



Memorandum

To: Hearings Officer Gregory Frank
Files 247-21-000637-TP, 948-A
Files 247-21-000537-SP, 998-A, and 1009-A

From: Angie Brewer, Senior Planner

Date: December 8, 2021

Subject: Request to address typographical error and procedural defect

The December 8, 2021 public meeting for Thornburgh Destination Resort intended to include three appeals to two cases to be heard in two public hearings:

- File 247-21-000637-TP, Appeal 948-A
- File 247-21-000537-SP, Appeals 998-A and 1009-A

The following summary intends to inform the Hearings Officer of a typo contained in the hearing notice documents and what Staff characterizes as a procedural defect in the noticing of appeals received for 537-SP. Staff provides remedy options below, but defers to the Hearings Officer as to how this matter should be addressed.

In the event the Hearings Officer determines to continue or cancel and reschedule one or both hearings, Staff has verified availability of the applicant and appellant on January 4, 2022.

File 247-21-000637-TP, Appeal 948-A

1. Public notice was provided November 16, 2021 to affected parties and interested persons. The notice contains a typographical error on page 3, in the second reference to Staff's email address. The notice provides angie.brewer@descutes.org when it should read angie.brewer@deschutes.org (missing the "h" in Deschutes). In the event noticed individuals or other members of the public provided comment to the misspelled email address, it would not have been received. To be clear, the correctly spelled email address is

present on page 1 of the same notice and was thus made available to individuals receiving notice in compliance with procedural requirements of Deschutes County Code (DCC).

Staff requests the Hearings Officer specifically address this matter in the course of the hearing. Staff believes multiple remedies exist, including but not limited to the following options:

- Acknowledge the typo and maintain hearing proceedings as scheduled; or
- Cancel and reschedule to allow for a corrected notice; or
- Continue to allow for a corrected notice and/or additional comment; or
- Extend the open record period to allow for outreach and additional comment; or
- Any other action determined to be sufficient by the Hearings Officer.

247-21-000537-SP appeals 998-A and 1009-A

1. Public notice was provided November 16, 2021 to affected parties and interested persons for Appeal 998-A. The notice contains the same typographical error note above. Staff requests the Hearings Officer acknowledge the error on record and take any action deemed necessary to address it.
2. The November 16 notice is for Appeal 998-A; no notice has been mailed for Appeal 1009-A. The County's website for public meetings¹ provides a publically available meeting agenda² that references both appeals; it was published December 1, seven days prior to the hearing. DCC Chapter 22.24.030 requires public notice 20 days before a public hearing.

DCC Chapter 22.32.025 requires consolidation of multiple appeals to one file into a single hearing. A notice of consolidated hearings was not produced or provided.

Staff finds DCC procedural obligations to hear the appeals to 537-SP have not been satisfied. Staff requests the Hearings Officer specifically address these matters on the record. Staff believes multiple remedies exist, including but not limited to the following options:

- Acknowledge the typo and maintain hearing proceedings as scheduled; or
- Cancel and reschedule to allow for a corrected notice; or
- Continue to allow for a corrected notice and/or additional comment; or
- Extend the open record period to allow for outreach and additional comment; or
- Any other action determined to be sufficient by the Hearings Officer.

¹ <https://www.deschutes.org/meetings>

² <https://mccmeetings.blob.core.usgovcloudapi.net/deschutes-pubu/MEET-Agenda-8b475d20d422429fa560a0ac4a37bddb.pdf>