

January 10, 2024

D. Adam Smith

Admitted in Oregon and Colorado

D: 541-749-1759

asmith@schwabe.com

VIA E-MAIL

Crook County Planning Commission
c/o Katie McDonald, Senior Planner
300 NE 3rd Street
Prineville, OR 97754
katie.mcdonald@crookcountyor.gov;
plan@crookcountyor.gov

Received by Crook County
Community Development
on 1-10-2024 at 3:10pm

RE: Crook County File No. 217-23-001215-PLNG
Our File No.: 140521-277231

Dear Crook:

This letter constitutes the Applicant's open record submittal and provides the attached evidence to respond to issues raised during the December 13, 2023 public hearing. Additional legal arguments based upon the evidence attached hereto will be included as part of the Applicant's final legal argument, to be filed on or before January 24, 2024.

Please note that that Applicant's attached exhibits are labeled following the nomenclature and ordering utilized for the original application, with the first exhibit attached hereto labeled as "Exhibit V."

Sincerely,



D. Adam Smith

DASM

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Index:

- Exhibit V: December 29, 2023 email from A. Smith
- Exhibit W: January 2, 2023 email from E. Dickson (attachments omitted because documents already included in the record)
- Exhibit X: January 3, 2023 email from T. MacLeod
- Exhibit Y: January 6, 2024 letter from W. Kuenzi
- Exhibit Z: January 9, 2024 letter from T. Parsons
- Exhibit AA: Revised Site Plan
- Exhibit BB: January 10, 2024 Statement from R. Campbell
- Exhibit CC: June 2023 emails from T. Weitman regarding building permits
- Exhibit DD: Screenshot from Applicant's previous webpage
- Exhibit EE: G. Huston Transcript
- Exhibit FF: E. Dickson Transcript
- Exhibit GG: J. Fahlstrom Transcript
- Exhibit HH: T. MacLeod Transcript
- Exhibit II: D. Orr Transcript

From: [Smith, Adam](#)
To: [Tami MacLeod \(tmacleod@lynchmurphy.com\)](#); [Elizabeth A. Dickson](#)
Bcc: [140521_277231_Land Use Emails](#) [140521_277231](#)
Subject: Huston - 217-23-001215-PLNG [IWOV-PDX.FID4923157]
Date: Friday, December 29, 2023 12:54:55 PM
Importance: High

Tami and Liz,

My client and I spent some time over the holidays evaluating options for the proposed event venue with an aim towards proposing what we believe are reasonable conditions of approval. Going through this effort ourselves is meant to demonstrate our commitment to ending the neighborhood animosity that was perpetuated by all parties during the December 13 hearing. We specifically are looking to resolve the dispute without needing to continue challenging your client's claims regarding actual farm activities currently occurring on their properties. Regardless of what happens with this permit or the proposed event center, our clients will continue to be neighbors for the foreseeable future. And my client very much hopes to repair relationships with his neighbors while finding a way to secure additional income for his ranch to thereby prevent continued parcelization of the area. We hope that you and your clients feel the same way and share those goals.

With those goals in mind, my client is willing to agree to the following conditions of approval:

- Reduce the number of events to 10 per year.
- Install reasonable privacy fencing or landscaping directly across from the entrance to the pavilion to reduce headlights and glare shining into the Orrs' home (we will need to negotiate specifics ASAP to be included in the condition – i.e. landscaping vs fence, height and width of the fence, materials, etc).
- Adding signage at the gate directing the public to watch for farm traffic and (if possible) reducing the speed limit to 15 mph.
- Adding those conditions of approval directly impacting events as an addendum to the Huston's event agreement.
- Requiring a representative of the ranch to check-in in-person with each event to ensure all conditions of approval and event agreement provisions are being met.

From our perspective, the most significant concession is formally reducing the events to only 10 per year. Our position has always been that we only asked for 18 events to maintain flexibility in scheduling. Nevertheless, reducing the events to only 10 ensures that my client (or a subsequent property owner) cannot increase the number of events in the future without modifying the permit. Reducing the events to 10 will ensure a 44% reduction in all other potential impacts – be those impacts caused by traffic, noise, etc. We hope you agree that reducing the events to only 10 per year is a notable concession on our part to resolve this disagreement; any fewer events stops being cost effective and thereby provides little financial benefit to the ranch. Last, please note that the aforementioned conditions are additional mitigation as my client intends to continue maintaining the road (pursuant to the maintenance agreement or on his own), watering the road to reduce dust, etc.

Please note that in order for my client to formally consent to the aforementioned conditions of approval, both of your clients will need to provide documentation to the County clarifying that they

are likewise in agreement with these proposed conditions. Additionally, that documentation will need to further state that these conditions will satisfactorily address the asserted impacts such that the proposed events will no longer force a significantly change in farm practices nor significantly increase the cost of those farm practices. That documentation from your clients will need to be added to the record in order for the County to approve findings addressing CCC 18.16.055(3)(d) (as required by CCC 18.16.055(4)(b)). The only other option is instead to demonstrate that there are no significant impacts as there are no current farm practices occurring. As noted above, our intent is to resolve the dispute amicably rather than needing to continue attacking the veracity of your client's claims.

As a final matter, please also note that we specifically do not intend for this communication to be confidential as a settlement offer under ORS 40.190 (which is technically inapplicable) or any other potentially-applicable statute, rule, or case-law. Instead, our interest is in negotiating conditions of approval that satisfactorily mitigate the farm impacts asserted by your clients, and we thereby intend to include this communication in the record.

As the deadline for adding new evidence to the record is January 10, 2024, we respectfully ask that you respond to this email by January 3, 2024.

Thanks,
-Adam

Adam Smith

Shareholder

Pronouns: he, him, his

D: 541-749-1759

asmith@schwabe.com

SCHWABE, WILLIAMSON & WYATT

CLIENT SHOWCASE | INNOVATING FOR GOOD

From: [Elizabeth A. Dickson](#)
To: [Smith, Adam](#); [Tami MacLeod \(tmacleod@lynchmurphy.com\)](mailto:tmacleod@lynchmurphy.com)
Subject: RE: Huston - 217-23-001215-PLNG [IWOV-PDX.FID4923157]
Date: Tuesday, January 2, 2024 2:15:19 PM
Attachments: [image001.jpg](#)
[Fahlstrom - Affidavit of John Fahlstrom.pdf](#)
[Fahlstrom - Affidavit of Connie Fahlstrom.pdf](#)

Adam,

I've consulted with the Fahlstroms. They reject your proposed compromise in its entirety. The farming community has been severely disrupted by the prior illegal events, and the Fahlstroms are not willing to permit any such events in the future. Their submitted affidavits described the negative effects of prior events, attached for reference. Eighteen events per year is disruptive to farming and ranching. Ten events is also disruptive. The fact that the property owner does not supervise the conduct of hundreds of unmanaged strangers in a celebratory, alcohol-fueled environment results in foreseeable results. The Fahlstroms agree with the policy described in Oregon Statute and Crook County Code, disallowing such events where they are incompatible with farming and ranching.

Liz Dickson
Attorney and Partner



400 SW Bluff Drive, Suite 240
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O: 541.585.2229
C: 541.410.4900

eadickson@dicksonhatfield.com

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TAX ADVICE NOTICE: IRS Circular 230 requires us to advise you that, if this communication or any attachment contains any tax advice, the advice is not intended to be used, and cannot be used, for the purpose of avoiding federal tax penalties. A taxpayer may rely on professional advice to avoid federal tax penalties only if the advice is reflected in a comprehensive tax opinion that conforms to stringent requirements. Please contact us if you would like to discuss our preparation of an opinion that conforms to these IRS rules.

-

From: Smith, Adam <asmith@schwabe.com>
Sent: Friday, December 29, 2023 12:55 PM
To: Tami MacLeod (tmacleod@lynchmurphy.com) <tmacleod@lynchmurphy.com>; Elizabeth A. Dickson <eadickson@dicksonhatfield.com>
Subject: Huston - 217-23-001215-PLNG [IWOV-PDX.FID4923157]
Importance: High

Tami and Liz,

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Thanks,
-Adam

Adam Smith

Shareholder

Pronouns: he, him, his

D: 541-749-1759

asmith@schwabe.com

SCHWABE, WILLIAMSON & WYATT

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From: [Tami MacLeod](#)
To: [Smith, Adam](#)
Cc: [Elizabeth A. Dickson](#)
Subject: Huston 217-23-001215-PLNG
Date: Wednesday, January 3, 2024 2:55:49 PM

Good afternoon –

Thank you for your email of December 29, 2023, proposing a path for resolving some of the issues surrounding the Hustons' proposed commercial event permit. I have discussed with my clients the Orrs, and while we appreciate the effort to reach resolution, particularly the offer for privacy fencing, the Orrs reject the proposal. After careful consideration, the Orrs just do not believe that the modifications and conditions of approval are sufficient to address the negative impacts on farming and ranching from the commercial events (whether 10 or 18).

TAMI MACLEOD

LYNCH MURPHY MCLANE LLP

747 SW MILL VIEW WAY | BEND, OREGON 97702

DIRECT: 541.323.0174 | OFFICE: 541.383.5857 | FAX: 541.383.3968

tmacleod@lynchmurphy.com | www.lynchmurphy.com

January 6, 2024

Crook County Planning Commission
c/o Kaite McDonald, Senior Planner
300 NE 3rd St, Room 12
Prineville, OR 97754
plan@crookcountyor.gov

Dear Commissioners,

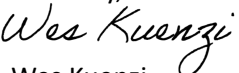
I live at 8899 NW Campbell Ranch Road, and I am a neighbor to the subject property. I submit these comments in support of the proposed commercial event permit. I raise both hay and cattle on my property. My property is 105 acres in size. It contains irrigated hay fields, irrigated pasture, rangeland used for cattle grazing, livestock corrals, chutes, and barns.

My property is adjacent to the Huston's property and directly north of the proposed event site. Rick Morton raises hay and runs a cow/calf operation on property directly north of my land. I purchased my property from John Fahlstrom in 2022. My property lies in between the parcel containing Mr. Fahlstrom's house and Mr. Fahlstrom's other, larger parcel.

I use Campbell Ranch Road every day and I have never had any conflicts with traffic going to or leaving the events held on the Huston's property. I use the road to move equipment and cattle to and from my property. My farming and ranching activities have not been impacted by the commercial events or traffic generated from the events.

As a rancher and farmer, I understand that it is difficult to make a profit from farming and ranching alone. I believe it is important to allow ranchers and farmers to use their land for activities that will generate additional income if those activities do not significantly impact farming and ranching operations on their property or surrounding properties. I believe the proposed commercial events and similar commercial activities that are supportive of agriculture are a benefit to the local agricultural community because they allow farmers and ranchers to generate additional income on their properties which support the continued use farmland for agricultural purposes.

Thank you for reading my letter and considering the perspective of a local rancher.

Sincerely,

Wes Kuenzi

January 9, 2024

Crook County Planning Commission
c/o Kaite McDonald, Senior Planner
300 NE 3rd St, Room 12
Prineville, OR 97754
plan@crookcountyor.gov

Dear Commissioners,

I manage the events that take place at the commercial event site. I submit this letter to explain how we manage the event site, provide rules for the events, and ensure that our guests abide by our venue agreement.

Before the events take place, I meet with each client at the event site months in advance of the anticipated event. During this meeting I take the client on a tour of the event site and discuss the rules they must follow while using the site. I show them the parking area and explain how the parking flow is designed. I show them the pavilion and inform them of the location where temporary structures must be placed. I also discuss with the client the locations where event patrons can and cannot go and make it clear that they must ensure patrons do not leave the designated area. Such areas are marked with signage, closed or locked.

For all event clients, I discuss the plan for the event and go over our venue agreement in detail. We discuss dates and times of the event and our rules, such as maximum number of people allowed, alcohol service by a licensed server only, alcohol service and music entertainment end times (alcohol service ends 30 minutes prior to shut down, music 15 minutes), and the maximum number of people allowed. We take pride in working with each client while also ensuring that our rules are understood and followed.

We charge between \$3,000 to \$3,500 for events such as weddings. Our pricing is typically adjusted throughout the season based on demand and seasonality. For special events that we sponsor, we either donate the entire rate or charge a small amount, typically \$500. If the event is a smaller event, such as a one-day anniversary party, we charge \$500. We provide portable toilets, water, tables, chairs, and many decorations so our clients do not need to bring these things to the event site.

The day before the event is held, the clients are allowed to set up the pavilion for the upcoming event. The client and a small group of helpers set up by decorating which may not begin before 8 am. I go to the event site as soon as they arrive and meet with the client to make sure they are setting up in the correct locations. Typically, I am at the venue most of the day answering questions and helping prepare for the event.

On the day of the event, I go to the venue site to confirm that all rules are being followed and that event activities will occur only in the designated area. Additionally, I place signage along the road directing patrons to the event site and directing parking flow. I also place 15 mph signs along the road to ensure that event patrons know the speed limit and vehicles travel the road at safe speeds.

The day after the event, the client and a small group of helpers clean up the event site and remove decorations. For most events, the event site is cleaned up and the small group of helpers have left the event site by noon. I go to the event site in the morning after each event to confirm that the clients are cleaning up the event site and that they have removed all belongings. Each client checks out with me prior to leaving.

Most of our event clients invite us to their events. So, my husband and I often attend the events ourselves. At the time the events are scheduled to end my husband or I go up to the venue 30 minutes prior to confirm that the alcohol service is shut down and the music is shut down 15 minutes prior. We remain at the site to ensure the events have ended and that all guests have left the event site. Additionally, my husband and I live approximately 300 yards away from the event site, so if we are not at an event, we are always nearby and can monitor the noise level from our house. I give the event coordinators my contact info and I am always close by when events are taking place in case of questions or emergencies.

I am very selective about who we accept as clients. I have multiple phone calls, in person tours and meetings before allowing a new client to use the event site. We take great pride in holding events at our property which is also our home, and we are vigilant that the event site and our neighbors' properties are respected during each event. I put hours and hours of work into maintaining the property and making sure it is up to par and never ask anything less of the clients who use it. I would never do anything to jeopardize or risk the integrity of the events, my family or our neighbors.

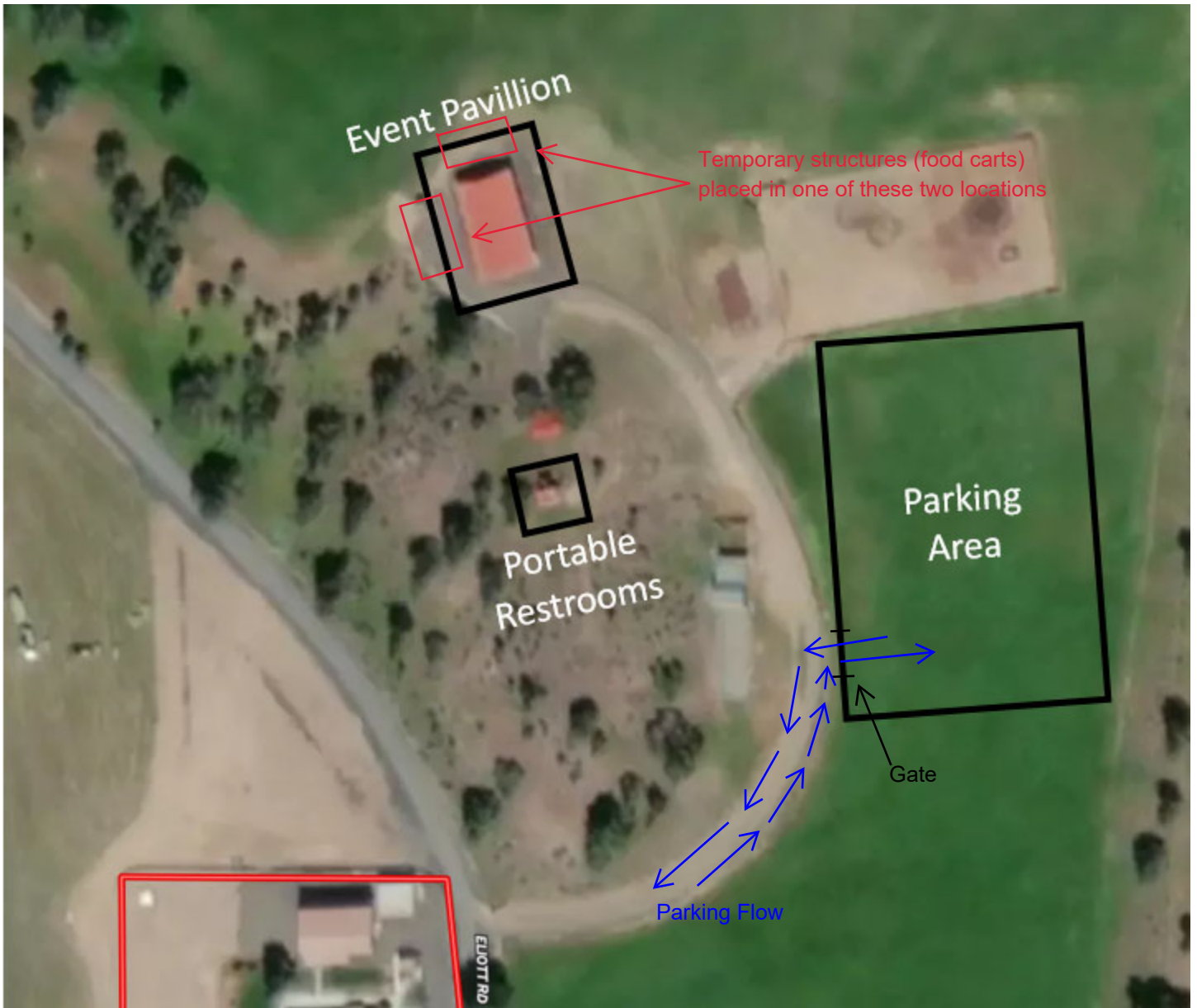
My family has lived, farmed and ranched here for four generations. I was born and raised here and choose to raise my family here along with serving my community in my full-time profession as a reading specialist in the local school district. I am very proud of the opportunity for the county and city to gain new visitors and patrons when our events are held. I have received so many compliments of how accommodating and friendly our town of Prineville is and all the amazing activities that can be found in our area. My website for the venue had a special tab dedicated solely to Prineville and the surrounding area to try to help people discover, explore and spend time in the town of Prineville visiting our amazing businesses.

Thank you for considering my comments. If you have any questions, please feel free to contact me at 541-233-6069 or tanya.parsons@gmail.com

Sincerely,


Tanya Parsons

Revised Site Plan



Existing Buildings and Structures

January 10, 2024

Crook County Planning Commission
c/o Kaite McDonald, Senior Planner
300 NE 3rd St, Room 12
Prineville, OR 97754
plan@crookcountyor.gov

Re: 217-23-001215-PLNG; Application for Commercial Event Permit

Dear Commissioners,

I own and manage a hay farm in Tumalo a cattle ranch in Grant County and I am also a land use attorney. Ranching has always been an integral part of my life. I studied agricultural sciences at Oregon State University, and I lived and worked on ranches and farms throughout my life. I submit these additional comments in regard to the farm impacts of the proposed commercial events and the farm uses that are occurring on the Fahlstrom and Orr properties.

Prior to writing this letter I visited the subject property on three separate occasions (May 22, 2023; December 13, 2023; January 6, 2024) to analyze the farm uses occurring on the subject property and surrounding properties. I also reviewed and analyzed numerous satellite images and maps of the subject property and surrounding properties.

I prepared the farm impacts analysis which was included within the body of the applicant's burden of proof narrative submitted with the subject application. I also testified during the December 13, 2023, public hearing to outline that analysis. Following my initial analysis, John Fahlstrom and David Orr provided hearing testimony regarding their activities on their respective properties and impacts they believe will stem from approval of the proposed commercial event permit. I submit these comments to supplement my initial farm impacts analysis and to address the farm uses that are occurring on the Fahlstrom and Orr properties.

Fahlstroms

The Fahlstroms own three parcels near the Huston ranch: two 7.5-acre parcels on the east side of the Huston ranch (the "Easterly Parcels") and one 165.89-acre parcel on the west side (the "Westerly Parcel"). The Easterly Parcels contain the Fahlstroms' house, a detached garage, and a garage/shop building. The Westerly Parcel is undeveloped rangeland.

As the Fahlstroms and their attorney noted in their submittals and testimony, their concerns are centered on shared use of Campbell Ranch Road. Their concerns include additional traffic, drivers who are inexperienced with driving on rural roads, aggressive drivers, tailgating, unsafe traffic conditions, and traffic that bothers Mr. Fahlstrom's animals when they are being transported in trailers.

In my experience, nearly all ranchers and farmers throughout Oregon share the use of roads, often high-traffic public roads, to move farm equipment and livestock to and from their properties with no significant impact to their farming operations. As someone who has moved tractors and cattle on roads, I understand that traffic and tailgating may be annoying to some, but I do not agree that it will significantly impact the Fahlstroms' alleged ranching activities or significantly increases the cost of their ranching activities.

The Fahlstroms' letter, dated December 12, 2023, states that the Fahlstroms' Easterly Parcels contain a "home, shop, and farm buildings." This statement is inaccurate and intended to exaggerate the Fahlstroms' alleged farm uses of their properties. On January 7, 2024, I drove along Spring Creek Road to view the Fahlstroms' Easterly Parcels and existing structures. I observed one dwelling, one small detached garage, and one garage/shop building on the Easterly Parcels. Subsequently, I reviewed satellite images and Crook County building records to confirm that one 1846 SF dwelling, one 308 SF detached garage, and one 1600 SF garage/shop building are the only buildings on the Easterly Parcels. No other "farm buildings" are located on either Easterly Parcels.

The Fahlstroms' letter also concedes that the Fahlstroms do not graze livestock on their Easterly Parcels. I confirmed there are no livestock barns, hay barns, livestock corrals, cattle handling equipment, or other improvements on the Easterly Parcels that indicate it is used for raising livestock. Additionally, as shown on the photograph below, the fences around this parcel would not hold livestock as there are large gaps in the fence through which livestock would easily escape.



Accordingly, it is not clear why the Fahlstroms would ever need to transport animals to their Easterly Parcels as the necessary farm appurtenances are not present on those parcels. To the extent animals are transported to the Easterly Parcels at all, such transportation is unlikely to occur with a sufficient frequency to result in significant impacts caused by transportation to and from the event site.

The Fahlstroms' Westerly Parcel is 265 acres and contains primarily rangeland. In his testimony, Mr. Fahlstrom stated that he recently established irrigation rights on this parcel. The Fahlstroms have not provided any evidence of their water rights and I have not been able to determine if such water rights exist or the number of irrigated acres authorized by such water rights. Nonetheless, I used mapping software and satellite images to map the area on the Westerly Parcel where the ground was recently tilled to plant irrigated grasses. This area is approximately 2 acres in size.

In his December 13, 2023, hearing testimony, Mr. Fahlstrom conceded that he has yet to add any animals to his Westerly Parcel. When I visited the site on January 7, 2024, I viewed the Fahlstroms' Westerly Parcel. I observed one mule, one steer, and one water trough on the Fahlstroms' Westerly Parcel. I also observed one old squeeze chute that is not operable. As shown in the photograph below, the squeeze chute is sitting on top of an old cattle guard and there are no corrals or cattle working chutes that accompany the squeeze chute. Additionally, I observed there are no livestock barns, hay barns, livestock corrals, cattle handling equipment in working condition, loading chutes, or other similar improvements on the Westerly Parcel that are typical of livestock pastures found on similar properties.



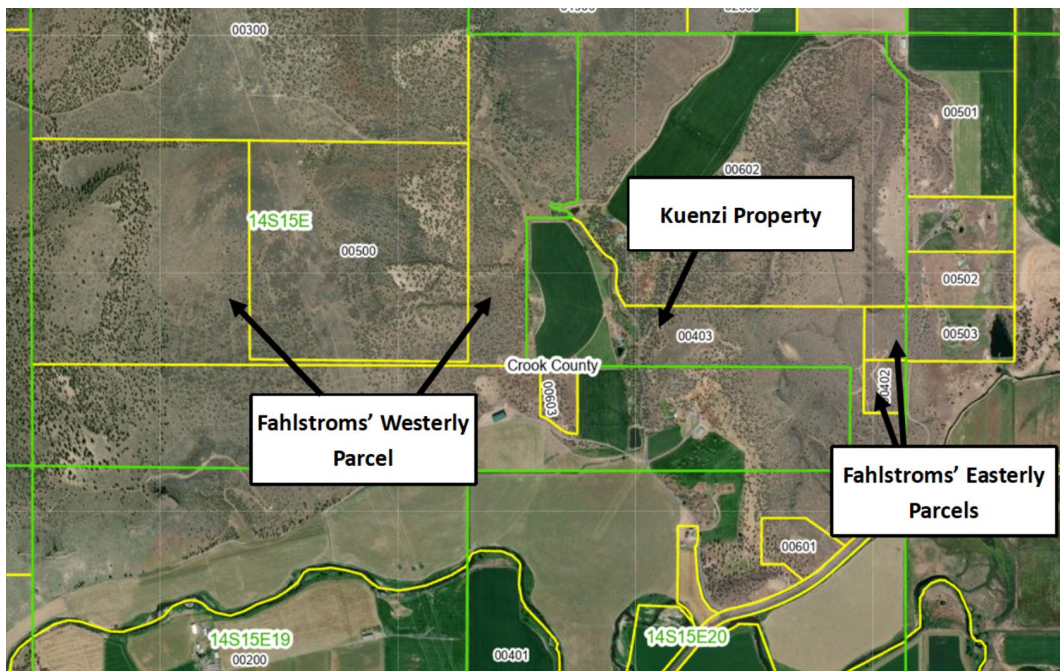
The Fahlstroms' 265-acre Westerly Parcel is used in conjunction with a 160-acre Bureau of Land Management (BLM) grazing allotment, named the Montgomery Allotment. A copy of the Authorized Use by Allotment Report for the Montgomery Allotment is attached as [Exhibit A](#). The Allotment Report shows that 5 head of cattle and 16 AUMs are authorized on this allotment each year for the period between July 15 and February 28.

The Fahlstroms' 265-acre Westerly Parcel and the 160-acre Montgomery Allotment are fenced together creating one larger pasture for grazing cattle. I viewed this pasture from the south and east property boundaries, as well as viewed it on satellite images, and I found no cross fences that separate the Fahlstroms' private property from the BLM allotment. Since the public property and the private property

are fenced together, when cattle are turned out they graze both the private property and the BLM land and there is no way to keep the animals on only the private property. The BLM allotment is authorized for grazing from July 15 through February 28. If the Fahlstroms used this pasture for grazing cattle in the future, their cattle could only use this pasture from July 15 and February 28 each year. As proposed, the commercial events would begin in May and end in October. If the Fahlstroms intended in the future to use their Westerly parcel and the BLM allotment for grazing cattle, approximately half of the commercial events would occur before the Fahlstroms were able to turn their cattle out on this pasture. This fact alone would significantly decrease any potential impact to the Fahlstroms when moving their animals or traveling to and from the Westerly Parcel to check on their animals.

In his affidavit, dated November 7, 2023, Mr. Fahlstrom stated that he discovered his property in 2000 and has lived there since 2001. This statement neglects additional information that the Planning Commission may find notable. When Mr. Fahlstrom purchased his property in 2001, he owned the Westerly Parcel and Easterly Parcels he now owns in addition to another parcel that is between the Westerly and Easterly Parcels (Map and Taxlot: 14150000-00403-19125). The Fahlstroms sold that additional parcel to Wes Kuenzi in 2022.

For approximately 20 years the Fahlstroms owned all of the aforementioned parcels and lived in the house that lies between the two tracts of land they now own. The map below depicts the Fahlstroms' Westerly Parcel, their Easterly Parcels, and the Kuenzi property which lies in the middle of the two Fahlstrom tracts. Before selling the Kuenzi property in 2022, the Fahlstroms divided their larger property to create separate tracts of land and built a new house on the easternmost edge of their land. The Fahlstroms kept the Westerly Parcel and the Easterly Parcels and obtained approval of a non-farm dwelling on one of the Easterly Parcels. After constructing a new house on the Easterly Parcels and moving into it in 2021, the Fahlstroms sold the Kuenzi property along with all of their irrigated hay ground.



By dividing and selling off portions of the ranch they once owned, the Fahlstroms have created separate and disjunctive tracts of land that are now difficult to use for ranching and farming. Mr. Fahlstrom has conceded that he does not use his Easterly Parcels for livestock grazing and that he has yet to add any animals to his Westerly Parcel. In his hearing testimony, Mr. Fahlstrom stated that he has "big plans" to use his Westerly Parcel for raising livestock. However, the parcelization and sale of portions of the ranch that the Fahlstroms once owned force me to question the prudence and sincerity of such claims because most ranchers intending to keep land in agricultural production would not sell the main portion of their ranch and all their hay ground with the intent of then operating a profitable cattle ranch on only a meager, remaining rangeland parcel.

For the foregoing reasons and in my expert opinion as both a rancher and a land use attorney, the requested land use application "will not force a significant change in accepted farm practice" on the Fahlstroms' property as prohibited CCC 18.16.055(3)(d) specifically because there is no evidence of such "farm practices" currently occurring on that property. Stated simply, the Fahlstroms' property is not "devoted to farm * * * use" as required by CCC 18.16.055(3)(d), at least not to the extent that "farm use" is specifically defined by ORS 215.203(2)(a).

Orrs

The Orrs own one parcel that is adjacent to the Hustons' ranch. The Orrs' parcel is a total of 6.86 acres. It contains one dwelling, two garage buildings, one shop building, one shed building, and a 4.5-acre irrigated pasture.

The Orrs do not currently raise, harvest, and sell hay of any kind. In her hearing testimony Tami MacLeod, the Orrs' attorney, stated that the Orrs have produced hay and sold hay from their property. However, the Orrs have not raised and sold any hay in recent years. Ms. MacLeod further noted that the Hustons' ranch manager was the last person to hay the Orrs' pasture and sell the Orr's hay for them. I spoke to Blair Parsons, the manager of the Hustons' ranch, who informed me that he has not hayed the Orrs' pasture or sold the Orrs' hay for them since the 2021 haying season. As the Orrs conceded, they do not currently raise, harvest, and sell hay and have not done so for over two years.

Ms. MacLeod discussed that the Orrs have not been able to find a haying contractor who will hay their pasture and sell their hay for them. Ms. MacLeod stated that the Orrs have not been able to find anyone to hay their pasture for them because there is a conflict when farming equipment shares the road with traffic from the event site. I question the veracity of that statement because any traffic associated with the event site occurs sporadically and seasonally, and the haying of the Orr's property could easily be scheduled in such a manner to avoid any hypothetical conflicts. Additionally, haying contractors regularly move their equipment to and from their clients' fields. Typically, when haying contractors move their haying equipment, they drive on public roads which are shared by all types of vehicles and drivers.

Mr. Orr stated in his hearing testimony that it is expensive to hire a haying contractor to hay their property and that haying contractors charge a premium to hay small areas such as the Orrs' pasture. The likely reason the Orrs are not able to find a haying contractor that will hay their property is because their pasture is so small a haying contractor would lose money by moving all their haying equipment to the Orr's property only to harvest, at best, a few tons of hay. Even if the Orrs were able to find a willing

haying contractor, the cost for the Orrs to hire a haying contractor would likely exceed any profit they might make from selling their hay.

For the foregoing reasons, the requested land use application “will not force a significant change in accepted farm practice” on the Orrs' property as prohibited CCC 18.16.055(3)(d) specifically because there is no evidence of such “farm practices” currently occurring on that property. Stated simply, the Orrs' property is not “devoted to farm * * * use” as required by CCC 18.16.055(3)(d). “Farm use” is specifically defined by ORS 215.203(2)(a), to include “the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops[.]” As the evidence shows, the Orrs are not currently using their land for the primary purpose of obtaining a profit in money by raising, harvesting and selling hay.

Thank you for considering these comments.

Sincerely,



Rand Campbell
Hopper LLC – Hopper Ranch
Back Forty LLC – Back Forty Hay Farm
randcampbelllaw@gmail.com

EXHIBIT A



**United States Department of the Interior
Bureau of Land Management
AUTHORIZATION USE BY ALLOTMENT REPORT**



OR05088 MONTGOMERY

Administrative State	OR - OREGON
Administrative Office	LLORP06000 DESCHUTES FO
Allotment Number	OR05088
Allotment Name	MONTGOMERY
Grazing Allotment	Y
Allotment Decision	N/A
Plan Type	
Plan Date	

Authorization Information

Authorization Number	Admin State	Administrative Office	Authorizing Office	Effective Date	Expiration Date	Issue Date	Actual Active AUMS	Actual Suspended AUMS
3605580	OR	LLORP06000	DESCHUTES FO	03/01/2017	02/28/2027	09/28/2016	16	0
TOTAL							16	0

Authorization Schedule Information

Allotment Number	Allotment Name	Pasture Name	Auth. No	Livestock Number	Livestock Kind	Period Begin	Period End	Public Land %	Type Use	AUMS
OR05088	MONTGOMERY		3605580	5	CATTLE	07/15	02/28	47	CUSTODIAL	16

The sum of the AUMs from the Authorization Schedule Information may not equal the Active AUMs for each authorization or allotment due to rounding in the AUM calculation.
Date Printed: December 13, 2023 Page 23 of 163

From: [Smith, Adam](#)
To: [Terry Weitman](#); [Will VanVactor](#); [Randy Davis](#)
Cc: [Oswald, Bailey M.](#)
Subject: RE: Meeting re Ponderosa Ranch Pavilion [IWOV-PDX.FID4923157]
Date: Wednesday, June 14, 2023 9:30:52 AM
Attachments: [image001.jpg](#)

Terry,

Sorry for the slow response. I was out of the office and just now catching up on email.

And thanks for the quick decision on building permits, etc. Based on that decision, it looks like we don't need to reschedule our meeting and we will instead just continue on with our land use permit. With that in mind, will you be providing any comments to the land use record regarding building code compliance? If not, we can just include your below email in the record if opponents raise any issues regarding the building code.

Thanks again for the help and the quick response,

-Adam

Adam Smith

Shareholder

Pronouns: he, him, his

D: 541-749-1759

asmith@schwabe.com

SCHWABE, WILLIAMSON & WYATT

CLIENT SHOWCASE | INNOVATING FOR GOOD

From: Terry Weitman <Terry.Weitman@crookcountyor.gov>
Sent: Friday, June 9, 2023 8:26 AM
To: Smith, Adam <asmith@schwabe.com>; Will VanVactor <Will.VanVactor@crookcountyor.gov>; Randy Davis <Randy.Davis@crookcountyor.gov>
Cc: Oswald, Bailey M. <BMOSwald@schwabe.com>
Subject: RE: Meeting re Ponderosa Ranch Pavilion [IWOV-PDX.FID4923157]

Good Morning Adam,

I will be out of the office on June 16th, so I won't be able to make that meeting.

I have looked through all the building file for this property and I can't find any building records for this pavilion. The property owner has obtained building permits for everything else on the property, so as you stated below this could have been missed place in the filing system some were along the way.

So, the building department is looking at this building as a permitted building. From this point forward if there are any changes to the building for structural, mechanical, plumbing, and electrical there will need to be permits pulled and inspected to current code.

At this point you will just need to work with planning and their decision.

If you have any further questions for the building department please let me know.



Terry Weitman

Assistant Building Official / Plans Examiner / Senior Inspector
Crook County Community Development

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

Office: (541) 447-3211

Cell: (541) 233-7734

E-mail: terry.weitman@co.crook.or.us

Website: www.co.crook.or.us

From: Smith, Adam <asmith@schwabe.com>

Sent: Thursday, June 8, 2023 10:58 PM

To: Terry Weitman <Terry.Weitman@crookcountyor.gov>; Will VanVactor <Will.VanVactor@crookcountyor.gov>; Randy Davis <Randy.Davis@crookcountyor.gov>

Cc: Oswald, Bailey M. <BMOSwald@schwabe.com>

Subject: RE: Meeting re Ponderosa Ranch Pavilion [IWOV-PDX.FID4923157]

All,

How about a meeting at 10:00 am Friday, June 16? Do you prefer in person or Zoom / Teams?

Also, I am quite surprised that there are no records of building permits issued for the pavilion. If nothing else, it is surprising that the previous property owners would go to all that trouble to obtain a CUP but then not proceed with obtaining a building permit (if then required). Is there a chance that records could have been lost?

Thanks,
-Adam

Adam Smith

Shareholder

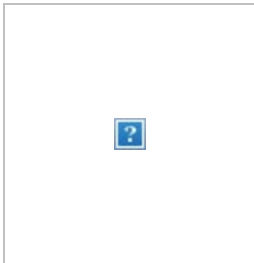
Pronouns: he, him, his

D: 541-749-1759
asmith@schwabe.com

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From: Terry Weitman <Terry.Weitman@crookcountyor.gov>
Sent: Thursday, June 8, 2023 6:21 AM
To: Will VanVactor <Will.VanVactor@crookcountyor.gov>; Smith, Adam <asmith@schwabe.com>
Cc: Oswald, Bailey M. <BMOSwald@schwabe.com>; Randy Davis <Randy.Davis@crookcountyor.gov>
Subject: RE: Meeting re Ponderosa Ranch Pavilion [IWOV-PDX.FID4923157]

Yes, Friday before noon works for me also. Do we have a site address for this property?



Terry Weitman

Assistant Building Official / Plans Examiner / Senior Inspector
Crook County Community Development
300 NE 3rd Street Room 12, Prineville, OR 97754
Office: (541) 447-3211
Cell: (541) 233-7734
E-mail: terry.weitman@co.crook.or.us
Website: www.co.crook.or.us

From: Will VanVactor <Will.VanVactor@crookcountyor.gov>
Sent: Wednesday, June 7, 2023 3:55 PM
To: Smith, Adam <asmith@schwabe.com>
Cc: Oswald, Bailey M. <BMOSwald@schwabe.com>; Randy Davis <Randy.Davis@crookcountyor.gov>; Terry Weitman <Terry.Weitman@crookcountyor.gov>
Subject: Re: Meeting re Ponderosa Ranch Pavilion [IWOV-PDX.FID4923157]

Hi Adam,

Thank you for being pro-active on this issue. I'm looping our Assistant Building Official, Terry Weitman, into the conversation.

We reviewed our records and were not able to find any building permits associated with the pavilion. We'd be happy to discuss building code requirements so that your client is aware of what will be required to come into compliance. I don't want to speak for Randy or Terry, but Friday (6/16) before noon works for me. The following week is a little better.

Thanks again.

Will Van Vactor

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From: Smith, Adam <asmith@schwabe.com>
Sent: Wednesday, June 7, 2023 7:26 AM
To: Will VanVactor <Will.VanVactor@crookcountyor.gov>; Randy Davis <Randy.Davis@crookcountyor.gov>
Cc: Oswald, Bailey M. <BMOswald@schwabe.com>
Subject: Meeting re Ponderosa Ranch Pavilion [IWOV-PDX.FID4923157]

Will & Randy,

As Will is well aware, our firm represents Greg and Karen Huston, the owners of taxlot 14152000-0060-15820 and the owners of a "Pavilion" located on that property. Earlier this year, the Hustons voluntarily entered into an *Agreement to Abate* alleged code violations concerning events occurring on the subject property, with that agreement providing the Hustons the options to submit a land use application to modify an existing 1992 CUP or a land use application for a new land use permit. The *Agreement to Abate* does not similarly require a building permit application. That makes sense as we presume the Pavilion was construed with all required building permits sometime after the County approved the aforementioned 1992 CUP. Nevertheless, we presume that questions may come up during our upcoming land use proceedings concerning building code compliance and it thereby seems prudent to proactively address the situation with County staff at this time.

If necessary, I would like to schedule a meeting with the both of you in the near future to discuss any potential building code compliance issues. As noted, our understanding is that the Pavilion was fully permitted when constructed sometime after 1992, and that no further building permits are required as the use of the structure and occupancy classification has not changed since that time. If Crook County agrees with the position, then a meeting may not be necessary. But we nevertheless wanted to schedule a time to meet with both of you in case we are misunderstanding the current situation.

In short, I am hoping to schedule a meeting with both of you in the near future if helpful and necessary. Please let me know your availability and I will do my best to accommodate your schedules.

Thanks for the coordination,
-Adam Smith

Adam Smith

Shareholder

Pronouns: he, him, his

D: 541-749-1759
asmith@schwabe.com

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WEDDINGS & EVENTS

VENDORS

NATURAL BEEF

GALLERY

INFORMATION

All Natural Beef

Are you looking to serve delicious, tender, natural beef at your next event? Book your event and contact us for affordable options to serve your guests our ranch raised natural beef!

Looking for half or whole beef cut and wrapped to your specifications? We can meet your needs!



The Ponderosa Ranch is comprised of 900 acres of prime grazing ground on the banks of the Crooked River. This lends itself to the perfect conditions to raise our all natural beef.

Our cattle never receive antibiotics, hormones and they are finished longer than other producers offer.

The beef, in turn, is tender, juicy and USDA inspected.



THE
PONDEROSA
weddings & events

HOME

WEDDINGS & EVENTS

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GALLERY

INFORMATION



The Ranch

The Ponderosa Ranch is made up of 900 acres located on the Crooked River in the heart of Central Oregon. It is a self sustaining working cattle ranch, raising all natural beef, directly off the land itself. Not only will you enjoy views of the snow capped Cascade Mountains, unique rimrock ridges, and lush green fields but you will also experience the history of the ranch with the rustic barns on the property that make for endless photo opportunities.

Let us help you with your special day whether it be the start of your lives together in a special wedding/reception or a company retreat!



Transcript of Greg Huston testimony during

December 13, 2023 Public Hearing

Mr. Huston: Good evening, commissioners, I'm Greg Huston, can you hear me okay, or?

[Inaudible]

Mr. Huston: I'm Greg Huston, my wife and I are the land owners. Uh, we bought the ranch in uh- fifteen years ago – 2009, I think. Uh, we've been farming and ranching it ever since. We've got two properties. We own that property and another 138 acres, over North of (inaudible) Falls- it's kind of where our headquarters, hence, our house is. We've got two more pivots over there, and we use both properties to move cattle, and- and grow hay. Uh, currently we're growing about uh, 12-15,000 tons of hay a year. We run between 50 and 100 head of cows, depending on circumstances like last year with the drought, and everything, we sold off a bunch, I think we're down to 30 pair right now. But, we've always had cattle, we've always grown crops, we've grown carrot seed, grass seed, wheat, uh, right now, most of it is hay. So, basically, like I said, 15,000 tons of hay and 30-50 head of cattle a year is what we- what we do. Um, over the years, we've found that the more income streams you can have, the better- more likely you are to break even, or make a little money at the end of the year. Um, typically, financially, um, we average- just on average – between \$30-\$40,000 a year, in a good year – we'll make. And in a not so good year, we'd lose \$20-\$30,000 dollars. So, if you had to average over the last 15 years, we probably haven't made a lot of money out there – and that's taken all the capital improvements – that's just the cost of the ranching operation. Um, about breaking even: you get depreciation of the land, and the joy of being out there, but not a lot of money to be had. Um, that's why the additional income stream is really nice for us, and that's why we do the different things: we do the cattle, we do dabble in horses a little bit. Um, having the pavilion- the pavilion's center out there, and utilizing that, has the potential to generate \$30-\$50,000 a year income, and that really fills that gap for us. That- if we have that additional income that, typically- typically, what we've seen over the last 15 years, we would never lose money. We would at least be even- a little bit better than even. So, that's really why we're here today, is- is just basic economics. The pavilion's there, it was built- it was permitted in '92. We're just trying to utilize the things that we have on our property. Um, the history of the advance out there, uh, I think everybody's aware that's lived here for a while that the Crooked River Dinner Train was there, um, there were different things that happened with different owners. You know, I still run into people in town that say they went to Les Schwab company picnics out there. My kids got married out there. And uh, you know, we've always, when we bought the property, we knew it had that conditional use on it, and we utilized it through the years as well. My family's gotten married out there, Blair, his family's been married out there, um, we've had birthday parties, all kinds of things throughout the years. Um, I guess what's different is, a few years ago, we decided that this could be a real income stream for us, and help us bridge those gaps. So, we took it a little bit more seriously, and tried to hold about 10 events a year. And uh, you know, I want to be really clear here. We're not a promoter. We have no interest in creating an events center out there, it's- we're trying to utilize the resources we have. That's what ranchers do. That's what people do that take care of their properties. We're just trying to utilize what we have. If we held

more than what we were doing, we would be impacting our own operations, because we have Blair and his wife, and his family live out there, and it's my wife and myself, and we don't have the resources, and we're not going to create a big events center out there. That was never the intent, so, I hope that clarifies some of the thoughts here in this room. Um, are the type of events that we've had- um, we never really set out to have weddings, unfortunat- well, not unfortunate- that's just what everybody wants, especially after COVID, is uh, everybody wants to get married on a ranch. Most uh- we've had the cattlemen's association out for banquets, we've had the wild fire firefighter's fundraiser out there for 3 or 4 years, um, (inaudible), anniversaries, things like that. And those are the types of things we want to continue to do. Uh, let me see – uh, revenue for that income, and like I said, it helps us- helps us with our overall sustainability of the ranch. Um, that's one of the things that's really key to this. When we bought that ranch, it'd be (inaudible). At one time, it was well over 2,000 acres. And now, it's down to 824. Our original – We had two things we wanted to do. We wanted to add land back to the ranch, and we wanted to do restoration projects. Well, for a time, you realize, getting that land back is pretty difficult. We've bought land in other areas that helps- like, where we live in Redmond, we've got 100 acres of irrigated land here that help us support the operations. But putting land back to that property just really wasn't in the cards. So what we looked at then, was- is more of a sustainability thing. How do we keep this a working ranch? And that's why there's no big dwelling out there, there's no big farmhouse, we have Blair's house out there, and that's the only residence on the property right now. We've kept it a working ranch, that was always the intent. This- by doing this, it helps us reach that sustainability. We want- we want to, whether it's our family or another family, when that ranch gets passed along, we want it to be something that a family can live on, and run that ranch, and be sustainable. Not be broke up. You know? You look- my neighbors here in the room all broke theirs up, and uh, parts just keep getting smaller and smaller out there, your (inaudible) ground gets separated, and that's not what we're after. We want to maintain the viability of that property. And uh, this helps us out- And this is kind of a side-note, but, after 10 years of working with the Watershed Council, we've finally got the point where we are getting some funding to start our river restoration projects. So, we're going to be able to restore- for the next two years – we're going to be able to restore about 2 and a half miles of the Crooked River on the North side there, across from Sigmund's, so we're pretty excited about that.

Commissioner: I do have one question, and it's not uh- the question doesn't arise from something you said, but something I heard earlier. A lease - when you have an event, are you leasing the event center to uh, say, Les Schwab, or some other-

Mr. Huston: I would have to look at our contract. We have a contract. Because we want them responsible, they provide additional insurance to us.

Commissioner: Okay.

Mr. Huston: Uh, so, whether that contract is a lease- we can get that for you. Whether that's a lease, or uh, just a round contract, I'm not sure.

Commissioner: Well, I'm just kind of wondering if it's a situation where, it's like, okay, you pay us x amount of dollars, you go ahead and do whatever you want, and uh, you don't really have a role while the event is being put on.

Mr. Huston: We don't manage the event, but no, the event's very specific, about what they can do, where they can have fires – we have fire pits – it's an outdoor pavilion – it's basically a pre-fab metal building- um, engineered metal building that's open. Just a roof, uh, you know, metal (inaudible) and trusses. Um, we've got stipulations about hours, what they can do, um, i-it's very detailed about what they do, um, and then obviously we've got to be the sheriff. Make sure everyone's packing up and leaving on-time and all that. But, i-it's spec- it specifically caters to each event. It isn't just a free-for-all, hey, you get it for the weekend, do what you want, set up your camp trailers and- it's not that.

Commissioner: Okay, thank you. Could you- could you expand a little bit on the road maintenance? It sounds like the majority of that road tha- that uh, the owners- property owners are responsible for, so it sounds like most of that road is what is used for access to your- to your area, that we're talking about here?

Mr. Huston: Yeah, the road- once you cross the cow gate- and into Elliot, you're on the (inaudible) bridge. That goes through our property, all the way back to Rick's place.

Commissioner: That- and that agreement still is in place?

Mr. Huston: Yeah, yeah we've never un-done it. As far as I know, it's still there. We don't necessarily exercise it, uh, maybe I don't know, it was what, maybe 10 years ago, they were pretty major. We did a major improvement where everybody in the neighborhood basically chipped in and did it. Um, since then, most of the stuff we've done ourselves. Um, like Blair said, every year, we (inaudible) it. We maintain it with (inaudible), and removing snow, and then, for any of the events, we have water trucks out there. There's always water. I mean, it's our way in and out, right? We're the ones kind of responsible-

Commissioner: Would that take quite a bit of maintenance now?

Mr. Huston: It's an old road that's, you know, it's 60 feet wide, and it's got a hell of a base under it. It's really rocky, shot rock underneath. The problem is, is that happens as you get all the (inaudible) roll off, we get those (inaudible) in there, but it's not- I mean, it needs a bunch of rock, is what it really needs, but it's- it's hard. A good hard road is just – you know, I mean, it's a ranch road. You're going to drive 15 miles an hour.

Commissioner: Thank you.

Mr. Huston: Is that it?

Commissioner: One question: regarding the restrooms and so forth, is that left, then, up to the leasee or the renter, as to the need of restrooms? It shows temporary bathrooms – I'm assuming they are port-a-potties.

Mr. Huston: We own- we own a couple of (inaudible). Okay, and then we have to bring in additional.

Commissioner: You have- who? The- the renters?

Mr. Huston: Yes.

Commissioner: So all of that is- is going to be required per a contract that we don't know anything about?

Mr. Huston: Yes. But we can certainly give you a copy of that contract. Right? That's all in the contract. Yeah.

Commissioner: Okay, did you have something else?

Commissioner: No.

Commissioner: Oh, okay. Thank you.

Mr. Huston: Okay. Thank you. If you have any further questions for me, I'm happy to answer them, otherwise, we'll save the rest of our response during rebuttal. And uh, I'm double-checking, I believe we cleared it – It was just an example contract as part of our application packet, uh, but we could certainly provide more than just the singular example contract, it's pretty easy for us to add any terms or conditions in the example contract to address the need for insurance or issues that may come up.

Commissioner: I- I don't-

Mr. Huston: Are there any further questions for us? If not, we-

Commissioner: I-I had a question, and maybe it's for ____, maybe it's for you, but um, so on one hand, you mention that this was all done in '92. The conditional use, correct? I mean, originally, you guys signed a conditional use to do events?

Mr. Huston: Yes. There's a 1992 CUP for the property.

Commissioner: Okay. So then- a-and I understand that you mention that it's really got nothing to do with the application now, however, then there was comments made that you can still do events based on that CUP.

Mr. Huston: Uh, well there's uh, a disagreement, I would say, in the room on that uh, exact point. And uh, I mean, our position is, is that the 1992 CUP is still valid, uh, but other people disagree. And rather than having to prolong a frankly legal fight over the situation, we voluntarily decided to just apply for a new permit so we can uh, get to the heart of the matter, and that's one of the concerns that the neighbors have.

Commissioner: Okay, okay. That answers my question perfect. So-

Transcript prepared by Hannah Laing based on the recording of a public hearing held on December 13, 2023. Testimony begins at 1:13:00

Transcript of Liz Dickson testimony during

December 13, 2023 Public Hearing

Ms. Dickson: Okay, great. Good evening, my name is Liz Dickson, I'm a land use attorney with the law firm Dickson, Hattenfield & Bend, uh, 400 SW Bluth Dr. Suite 240, 97002. I'm here tonight to assist uh, John and Connie Fahlstrom. And we submitted to the record a letter yesterday to Katie, which she says has been included as Exhibit 10 in your materials, though, if you did your reading over the weekend, you probably didn't look at it. So, um, I- I'll do what I can to get you through it fairly quickly. Um, the- the most important thing that- that I want- to emphasize is that the Fahlstroms are definitely neighbors, they own or control with the BLM, 440 acres. Um, in some places, the property is adjacent. The- they do engage in farming and ranching practices on their ranch. It may not be to the level of Huston's, but I didn't find anything in either the Crook County code, or the state statutes, or the case law, that said you- you weigh someone's objections based on how much or how little they do in comparison to the (inaudible). As I read the state statutes, and the county code, as it incorporates the state statutes, the issue is whether or not a proposal adversely impacts farming. That's the issue. It's not ambiguous. And both the state statute and the county code speak specifically to how they look at that, and how they measure it. I appreciate the fact that the applicant has done extensive analysis with their circle diagrams, looking at what everybody does at different parcels, that's all great. But sometimes it's good to just back up a little and look at something big picture. And here the issue is: if somebody wants to do something in an area that's zoned farm, does it help or hurt farmers? And in this case, what- what Mr. Huston is proposing, is probably helpful to him financially, I think it definitely is, based on his analysis. But it harms the farming operations in the area, and for that reason, it cannot be approved. Now, I can break that down, and I will, but it's really important that you understand that basic concept: farming comes first. And this, is adverse to farming, and I'll show you why. In this case, we have kind of an interesting situation, because they've been doing these, I would argue, illegally, Adam says no, they can do it under the '92 approval, but they've been doing these events. So we're not here guessing, trying to conjure up what these events would look like and how they would impact people. We've seen them, we've done them, we know what happens. Not as long as the events they're talking about here, not as often as the events as they're talking about here, we don't have to guess. We know what these things look like, and we know how they work. John Fahlstrom has been run off the road by people coming to events, who are interested in coming to the events. Maybe they're not local, maybe they've never driven on a dirt road, or over the gravel, it's cut into the side of a hill, so on one side, you're very limited to how close you can get, and on the other side, you go down in the drain if you miss it. More importantly, there are sharp corners that are blind, this is not a road that you want to drive beyond the 15 miles per hour that Mr. Huston referenced in his testimony. And I appreciate it. He's right, he gets it. But a lot of the people that are invited to these events don't have that background. They're in a hurry, and they want to get to the event. And so, Mr. Fahlstrom has been run off the road, he's had- he's had cattle trailers, he's had hay trucks, he said all kinds of things coming up that road coming into conflict with these event people. And he can't farm adequately in that kind of environment. So when those events happen, they stay on their 7 and a half acres with their single-family dwelling and their barn and their mechanical building. They stay there. They don't come out of Spring Creek Road onto Cattle

Ranch Road, because frankly, it's dangerous. I have spoken to Adam about possible mitigation. Because he- Adam's very reasonable. He said "isn't there something we can do?" and I said "sure. If you can figure out a way to keep that traffic off that little ranch road so that it's not wiping people out, we can make it happen." He said, "Well, how would we do that?" and I said- and I threw this out, without even talking to John, but John said he thought that was an okay idea; if we did a park and ride out on Elliot road. Or out near Elliot road. Out where the public road is. Have everybody park out there, bring them in in a few vehicles, driven by people who know how to drive on the road so they're not wiping out people who are trying to farm in the area. That's a reasonable solution. When I spoke to Adam about it, his response, frankly was, that sounds like it would cost money, and they're trying to make money, not spend money. Well, I get that. But, in this instance, we have a very specific problem. Which is, these 200 or however many there are people, coming into these events are not local. They don't know how to drive on these roads, they get in a hurry, they're impatient, and they're causing significant problems for farmers. So, the- the most important thing I want to make sure you understand today is the proposal you have in front of you is not compatible with farming. Not based on what we guessed, but based on what we know. Specifically, we have a- an alternate theory of the applicant here that we're playing with, and I think it's important to- to try to nail it down, it feels a little slippery to me. On one hand, they're saying they're approving under the current- that they want approval under the current loan. Which is ORS.215.283, and in this case, it's probably 4D, or the accounting code, which is 18160554. They say pretty much the same thing. I think they might be identical, Katie would know for sure, but they're real close. Those rules lay out exactly what you have to do in order to comply with- with the use in a farm area. And the part that is most important to me, and it's- it's pretty involved, I mean, Katie had to wade through it and none of us felt comfortable with the way that thing is layered. But the bottom line is this: if you get into it, 4CD says "you have to comply with ORS.215.296." Now, for those of us who do a lot of farm work, that's kind of the holy grail in farm approvals. Because it says that you won't force a change in the practices of the surrounding lands. And it also says that you won't significantly increase the cost of farm practices on surrounding lands. That's- that's the essence of it. Farming comes first. You can't do anything on this land that's going to do that- that's going to adversely impact the practices or the expenses. The traffic scenario that I just described to you does both. It violates 215.296, it violates your local code, and for that reason alone, the application shouldn't be approved. But the applicant has alternatives. They can do the park and ride- they can, I don't know, fly peo- I don't know, they have alternatives. The present road, the way it's laid out, is not going to be sufficient to satisfy these people coming for events from areas where they don't drive on these roads, and impact the farming. The other argument that they raised, though they say they're not raising it, but they keep raising it, as I think, Commissioner Pont spoke to, um, is to say that they're grandfathered. That they were approved in 1992, that it was an unconditional approval, they were allowed to have as many events as they want, nobody has said how big it should have to be, nobody said how many people had to be involved, it was just this 1992 approval, and they still have that- they don't. The reason they don't is because grandfathering under Oregon law happens one of two ways. It happens either as a non-conforming use, or it happens as a vested right. If it's a non-conforming use, what that is, and that's ORS 215.130, a non-conforming use says at the time this zoning law changed for this property, the use was fully developed. It was permitted. It was legal at the time. And it gets to continue. It's not fair that it would have the legs cut out from underneath it because of design change. It makes sense. That's what non-conforming use is. And I've broke down the specific factors in my letter, I won't go

into them now. This is not a non-conforming use. Because this was not fully developed to the level that we're talking about using right now. And furthermore, it was abandoned. A non-conforming use, such as it was, the 1992, such as it was, has some events that went on until, it sounds like early 2000's. And then, a separate owner came in, and that owner stopped it completely. I think Mr. Huston said it, I don't remember the terms. Something like in shambles or something. Admittedly, it had gotten carved up, it wasn't being farmed, it wasn't being used properly. None of those issues is relevant to the question was it, or was it not a preserved non-conforming use. It wasn't. The use that we're talking about today has not been used continuously over that period of time for those 30 years. Therefore, doesn't qualify as a non-conforming use, and they don't get the benefit of that exception to Oregon's Land Use laws. The second option is a vested right. A vested right is smaller than a non-conforming use, it's less than. It also doesn't have a statute. It's a creature of case law. Nonetheless, it's very well developed, and the Oregon Supreme Court has said it exists. And what they say it is, is if you had the right to do something back in 1992, or whenever it was, and you started the process, and you got partway into it, when the zoning law changed, you had the right to continue that part that you perfected. You may not get to do the whole thing, but you'll get to do at least part of it. That's not what we have here. Because in both non-conforming use statutes and in vested (inaudible) law, you have to have not abandoned the use. And they did. The owners have not done this continuously for 30 years. Therefore, it's not grandfathered, and they're not allowed to rely on it. Mr. Fahlstrom is going to speak to you about something that I don't know if anybody else in the room can. And that is, what he's seeing when these events occur. He will tell you exactly what they feel like, how they impact his farming practice, and what the important thing is that you need to focus on. There were a couple of comments made in the last 8 pages of my notes, if I could very briefly go over those. Um, first of all, the um, the applicant has, in their farm analysis, claimed that Mr. Fahlstrom has 7.5 acres- 7.5 acres and he doesn't do much farming. As I said before, he does a significant amount of farming on a total of 440 acres that he controls. It may not be to the level that the Hustons would like to see on that property, but he has horses, he has cows, he has hay, he does all that stuff. And, he qualifies as a farm use. Um, I think an important impact analysis has been kind of pushed aside unless you look at the lease. It's the question of how many days are we talking about here? First of all, remember this is an outdoor facility, okay? And for those of us who have lived in Central Oregon a few years, we know that an outdoor event in March is probably not going to be very pleasant. But they have them on their schedule. They have them spread out over the course of about six months. I think in reality, if I have somebody who wants to book an event in Central Oregon, I'm probably going to look at maybe May. Usually, we're talking like Memorial Day to Labor Day. And if we're putting those 18 events in that period of time, that gets very (inaudible). It also happens to be the same period of time when we're doing our most active farming. When people are up at dawn and lucky if they get to go to bed at dark. So there's a definite conflict, when you think in terms of when are the farmers using that road the most, and when would these events be using the road the most? And then let's talk about how many days. They keep talking about 18 events, 18 days. And if you look at the lease, there's a setup day and a breakdown day. And then tonight, they were talking about having the whole weekend. So, maybe what we're talking about here is 18 events that last 3 or 4 days each time, over the course of a 3 month period. So, we're looking at somewhere between 54 and 70 days in that three month period. And that gets a lot more serious. So, I think if we're going to be thinking about the impacts it's going to have on farming, we're going to have to look realistically at what they're talking about proposing. Now, I have an odd question. They say that they're going to be

um- that the parking area that they're using is an irrigated hay field – I haven't- I haven't ranched in decades. But when I did it, we- we couldn't irrigate a hay field and drive on it, and mess it up and have people- have 200 people park all over it, and come up the next weekend and cut it for hay. I- I don't understand how that works, and I- I would appreciate just understanding it, if they're willing to provide the information. If it's truly an irrigated hay field, how can people park on it and still make it an irrigated hay field? I just- I don't understand it. Um, the- the argument about finances – the- at one point, I think both Adam and Mr. Huston claimed that this is going to- they need the money, and that's going to make money for them. I don't think there's anybody in this room that's going to quarrel with them about the fact that farming and ranching is a hard way to make a living. Agreed, it is. I moved into town, there's a reason for it. It- it's hard to do. That said, they're saying, well, we lose money some years, and this would allow for us to make money, so it's good, (inaudible). But that's not what the law says. The law says the financial benefit is one of the factors you look at, but you balance it against the impact on the surrounding farms, and you weigh it. And that's what has fallen- it's fallen to you to do. So it's not just if they make money, it's a yes. It's at what cost do they make money? We don't- we don't want somebody coming in, and then saying well, you know, I can- I can do a west coast Woodstock out there, and I'll make a million dollars, so let me do it. That's- that's not what we want to see here, and that's not what's beneficial for farming, which is our first priority. Excuse me, there are a lot of notes. Um, oh, talking about the road, that's important. John will talk to you about the road and- and- and how difficult it is. The traffic analysis I broke down in my letter- and I'd appreciate it if you'd consider it – but Chris Clemow, I- I've used Chris on projects. He's a good traffic guy. But what he says in his analysis is that you know, that these trips won't be during- during the peak period. Well, the peak period is an urban concept. It's people going to work between you know, 9 in the morning and coming home at 5 at night, doing it Monday through Friday. And he's saying because these events are on the weekend, they won't conflict. Frankly, that doesn't address the issue of the fact that that's not how farmers work. Farmers do not work 9 to 5, Monday through Friday. To the contrary. Some days, I think they wish they did, but they don't. And so, as a result, for- for the traffic analysis, you have in front of you- to say there's no conflict because of this – needs further analysis. As it stands, it doesn't address the question of do these trips work? He also doesn't look at the trips in term of peak. There's an average. And- and that's not the way traffic analyses are done. When you do a traffic analysis, you look at what the peak is, and you look at what the impact is of that peak on the underlying traffic that's already in the location. He didn't do that at all. That's all I have. I'd like John to be able to speak to you firsthand about what he's witnessed, because I think that's very important. Do you have any questions for me before he speaks?

Commissioner: Any questions? Okay.

Ms. Dickson: Thanks for your consideration.

Commissioner: Thank you.

Transcript prepared by Hannah Laing based on the recording of a public hearing held on December 13, 2023. Testimony begins at 1:27:00

Transcript of John Fahlstrom testimony during

December 13, 2023 Public Hearing

Fahlstrom	<p>My name is John Fahlstrom. I live at 5665 NW Spring Creek Road in Prineville and I'm here to oppose the application that my neighbor has submitted to the county and I do this with the knowledge of what that application will result in. In the past, I guess it was in 2001 and 2022, Greg Huston had events at his pavilion and I've got to tell you that it was just chaos. These events happened nearly every weekend and they happened all weekend long just like it's been said. They start on Friday, they go through Saturday, and they're there Sunday. And these cars just stream into that place. Back and forth all the time. As Liz mentioned, these people are anxious to get to these events and they have no regard for local traffic. To be honest with you with all of you, I can't really believe that anybody would use their property for such a use for a few dollars more. I really can't believe it. But nonetheless, those events have impacted us negatively in the past and if you approve this application it's gonna negatively impact us for the future for who knows how long. Because once it's approved I understand that it has to be reapproved in 4 years. And once they get it approved it's gonna be hard to stop them. That road that we live on, I've lived there, my wife and I have lived there since 2001. And when we lived there it was a precarious road. You have to be on guard all the time. Especially on that blind corner which is narrow and it's got a steep drop off. So even as residents were careful on that road at all times, I make a practice of driving slowly, 15 mph as Greg said, that's how fast we should drive on that road. But I still make a practice of pulling off to the side at different areas to let that oncoming traffic get by. Because it's one of those roads where everybody including myself when there's nobody else on it, they take their (inaudible) out of the middle there's no middle line. On one side you have a steep embankment if you're headed due west with boulders and rocks on the shoulder, which there is no shoulder. And if you're headed due east, it's a steep embankment that drops down onto the railroad track. And to be honest I don't know that there's ever been an accident on it, but there could be. And these people that attend these events, they're driving 30-40 mph. So you can imagine, two summers of that business with the venues, any time I was on that road I was pulling off to the side. I wasn't getting run off the road, bless you Liz, but that's just another way to put it, but I was getting run up the side of the road to avoid an accident or a confrontation. And quite honestly I'm concerned for my safety, my family's safety, my private property, which I drive, my animals, my pets and that area is no place for that type of activity. Now to take off of when Rand Campbell was speaking, and I understand this completely. Rand was going off of satellite images. Well when Rand looked that property of ours up north of the pavilion it was bare. I had irrigated rights but I didn't prove up on them yet. But those irrigated rights are proved up on now. I've got my irrigation in, I've got my</p>
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	<p>field established and I've yet to add any animals, but I've got a number of other things that I have to do to that place and I want to do and I've had plans to do before Mr. Huston, Greg, started these venues again. I want to put in cattle guards I want to put in holding pens. I've got fences to build I've got some more land I want to clear. I've got big plans for that place. And it's two miles one way from my house to that property and I go by that pavilion on that dangerous road to get there. Well on a weekend, I'm employed. Most of my work on that place takes place on the weekend. I make a number of trips up there every day, I'd say a minimum of 4 trips a weekend and it's not gonna stop. I've got irrigation to take care of I've got animals to take care of I've got improvements to take care of. And if these events are approved I'm gonna have a difficult time getting up there. In fact I probably won't try to go up there when those events are taking place and those events take place all day long. This business about giving me notice so I can work around the events is nonsense. It was noted earlier that they lease that pavilion out. There's no management and no oversight to that place. As I said it's chaos. And they have no regard for us as neighbors. And I've always gotten along well with Greg Huston but this is a problem. I would never do this to my neighbor. I think it's a dirty deal. He's got no regard for his neighbors. And I'm not speaking just for myself, I'm speaking for the Orrs and anybody that uses that road to come into the place. And I'm asking you Mr. Commissioners, I'm asking you to deny this application because it's the wrong thing to do. Thank you.</p> <p>Commissioners: Questions? No.</p>
Commissioners	Questions?

Transcript prepared by Claire Holman based on the recording of a public hearing held on December 13, 2023. Testimony begins at 1:45:00

Transcript of Tami MacLeod testimony during

December 13, 2023 Public Hearing

Commissioner	Go ahead and state your name and address for the record.
MacLeod	<p>Sure. My name is Tammy MacLeod. Let me get up close, can you hear me? Hear me okay? Okay. Tammy MacLeod. I am a real estate and land use attorney with Lynch Murphy McLane in Bend. Address is 747 SW Mill View. We just moved a couple of months ago, I had to get the right one. SW Mill View, that's Bend, 97702. Um, I am here on behalf of David and Joanne Orr, they are the uh closest property to the proposed, uh, permit area and we're here to oppose the application and ask that you deny it. As an initial matter, it it sounds like the record is likely going to be left open because there are items that you still need. But I would like to make a specific request under the uh, county code that the record be kept open for the submittal of additional evidence. Um, after I finish speaking. Mr. Orr is going to come and give you his perspective in some of his experiences, so I'll let him speak to that directly. But a little bit, you know, about who they are. They bought this property in 2001, or sorry, 2002. They've lived on it since 2008, and, uh, one of the things that I will talk about is what they do with this property. Uh, they do have farming operations on this property. It is, uh, utterly inaccurate to say that they do not. So I will talk about that in a little bit down the road. But, you know, there really in terms of activities as a summary there really wasn't a lot until 2021 and then there were four events that summer. And the last one towards the end of the summer was frankly was absolutely horrible for the Orr's in terms of their experience. It lead them down this path to where we are today. They talked to the county, they talked to code enforcement, they were told to file a code enforcement complaint. They did that. It was resolved by an abatement agreement that I do want to talk a little bit about. But then let's roll into what happened in 2022. Liz Dickson was 100% accurate in saying that this isn't a proposal for an unknown outcome. We know what's going to happen. In 2022, there were thirteen events that summer. They started the first weekend of June, they ended it the beginning of October. So you can imagine how intense that was to have thirteen events and this proposal is for eighteen, and to cover three additional months. So the impacts that you're hearing about from the property owners that are around there and the impacts on farming. Not only are they, have they already experienced them, but they can only anticipate that they are going to experience them more. Um, one of the items that I have, that I want to throw in there, is based on uh, Mr. Fahlstrom's comments about the traffic and about people going fast and people really having disregard for the surrounding property owners and their uses of the property is at one of the early events the Orr's fence was actually uh, damaged, caused \$1,800 of damage to their fence from one of the guests. Um, and it wasn't initially apparent who it was no one would give any information. It eventually was sorted out, but these are the types of conflicts and if we end up with having conflicts between guest traffic and farming</p>

equipment transporting whether it be animals or hay or equipment and on this road it's just going to be problematic. So I it, you know the way I look at it is, we can look at 2022 and and take the experiences and the impact on properties in surrounding agricultural uses and use that as a gauge for what might happen under what's being proposed here. I did hear Mr. Smith say that they are asking for up to eighteen events, and that they won't necessarily use all those events, um but you know just give us the maximum that we can have. And it almost sounds a little bit like a hey, trust us. And I will talk about that point on the abatement agreement, well I'll, yeah in, in a moment, but there's an element here of distrust that's been generated because of what happened during 2022. And then there was one event just this past year in May of uh 2023 which was a commercial wedding I think in the information that Central Oregon Landwatch submitted tonight. Towards the end of that is a photo of the couple who got married and they contract that you have the sample of in the applicant's burden of proof is the contract for that commercial wedding event. So, that's going to be important to keep in mind. Um, in terms of traffic, uh the Orr's at the- the sort of at the suggestion of the county said well, you know what are you really talking about in terms of traffic and you know how what's happening on this little road? Well they actually put up trip, or little, uh, ring cameras so they can see how the cars coming in and coming out, they can't see people, they can't see inside of it so they don't know how many people are coming and going, but they can certainly count how many trips. And on non-event weekends during 2022, they were getting about forty to forty-five trips per weekend. On weekends where there's events, the largest event had 530 trips. So you can imagine how much, how many more people are going to be traveling on that small road during those periods of events. There were some that were probably only about 150. And this is some of the information that we're going to submit is that we have it documented out how many trips there were, what, you know, what days because we covered the three day period because they're asking for set up, break down, and day of event. Um, in terms of the road itself, um, I I do think it would be useful to obtain additional information about you know what is the status of that road. The uh, traffic report is based on it saying it's a local access road. Um, I actually looked at it even just today that the main part of the road from it goes from pavement to gravel once you go through the uh cattle guard, and it runs along the railroad tracks. That's actually a separate tax lot, and it's owned by Greg Huston. So it's it's not a public, it's not dedicated to the public it is private property and was part of the deed that was, uh, conveyed to him when he purchased the property in 2009. Which I think is Exhibit A to their Burden of Proof. I would also like to specifically request, I mentioned that the Orr's filed a code enforcement. Um, there's been a little bit of a mischaracterization of what that code enforcement complaint was. I've seen it characterized as that they were operating without a conditional,

or, in violation of the conditional use permit. But if you look at that code enforcement complaint that's in the record, um, that even just the complaint page the Orr complaint was that they had no land use permit or any land use approval to do the activities that they were doing on the property. I would agree with Adam that we do have a dispute over the legal effect or validity of that 1992 conditional use permit. And, and that issue does not need to be resolved in order for you to review this application. But a couple of things that I think are important to note about that 1992 conditional use permit is, I, I would disagree that it was unlimited and allow them to do whatever they wanted to do. The fundamental principal in Oregon land use law that when you ask for something, a conditional use permit, your limited into what you ask for in your application. That application was for travel by train, for people to get off the train, walk up to the pavilion, be, spend about two two and a half hours on the property, get back on the train and leave the property. The only people that were using Campbell Ranch road were the employees or the vendors, no food was supposed to be cooked there. It was a seasonal operation and it was two and half- maybe, two and a half hours once a week. That's vastly vastly different from what's happening, and what happened in all of 2022. So, I agree we're not here to resolve whether it's still applicable or not but I think it's, it's um, important to note what that permit says when the applicant is telling you hey, I'm being nice, I am limiting myself to just eighteen events. I could be doing all of this under that conditional use permit but we're being the good guys here. So it's a um, ancillary fact as to what that permit actually allowed. And then I agree entirely with Ms. Dickson there's a case uh, called um, Fountain Village Development it's from the Court of Appeals that talks about the notion if you have a vested right how long can you abandon for lack of a better word that vested right before that can, that, goes away. And Fountain Village was similar, it was conditional use permit and then the parties didn't act on it for a long period of time. And so what uh, the courts did there is they said well how long do you have to not use a permit for that vested right to go away? And they said is what you should do is look at a county's code in terms of how much period of time needs to pass before, um, a non-conforming use right goes away. It's super technical, but bottom line is you look at the county code, here I can't recall if it's six months or a year that if you uh, are doing a non-conforming use and you stop doing it for a year you lose your non-conforming right use. Well here, we've got uh, you know evidence that it has been years and years and years since the '92 conditional use permit was operated as it was applied for and is it was approved. There was also a question raised um, I can't remember who asked the question about that condition one in the uh, staff report about the building permits. And I would just note that I don't know, I don't think it's our burden to provide that that building permit but that was a condition of approval to even having that pavilion built is that it would be built with getting the proper

permits through the county so I don't know if they just can't be found but um, probably an issue that needs to be explored. In terms of the code enforcement, so um, the Orr's filed the code enforcement complaint. The only things that are in the record are the three page Crook, uh, the county uh, fillable form which we've filled and then the code enforcement staff report. Well, the as the complaining party there we submitted evidence showing some of the activities, the promotion of those activities that was going on. And then we also prepared a three page summary that summarizes these traffic trips, how many vehicles were coming in things like that and none of that was included in the record. So I would request specifically that we include the entire code enforcement complaint record as part of the record for this application. That is, uh, and I can get you that file number if we need it. Or, or if it cannot be included can you let me know and I'm happy to provide that document again it just seemed duplicative. So, I want to turn to some of the standards that have been talked about. Um, the first that I do want to mention is that area site, that area study table. And um, you know, it was reiterated again or were restated today again that the Orr's have no farm practices on their property and that this is a lawn. And that they uh, you know that they mow this with their lawn mower. What they have is their uh, their one acre home site and they have four point almost five acres of uh, irrigated pasture land. They have water rights to do that, they have done that, they have produced hay, they have sold hay from that property. And in fact, um, Mr. Huston's ranch manager actually used to be the one who came on, did that ranching activity, and then sold the hay. So it's a bit disingenuous to present to you today that they have no hay operations at all. Some of the impacts that the Orr's have had is a result of these events is that they now, they're needing to use a third party contractor to come on and actually cut the hay and get it processed. But they're having trouble getting anybody to do that because there is this conflict with trying to get big pieces of equipment on the weekends, and when you're trying to um, you know, you have this conflict between streams of cars, lines of cars and then, bringing in big pieces of equipment in order to process the hay. If that doesn't demonstrate a change or a negative impact to farm operations I don't know what does. It also increases their costs. They, these uh, third party contractors you know are not really interested in fighting the fight with the pavilion crowd. And so to try an entice somebody it's going to either cost them more, maybe they get less but they're just really struggling to find someone to do it. But there's hay in the ground today, and it can- they've continued, uh, with that process since they've had the property. Um, let's see. I would also mention that there was uh, a comment about farm deferral. The Orr's property is an E.F.U. deferral. So, I don't uh, you know that's public record but we're happy to provide that documentation as well. So, um, I, I'm not going to repeat what Liz talked about, just a couple of things to add. Is that yes, Friends of Yamhill County is the, uh, the standard for evaluating

incidental insubordinate uses um, and what you look at is not just one event, one circumstance you look on everything. You look at all relevant circumstances to determine uh, um, whether a use is incidental or subordinate to the existing use. Um, and I would submit that, you can't look at the impact of one commercial event on the event on the surrounding farms you need to look at the cumulative impact. And you know, I think that is, seems to be why there's a different standard for when you ask for seven to eighteen events versus you can get one or up to six events you know quite easily that you don't have to do this balancing. I, I believe you've heard definitely that um, another one of the factors to look at is the intensity of the events and you compare it to the other activities on the property in. And when you have a uh, grazing operation and a hay production you know that just kind of goes on by their own burden of proof. You got your, the ranch manager there and one seasonal employee so not a lot of traffic in and out. Not a lot of noise. Not a lot of impact. And then it's, it's, the, the intensity of these events I think, only my clients can describe between the traffic, the noise, the lights, you have um, you know if any map that you look at the Orr's property is directly adjacent to where people are coming in and out for the event. Well, it looks like where they would be coming in and out from the event parking. I agree with staff that we don't know what the the travel routes would be for people coming in and out of the event. But the Orr's can tell you from their actual experience throughout 2022 is that you know those headlights shine directly into their house, and those people are pointed directly in their house. And it's a gravel road, and the faster they go the louder it gets. So, um, it is quite an intense use of the property. Um, I also want to look at the numbers of events that that in some places the application says eighteen times or eighteen days, but it seems clear that they are asking for eighteen events. The contract seems to indicate that there'd be a day of set up and a day of break down, I don't see that they're um, specifically saying they would limit it to that though. Um, but I also want to look at sort of and, and it's also, there was comment about it being less than 72 hours because of the hours of limitation of what they're going to do. But based on 2022, people were not off the property by eleven o'clock at night. They were there sometimes until the middle of the night. There were overnight campers that stayed there overnight. So by looking at a contract or a permit that says everyone's got to be off by 10pm. Or everyone's got to be off by eleven. It didn't happen, and you know our concern now on this will trust us it will be fine is that you know, are they now because of this '92 permit anytime they violate the, the, conditions of approval in the commercial event permit are they going to say oh but I can do it under my 1992 conditional use permit. I think that's where some of the level of unease is coming is, so on that one event where you want to have overnight camping all night and people partying and playing music until three in the morning you're going to say you can do that under your '92 C.U.P.?

Because you're not doing it under this one. Um, you know and so, you know having some clarity would definitely be helpful. Um, the other is that uh, the applicant's proposed schedule I mean, I I did some number crunching and, in terms of numbers you know three days a week is forty-three percent of each week. Um, their proposed schedule starts in about you know early-ish March and goes until mid October so it covers thirty three weeks. So of the thirty three weeks, with the eighteen events, that's over f-, that's over fifty five, that's almost fifty five percent. Or it's actually, it's more than fifty percent, it's fifty five percent of that compact period. March through October. Fifty five percent of the weeks they want to have events. I I struggled to understand how then, um, we can conclude that is an incidental or a subordinate use of the property. And so it's not that we're not looking at a fifty two week calendar here we're looking at a pretty short window, um, um, to determine whether it's incidental or subordinate. It also needs to be, um, necessary to support the farm use and um, you know, again, I would look closely and ask for some additional information about the financial support. Um, you know Exhibit U to the burden of proof shows no events in 2018 or 2019. Probably one event in 2020. Um, but the grow-, so there isn't really anything to look at there but when they show their gross income from events from 2022 and 2021 it, it, there's one of, you know there's one event well we know, sorry, we know of four events in 2021. And their gross income that they've reported is higher than they are reporting for their thirteen events in 2022. So it just doesn't seem that that makes any sense particularly when you then go and you look at the contract which is Exhibit T to the burden of proof that shows that that three day event they were charged rent for \$3,500 for that one event. Well if you just extrapolate out and say \$3,500 over thirteen events, now granted, I don't know how much they're going to charge for the individual events. This is the only information in the burden of proof. But that's \$45,500. Just in the rental income. But yet, what's been reported is significantly under that. And um, but it does you know somewhat support um Mr. Huston's statement that you know he would anticipate the pavilion to be able to generate \$30,000 to \$50,000 of income. Again if you look at his reports that he testified to about some years a loss of twenty to thirty and some years a profit of thirty to forty. Well, then that thirty to fifty certainly also seems to be a heck of a lot more than incidental and subordinate. Um, you've heard about you know the impacts of the farming area, you've got the lighting, you've got-, I I think that um, um, Rand did a you know, I think he did a good job at describing what the potential impacts could be and I think it's just up for you to consider whether those surrounding agricultural properties are negatively impacted. And I agree with Ms. Dickson that if there's a negative impact to farming you have to deny the application. I've talked about the road, um, and it being at least what's listed today as uh, privately owned property. And there is the maintenance agreement I do, uh,

you know I have uh, as my mind was spinning thinking about maintenance I'm like you got these you know three or four parties that have to maintain this road and share the cost for it, yet your sometimes throwing up to 500 additional trips on it in a three day period. You know, that's certainly going to cause a quite bit more wear and tear. Um, and, you know, they can say that they'll maintain it, that's fine, but what I wonder about is what happens when um, you know somebody leaves an event. Um, whether intoxicated or not but they get injured and they say the road was improperly maintained. Failure to maintain the road. You know I know it's it your job to you know, to get into the weeds on uh, real estate agreements between private parties. But you know, these are the types of scenarios that my clients the Orr's sit awake at night and think oh my gosh if somebody careens off the road and runs into my, you know, am I going to be sued? They, they, in their contracts, they have a uh, uh, liability and a release, but that'll get, that helps them that doesn't help anyone else that is, that is you know around and using this private road. And I think, so I said something earlier about um, you know and I- about the notion of, saying you know trust us, um. That we, we're asking for eighteen but no we're certainly not going to do that. And you know this is a bit touchy but uh, so the Orr's filed their code enforcement complaint, and it drug out and drug out and drug out and drug out and nothing happened on it. Until they filed it of June of 2022. And, um, we continued to provide additional information mid-way through summer we provided the other supplemental information that I've asked to be added to the record in December of 2022 saying hey this is what's going on what's what's happening. The event season is done, can we get something to happen in the off season? And then, you know, next thing we know that happens is I get a copy in early February of an abatement agreement that had been signed between the county and the Huston's. And that abatement agreement as such, it's it's in the record, I um, I can reference the Exhibit number but it's part of the burden of proof, and it's you know, it's short and it's sweet and it basically says that the Huston's agreed that they would not conduct commercial, would not, they would abate commercial weddings until they either modified the C.U.P, they filed for a new application, but they said we won't do any commercial weddings. They then said, they could do some other commercial events and there were a couple of conditions on that in terms of when they had to be concluded by, that they, you know, couldn't uh, with food had to be, uh, not, um, made on the property. Things like that. But the point I'm trying to raise is if you look at Exhibit T to the burden of proof that's the contract, it was signed in January of 2022. So before we filed code enforcement, before the abatement agreement, but it set an event of May 20th, 2023. So they, the Huston's, as property owners signed an abatement agreement that said we will not have commercial weddings. Then they went and had one, three months later. They hadn't filed a new land use application

	<p>at that point, they said that they would do so, and yet they're sitting here tonight saying hey we won't do eighteen just trust us. We're not going to do eighteen events we just want to have some flexibility. And where that also then gets is this notion of providing people advanced notification so they can work their schedule around to figure how they're going to operate their farm you know, around these activities. Or maybe for the Orr's it's figuring out what days they're not going to have events so they can find a third party contractor to come on and process their hay. But yet the condition of approval says here's your schedule, and, but you can modify it with 72 hours' notice. Well, what are the Orr's supposed to do if they've lined somebody up? Do they have to cancel that guy, does, is he going to charge more? I mean, it's it's not um, you know I think if we're going to go down conditions of approval we not need to think of something that's a little bit more set in stone and not reliant on things just changing continually for the surrounding property owners. So that's all I have, do you have any questions for me?</p>
	<p>No questions? Okay, thank you.</p>
	<p>I'd like uh, Mr. Orr to come up and talk to you.</p>
	<p>He's next on my list, okay?</p>

Transcript prepared by Taylor Johnson on the recording of a public hearing held on December 13, 2023. Testimony begins at 1:55:00

Transcript of David Orr testimony during
December 13, 2023 Public Hearing

Mr. Orr: Can you hear me okay?

Commissioner: Mm-hmm

Commissioner: Yeah.

Mr. Orr: Okay. Uh, my name's David Orr, I live at 8892 NW Campbell Ranch Road. My home is immediately across the road from the entrance to the pavilion. Um, I've lived exclusively on EFU Products for the past, I think 53 years. And that's because I'm a professional farmer. My career has been entirely in farm management, and I also have participated in several conditional use permits. Um, probably been involved with about 50. And probably 60% of those probably 50% conditional use, and close to 50% or a little less, are serving on review committees for the county to evaluate submitted applications. In line with that, I have a reasonably good understanding of conditional use permits, and other rents. Uh, my education is, I have a degree in agricultural business management, and as I said, my entire career has been involved in farm management. Uh, we- our overall property is nearly 7 acres. We farm approximately 5 acres of hay, and have 5 acres of water rights. Um, and we had to straighten out those water rights, which were uh- go back to 1950 when they were transferred. Our parcel is not like the other parcels in that our parcel was first sold in 1950. Our house is 70 years old. Parts of the house were built out of an abandoned bunk house, and I don't know how old that was. Um, we are currently growing hay, and the change in the- the surrounding activities mean that we're going to have to ship it out now. And in the past, we've had contractors cut our hay. It was quite expensive, and we didn't have the equipment to remove the hay from the fields, so we had to get that done somehow also. That's my problem, not yours, but it takes a lot of lining up, and we've looked and spoken to a contractor, and uh, haven't worked anything out yet, and I don't anticipate it will be easy. Because when you have 5 acres only, the contractor's going to want to (inaudible) for doing the work. And he also wants to go to his customer who perhaps has a thousand acres, and take care of them, and guess which one he has to take care of first? Uh, I have the- I have (inaudible) farm equipment, which is separate from my ranch equipment. I own a uh, Kubota BX24 backhoe farm tractor (inaudible) that has separate attachments. And it was adequate to plant and disc and rip the field to plant the crop of the day. Um, and- and so far, they choose the other property (inaudible). I have too much lawn on my hands. They would never consider blowing several thousand dollars a year raising a lawn. My farm equipment is not used on my lawn. My lawn equipment is not used on my farm. And I think it's a disservice to evaluate that without asking me. I think we're entitled to some expectation of people valuing our EFU status as we value it- as we value it. Uh, the property's in the farm deferral, and has been as long as we've owned it. Uh, and so far as the traffic du- during events, my experience does very much reflect John's experience. We- in connection with the pictures we have taken by a motion detector of people entering the property and leaving the property, uh, we have a record of the time and date all those events happened. And some of these events start at 3 in the afternoon and end at about 3 in the morning. And Mr. Huston's employees are not present during the entire time. And one of

these events, it started at 3 in the afternoon and ended just short of 3 in the morning. We listened to loud music all night long. I get up at 5:30. It doesn't leave much time for sleeping if the event goes on for that time. Um, and as- as we said on our monitoring of the events, it was 40-45, on a weekend where all of the property owners were present, all were doing farm activities, and all were doing moving equipment, etcetera. To see a high of 500- in the 500 range, is enormous. And some of these events are- the general public is invited. And during events that are, you know, as compared to the 42-43 cars that we see in a normal weekend; some of these events, they see 10 cars lined up to turn into the event. And I will say that when we put our cameras in, we got the cameras, our friend put them up who owns a camera, and the third car in hit my gate and did \$1,800 worth of damage. Uh, he refused to produce his driver's license, he refused to produce his insurance information, I was forced to go to the sheriff's department with a picture of his license plate, let them chase him down, and he coughed up that information for me after we contacted him. That's not a burden I should have to carry. Uh, the lowest- the lowest count we got on cars for a weekend was 130 over a three day period. The highest, I think, was around 500. Um, Okay. I- in past events- we bought our property in 2002. During the period we owned the property, there was one wedding held. I believe it was in 2004. And that wedding, I don't- I don't believe complied with the condition- not with the conditions- with the body of the permit that existed. Uh, that- that permit required all the passengers to come by train, where it said what's the purpose of the event, is to provide a rest stop for the passengers on the Crooked River railroad dinner train. And I- I- and the total length they were to be there was 90 minutes. And then they were gone. And it was only on Fridays, it was only in June, July and August. The events have been extended, but not by the county, by the people who are holding. They've chosen to have them, I think, from April, May, September, October, have certainly been in it. But not by the county. And, CUPs are not a do what you want. You- you're limited to a very narrow passage, and the person who got the CUP, Mr. King, applied for a very narrow permit. And this permit was in no way the permit that Mr. Huston claims he has. And the- you know, as far as the people who attend the permits, we met someone of them that are very nice people, and there's- like any group of people, there's going to be some people who are not too considerate. The- the speed in the pickup trucks, which leads the events are a real issue for us. It just doesn't do us any good. And the more permits have not have the road (inaudible), than have had the road (inaudible). And some of the events like the Wildland Firefighters, I think they've got a Wildland (inaudible) the road. Um, and when you- when the cars do depart, it's dark, it's late in the night, and you get loud exhaust noise, loud gravel noise, and the level of driving you'd expect from people who have been at a party all day. That's about all I have to say, and I would urge you to deny the permit. I think it's too much exchange on this road. And one thing I will add: my experience of driving on the road reflects exactly what Mr. Fohlstrom (inaudible). Once we realized the damage was going to be subjected with permits, we stopped taking our RV up because we didn't want to be gone on the weekends. And we weren't always notified when there would be a permit. Uh, so, it could be that we go out on a Friday, be there for the weekend. Uh, I've had people pass me on the blind curve when I was going 15 miles an hour or slower, trying to pick my way around rocks in the road and had somebody pass me at 30 miles an hour as we approached the blind curve. And it's not attendees of these events- this particular car that passed me made a real impression. I saw her make three round trips on Friday, three round trips on Saturday, and two round trips on Sunday. So, you can't go by just the number of cars, it's the number of trips that matter. That's about all I have to say. Thank you.

Commissioner: Any questions? Okay. Thank you.

Mr. Orr: Thank you.

Transcript prepared by Hannah Laing based on the recording of a public hearing held on December 13, 2023. Testimony begins at 2:21:00