

The land use hearing process and how to provide effective testimony

The following information is provided for the public to understand the land use hearing process and to provide effective public testimony at hearings.

What is the purpose of the public hearing?

The purpose of a land use hearing is for the applicant, citizens, and groups to present evidence regarding a proposed development to a hearing examiner. The examiner makes his decision of approval or denial based upon the following evidence:

- The requirements of state and county codes, and relevant legal precedence;
- The proposed plan and evidence submitted by the applicant;
- Staff analysis and recommendation as presented in the staff report;
- Written testimony submitted to the county; and,
- Verbal testimony by the applicant, public, and staff.

How can I be informed about upcoming land use hearings?

Notice of Application:

Within 14 days after an application is determined complete and ready for review, notice is sent to:

- All property owners within 300 feet in the urban area or 500 feet in the rural area of the development site;
- The area's recognized neighborhood association(s) and,
- Notice is posted on our website.

Notice of Public Hearing:

At least 15 calendar days prior to a land use hearing, notice is provided as follows:

- Notice is mailed to all property owners within 300 feet in the urban area or 500 feet in the rural area of the development site;
- Notice is mailed to the area's recognized neighborhood association(s);
- Notice is published in *The Columbian* newspaper.
- Notice is posted on a signboard on the property; and,
- Notice and public hearing agendas are posted on our website.

The public notice will list the assigned county review planner and contact information.

Staff will issue a report and recommendation to the hearing examiner at least 15 calendar days prior to the hearing. A copy of the site plan or land division plan with a description of the proposal and hearing dates, and the staff report can be viewed at our offices and on our website.

Once the staff report is issued 15 days prior to the scheduled public hearing, it is available for review in our office and routed for posting on our Web. The final decision by the hearing examiner and any subsequent appeal decisions can also be viewed at our office and on our website.

Revised 9/1/11



Community Development
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www.clark.wa.gov/development



For an alternate format, contact the Clark County ADA Compliance Office.
Phone: (360) 397-2322
Relay: 711 or (800) 833-6384
E-mail: ADA@clark.wa.gov

Who makes the decision?

The county contracts with three hearings examiners, who have legal and planning expertise. Their decisions are based upon whether or not the proposed development meets or exceeds the approval criteria and development standards contained the Clark County Code. The examiner has three options to consider:

1. If the proposal meets the code requirements, the hearing examiner must approve the development.
2. If the proposal does **not** meet the code requirements, but can meet it if conditions are required, then the hearing examiner must approve the development subject to "Conditions of Approval."
3. If the proposed development does **not** meet the code requirements, or the applicant has failed to submit sufficient or credible evidence into the record to demonstrate that the proposal can meet code requirements, even if conditions of approval are required, then the hearing examiner must deny the application.

The applicant has the "burden of proof" as to whether or not the proposed development meets or exceeds the code requirements.

When do I get to speak?

Land use public hearings have a number of rules that must be followed to ensure all interested parties have a fair opportunity to present their case. The information upon which decisions are made is available to all parties for review. Clark County's land use hearings follow these seven steps:

1. Hearings examiner's opening statements:
 - Open public hearing
 - Disclosures
 - Introduction of applicant's request

2. Staff report and recommendation
3. Applicant's testimony
4. Public testimony
 - Testimony in support
 - Testimony in opposition
 - Neutral questions/testimony
5. Hearing examiner's response to testimony:
 - Questions for public
 - Questions for applicant
 - Questions for staff
6. Applicant's rebuttal
7. Close public hearing

Under Step Four above, the public will be called upon to testify after the staff report and recommendation are presented. The hearing examiner will first call for those persons or groups **in favor** of the development, then those **opposed** to the development, and finally those that are **neutral**, who have questions or comments to make.

What are some tips for testifying?

- Understand what is being requested.
- Understand the approval criteria.
- Understand the process, notice requirements, and deadlines.
- Identify your critical issues related to the approval criteria, and focus on them.
- Prepare written testimony with detail and code section references, and include any diagrams, pictures, etc., that help support your testimony.
- Petitions are a lot of work and are not helpful. Land use decisions are not a popular vote.
- If your written testimony is rather long, summarize and hit the main points.
- Don't waste verbal testimony time referencing code sections.
- Be polite and don't make enemies.

- Don't complain. Suggest what changes or conditions of approval you would find acceptable and legally supportable.
- If you have written information, maps, etc., make sure there are at least 4 copies: one for the examiner, planner, applicant, and record.
- If you need to use an overhead projector, make arrangements with staff prior to the hearing.
- If a substantial amount of new information was submitted after the staff report was issued, you may request that the examiner leave the record open to provide additional written response time. You may also request that the hearing be continued to allow more testimony in response to the new information.
- Thank the hearing examiner for the opportunity to comment.

When will the decision be made?

Unless the hearing is continued or the record left open to accept additional written testimony, the hearing examiner will issue a written decision within 14 calendar days from the close of the hearing. The decision will be mailed to the applicant and parties of record within 7 calendar days of being issued.

Can the decision be appealed?

The decision of the hearing examiner is final unless a motion is filed for reconsideration or an appeal is filed with Superior Court.

See our *Appeals* handout for more information and fees.