



MEMORANDUM

TO: Board of County Commissioners

FROM: Anthony Raguine, Principal Planner

DATE: December 15, 2021

RE: Appeal of Hearings Officer's approval of an application to establish a personal use airport in the Exclusive Farm Use Zone; Land use file nos. 247-21-000666-CU, 247-000834-A and 247-21-0001062-A

On December 20, 2021 the Board of County Commissioners ("Board") will consider hearing an appeal of the Hearings Officer's approval of a conditional use permit to establish a personal use airport.

I. PROCEDURAL HISTORY

On September 1, 2021, staff issued an administrative approval of the conditional use permit. On September 13, 2021, Annunziata Gould filed a timely appeal (247-21-000834-A) of staff's approval. A public hearing before the Hearings Officer was held on November 7, 2021. The Hearings Officer issued an approval on November 24, 2021. Ms. Gould filed a timely appeal of the Hearings Officer's approval on December 6, 2021.

II. PROPOSAL

The proposed personal use airstrip will consist of a 75-foot-wide and 2,000-foot-long dirt airstrip. Use of the airstrip will be limited to no more than 6 take off and landing operations per week. Removal of some trees and limited grading will be required. No structures are proposed.

III. GOULD APPEAL

Annunziata Gould, the appellant, requests the Board review the Hearings Officer's decision on appeal to address the following summarized issues.

- The subject property contains land which is less suitable for agricultural use than the proposed airstrip location.

- The applicant has not demonstrated he owns and controls the subject property and both aircraft.
- Impacts to Maston Wildlife Conservation Area and recreational users of this area.
- Impacts to nesting golden eagles.
- Conflicts with the Airport Safety Combining Zone.
- Need for a windsock and associated Landscape Management and Site Plan review.
- Inadequate compatibility analysis.
- Conflicts with Redmond Airport airspace and associated air traffic.
- Adequacy of roads serving the property.
- Impacts due to increased flight traffic from the use in an area of already congested air traffic.

Ms. Gould requests *de novo* review of the Hearings Officer's decision.

IV. BOARD OPTIONS

There are two versions of Order No. 2021-065 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.

Reasons not to hear

The Hearings Officer's decision is reasoned, well written, and could be supported, as the record exists today on appeal to LUBA. Additionally, there is insufficient time for the Board to conduct an appeal hearing. The 150th day is January 24, 2022.

Reasons to hear

The Board may want to take testimony and make interpretations relating to the Hearings Officer's decision. The Board may also want to reinforce or refute some or all of the decision findings/interpretations prior to Land Use Board of Appeals review. Lastly, there was significant participation from the public and neighbors in the land use process.

If the Board chooses to hear this matter, the appellant requests the Board conduct a *de novo* hearing. Under Deschutes County Code 22.32.027(B)(3), the Board may choose to hear a matter *de novo* at their sole discretion.

¹ Deschutes County Code 22.32.035(D)

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. STAFF RECOMMENDATION

Staff recommends the Board not hear this appeal because staff believes the appellant was able to present all relevant evidence at the hearing and during the open record period. Further, staff agrees with the Hearings Officer's analysis and decision. Finally, staff notes there is insufficient time in the 150-day land use review clock to conduct an appeal hearing and issue a decision.

VI. 150-DAY LAND USE CLOCK

The 150th day on which the County must take final action on these applications is January 24, 2022.

VII. RECORD

The record for land use file nos. 247-21-000666-CU, 247-21-000834-A and 247-21-001062-A is as presented at the following Deschutes County Community Development Department website:

<https://www.deschutes.org/cd/page/247-21-000666-cu-247-21-000834-and-247-21-001062-private-airstrip>

The website includes the appeal application filed by Ms. Gould.

Attachments:

1. DRAFT Board Order 2021-065 Accepting Review of the Hearings Officer's Decision
2. DRAFT Board Order 2021-065 Declining Review of the Hearings Officer's Decision