

Land Use Hearing Examiner Process

The following information explains the fundamental role of the Land Use Hearing Examiner and the process by which the Examiner renders land use decisions. This is not a complete description of the rules and laws governing the hearing process, but rather an overview to prepare Applicants, Appellants, and members of the public for participation in public proceedings. The land use hearing process is described in more detail in the Walla Walla County Code (see WWCC 2.50), other County ordinances, and in the Land Use Hearing Examiner Rules of Procedure. Copies of the relevant ordinances are available from the Walla Walla County Community Development Department.

The Hearing Examiner system assures fairness and due process protection for all persons involved in the land use hearing process. It is the Examiner's responsibility to render land use decisions in an efficient manner. County ordinances authorize the Hearing Examiner to conduct hearings on land use permit applications and appeals of certain County administrative decisions. The specific applications and appeals under the Hearing Examiner's jurisdiction are listed in WWCC 2.50.070.

How to Participate in Land Use Hearings

After notice to parties as required by ordinance, the Hearing Examiner conducts a public hearing. An agenda of the matters to be heard on a particular date is available at the hearing or prior to the hearing from the Community Development Department. Each land use hearing is recorded in order to establish a verbatim record of testimony and procedural issues as they occur. All testimony is given under oath, and each person who testifies must identify him or herself for the record. The Hearing Examiner may establish time limits for testimony.

The Hearing Examiner's duties include:

- To establish the order of the day's docket and presentation of testimony for each matter;
- To accept relevant documentary and testimonial evidence from all interested persons;
- To develop the record sufficiently to determine whether the application satisfies the criteria for approval;
- To proceed in an expeditious manner and keep order.

Hearings will usually proceed in the following order:

- Presentation by County Staff to describe the application and summarize issues presented;
- Presentation by the Applicant or the Applicant's authorized representative;
- Presentations, questions, or statements by members of the public;
- Responses to questions by Staff and Applicants;
- Final statement from Applicant who has the burden of proof.

Citizen's Guide to Land Use Hearings in Walla Walla County

At the conclusion of each hearing, the Examiner will close the record in the matter and set the due date for the decision. If necessary and appropriate, the record can be left open for submission of necessary information not provided prior to or at the hearing. Generally, no new evidence can be submitted after the close of the record, even on appeal, so it is very important that all relevant information be provided prior to the close of the record.

No decision is issued at the hearing. The Hearing Examiner takes the case under advisement and prepares a written decision including findings of fact and conclusions of law. The decision is mailed to those who request it. Usually, the date of issuance is ten working days after close of the record. In complex cases, with the agreement of the parties, the time for issuance of the Examiner's decision can be extended.

The Hearing Examiner may grant or deny the application or approve the permit with such conditions that will render the proposed development compliant with applicable County and state laws.

DUE PROCESS CONSIDERATIONS

- Land use hearings before the Hearing Examiner are quasi-judicial proceedings, which require that certain due process protections apply. Not only must quasi-judicial proceedings be fair, they must appear to be fair. Accordingly, the Hearing Examiner may not participate in any matter where he/she has financial or personal interest. Any person who has grounds to believe the Hearing Examiner may be influenced by a consideration outside the public record should promptly bring that concern to the attention of the Hearing Examiner prior to or at the hearing.
- If written testimony is submitted, it must be received on or before the date of the public hearing in order for it to be considered by the Hearing Examiner. Written testimony should be addressed to the Hearing Examiner and should be clearly legible. Comments should reference the application and should contain the specific reasons why the application should be approved, disapproved, or conditioned. The writer should give his/her full address in order to receive a copy of the decision.
- ***The Hearing Examiner must not be contacted directly about specific applications.*** To ensure that the Examiner will remain free from bias or prejudice in the decision making process, any contact with the Examiner must be through testimony or written statements submitted at the hearing, or through material submitted to the Community Development Staff for transmittal to the Hearing Examiner. Material not submitted in an appropriate manner will not be considered a part of the record.

APPEALS FROM HEARING EXAMINER DECISIONS

The Hearing Examiner's decision contains information on the time limits and methods of appeal for each decision. An appeal or request for reconsideration *must* be filed within

Citizen's Guide to Land Use Hearings in Walla Walla County

the specified time limit to be considered. Usually, new information cannot be raised on appeal. All relevant information and arguments should be presented at the public hearing before the Hearing Examiner.

Revised August 2005