



Received
Crook County
Jun 13 2022
Planning Dept

(Original) RECORD # 217-22-000451-PLNG

Appeal Record # 217-22-000993-PLNG

Planning Commission: \$250

County Court: \$2050.00 + 20% of initial application fee
(deposit) Actual costs with deposit required at time of appeal

Crook County Community Development/ Planning Division

300 NE 3rd Street, Room 12, Prineville Oregon 97754

Phone: 541-447-3211

plan@co.crook.or.us

www.co.crook.or.us

APPEAL PETITION TO PLANNING COMMISSION or COUNTY COURT

Appellant Information

Name: BR Community Coalition

Mailing Address: c/o Michael W. Peterkin and Megan K. Burgess, Peterkin Burgess, 222 NW Irving Avenue

City: Bend State: OR Zip: 97703

Day-time phone: (541) 389 - 2572 Cell Phone: () -

Email: mpeterkin@peterkinburgess.com and mburgess@peterkinburgess.com

If group, name of representative: Michael W. Peterkin and Megan K. Burgess, Attorneys

Land Use Application Being Appealed: (file number) 217-22-000451-PLNG (former file/record no. 217-21-001013-PLNG)

Property Description:

Township 16 South Range 14 East WM Section 26 Tax lot(s) 02805 – part 1614000002805

Township 16 South Range 14 East WM Section 26 Tax lot(s) 02806 – part 1614000002806

Appellant's Signature:  Date: 06/13/22

I/We, the undersigned, wish to appeal the decision made by the Crook County Planning Commission regarding application no. 217-22-000451-PLNG, that a final decision was made on the 24th day of May, 2022.

EVERY NOTICE OF APPEAL SHALL INCLUDE:

1. The appeal shall be in writing and shall contain:
 - a. Name, signature, and address of the appellant(s).
 - b. Reference to the application title and case number, if any;
2. A statement of the nature of the decision:
 - a. A statement of the specific grounds for the appeal, setting forth the error(s) and the basis of the error(s) sought to be reviewed: and

- b. A statement as to the appellant's standing to appeal as an affected party.
3. Proper filing fee in accordance with Section 18.172.050.
4. If the decision appealed from is a decision made without a hearing or without notice to area property owners, written notice of appeal must be filed within twelve (12) calendar days of the date written notice of the decision is mailed to those entitled to such notice. With respect to all other appeals, written notice of appeal must be filed within 10 calendar days of the date written notice of the decision is mailed to those entitled to decision. If the last day of the appeal period falls on a Saturday, Sunday or legal holiday, the notice of appeal is due on the next business day.
5. An appeal shall be filed:
 - a. With the County Court for appeals from final decisions by the Planning Commission;
 - b. With the Planning Commission for appeals from final decisions by the Planning Director or Planning Department staff; and
 - c. Shall cite the specific "Zoning Ordinance Section" and "Comprehensive Plan Policies" alleged to be violated.

The Notice of Appeal must include the items listed above. Failure to complete all of the above will render an appeal invalid. Any additional comments should be included on the Notice of Appeal.

TRANSCRIPT: The appellant must provide a copy of the transcript of the proceedings (at the appellants' expense) appealed to the County Planning Department not less than seven (7) calendar days before the hearing date set by the County Court or Planning Commission.

SCOPE AND STANDARD OF REVIEW OF APPEAL: An appeal to the County Court is not a new hearing; it is a review of the decision. Subject to the exception in paragraph (6) below, the review of the final decision shall be confined to the record of the proceeding below, which shall include, if applicable:

1. All material, pleadings, memoranda, stipulations, and motions submitted by any party to the proceeding and received by the Commission or Court as evidence.
2. All material submitted by Crook County Staff with respect to the application.
3. The transcript of the Planning Commission hearing(s).
4. The written final decision of the Commission and the petition of appeal.
5. Argument (without introduction of new or additional evidence) by parties or their Legal representative.
6. The appellate body may, at its option, admit additional testimony and other evidence from an interested party or party of record to supplement the record of prior proceedings. The record may be supplemented by order of the appellate body upon written motion by a party. The written motion shall set forth with particularity, the basis for such request and the nature of the evidence sought to be introduced. Prior to supplementing the record, the appellant body

shall provide an opportunity for all parties to be heard on the matter. The appellate body may grant the motion upon a finding that the supplement is necessary to take into consideration the inconvenience of locating the evidence at the time of initial hearing, with such inconvenience not being the result of negligence or dilatory act by the moving party.

An appeal from the Planning Director or Planning Department staff to Planning Commission shall be de novo; meaning that the burden of proof remains with the applicant and that new testimony and evidence, together with the existing Planning Department file, may be received at the hearing on the appeal.

STANDARD OF REVIEW ON APPEAL: The burden of proof remains with the applicant. The burden is not met by merely showing that the appellate body might decide the issue differently.

APPELLATE DECISION: Following the hearing of the appeal, the appellate body may affirm, overrule, or modify the Planning Commission's final decision.

This appeal is made pursuant to Section 18.172.110 of the Crook County Code. The required fee has been received by the Crook County Planning Department as the filing fee for this appeal.

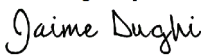
I / We are appealing the decision for the following reasons: (be specific)

See Attached Letter

Name (print)

Jaime Dughi
Treasurer/Member/Authorized Representative

Signature

DocuSigned by:

0D5DDDEEC62A24CD...

Address

15326 SW Hope Vista Drive
Powell Butte, OR 97753

(If additional space is needed attach another sheet)

Each party that authorizes the "Representative" to speak on their behalf must submit a letter stating so, which is signed, dated, and attached to this appeal.

RE: Appeal Petition
Record No. 217-22-000451-PLNG
(former Record No. 217-21-001013-PLNG)

To Whom It May Concern:

I, Jaime Dughi, Treasurer, member, and authorized representative of BR Community Coalition, appellant in the above-referenced matter, hereby authorize Megan K. Burgess and/or Michael W. Peterkin or Peterkin Burgess to speak, submit written documentation, or otherwise appear on behalf of BR Community Coalition on behalf of its members regarding the above matter.

DocuSigned by:

Jaime Dughi

0D5DDEEC62A24CD...

6/13/2022

Jaime Dughi, Treasurer/Member/Authorized Representative
BR Community Coalition

Date

Jaime Dughi
15326 SW Hope Vista Drive
Powell Butte, OR 97753



June 13, 2022

Via Email to: plan@co.crook.or.us

Crook County Community Development/Planning Division
Attn: Crook County Court
300 NE 3rd Street
Prineville, OR 97754

**Re: Appeal of Planning Commission Decision After Remand
Brasada Ranch Subdivision Phase 15
File Number: 217-22-000451-PLNG, formerly No. 217-21-001013-PLNG**

Appeal Standing and Request for Hearing

This letter supports the BR Community Coalition's ("the Coalition") appeal from the Planning Commission Decision dated May 24, 2022, after remand by the County Court ("Planning Remand Decision"). The Planning Remand Decision was served on the Coalition by notice dated May 31, 2022. Thus, this appeal is timely. Further, the Coalition has standing to appeal the Planning Remand Decision under CCC 18.172.110 (6) because it provided written comments to the Planning Commission on remand and appeared before the Planning Commission on remand through its attorneys. The complete record for file number 217-22-000451-PLNG (former file/record no. 217-21-001013-PLNG) including transcripts is incorporated and made part of this appeal. Finally, the Coalition requests a public hearing¹ before the County Court under CCC 18.172.110 (2).

¹ Please see Appellant's Notice of Availability letter (dated 06/13/22) submitted herewith which provides dates that Appellant and its attorneys are available for the requested hearing.

Michael W. Peterkin ♦ *Megan K. Burgess* ♦ *Christian Malone* ♦ *Taylor Hale*

Issues on Appeal

(1) The applicant is required to show the existence, location, use, and surface of trails within easements shown on Phase 15 final plat because Brasada Ranch is a destination resort with public use of open space that is also the residential common area owned by the Brasada Ranch Homeowner's Association.

(2) Each as-built cabin only qualifies as one lodging unit based on the absence of fire-rated lock-off doors and firewalls that must exist to create legal, safe, and code-compliant independent overnight rental units for use by the general public.

Appeal Request

The County Court should reverse the Planning Commission's decision and instruct the Applicant to either show the public trails on the final plat or, if public use trails are desired after the final plat is recorded, seek replat approval to show the trails on the replat. Further, the County Court should reverse Phase 15 tentative plat approval until the Applicant proves that the existing cabins qualify as overnight lodging units as required under the Brasada Ranch destination resort approval and in compliance with all fire and building codes necessary to create safe overnight lodging units. Finally, the Coalition requests reimbursement of its appeal fee, having paid the same fee on the first appeal.

Sincerely,



Michael W. Peterkin



June 13, 2022

Via Email to: plan@co.crook.or.us

Crook County Community Development/Planning Division
Attn: Crook County Court
300 NE 3rd Street
Prineville, OR 97754

**Re: Appeal of Planning Commission Decision After Remand
Brasada Ranch Subdivision Phase 15
File Number: 217-22-000451-PLNG (former file no. 217-21-001013-PLNG)**

NOTICE OF APPELLANT'S AVAILABILITY

Dear Crook County Court:

This letter is to inform you of Appellant and Counsel for Appellant's availability for the above-referenced matter. Due to litigation (including trials and appellate briefs), business, and personal matters already scheduled, Appellant BR Community Coalition and its attorneys, Michael W. Peterkin and Megan K. Burgess of Peterkin Burgess, have limited availability for a hearing on the Appeal of Planning Commission Decision After Remand, which is submitted herewith. Appellant and its counsel are currently available on the following dates:

- July 25-29, 2022
- August 1-5, 2022

Please refrain from scheduling any hearings or other similar matters requiring a response or attendance from myself or my client unless it is on one of the above-listed dates of availability. Thank you.

Sincerely,

Michael W. Peterkin

Michael W. Peterkin ♦ *Megan K. Burgess* ♦ *Christian Malone* ♦ *Taylor Hale*