



**Crook County
Community Development**
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COUNTY COURT FINAL DECISION

Appeal NO. 217-22-000993-PLNG,

Appealing Planning Commission Decision 217-22-000451-PLNG

August 17, 2022

I. FINAL DECISION

Pursuant to its approved motion made on August 3, 2022, the County Court hereby rejects Appellant's appeal and affirms the Planning Commission's approval. Based on the record before the County Court on this appeal, which is incorporated herein by reference, the Court adopts as its final decision, the Planning Commission's decision dated May 24, 2022, including all findings and conditions of approval. A copy of that decision is attached hereto and shall be considered the County Court's final decision in this matter.

Appeal of this decision shall be to the Oregon Land Use Board of Appeals ("LUBA") in accordance with ORS 197.380 and must be filed with LUBA no later than 21 days from the date this decision was final, which is the date this decision was reduced to writing and signed.

II. GENERAL INFORMATION

OWNER	FNF NV Brasada, LLC c/o Brent McLean 16986 SW Brasada Ranch Road Powell Butte, Oregon 97753
AGENT	Adam Conway DOWL 963 SW Simpson Ave., Suite 200 Bend, Oregon 97702
APPELLANT	BR Community Coalition c/o Megan K. Burgess, Peterkin Burgess 222 NW Irving Avenue Bend, OR 97703

LOCATION:

<u>Map</u>	<u>Section</u>	<u>Tax Lots:</u>
16S 14E	26	2805
16S 14E	26	2806

III. REQUEST & PROCEDURAL HISTORY:

Brasada Ranch Development LLC (the Applicant) requested approval from Crook County for the 15th Phase of development within the Brasada Ranch destination resort. Phase 15 is the eleventh single family

residential phase and includes 50 lots.

The subject property was included in the destination resort overlay through a mapping process that was completed in 2002. Crook County subsequently approved a Development Plan and Final Development Plan for the property in 2004 (C-CU-DES-001-03). This process is described in detail in the Applicant's burden of proof statement and amended burden of proof statement. Phase 1 of Brasada Ranch was approved in December 2004. Phase 2, the original overnight/cabin development, was approved in September 2005. Phases 3 – 14 followed. Phase 12 was approved in spring 2019 as a non-residential phase for resort operations and utilities. Three phases include overnight lodging, and the remaining phases include single family home development.

On March 9th, 2022, a Planning Commission hearing was held for tentative plan approval of the Phase 15 of Brasada Ranch (Record 217-21-001013-PLNG). The Planning Commission approved the tentative plan with amended findings and conditions, which were incorporated into the decision, and notice of the decision was sent on March 17, 2022. The appeal deadline was identified as March 29, 2022, 4:00 p.m.

The Appellant submitted its appeal application (referred to herein as "Notice of Appeal") on March 29, 2022, prior to the 4:00 p.m. deadline (Record 217-22-000451-PLNG). The Appellant's grounds for appeal related to trails within the proposed subdivision phase and compliance with the required overnight lodging unit ratio. The appeal hearing was then scheduled before the Crook County Court on April 28, 2022, and notice of the appeal hearing was sent in accordance with CCC 18.172.110. Prior to the hearing before the Crook County Court, the owner submitted a response to the Appellant's appeal on April 25, 2022.

At the Crook County Court hearing on April 28, 2022, staff presented the facts of the application, addressed the Appellant's grounds for appeal, and responded to the Applicant's response that was submitted prior to the hearing. Based in part on the Applicant's response, which included a new trails exhibit map depicting the removal of some trails that were originally proposed in the 15th subdivision phase, the County Court decided to remand the application to the Planning Commission for consideration of the new evidence and to address the issues raised by the Appellant in its Notice of Appeal.

In accordance with CCC 18.172.120, remands from the County Court are limited solely to the issues identified in the remand order from the appellate body. On May 9 & 10, 2022, the Applicant submitted additional information addressing the grounds for appeal, of which included an updated trail map to be utilized for the decision and a map illustrating the location and number of overnight lodging units (Exhibits 2 & 3). The evidence submitted also included data regarding the last two years of rental history for the overnight lodging units. The Appellant then submitted additional testimony towards their grounds for appeal on May 11, 2022 (Exhibit 4). The exhibit highlighted their grounds for appeal further, primarily addressing trails and overnight lodging units.

The remand hearing was held on May 11, 2022, where additional evidence directed towards the appeal, and additional testimony was provided by the Applicant and the Appellant. In consideration the evidence submitted and additional testimony provided, the Planning Commission moved to incorporate amended findings into the original decision with edits, and approve the proposed subdivision phase.

The Appellants then appealed the decision a second time (Record 217-22-000993-PLNG), to the Crook County Court, based on similar grounds for appeal as the first appeal. In review of the Appellants grounds for appeal, and considering the Planning Commission decision rendered through Appeal Record 217-22-000451-PLNG, the County Court rejected the Appellant's appeal and affirmed the Planning Commission's approval. The County Court voted to adopt as its final decision, the Planning Commission's decision dated May 24, 2022, including all findings and conditions of approval.

IV. APPLICABLE CRITERIA

Decision C-CU-DES-001-03

Crook County Code

Title 17 Subdivisions

Chapter 17.12 General Requirements and Subdivision Review Committee
Chapter 17.16 Tentative Plans
Chapter 17.20 Final Plat
Chapter 17.36 Design Standards
Chapter 17.40 Improvements
Chapter 17.60 Fees

Title 18 Zoning

Chapter 18.116 Destination Resort Overlay

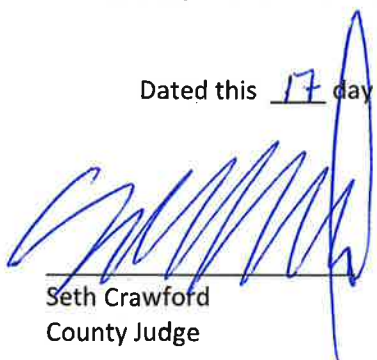
V. CONCLUSIONS OF LAW

Based on the decision rendered by the Crook County Court at the August 3, 2022 hearing, the Planning Commission decision dated May 24, 2022 attached herein can be referenced with regard to the courts conclusions of law.

VI. CONCLUSION

Based upon the findings of fact and conclusions of law, the Crook County Court rejects the Appellants appeal and affirms the Planning Commission's approval. The County Court adopts as its final decision, the Planning Commission's decision dated May 24, 2022, including all findings and conditions of approval.


Dated this 17 day of August, 2022.



Seth Crawford
County Judge



Jerry Brummer
County Commissioner



Brian Barney
County Commissioner