been explained to Objectors that the County reads CCC 18.160.070 (1) as completely obviating any requirement of initiating development by the language, "unless...the county has granted an extension of time" under section (2). Objectors still contend that this is a misreading of 18.160.070 (1), and that the correct interpretation of CCC 18.172.060 (1) and (2) together is that development must be initiated by the end of the extension periods. Nevertheless, if CCC 18.160 did not apply to the owner's request for extension in **2020**, the qualifying language of "unless an extension has been granted" is not relevant. Under the Staff's conclusion, the provision controlling the November 2020 extension must have been CCC 18.172.060 (2) (b), that the land use approval is void after the date the decision is final "if the use approved in the permit is not initiated within that time period...", because the exception subsection (2)(c) referring to Chapter 18.160 no longer applied. Therefore, if the Staff is correct and 18.160 was not relevant after 2019, and if the final decision date was November 3, 2010, then the approval for Crossing Trails becomes **void** on November 3, 2022 if the destination resort is not initiated by that time. Nowhere in the CCC 18.172 does it state that **filing** a modification changes the validity period of a land use approval. Initiation of development cannot happen as a matter of fact and law within the time period required. The owner has not taken one single step to initiate Crossing Trails. The owner cannot do so now, because no effort has been undertaken to meet a single condition of

the original approval, no final development plan was submitted, and, consequently, no permits to begin development can be issued before November 3, 2022. The inaction of the owner for 13 years precludes it now from being able to comply with the Code.

The fact of the owner's complete inaction under the Crossing Trails approval is pointed out because under CCC 18.172.100 (1), upon which the application for modification is based, the County has discretion to do **two** things. "The hearing authority **may** revoke or modify any permit" on one or more of the grounds in the section. Regardless of whether Sun's modification application meets the literal criteria of CCC 18.116, the County has discretion in granting the modification. Every equity is in favor of the County using its discretion to end the threat of this development to the community by denying the modification and/or revoking the permit. Some of those equities are:

- all of the valid concerns raised by the surrounding community in fear of what this development would do to their lives and livelihood
- the gross inaction of the land use approval owner, the owner's failure to take steps to initiate Crossing Trails, and the owner's total disregard for the conditions imposed by the County for 13 years (CCC 18.172.100 (1)(b))
- the wholly inadequate and at times misleading application by Sun
- the change in numerous factual circumstances since 2009, including extreme drought and increased traffic from the Facebook and Apple facilities
- the granting of the modification would mean the possibility of a destination resort on the site would exist *in perpetuity*. Any permit holder could wait almost 12 years and file a modification to the land use approval at the last minute, thus having the threat of a huge development in the local residents' back yards forever, without any action ever having to be taken to initiate the development.

[2. The Criteria and Standards of CCC 18.160 Should Apply to This Application to Modify the Conditional Use Approval.](#)

The original land use approval was a conditional use approval, and the County applied the criteria of CCC 18.160 in that decision. The Applicant is seeking to modify that conditional use approval. The title of the application is, "Crossing Trails – Modification of a Conditional Use Approval for a Destination Resort". If Applicant succeeds, it will have the original conditional use permit, with a new development plan and new conditions. Objectors would ask how the criteria for a conditional use permit, CCC 18.160, can no longer apply to a conditional use permit?

[3. The Proposal by Sun Is, In Fact, an Application for Another Sun Manufactured Home Community, Not a Destination Resort Under CCC 18.116.](#)

The Staff in its report states that the application by Sun Communities, Inc. (Sun) is a modification of the existing destination resort, not an application for a new destination resort. Objectors object to this conclusion, because, in fact, Sun is not proposing a destination resort at all. This

proposal does not modify or “change” the prior proposal, it exchanges it with a wholly different development. Nothing from the original application remains. Sun’s application creates yet one more of Sun’s manufactured home communities, without meeting the requirements of CCC 18.116. On page 7 of the Staff Report, it is stated, “In this case, Applicant is seeking to modify a destination resort approval and is seeking approval of destination resort. If an applicant came into modify a prior destination resort approval with the intent of modifying the approval to operate an aggregate pit, that would clearly be a new application.” Using that analogy, what Sun is attempting to do is seek approval for an aggregate pit, but calling it a destination resort, as explained below.

This is farming and ranching country (EFU-3), with a destination resort overlay, imposed for a specific purpose, and that purpose only. ORS 197.440 (1) and (2) provide that the state's policy is to promote Oregon as a **vacation destination** and **encourage tourism**. The goal for the destination resort siting is to provide year-round destination resort accommodations to **attract visitors** and **encourage them to stay longer**. The Crook County Code states, "The destination resort overlay is intended to provide for property-designed destination resort facilities, **which enhance and diversify the recreational opportunities** and economy of Crook County". CCC 18.116.010 (all emphasis added)

Sun proposes to install 750 of its manufactured homes and RVs, creating yet one more of its a manufactured home communities. Sun has 258 of these communities across the country. (<https://www.suncommunities.com/active-55-communities/>; <https://www.suncommunities.com/active-55-communities/>) All of the Sun communities are something completely outside the concept of a destination resort. The destination resort amenities are supposed to lure visitors with recreational opportunities to travel to Oregon and stay to enjoy them. The Sun proposal does not do that.

The Sun community offers nothing beyond what their myriad manufactured home communities provide: one basketball court, a pool, grassy areas, playgrounds, "spas", a clubhouse, and trails system. Specifically,

- the two "spas" are not described, but it is not convincing that they could be an attraction at total expenditure of \$150,000. [Application Narrative, p. B-10] At the least, they must be further described
- the Applicant has stated that it will "construct and maintain a trail system that traverses the property. Resort trails will be designed to provide pedestrian, bicycle and non-motorized access throughout the resort". [Application Narrative, p. B-20] In fact, the Applicant has described the trails system as "a **significant recreational amenity** at the resort." [Application Narrative, p. B-20]. But, in reality, the "trail system" is nothing more than an 8-foot path winding through the subdivision. We do not know, but it seems to be logical that the paths will be paved. They do not traverse the open areas or wind through natural features or attractions, including trees. The path is not long enough to be a

legitimate bicycle trail. There is simply no way to reasonably argue that this "significant recreational amenity" that would in any way attract visitor or tourists to the area.

- Sun lists the clubhouse as a "developed recreational facility". [Application Narrative, p. B-9]. That description is misleading and not in conformance with the destination resort code provisions. By Sun's description, the "clubhouse" is a building with a restaurant, meeting and conference, and "Specialty Retail, Convenience Store; Sports Equipment Leasing/Sales; Real Estate Sales/Leasing; Business Center" [Application Narrative, p. A-5]. However, CCC 18.116.060 (2) defines what can be called "Developed Recreational Facilities". The only mention of a "clubhouse" in that section is a clubhouse accessory to a golf course (CCC 18.116.060(2)(a)). Other building facilities described in section (2) are physical fitness and spa facilities, indoor sport facilities, equestrian facilities, interpretative centers and museums, and marinas and boating facilities. None of those are in the "clubhouse". Instead, restaurants and conference and meeting facilities are listed as **Visitor-Oriented Accommodations**. [CCC 18.116.060(1)]. Commercial services and specialty shops that Applicant proposes to be in the 'clubhouse' are "**Accessory uses**" allowed under 18.116.070(8), not "developed recreational facilities".

In short, there is nothing to demarcate "Sun Crossing Trails" from the hundreds of Sun's manufactured home communities across the country. Nothing to lure tourists to this area. In attempting to justify using Sun RVs as overnight lodging, Sun's attorney wrote, "[T]he destination resort statutes are not designed to ensure destination resorts are accessible only to the rich." [Appendix 25, p.10] That is true. But the destination resort statutes **are** designed to ensure that a **destination resort** is built on farming land overlaid with a destination resort map, not a manufactured home subdivision. Sun's proposal does not comply with those statutes. The fact that Sun simply uses the term "recreational facilities" to describe what it is proposing does not, in itself, mean its proposal meets the criteria for those activities under CCC 18.116.

4. Sun's Plan Does Not Comply with the Recreational Requirements of a Destination Resort Under CCC 18.116.040(5).

A clear indication that this proposal is a manufactured home park in destination resort clothing is that Sun does not come close to spending the funds required for recreation at a resort. CCC 18.116.040(5) requires that 1/3 of the expenditures required for improvements for recreational facilities be spent on "developed recreational facilities", as defined in CCC 18.116.060(2). Sun calculates in today's dollars that minimum amount is \$4,480,000. (Application – Narratives 1-6, p. B-9) The Staff calculate the amount as \$4,782,729. (Staff Report, p. 18). Even though Sun states in its text that, "Not less than one-third or \$4,480,000 of this amount must be spent on "**developed recreational facilities**" as that term is defined in CCC 18.16.030(2)", it plays with the wording in its table, calling the items in its list totaling \$9,185,000 "Recreation Areas". (Narrative, pp. B-9, B-10 (emphasis added)). As discussed previously, the following items are not arguably included in the definition of "developed recreational facilities" and must be subtracted from the \$9.185 million: Clubhouse, Retaining Walls, Parking Area Landscaping and Irrigation

Signage/Monument Signs/Pavement Marking. Accepting Sun's estimates, the amount attributable to "developed recreational facilities" is **\$2,485,000** – more than **\$2 million dollars** below the requirement of CCC 18.116.040(5).

5. [Standards in Addition to CCC 18.116 Apply to the Sun Manufactured Dwelling Community, Which the County is Not Requiring and Sun Does Not Comply With.](#)

CCC 18.116.100 (8) requires that the application must comply with "other applicable standards of the county zoning ordinance", which is, at a minimum, Title 18. Applicant makes it clear in the modification application that the manufactured home "Villas" will be owned by the occupants, but Sun will own the spaces and lease them to the occupants. *"These units are fee simple ownership units with leased parcels"*; "The individual vacation villas will be available for sale, but ownership of the spaces will be held by the Applicant/Contract Purchaser." (Application - Narratives 1- 6, page 21 of 107 (Page B-4); page 24 of 107 (Page B-7)).

Thus, according to CCC 18.08.130, Sun's proposal is a "Manufactured dwelling park", defined as "any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental of use of facilities or to offer space free in connection with securing the trade or patronage of such person." As such, Sun must comply with the criteria of CCC 18.132, which the County has not required.

Assuming Chapter 18.160 for Conditional Uses applies, Sun must also comply with the criteria in CCC 18.160.050 (12), as CCC 18.08.130 defines a "Mobile home park" as where four or more "manufactured structures" are within 500 feet of one another. The requirements of CCC 18.160.050 (12) include, for instance parking space allotment and, importantly, that the subdivision have 2 accesses on a "designated collector street". The record here shows Parrish Lane is a minor collector and Wiley Road is a local street. (Staff Report, p. 48)

Sun's proposal is either a manufactured dwelling park/mobile home park or it is a manufactured home subdivision. CCC 18.08.130. If it is a proposed subdivision, then the County must require Sun to show its application complies with County Code Title 17. Hence, whatever the proposal constitutes, the County must require Sun to comply with additional criteria before the application can be assessed as sufficient.

(It is not clear why the Staff Report says that no subdivision is being proposed (p. 44), when Sun refers in a number of places to tentative plans for a subdivision, for instance, "As each future tentative plat is submitted, the Applicant/Contract Purchaser will be required to address the County's subdivision ordinance. There is nothing to indicate that the proposal cannot comply with that ordinance." Application - Narratives 1- 6, page 64 of 107 (Page B-47).)

6. Sun's park model RVs cannot serve as overnight lodging under CCC 18.116.030(5) and 18.116.040(3).

Sun intends to use park model RVs to satisfy the requirements of overnight lodging units under CCC 18.116.040(3). Sun submits an opinion from its attorney concluding the park model RVs qualify as the overnight lodging accommodation. (Application – Appendix 25). The arguments fail on their face and under Oregon law statute. Throughout the opinion, the attorney cites references referring to park model RVs as "temporary" dwellings or living quarters, including ORS 803.036(1)(b) and ORS 174.101. Also, CCC 18.080.180 defines RVs as being designed to be used "temporarily for recreational, seasonal or emergency purposes." But, Sun argues that the RVs are permanent dwellings because Sun will put attach them permanently to their foundations.

The Sun attorney states that the RVs are simply tiny homes, without making the distinction between tiny homes that are permanent and those that are temporary. [See, *e.g.*, Tiny Home Regulation, Legislative Policy and Research Office (2019), <https://www.oregonlegislature.gov/lpro/Publications/Background-Brief-Tiny-Home-Regulation-2019.pdf>, and citations therein].

The self-serving legal opinion also states there is no principled reason the RVs should not be considered cabins. (p. 5) The argument ignores that the park model RVs are defined as temporary dwellings. The intellectually honest reading of CCC 18.116.030(5) is that RVs do not rightfully fall into the category of the permanent structures that are acceptable overnight lodging structures, importantly, all of which are stick-built -- hotel and motel rooms, cabins, and time-share units. Sun's RVs fall into the grouping of temporary lodgings not acceptable under section 18.116.030(5) -- tents, RV parks, and manufactured dwellings. In fact, in at least one place, an Oregon statute puts the two in the same category. ORS 174.101(2) groups recreational vehicles with manufactured dwellings as "manufactured structures". They are logically and legislatively unacceptable "similar accommodations" under CCC 18.116.030(5).

Secondly, the legislative history quoted by Sun's attorney solidifies the point. (p. 9) By the attorney's argument, the definition of overnight lodgings was made to prevent "schemers" from trying to argue something like a "**small single-wide trailer specially designed to meet this criteria**" was satisfactory. (emphasis added) The Sun RVs are trailers on a single chassis mounted on wheels (ORS 803.036(1)(b)) that the Sun attorney argues is designed to be a tiny home -- precisely what the overnight lodging definition was written to exclude.

The last-ditch effort to distinguish the indistinguishable is that the County should allow the RVs as overnight lodging because they are higher quality than the trailers of the past. Great craftsmanship cannot turn the park model RVs into something other than what they are -- mobile, temporary dwellings that do not satisfy the requirements of overnight lodging under CCC 18.116.

7. [Sun's Application is Not an Appropriate Purpose for a Conditional Use Approval under CCC 18.160.020\(1\) and \(5\).](#)

As the foregoing discussion has shown, Sun is proposing a conditional use for a manufactured home community, filled with their own recreational vehicles and manufactured homes, not a destination resort, with the attendant features prescribed by CCC 18.116 and other relevant Oregon law. As such, the County cannot find, as it is required to in order to grant Sun's application, that Sun's proposal is consistent with the objectives of the destination resort ordinance CCC 18.160.022 (1), nor is it in compliance with CCC 18.160.020 (5), because Sun has no appropriate purpose for submitting its proposal under the destination resort provisions.

8. [The Sun Manufactured Home Community Will Have Significant Adverse Effects on the Adjacent Rural Residential Subdivisions, Livability, and Values of the Surrounding Area.](#)

The Staff originally noted that Sun has not presented any evidence that the application complies with CCC 18.160.020 (2). On page 12 of Application – Addendums 1-12 it states:

Staff Comment: The narrative submitted by Applicant does not adequately explain how the proposal will have minimal adverse impact on (a) livability, (b) value, and (c) appropriate development abutting properties. Applicant should update its narrative provide additional explanation as to how the proposal addresses those criteria.

Sun has failed to do so. It only makes blanket, unsubstantiated statements in its application. Sun should be required by the County to provide evidence that a 750 unit manufactured dwelling part will not affect the value of the abutting properties and surrounding area.

As noted in other places in the record, because Sun has no final, acceptable plans for traffic, water, and other facilities, it is not possible for Sun to comply with CCC 18.160.020 (2) at this time.

9. [If Sun is Unable to Consistently Fill the Overnight Lodgings and Overnight Seasonal Rentals, the Development Will Pose a Significant Risk to the County and the Surrounding Landowners.](#)

It is undeniably part of the public record that Oregon faces extreme issues relating to homeless individuals and a lack of low-income housing. If Sun is not able to consistently fill the rental manufactured homes/park model RVs, they would constitute ideal facilities for the State to seek to use as homeless housing or low-cost housing.

Similarly, Sun should be required to show that their 400-500 manufactured villa homes will be affordable by the demographic they are targeting, otherwise they may be unoccupied. See, for instance *Sun Communities' manufactured homes community at College and Trilby gets OK*, in which it is written:

Buyers will own their homes — some units will be for rent — but lease the ground underneath them. Developers on Thursday said the homes would be sold for between \$150,000 and \$250,000 with lot rents of about \$750. They estimated monthly payments for mortgage plus lot rent would be between \$1,800 and \$2,400, developers estimated. The targeted price is well below Fort Collins' single-family home prices, but some neighbors questioned whether the homes would be affordable or attainable given the additional lot rents.

The homes are "looked on as mobile homes" and difficult to mortgage, said neighbor Kevin Caffrey. "It doesn't sound like affordable housing to me." While the homes could be moved if owners wished, the cost to move them would be between \$5,000 and \$10,000, Caffrey said.

"Everything about this spells a lot of money for the developer and a bad outcome for people looking for affordable homes," he said. "They'll be paying a lot of money for rent for years to come."

(<https://www.coloradoan.com/story/news/2021/10/22/fort-collins-housing-sun-communities-manufactured-homes-gets-ok/6134729001/>)

10. Sun Does Not Meet the Requirements of CCC 18.116, including 18.116.100 (7), 18.116.080 (3), and 18.116.100 (5).

Sun has no Water Master Plan and has failed to adequately address in its conceptual water plan information relevant to the determination of adequacy of water supply for the destination resort per CCC 18.116.080(3), given the known needs for water conservation in current extreme drought conditions and mitigation efforts to address concerns regarding declines in the Deschutes Basin water table. Sun must establish that its taking and use of water "will not cause a significant change in farm or forest practices on surrounding lands or significantly increase the cost of accepted farm or forest practices", particularly in light of the current extreme drought and reduced water availability. CCC 18.116.100 (5). The issues concerning the crisis over water rights and availability in this area is a matter of public record. For instance, COID sent Objectors an email just today, providing a Water Delivery Update, July 27, 2022, stating, "The flows in the Deschutes River are continuing to drop. COID is currently diverting 75% of the normal rate from the river which puts the delivery rates to patrons at 60%-70%."

See also, *Race to the bottom: How Central Oregon groundwater sells to the highest bidders.*

(<https://www.opb.org/article/2022/07/19/deschutes-water-rights-access-well-drilling-groundwater-central-oregon/>) The property in issue is located within the Deschutes Groundwater Study Area and Zones of Impact (Map, Exhibit 1) (OWRD Map Library (state.or.us)) See, also the Deschutes Groundwater Mitigation Program.

(<https://www.oregon.gov/OWRD/programs/WaterRights/Permits/DeschutesGroundwaterMitig>

ation/Pages/default.aspx.) And, see also the Oregon Department of Water Resources memorandum, dated August 30, 2021, entitled “Response to Technical Assistance Request: Groundwater Mitigation Program purpose in relation to observed groundwater level trends”. (https://www.opb.org/pdf/OWRDMemo_DeschutesGroundwaterLevelDeclines_2021-09-01_FINAL_1657754829743.pdf)

As conditions of approval, Applicant must be required clearly demonstrate its sources of water supply, the impacts that the water usage at the resort will have on availability for pre-existing uses by surrounding properties and on the Deschutes Basin in general, and the mitigation efforts it will adopt to offset its water usage impacts.

11. Conditions of Approval Should Preclude Sun From Installing Wood-Burning Fire Pits Within Crossing Trails Due to Extreme Drought and Risk of Wildfires.

To protect all the surrounding properties and families, Crossing Trails should not allow any wood-burning fire pits. The response to an argument that the fire pits should be allowed to be used in the less dry months is that there is no way to guarantee a Sun employee would be present 24 hours a day during dry times so as to enforce such a restriction. The SunRiver resort rules, as an example of responsible criteria, prohibits “firepits or open-flame fires.”

(<https://www.sunriverowners.org/community/public-safety-rules>) SunRiver also has its own fire department. (<https://www.sunriverfire.org>) Additionally, Eagle Crest bans individual firepits, providing “Fireworks and outdoor fires are PROHIBITED as fire danger is very high in the summer and fall seasons.” (<https://www.eaglecreststays.com/terms-conditions.asp>)

12. Sun’s Application is Defective and Wholly Inadequate to Allow the County to Assess All Relevant Criteria or to Allow Interested Parties to Be Able to Submit Objections.

Numerous aspects of Sun’s application are so lacking in detail or description that neither the County or interested parties are able to determine if the requirements of CCC 18.116 or other relevant criteria are or can be met. Specifically, and without limitation:

- a. Sun relies on the area under the BPA and other utility transmission lines as a significant part of its open space calculation. It also places its water reservoir on the other side of the transmission lines, and its main water pipe crosses under the transmission lines. The area under the transmission lines is subject to easements held by BPA and PGE. There is a significant process that must be pursued if permission is to be acquired from BPA and PGE to have any activity under/near the transmission lines. Sun has not indicated it has communicated with BPA and PGE to obtain that permission. Sun should be required as a part of its application process to obtain a decision from BPA and PGE that the activities will be allowed as planned. The reason this must be a criterion of the application and not a condition to approval is that several criteria of CCC 18.116 may not be able to be met by Sun if BPA and PGE either do not give permission or they put conditions on the

permission that Sun cannot meet. For example, BPA and/or PGE could require that firefighting or emergency vehicles must be able to reach the areas under the transmission lines. That condition could implicate criteria relating to emergency plans, roads, and open space under CCC 18.116.

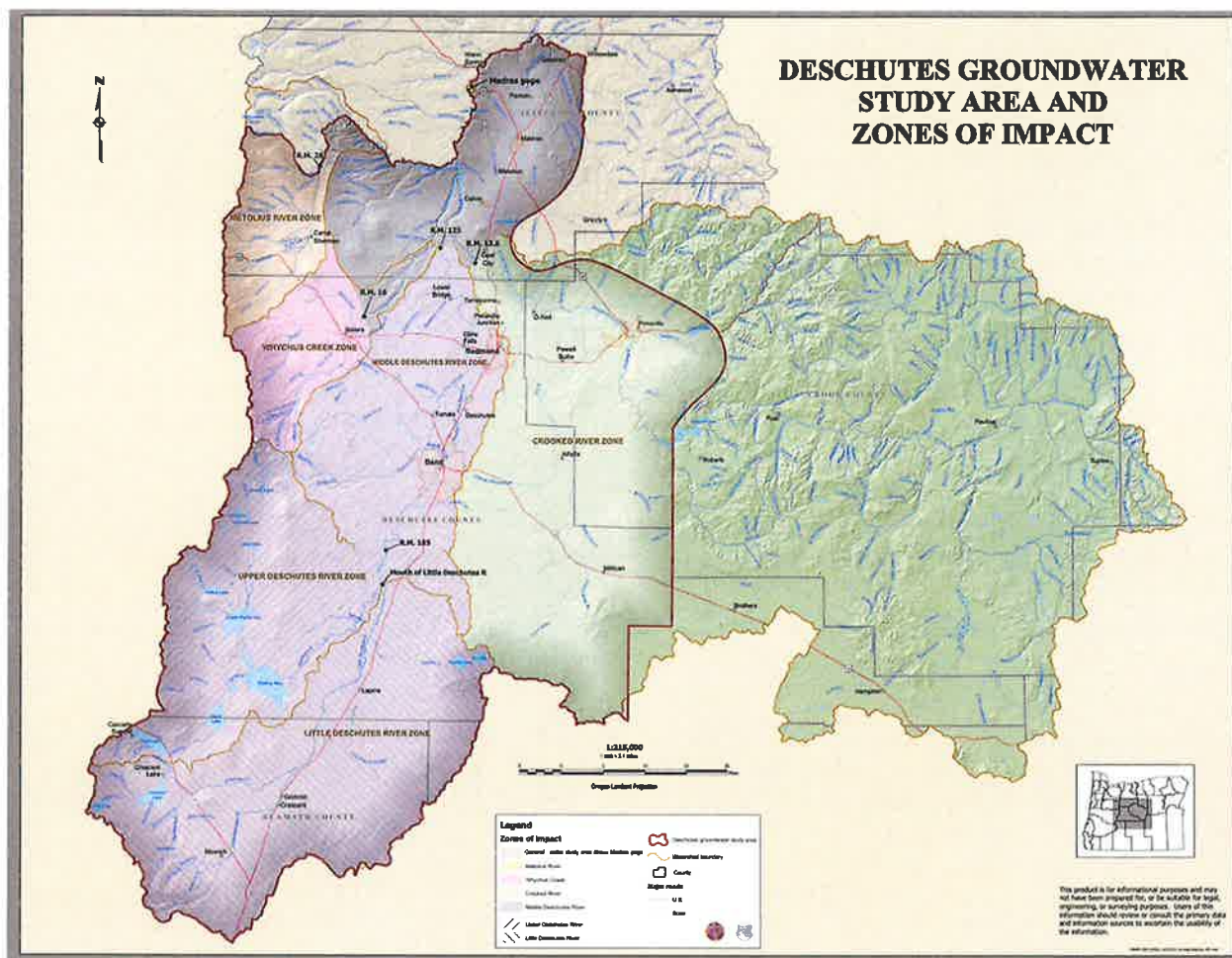
- b. On related points, if area under the transmission lines is used by the occupants of the development for recreation, Sun should be required to provide a study on the effect of EMF from the power lines on all ages of persons. Also, will motorized vehicles be allowed in the development and under the transmission lines? Not only would these be a fire hazard, BPA and PGE could impose conditions on the vehicle's use on their easements.
- c. Will bicycling and hiking be allowed on any part of the property and open spaces?
- d. Sun has not described what type of structures the Overnight Seasonal Rentals or Workforce Housing will be, which are at least 150 units in the development.
- e. The Staff noted in original comments that Sun's application does not comply with 18.116.080 (l) relating to emergency services in that, "A more detailed narrative will need to be supplemented to address this criterion. It will need to detail what facilities and services will be located at the resort, correspondence from Crook County Fire & Rescue and the Crook County Sheriff's Office confirming they are able to provide services to the resort, as well as in-depth emergency response plan." (Application – Addendums 1-12, Memorandum, p. 9.) Applicant did not present the requested detailed emergency response plan. (Application – Narratives 1-6, p. 54 of 107, p. B-37.)
- f. Related to point (b), Sun does not establish that their manufactured structures and layout meet all relevant safety criteria. For instance, the layout for some of the Overnight Seasonal Rentals are shown to be on cul-de-sacs. The design of the development roads may not comply with safety criteria such as the Oregon Uniform Fire Code section 902.2.2.4. And, because the current application, at best, barely meets the requirement of the amount of open space, Sun simply redesigning the road system may not be feasible.
- g. Sun has not met CCC18.116.080 (j), by providing a description of the proposed method of providing all utility systems, including the preliminary or schematic location and sizing of the utility systems. What will be the demand for electricity for the development with 750 structures/dwellings and how will that demand be served? Will new transmission lines or a substation be required? Has Sun discussed the development with the Central Electric Coop?
- h. Will all of Sun's manufactured structures, including the park model RVs, comply with applicable standards for snow loads and wind? Will they have sprinkler systems or meet

other safety and building code requirements? Do they meet all state and/or federal construction requirements. CCC 18.132.010 (1) (c) and FEMA standards?

- i. The “villas” will be owned by the occupants, on land the occupants lease from Sun. Does that mean the occupants could move their manufactured homes any time they choose? What impact would that possibility need to have on spacing of the dwellings and road layouts and on ongoing impacts to local roads?
- j. Will Sun permanently install all 400-500 manufactured homes, prior to them being purchased? If so, and the expected level of sale is not met, there could be numerous empty dwellings, subject to, for instance, vandalism and fire?
- k. Is there parking space for every structure? Again, this could have implications on the open space requirement.
- l. Are there jurisdictional wetlands on the property?
- m. Is Sun required to have a water right appropriation application?
- n. Has Sun contacted the Oregon Water Resources Department?
- o. Will Sun store treated effluent in winter months to use for irrigation in the summer? At the least, this should be made a condition of approval.
- p. Sun has not indicated how this massive development, with its associated traffic, will affect the Powell Butte school, the community store, or access to the Post Office.
- q. Will Sun provide the persons with required expertise to control traffic if the local farmers and ranchers need to use surrounding roads to move livestock and large farm equipment and haul hay and water? Otherwise CCC 18.160.100 (5) is not met.
- r. Avion has provided a letter that it can provide potable water to the Sun development “provided all terms, conditions and requirements by Avion Water Company are met.” What are those terms, conditions and requirements and is it reasonable to conclude it is feasible for Sun to meet them?
- s. What easements would be required for water to be delivered by Avion to the manufactured home community, and is it reasonable to conclude it is feasible for Sun to acquire them and build the infrastructure necessary to transport the water? What impact will the construction of the infrastructure have on surrounding properties?

- t. Will the closing of Wiley Road increase the time for emergency vehicles to reach the residents of Parrish Lane (where Objectors live), because those vehicles frequently use Wiley Road to reach Parrish Lane from the east?

Exhibit 1



Found at
[OWRD Map Library \(state.or.us\)](http://owrd.maplibrary.state.or.us)



Description:

This is a catalog of maps that have been produced over the years by the Department. Most maps are in PDF format, while a few are in jpg or tif format. Please be aware of the map dates. These maps have been produced over many years and in some cases more current information may exist.

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List of Available Maps (Click on each header to sort)

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Deschutes Basin Ground Water Study Area Zone of Impact and Ground Water / Surface Water Interaction, Hydraulic Head, and Flow Direction	Ground Water	Deschutes	9/3/2008			printable map	1	pdf (8 MB)	Details & Images
DESCHUTES GROUNDWATER STUDY AREA AND ZONES OF IMPACT	Ground Water	Deschutes	4/2/2010			either print or side	1	pdf (28 MB)	Details & Images