

# **How to Provide Public Testimony/Comment on Land Use Applications**

## **FAQs**

Many types of land use applications require quasi-judicial approval through a public hearing process with the Planning Commission (PC), Historic Resources Commission (HRC), Citizen Advisory Committees (CAC), or Board of Commissioners (BOC). Below are answers to some common questions regarding land use notices, comment periods, and public hearings. If you have further questions, please feel free to contact the Planning Division.

### **When can I view a land use application?**

You may request a copy of a land use application the day after it is deemed Complete by the Planning Division.

### **When is the public notified that someone has applied for a land use application?**

Not all land use applications are publicly noticed. Ministerial and most Administrative are processed without notice because they are non-discretionary. An example is an application to build a shed in the floodplain. For more potentially impactful applications, primarily quasi-judicial, property owners near the proposed site area are provided written notice that the application was received by the Planning Division usually within a month of the application being deemed Complete. This starts the Public Comment Period. The Notice distance from the proposal site varies based on the type of application. If a Public Hearing is required, the date of the hearing is posted in the Gazette Times (Benton County's Paper of Record) at least 10 days before the hearing.

Any time after the Public Notice is posted and eight business days before the Public Hearing, you are encouraged to provide the Planning Division written comments. Comments addressing the applicable land use criteria related to the application will be considered by the Planning Official and/or Commission (depending on the type of application).

### **Where do my written comments go?**

All written comments received within the public comment period are added to the Staff Report as attachments. If there is a Public Hearing and written comments are received after the Staff Report is posted (one week before the Hearing), they will be distributed to the Planning Commission at the meeting.

### **How can I receive a notice about a land use application when I do not live near the proposal site?**

If you contact the Planning Division in writing, you will be put on an Interested Parties List. As an Interested Party, you will receive the same notices and reports the Applicant receives. In the future, the Planning Division should have an electronic option for people to sign up as an Interested Party on the Planning website.

### **How can I review the staff report prior to the public hearing?**

A staff report discussing the request in relation to the criteria is available online and in the Planning Division office seven days before the hearing. Depending on the land use application type, the staff report may include recommended Conditions of Approval.

### **How do I give oral testimony/public comment?**

Any citizen can give oral testimony/public comment on a land use application when the public hearing on the application is opened by the Chair. There is a sign-in sheet for each public hearing. The person's name and address is required for the record. Depending on the Chair's preference, there is a time limit on each testimony – usually 3-5 minutes. This is to ensure that everyone has an opportunity to be heard and the decision-making body has time to conduct their business in a timely and orderly manner.

### **What is the general order of proceedings at a public hearing?**

Once the public hearing is opened, the Staff Planner presents an abbreviated version of the Staff Report (no longer than 15 minutes) and responds to preliminary questions from the Planning Commission. After this, the applicant is invited to make a presentation (also no longer than 15 minutes) and respond to questions from the Planning Commission. Applicants are not required to make a presentation, nor attend the meeting, but are encouraged to. Following the presentations, the public has an opportunity to provide oral testimony in favor of, in opposition to, or neutral to the application. Finally, the decision-making body closes the public hearing, deliberates, and ultimately decides on the application.

### **Is the applicant required to give a presentation?**

No, however, the applicant is encouraged to attend to answer questions.

### **What should the applicant's presentation include?**

The presentation should include a description of the proposal purpose and a discussion of *how it meets all the applicable review criteria*. The presentation should be focused on how the application complies with the Land Development Code standards and review criteria, including Comprehensive Plan policies and any other adopted policies or plans that the applicant believes are relevant. The presentation should be consistent with the information provided in the application. The staff Planner will present this information if the applicant is not present or does not want to present.

### **What should the applicant's presentation NOT include?**

The staff overview just prior to the applicant's presentation will include a brief description of the site, the land uses in the vicinity, the Comprehensive Plan and zoning designations, the specific request(s), and the applicable review criteria used to evaluate the proposal. This is intended to set the stage for the review of the application. The applicant does not need to repeat this information.

### **How may an applicant use visual aids as part of their presentation?**

If the applicant wishes to project a presentation or specific images, they may send electronic files to the Planning Division ahead of time or bring a thumb drive loaded with files to the hearing (PPT or PDF files are preferred). They may also distribute handouts, provided they bring 15 copies to account for all decision makers and City staff in attendance. Posters or other large displays must be left with staff so they may be documented for the record.

**Can the applicant’s presentation involve multiple people?**

Yes, bearing in mind the 15-minute time limitation. If there are team members who will not present but want to be available to respond to specific questions or to rebut testimony, they should be introduced at the outset of the presentation.

**What if the applicant disagrees with information in the written staff report?**

The applicant may identify any points of disagreement with the written staff report in their presentation or in written form. The applicant should describe the basis of the disagreement, and if they have a preferred alternative, this information should also be identified.

**What opportunities will the applicant have to respond to public testimony?**

The applicant will have the opportunity to rebut any information raised during the hearing. The rebuttal should be limited to 10 minutes and should focus on the specific points of contention.

**When will a decision be made?**

A decision generally will be made after the close of the public hearing unless the decision-making body votes to continue to a subsequent meeting, the record is held open, or the applicant does not waive their opportunity to provide a final written argument.

**What is “holding the record open”?**

If new evidence or documents are provided during the hearing, any party is entitled to prepare a written rebuttal to the new evidence upon request. If such a request is made, the hearing authority is obligated to hold the record open for an additional seven days.

**What is a ‘Continuance’?**

Any party participating in the hearing may also request that the hearing be continued to the next meeting. Continuances must be requested for a particular reason, and the granting of a continuance is at the discretion of the presiding body.

**When does a decision become effective?**

Once a decision is made, it is formalized in a Notice of Decision (NOD). Unless appealed, Planning Commission and HRC decisions become effective ten days after the NOD is signed, and BOD decisions become effective 21 days after the NOD is signed. Typically, the Planning Commission Chair will sign NODs the same night as the decision if amendments were not made to the Staff Report.

**What happens if a decision is appealed?**

A decision may be appealed by anyone with standing – this includes the applicant, any group or person or who submitted oral or written testimony. Appeals of Planning Commission decisions require a “de novo” (meaning “from the beginning,” or without considering the previous decision) public hearing with the BOC. BOC decisions are appealed to the Oregon Land Use Board of Appeals.