

## **QUASI-JUDICIAL LAND USE HEARING**

### **Oregon Revised Statute 197.763 identifies conduct of local quasi-judicial land use hearings**

A quasi-judicial land use hearing requires adequate prior notice, an opportunity to both present and rebut evidence at the hearing on the decision, the right to have a record made of the hearing and adequate findings adopted explaining the reasons for the decision. The failure of a property owner to receive notice shall not invalidate the proceedings if the local government can demonstrate by affidavit that such notice was sent.

Commissioners are asked whether they have had ex parte contact with any party at interest and if so, explain the contact and whether they will be disqualifying themselves with reason(s) for abstention. The public may challenge a commissioner(s) as having bias in any scheduled hearing and if so, the challenge must be supported by evidence, and made before the hearing begins.

A staff report will be presented which identifies the criteria and standards applying to the application and summarizes basic findings of fact concerning the application. Testimony will be taken from the applicants and supporters of the application, followed by testimony from those in opposition and other interested parties. Written testimony will be introduced and Commissioners may ask questions of staff, proponents or opponents at any time. An opportunity for rebuttal will follow, from the applicant or other proponents.

When final comments have been heard, the Commission may close the hearing not accepting additional oral testimony, or continue the hearing to a specific time and place. If the record is left open at the conclusion of the first evidentiary hearing, the record shall remain open for at least seven days after the hearing. If a continuance is requested by a participant, and the applicant agrees, such an extension shall not be subject to the 150 day final action period set in statute. When the Commission leaves the record open to admit new evidence or testimony, any person may raise new issues relating to the new evidence, testimony or criteria for decision-making that apply to the matter at issue.

All testimony and evidence must be directed toward the applicable criteria or other criteria in the Union County Land Use Plan or land use regulations that the person believes applies to the decision. The failure to raise an issue precludes appeal to the County Board of Commissioners or the Land Use Board of Appeals on that issue. All testimony may be limited to five minutes or less.

The Planning Commission's decision must be based on adequate findings of fact presented as evidence prior to or during the hearing. When making a motion for a decision, the criteria, basic findings, and ultimate findings must be stated fully. All Commissioners are responsible for the adequacy or inadequacy of each finding in the motion. If a finding is challenged by a fellow Commissioner, a vote may be taken on the findings singly, apart from the motion.

An applicant whose request is approved or denied will receive notice of the decision within five working days. Decisions are appealable within 10 days of the final decision when the Notice of Appeal and a \$500.00 fee are received by the Planning Department.