



RECORD # 217 - \_\_\_\_\_ - \_\_\_\_\_

EXHIBIT

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Crook County Community Development/ Planning Division  
300 NE 3<sup>rd</sup> Street, Room 12, Prineville Oregon 97754

OCT 08 2024

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Community Development

**APPEAL PETITION TO PLANNING COMMISSION or COUNTY COURT**

**Appellant Information**

Last Name: The Brasada Ranch Community Council First Name: \_\_\_\_\_

Mailing Address: c/o Laura Craska Cooper Brix Law LLP, 15 SW Colorado Ave. Suite 3

City: Bend State: Oregon Zip: 97702

Day-time phone: ( 541 ) 693 - 0061 Cell Phone: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_

Email: lcooper@brixlaw.com

If group, name of representative: Laura Craska Cooper, Attorney

Land Use Application Being Appealed: (file number) 217-24-000047-PLNG

Property Description: Township 16 Range 14 Section 20 Tax lot(s) 16142000-00100-2063

Appellant's Signature: \_\_\_\_\_ Date: 10/8/24

I/We, the undersigned, wish to appeal the decision made by the Crook County Planning Commission regarding application no. 217-24-000047-PLNG, that a final decision was made on the 26th day of September, 2024.

**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 appellate 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

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**Name** (print)

**Signature**

**Address**

Brent McLean



16915 SW Brasada Ranch Rd.  
Powell Butte, Oregon 97753

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***(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**  
**Planning File #: 217-24-000047-PLNG**

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The Brasada Ranch Community Council, appellant in the above-referenced matter, appeals the administrative decision.

**A. Standing.**

Appellant has standing to appeal for several reasons. First, it is an aggrieved party under the decision, which will negatively impact land that Appellant manages and operates near the site for which the approval was granted. ORS 215.416(11)(a)(A) obligates the County to permit an appeal from any party "who is adversely affected or aggrieved..." when a decision is issued without a hearing. There was no hearing in this case, and therefore, appellant is entitled to appeal as an aggrieved party. In addition, appellant was not provided notice of the application or the decision, as required. In addition, appellant is a member of the public, who is permitted to participate in the first hearing of any land use matter under Oregon's land use laws. In short, appellant has standing to file this appeal.

**B. Bases for Appeal.**

1. The County erred in processing the application pursuant to "special accommodations" requested by the application, which were in violation of the County's own process ordinance, CCC 18.172.
2. The County erred in accepting this application as a "modification" under CCC 18.172.100(1). It should have been a new application.
3. The County erred in approving the application because the proposed use does not constitute a "community center"; it is a commercial business to be operated by a for profit private party seeking to make money.
4. The County erred in approving the application because the proposed facility does not meet the requirements of ORS 215.283(2)(e) and CCC 18.16.010 because the operator would be a for-profit entity rather than a "governmental agency or a nonprofit community organization".
5. The County erred in approving the application because the proposed facility does not meet the requirements of ORS 215.283(2)(e) and CCC 18.16.010 that it operate "primarily by and for the residents of the local rural community". Contrary to the staff decision, the fact that some employees at the facility will be local does not make it a community center. It makes it a commercial business, something not permitted on EFU property.
6. The County erred in supporting its approval by with a finding that this application will not risk opening the floodgates to future applicants gaming the system as this applicant is trying to do.
7. The County erred in approving this use in an EFU zone, where it is not allowed pursuant to CCC 18.24.
8. The County erred in relying upon an inadequate transportation report from applicant rather than a TIA in accordance with CCC 18.180 and Oregon law.


9. The County erred in finding that the applicant can use the Church component of the property, which was only permitted precisely because it was a church, for non-church purposes.
10. The County erred in its application of the Fair Housing Act, 42 U.S.C. Sections 3601-3631 to the application.
11. The County erred in its application of the Americans with Disabilities Act, 42 U.S.C. Sections 12101 et seq. to the application.
12. The County erred in concluding that the FHA and the ADA require the County to approve the application or be guilty of discriminating against individuals with addictions.

**RE: Appeal Petition**  
**Planning File #: 217-24-000047-PLNG**

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To Whom It May Concern:

I, Brent McLean, authorized representation of The Brasada Ranch Community Council, appellant in the above-referenced matter, hereby authorizes Laura Craska Cooper and/or Eric Taylor of Brix Law LLP to file an appeal in the foregoing land use matter and further to speak, submit written documentation, or otherwise appear on behalf of The Brasada Ranch Community Council in connection with such appeal.

  
\_\_\_\_\_  
Brent McLean, Authorized Representative  
The Brasada Ranch Community Council

October 8, 2024  
Date

Brent McLean  
Community Council  
16915 SW Brasada Ranch Rd.  
Powell Butte, Oregon 97753