

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

Regarding an Application for a Conditional)	Case File Nos.
Use Permit to Replace a Lift Ticket Building)	Z0037-20-C & Z0038-20-D
And Design Review for the Building.)	(Ski Bowl)

A. SUMMARY

1. The applicant is Blake Skowhede. The owner is H Ski Corporation.
2. The subject property is located at 31315 East Multopor Drive, Government Camp, OR 97028. The legal description is T3S, R8Q, Section 23AC, Tax Lots 700, 800, 900, and 1100, and T3S, R8Q, Section 24A, Tax Lot 401, and T3S, R8Q, Tax Lot 130, W.M. The subject property is approximately 960 acres and is zoned MPR – Mountain Recreational Resort and TBR – Timber.
3. On May 14, 2020, the Hearings Officer conducted a public hearing to receive testimony and evidence about the application.

B. HEARING AND RECORD HIGHLIGHTS

1. The Hearings Officer received testimony at the public hearing about this application on May 14, 2020. All exhibits and records of testimony are filed with the Planning Division, Clackamas County Department of Transportation and Development. The public hearing was conducted virtually on the Zoom platform due to the corona virus. At the beginning of the hearing, the Hearings Officer made the declaration required by ORS 197.763. The Hearings Officer disclaimed any *ex parte* contacts, bias, or conflicts of interest. The Hearings Officer stated that the only relevant criteria were those identified in the staff report, that participants should direct their comments to those criteria, and failure to raise all arguments may result in waiver of arguments at subsequent appeal forums.
2. At the hearing, county planner Clay Glasgow discussed the staff report and recommended approval of the application.
3. Brett Fischer and Blane Skowhede testified in support of the application.

4. No one testified in opposition to the application.
5. At the conclusion of the public hearing, the Hearings Officer left the record open one week for the submission of new evidence, testimony, and argument; one additional week for responses to the new evidence, testimony, and argument; and one additional week for the applicant's final legal argument.

C. FACTS

The subject property is an approximately 960-acre parcel zoned MRR and TBR. The subject property is located at 31315 East Multopor Drive, Government Camp, OR 97028, south of Highway 26. The subject property is the site of the Skibowl/Multopor recreational area – a long established ski area and summer recreational facility. The Government Camp residential and commercial area is generally north of Highway 26, while the property is mostly surrounded by Forest Service land. The proposal is to replace the existing 300 square foot ticket building with an 800 square foot ticket building with some retail space. The proposed building would be located in essentially the same area as the existing building closer to in the northern portion of the property.

D. DISCUSSION

The staff report does a thorough job of explaining how all of the applicable approval criteria are satisfied. The findings in the staff report are not challenged. It would be a waste of the County's money and resources to review and repeat all of the findings in the staff report. I have reviewed the findings in the staff report and agree with those findings. Therefore, I adopt and incorporate the findings in the staff report in this decision.

All of the applicable approval criteria are satisfied.

E. DECISION

Based on the findings, discussion and conclusions provided or incorporated herein and the public record in this case, the Hearings Officer hereby **APPROVES** application Z0037-20-C and Z0038-20-D, with the following conditions of approval.

F. CONDITIONS OF APPROVAL

I. General Conditions:

- 1) This land use permit is based on the submitted written narrative and plan(s) dated January 28, 2020, and deemed complete February 5, 2020. No work shall occur under this permit other than which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.
- 2) **Prior to the issuance of building permits**, the applicant shall submit a statement of use to Wendi Coryell in the Clackamas County Engineering Division. Wendi Coryell may be contacted at (503) 742-4657 or wendicor@co.clackamas.or.us. The statement of use is used to calculate the Transportation System Development charge.
- 3) If approved, the conditional use is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four year period, the approval shall be implemented, or the approval will become void. "Implemented" means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:
 - a. A building permit for a new primary structure that was part of the conditional use approval; or
 - b. A permit issued by the County Engineering Division for parking lot or road improvements required by the conditional use approval.
- 4) This Conditional Use approval is granted subject to the above and below stated conditions. Failure to comply with any of the conditions of approval constitutes a violation of this permit and may be cause for revocation of this approval.
- 5) The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusions

by the county concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsibility for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

II. Planning and Zoning Conditions: Clay Glasgow, (503) 742-4520,
clayg@clackamas.us

- 1) Development of the subject property is subject to the provisions of ZDO Sec.1203 and those other relevant codes and ordinances adopted by the Board of County Commissioners pursuant to subsec. 1001.03 of the ZDO, including, but not limited to, the County Roadway Standards, County Excavation and Grading Ordinance, and Oregon Structural Specialty Code, etc.
- 2) Development shall be planned, designed, constructed, and maintained to avoid substantial probability of:
 - a. Accelerated erosion;
 - b. Pollution, contamination, or siltation of lakes, rivers, and streams;
 - c. Damage to vegetation; and,
 - d. Injury to wildlife and fish habitats; and
 - e. Minimize the removal of trees and other native vegetation that stabilize hillsides; retain moisture; reduce erosion, siltation, and nutrient runoff; and preserve the natural scenic character.
- 4) Outdoor lighting beyond that approved is not permitted.
- 5) All signs shall be in compliance with ZDO Section 1010.

III. Building Code Division Conditions: Richard Carlson, (503) 742-4769,
richardcar@co.clackamas.or.us

- 1) All construction shall comply with current Oregon Structural Specialty Code and any other relevant codes.
- 2) All necessary development permits (septic, building, electrical, grading, driveway, etc.) for this facility and associated buildings shall be submitted and receive final approval and inspections before use begins within four years of the final decision.

IV. Engineering Division Conditions: Kenneth Kent, (503) 742-4673,
Kenken@co.clackamas.or.us

No comments received from Engineering Division. This proposal involves simple replacement of ticket sales booth along with addition of minor retail component. No driveway, onsite circulation or parking will be impacted. Written approval from the Hoodland Fire District #74 will be required, otherwise no conditions from this Agency.

DATED this 1st day of June, 2020.


Fred Wilson
Clackamas County Hearings Officer

APPEAL RIGHTS

ZDO 1307.10(F) provides that, with the exception of an application for an Interpretation, the Land Use Hearings Officer's decision constitutes the County's final decision for purposes of any appeal to the Land Use Board of Appeals (LUBA). State law and associated administrative rules promulgated by LUBA prescribe the period within which any appeal must be filed and the manner in which such an appeal must be commenced. Presently, ORS 197.830(9) requires that any appeal to LUBA "shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final." This decision will be "final" for purposes of a LUBA appeal as of the date of the decision (which date appears above my signature).