

**BEFORE THE LAND USE HEARINGS OFFICER
OF CLACKAMAS COUNTY, OREGON**

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| Regarding a remanded application by Willamette |) | <u>PRE-HEARING ORDER</u> |
| United Football Club, LLC for conditional use approval |) | Case No. Z0176-19-C |
| of a recreational use in the RRFF-5 zone at 1521 Borland |) | (Willamette United |
| Road in unincorporated Clackamas County, Oregon |) | Football Club Remand) |

A. FINDINGS

1. The applicant, Willamette United Football Club, LLC, requested approval of Conditional Use Permit (“CUP”) for a “recreational use” consisting of three outdoor artificial turf sports fields, an indoor turf training field, and an operational building containing a group training room, a concessions area, restrooms, equipment storage, and staff offices. Other facilities would include parking, an outdoor sports court, picnic area, barbeque area, playground, walking and jogging trails, an ecological observation station, runoff water retention ponds, and a septic field. The use is proposed on a roughly 24-acre parcel located at 1521 Borland Road; also known as Tax Lots 300, 400, 500, 600, and 700, Section 28D, Township 2 South, Range 1 East of the Willamette Meridian. The site and surrounding properties are zoned RRFF-5 (Rural Residential Farm Forest 5-Acres).

2. By order dated December 13, 2017, the County Planning Director issued a decision finding that the proposed uses are similar to the Recreation Uses listed in Table 316-1 of the Clackamas County Zoning and Development Ordinance (the “ZDO”), and the therefore, the proposed uses are conditionally allowed on any property zoned RRFF-5 (the “2017 Similar Use Determination”). The “2017 Similar Use Determination decision was appealed to the Land Use Board of Appeals (“LUBA”) while the CUP application was under review by the County.

3. By order dated November 18, 2019, former Clackamas County Hearings Officer Fred Wilson approved the CUP application subject to conditions of approval. Section 1203.03(A), requires a finding that, “The use is listed as a conditional use in the zoning district in which the subject property is located.” Mr. Wilson determined that the proposed use complied with ZDO 1203.03(A) based on the Planning Director’s 2017 Similar Use Determination. Mr. Wilson’s CUP decision was also appealed to LUBA.

4. LUBA remanded the 2017 Similar Use Determination decision to the County by order dated June 8, 2020. *Jones v. Clackamas County (Jones I)*, LUBA No. 2019-063.

5. By order dated June 8, 2020, LUBA affirmed the majority of the County’s decision approving a CUP for the proposed recreational use, but remanded on the single issue of whether the proposed use complies with ZDO 1203.03(A), whether “The use is listed as a conditional use in the zoning district in which the subject property is located.” *Jones v. Clackamas County (Jones II)*, LUBA No. 2019-135. LUBA’s decision in *Jones*

It was appealed to the Court of Appeals, which affirmed LUBA's decision. Jones v. Willamette United Football Club, 307 Or App 502 (2020).

6. The Planning Director approved the remanded Similar Use Determination by order dated September 10, 2020 (the 2020 Similar Use Determination). The Planning Director determined that the following uses are similar to one or more recreational uses that are listed as conditional uses in the RRFF- 5 zoning district, or to one or more support uses that are allowable by Footnote 18 in conjunction with a recreational use and therefore, the uses are also allowed as conditional uses in the RRFF-5 zone:

- Three artificial turf fields - 180,000 square feet;
- Operational building - 18,600 square feet, providing indoor athletic training space (but no indoor fields or turf), and offices for Willamette United Football Club;
- Concessions;
- Indoor equipment storage;
- Indoor training space - 33,000 square feet, with artificial turf designed for four futsal courts. Part of the training space includes a group training room;
- Jogging/walking paths;
- Playground;
- Covered picnic area with BBQ pit;
- Basketball/volleyball court;
- Parking - up to 300 spaces - 105,000 square feet.

The Planning Director's decision was appealed and Hearings Officer Wilson affirmed that decision by order dated November 24, 2020. The Hearings Officer's 2020 Similar Use Determination decision was appealed to LUBA.

7. The applicant has now requested that the County proceed with the remand of the CUP application pursuant to ORS 215.435(2)(a). The remand proceeding will be conducted by Joe Turner, one of the County's current Hearings Officers (the hearings officer). Pursuant to the parties requests, the hearings officer will consider the remanded application at a public hearing scheduled for 9:30 a.m. on February 11, 2021.

B. DISCUSSION

1. LUBA remanded this CUP decision for the sole issue of determining whether the proposed use(s) complies with ZDO 1203.03(A), whether proposed use(s) is listed as a conditional use in the RRFF-5 zoning district. Therefore, the scope of the remand is limited to that issue, including the effect of the County's 2020 Similar Use Determination that is currently on appeal at LUBA.

a. Issues related to the potential impacts of the proposed use were addressed in the prior decision and affirmed by LUBA and the Court of Appeals.

Therefore, those issues are beyond the scope of this remand and will not be considered at the remand hearing.

2. In order to facilitate the hearing process the hearings officer will require that interested parties submit written arguments prior to the hearing, subject to the schedule set out in the Order below.

3. Although any interested person may testify at the remand hearing, hearing testimony will be limited to the issues raised in the written arguments received prior to the hearing.

C. ORDER

1. This remand proceeding is limited to a determination of whether the proposed use(s) complies with ZDO 1203.03(A); whether the proposed use(s) is listed as a conditional use in the RRFF-5 zoning district.

2. Interested parties shall submit written arguments prior to the hearing, subject to the following schedule:

a. Initial written arguments from all parties must be submitted by 4:00 p.m. on Thursday January 28, 2021; and

b. Written rebuttal arguments (if any) from all parties must be submitted by 4:00 p.m. on Thursday February 4, 2021.

3. Any interested person may testify at the remand hearing. However, testimony must relate to the issues raised in the written arguments received prior to 4:00 p.m. on February 4, 2021.

DATED this 19th day of January 2021.

A handwritten signature in black ink, appearing to read 'Joe Turner', with a long horizontal flourish extending to the right.

Joe Turner, Esq., AICP
Clackamas County Land Use Hearings Officer