

MEMORANDUM

TO: Board of County Commissioners

FROM: Caroline House, Senior Planner

DATE: March 2, 2022

RE: Appeal of Hearings Officer's approval for a Gate House, Welcome Center, Club House, and Community Hall at the Thornburgh Destination Resort (Appeal No. 247-22-000174-A).

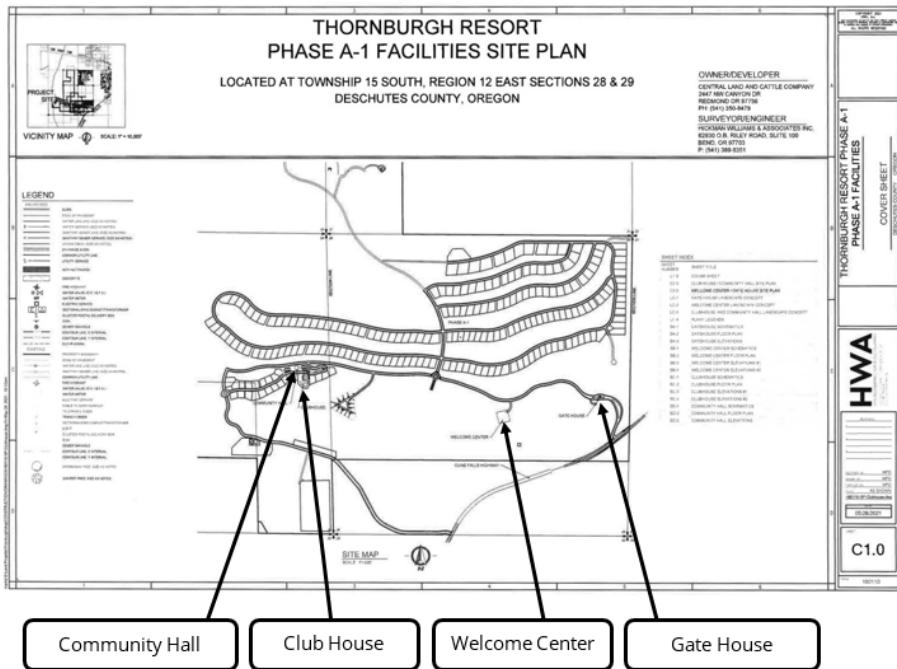
On March 7, 2022, the Board of County Commissioners (Board) will consider whether to hear an appeal of a Hearings Officer decision, which was an appeal of a Staff decision (ref. Appeal No. 247-21-001009-A and File No. 247-21-000537-SP). The Hearings Officer decision addresses a limited scope of issues on appeal and approves the Site Plan review for a Gate House, Welcome Center, Club House, and Community Hall at the Thornburgh Destination Resort.

I. BACKGROUND

The Thornburgh Destination Resort Master Plan/Conceptual Master Plan was previously approved under File Nos. M-07-2/MA-08-6. The applicant has subsequently pursued required land use approvals for specific Site Plan reviews and Tentative Plan reviews to implement the Master Plan in phases.

The subject appeal is in response to Site Plan review for a Gate House, Welcome Center, Club House, and Community Hall in Phase A-1 of the Thornburgh Destination Resort. Phase A-1 of the Thornburgh Destination Resort was previously approved by Deschutes County, but has subsequently been appealed to the Oregon Land Use Board of Appeals and has not yet been decided (LUBA No. 2021-109, 247-21-000937-A, 21-000731-A; and 18-00386-TP, 18-000454-SP, 18-000542-MA). The Board elected not to hear this matter in Board Order 2021-0059. Court rulings have confirmed the status of this case does not preclude the applicant from pursuing subsequent phases of the permitting process.

Figure 1 – Phase A-1 Facilities Site Plan¹:
(Included for reference only; arrows added by Staff for general navigation purposes)



II. PROCEDURAL HISTORY

A Staff decision approving the proposed development was issued on November 12, 2021. Annunziata Gould filed a timely appeal of the Staff decision on November 19, 2021. A public hearing before a Hearings Officer for the appeal was conducted December 8, 2021 and continued on January 4, 2022. The Hearings Officer issued an approval of the Site Plan on February 18, 2022. Annunziata Gould filed a timely appeal of the Hearings Officer's decision on March 2, 2022 (ref. Appeal No. 247-22-000174-A).

III. GOULD APPEAL

Annunziata Gould, the appellant, requests the Board review the Hearings Officer's decision on appeal to address 22 different issues. Key issues on appeal include, but are not limited to, compliance with the Final Master Plan (FMP) conditions of approval, changes to the Resort's water rights, and the subject application being inextricably linked to pending appeals at the State Courts. The attached Notice of Appeal packet details all of the issues on appeal.

IV. BOARD OPTIONS

There are two versions of Order No. 2022-012 attached to this memo; one to hear the appeal and one to decline to hear the appeal. In determining whether to hear an appeal, the Board may consider only:

1. The record developed before the Hearings Officer;
2. The notice of appeal; and
3. Recommendation of staff¹

In addition, if the Board decides to hear the appeal, it may consider providing time limits for public testimony.

If the Board decides the Hearings Officer's decision shall be the final decision of the county, then the Board shall not hear the appeal and the party appealing may continue the appeal as provided by law. The decision on the land use application and associated appeals becomes final upon the mailing of the Board's decision to decline review.

V. 150-DAY LAND USE CLOCK

The 150th day on which the County must take final action on these applications is March 8, 2022.

VI. STAFF RECOMMENDATION

Staff recommends the Board not hear this appeal because there is insufficient time on the land use clock to conduct an appeal hearing. Further, the appellant was able to present all relevant evidence at the hearing before the Hearings Officer.

VII. RECORD

The record for File No. 247-21-000537-SP and Appeal No. 247-21-001009-A are as presented at the following Deschutes County Community Development Department websites:

https://aca-oregon.accela.com/oregon/Cap/CapDetail.aspx?Module=Planning&TabName=Planning&capID1=21CAP&capID2=00000&capID3=004VA&agencyCode=DESCHUTES_CO&IsToShowInspection=

https://aca-oregon.accela.com/oregon/Cap/CapDetail.aspx?Module=Planning&TabName=Planning&capID1=21CAP&capID2=00000&capID3=00A6C&agencyCode=DESCHUTES_CO&IsToShowInspection=

Attachments:

1. DRAFT Board Order 2022-012 Accepting Review of the Hearings Officer's Decision
2. DRAFT Board Order 2022-012 Declining Review of the Hearings Officer's Decision
3. Notice of Appeal (Appeal No. 247-22-000174-A)

¹ Deschutes County Code 22.32.035(D)