



2843 NW Lolo Dr., Ste. 200 | Bend, OR 97703
Phone: (541) 647-2930
www.colw.org

Nov. 3, 2023

Crook County Planning Commission
Crook County Courthouse
300 NE 3rd St, Rm. 12
Prineville, OR 97754
217-21-001215-PLNG
Via email



Crook County

NOV 03 2023

Community Development

re: Crook County 217-21-001215-PLNG
ORS 197.797(3)(f)(A): Failure to provide notice

Dear Commissioners,

Central Oregon LandWatch was informed of an upcoming hearing on the above matter that is scheduled for Nov. 8, 2023 as stated in the attached notice. Att. 1. The mailing date of the notice is attested to be October 19, 2023.

The notice purports to list the parties entitled to notice but does not include Central Oregon LandWatch as a party entitled to notice, although Central Oregon LandWatch is a party to a LUBA appeal in this manner, LUBA No. 2023-025, and specifically expressed concern and requested to be notified of any opportunities to participate in the attached email sent Feb. 8, 2023 to multiple Crook County legal and planning staff. Att. 2.

ORS 197.797 provides in relevant part that notice must be provided at least twenty days before an evidentiary hearing:

ORS 197.797

The following procedures shall govern the conduct of quasi-judicial land use hearings conducted before a local governing body, planning commission, hearings body or hearings officer on application for a land use decision and shall be incorporated into the comprehensive plan and land use regulations:

(3) The notice provided by the jurisdiction shall:

(f) Be mailed at least:

(A) Twenty days before the evidentiary hearing; or

(B) If two or more evidentiary hearings are allowed, 10 days before the first evidentiary hearing;



Central Oregon LandWatch was entitled to written notice by mail at least twenty days in advance of the November 8th hearing. The Board's violation of ORS 197.797(3)(f)(A) is prejudicial to LandWatch's and the public's substantial rights. It is unknown how many others were entitled to notice but did not receive it.

What makes the right to a hearing substantial is the opportunity for response, rebuttal, and persuasion that it presents. *Venable v. City of Albany*, 149 Or App 274, 279–80, 942 P2d 843, 846 (1997), rev den, 326 Or 63 (1997). Pursuant to ORS 197.835(9)(a)(B), LUBA shall reverse or remand a land use decision if the local government "failed to follow the procedures applicable to the matter before it in a manner that prejudiced the substantial rights of the petitioner."

ORS 197.797(3)(f)(A) does not give Crook County the authority to arbitrarily decide no notice, or notice of fewer than 20 days, is enough. LandWatch is a non-profit 501(c)(3) organization whose mission includes advocating for proper enforcement of the land use laws in the public interest. The County may not violate the statutory mandate established by ORS 197.797(3)(f)(A).

The public and LandWatch are statutorily entitled to 20 days' notice, and not a day less. The manner in which the County failed to follow the statutory mandate of ORS 197.797(3)(f)(A) harmed, impaired, and prejudiced LandWatch's and the public's substantial statutory rights to 20 days' notice prior to the hearing.

Failure to provide the 20 days' notice to which LandWatch and the public have a substantial right is *per se* prejudicial to that right. We request that the hearing in this matter scheduled for November 8, 2023 be cancelled and rescheduled to a date and time certain when all those entitled to notice have been provided with 20 days' notice. Any decision the County reaches subsequent to this impairment of LandWatch's and the public's substantial rights is subject to remand or reversal pursuant to ORS 197.835(9)(a)(B).

Sincerely,

/s/ Carol Macbeth

Staff Attorney
Central Oregon LandWatch



Crook County Community Development

Planning Department - 300 NE Third Street, Room 12, Prineville, OR 97754 - Phone: (541) 447-3211

Affidavit of Mailing – Planning Commission Public Hearing

IN THE MATTER OF A Public Hearing Notice

- **Record Number:** 217-21-001215-PLNG
- **Property Owner:** Greg and Karen Huston
- **Agent:** Adam Smith
- **Situs:** tbd
- **Identified as:** 1415200000600

I, Jennifer Mires Orozco, do hereby certify that a "Planning Commission Public Hearing Notice in the matter of the subject land use action was sent first class mail on the 19th day of October 2023 to the recipients below. A copy of said notice is attached hereto (indicates that notice was emailed):*

- **Owner***
- **Agent***
- **Engineer/Surveyor:** N/A

CROOK COUNTY DEPARTMENTS

- 1) **CROOK COUNTY ASSESSOR**, 200 NE Second Street, Suite 200, Prineville, OR 97754 - (Jon Soliz, Shaun Christofferson, Rebecca Ott, Shannon Alleman, Karen Bushnell, Cheryl Wiles, Jason Elliott)*
- 2) **CROOK COUNTY ENVIRONMENTAL HEALTH**, 300 NE Third Street, Rm. 12, Prineville, OR 97754 - (Julie Lancaster, Jerry Kathan, and/or Max Hamlin)*
- 3) **CROOK COUNTY ROADMASTER**, 1306 N. Main Street, Prineville, OR 97754 (Bob O'Neil) *
- 4) **CROOK COUNTY BUILDING OFFICIAL**, 300 NE Third Street, Rm. 12, Prineville, OR 97754 (Randy Davis) *
- 5) **CROOK COUNTY SURVEYOR**, 765 NW Third Street, Prineville, OR 97754 (Greg Kelso)*
- 6) **CROOK COUNTY SHERIFF**, 308 NE Second Street, Prineville, OR 97754 ~ (John Gautney) *
- 7) **CROOK COUNTY FIRE & RESCUE**, 500 NE Belknap, Prineville, OR 97754 ~ (Russ DeBoodt) *

AGENCIES and ORGANIZATIONS REQUESTING NOTIFICATION - None

INDIVIDUALS REQUESTING NOTIFICATION / PARTIES WITH STANDING (WRITTEN/VERBAL)

PROPERTY OWNERS WITHIN 750' OF EXTERIOR BOUNDARY

8) See Attached.

So certified this 31st day of October 2023
Department Staff Member Sign:

Jennifer Mires Orozco

Jennifer Mires Orozco
Senior Planning Permit Tech

STATE OF OREGON)

)ss,

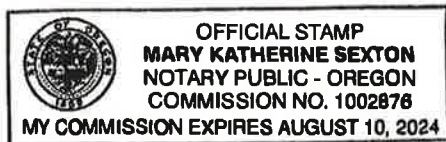
County of Crook)

ACKNOWLEDGED before me this 31st day of October 2023

By *Jennifer Orozco*

Mary K Sexton

Notary Public for Oregon



My Commission Expires: Aug. 10, 2024

OWNER_NAME	M_ADDRESS	M_CITY	M_STATE	M_ZIP
0 SIGMAN WILLIAM	10501 NW O'NEIL HWY	PRINEVILLE	OR	97754
1 HUSTON GREGORY A & KAREN S	527 NW ELM AVE STE 3	REDMOND	OR	97756
2 FAHLSTROM JOHN C	5621 NW SPRING CREEK RD	PRINEVILLE	OR	97754
3 KUENZI WESLEY J & SARAH F	8899 NW CAMPBELL RANCH RD	PRINEVILLE	OR	97754
4 QUAIL VALLEY RANCH III LLC	3950 FAIRVIEW INDUSTRIAL DR SE 240	SALEM	OR	97302
5 SIGMAN WILLIAM A	10501 NW O'NEIL HWY	PRINEVILLE	OR	97754
6 ORR DAVID A	8892 NW CAMPBELL RANCH RD	PRINEVILLE	OR	97754

From: [Tami MacLeod](#)
To: [Will VanVactor](#); [John Eisler](#); [Katie McDonald](#)
Subject: 217-23-001215-PLNG (Huston)
Date: Tuesday, August 15, 2023 6:14:21 PM

Good evening –

Please add me to the list of parties to be notified of activity/hearings/etc. on the above-referenced application. I represent David and Joanne Orr, neighboring property owners (the David and Joanne Orr Trust).

Thank you,

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

We have MOVED – Please note our new address!

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



Carol Macbeth <carol@colw.org>

Crook County Code Enforcement Case No. 22-079

Carol Macbeth <carol@colw.org>

8 février 2023 à 16:29

À : John Eisler <John.Eisler@crookcountyor.gov>, tmacleod@lynchmurphy.com

Cc : David Doughman <david@gov-law.com>, Kristen Ketchel-Bain <kristen@gov-law.com>, "Smith, Adam" <asmith@schwabe.com>, Will VanVactor <Will.VanVactor@crookcountyor.gov>, Eric Blaine <Eric.Blaine@crookcountyor.gov>, Lindsay Azevedo <Lindsay.Azevedo@crookcountyor.gov>

John,

I am adding Tami MacLeod who represents residents of the neighborhood. On behalf of LandWatch, thanks for your thoughtful attention to this matter and for letting LandWatch know.

LandWatch is extremely concerned about the continuation of a nonfarm use that appears to have been unlawful at the time it was approved and appears to be unquestionably unlawful now.

Hopefully given the four-month lead time it will be possible to have one or more representatives of DLCD at the land use hearing before the Planning Commission. I appreciate your keeping us informed of any further decisions or opportunities to participate in this matter and will look forward to seeing you at the hearing.

Best regards,
Carol Macbeth

[Texte des messages précédents masqué]

Carol Macbeth ([she/her](#))
Staff Attorney
Central Oregon LandWatch
*On the ceded homelands of the Wasq'u (Wasco)
and Tana'nma (Warm Springs) people*