

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

In the Matter of Adopting Hearing Rules)
for the Conduct of a Joint Planning)
Commission and Board Quasi judicial)
Hearing on June 13, 1994)

RESOLUTION
94 -95

WHEREAS, ORS 197 requires the Land Conservation and Development Commission to Review the Multnomah County Comprehensive Framework Plan periodically to determine consistency with the State Land Use Goals; and

WHEREAS, the Land Conservation and Development Commission reviewed in April 1993 the Multnomah County Comprehensive Framework Plan and determined it did not comply with State Land Use Goal 5; and

WHEREAS, the Land Conservation and Development Commission required Multnomah County to complete Goal 5 work by December 31, 1993 and subsequently approved a detailed work Program extending the County's deadline to September 6, 1994; and

WHEREAS, the Land Conservation and Development Commission approved a work program which requires the Multnomah County Planning Commission and Board to conduct a Hearing to consider two "Reconciliation Reports"; and

WHEREAS, both the Multnomah County Planning Commission and Board have adopted rules for the conduct of quasi judicial hearings; and

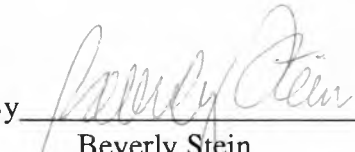
WHEREAS, the Board must amend their rules to hold a hearing with the Planning Commission;

NOW, THEREFORE, IT IS RESOLVED for the June 13, 1994, joint hearing of the Planning Commission and Board of County Commissioners on the two Reconciliation Reports, or any continuation thereof, the RULES FOR THE CONDUCT OF PLANNING COMMISSION AND BOARD OF COUNTY COMMISSIONERS JOINT QUASI-JUDICIAL HEARING as set forth in Exhibit "A" are hereby adopted.

APPROVED this 24th day of May, 1994

MULTNOMAH COUNTY, OREGON

REVIEWED
COUNTY COUNSEL FOR
MULTNOMAH COUNTY, OREGON

By 
Beverly Stein
Multnomah County Chair

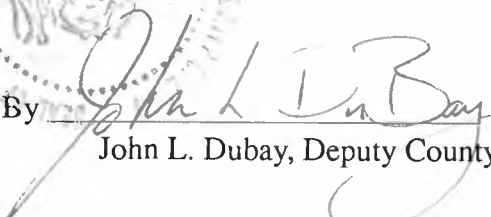
By 
John L. Dubay, Deputy County Counsel

Exhibit "A"
RULES FOR THE CONDUCT OF PLANNING
COMMISSION AND BOARD OF COUNTY
COMMISSIONERS JOINT QUASI-JUDICIAL HEARING

SECTION 1. NATURE AND CONDUCT OF HEARING

A. Parties are entitled to an opportunity to appear, in person or by a representative or Counsel, to present and rebut testimony and evidence to an impartial approval authority, to have the proceedings recorded and to receive a written decision which includes Findings of Fact and Conclusions based on the record made at the hearing.

B. The following persons are parties and shall be entitled, either themselves or through their representatives or Counsel, to make an appearance of record before the Board of Commissioners and the Planning Commission:

1. All persons entitled to individual mailed notice under the applicable Ordinance; and
2. Other persons who demonstrate an interest in the proposed action.

C. The Board of Commissioners or the Planning Commission may call as a witness a person with technical or specialized knowledge regarding an issue in an action.

D. No person shall testify without:

1. Receiving recognition from the Chair of the County Commissioner;
2. Stating his or her full name and residence address; and
3. If requested, stating the basis on which he or she is entitled to status as a party, pursuant to these Rules or as a witness on behalf of a party pursuant to these Rules.
 - (a) A challenge to the party or witness status of a person, and a ruling thereon by the Chairperson, shall be made at the time the person requests recognition to testify.
 - (b) A challenge to the party or witness status of a person may be made only by a party.

E. There shall be no audience demonstration, such as applause, cheering, display of signs, or other conduct disruptive of the hearing. Disruptive conduct may be cause for expulsion from the hearing, termination of the hearing, or other appropriate action.

F. The term person includes an individual, partnership, corporation, association, governmental unit or public or private organization.

SECTION 2. CONFLICT OF INTEREST: BIAS, EX PARTE CONTACT

A. Any actual or potential conflicts of interest, bias or partiality shall be disclosed at the hearing where the action is considered.

B. Any party may challenge the impartiality of any member before or during the hearing. A challenge must include the facts relied on by the challenging party, relating to the member's alleged bias, prejudice, or personal interest, or other facts from which the party has concluded that the member cannot participate in a decision in an impartial manner.

C. In the event of a challenge for bias, the challenged member shall respond in a statement which shall be part of the record. The statement shall refer to the challenge and include the reasons why the member has elected to participate or abstain. The statement shall not be subject to cross examination or rebuttal.

D. In the event any member has pre-hearing *ex parte* contact with a party, the member shall publicly disclose the occurrence and the substance of such contact and the persons involved. The statement shall also indicate any interest or independent knowledge of the member. The term independent knowledge refers to facts received by other than public means which are not capable of judicial or official notice, are not in the record of the action and are not a matter of general knowledge. The statement shall be made at the beginning of the hearing on the action or at such time during the course of the hearing that the member becomes aware of the existence of an *ex parte* contact or independent knowledge. The statement regarding *ex parte* contact shall be subject to the same Rules as for a statement of bias in paragraph (C) in this section.

SECTION 3. QUORUM and PRESIDING OFFICER

A. A quorum of the Planning Commission and a quorum of the Board of Commissioners shall constitute a quorum for the joint meeting.

B. The Presiding Officer of a joint meeting shall be the Chair of the County Commission or a person designated by the Chair.

SECTION 4. RULES OF EVIDENCE

A. Evidence received at a hearing shall be of the quality that reasonable persons rely on in the conduct of everyday affairs.

B. Irrelevant, immaterial or repetitious testimony or evidence shall not be admitted.

SECTION 5. ORDER OF PROCEDURE

The order of procedure shall be as follows.

A. Call the session to order.

B. Call for the Staff Report relating to actions previously decided, if appropriate. And list the applicable and substantive criteria governing the action.

C. Summarize the nature and conduct of the hearing as described in these Rules and explain where the public can obtain copies of the Rules of Procedure and the Agenda.

D. Explain the sequence of events to be followed at the hearings as described in Subsections (F) through (O) of this Section.

E. Instruct the audience that only testimony or evidence directed to the approval criteria will be accepted and that failure to raise an issue with sufficient specificity to afford the Commission and the parties an opportunity to respond to the issue precludes appeal to LUBA on that issue.

F. Call the first Agenda item and describe the Action.

G. Request a representative of the Division of Planning and Development to describe the nature of the proposal, explain any graphic or pictorial displays which are to be part of the record and summarize the Staff Report and Recommendation.

H. Call for the presentation by Proponents of the Action.

1. Those testifying in support of an action have three minutes per person, exclusive of time used by the Board and Planning Commission for questions. Additional time shall only be granted if the evidence/testimony is not repetitious, irrelevant, or immaterial.

2. Proponents shall be heard in the following order.

- (a) Representatives of agencies or interested governments,
- (b) Persons receiving notice of the hearing.
- (c) Neighborhood associations, organizations or other groups.
- (d) Persons not entitled to receive notice of the hearing but who demonstrate to the Approval Authority that they have an interest in the action.

I. Call for the presentation by opponents of the Action.

- 1. Those testifying in opposition to an application have three minutes per person, exclusive of time used by the Board and Planning Commission for questions. Additional time shall only be granted if the evidence/testimony is not repetitious, irrelevant, or immaterial.
- 2. Opponents shall be heard in the following order.
 - (a) Representatives of agencies or interested governments,
 - (b) Persons receiving notice of the hearing.
 - (c) Neighborhood associations, organizations or other groups.
 - (d) Persons not entitled to receive notice of the hearing but who demonstrate to the Approval Authority that they have an interest in the action.

J. Provide opportunity for a representative of the Division of Planning and Development to add to or clarify the factual information presented.

K. Close the public portion of the hearing and accept requests for continuances and the opportunity to submit additional evidence as provided in ORS 197.763(4)(b) and (6).

SECTION 6. RECORD OF PROCEEDINGS

A. The proceedings of the Board and Planning Commission shall be electronically or stenographically recorded.

B. In the manner provided by ORS 192.105-192.170, the Division of Planning and Development may dispose of physical and documentary evidence not claimed by the person identified sixty days after notice that the evidence may be claimed has been mailed to such person.

SECTION 7. PUBLICATION OF RULES

These Rules shall be placed on record with the Division of Planning and Development and the Clerk of the Board of County Commissioners and copies shall be made available to the public at all joint hearings of the Board and Planning Commission.

SECTION 8. AMENDMENT AND SUSPENSION OF RULES

A. Any Rule of Procedure not required by law may be amended, suspended, or repealed at any hearing by majority of those present.

B. A procedural rule may be adopted to regulate a situation not provided for in these Rules or in County Ordinances.

SECTION 9. RELATIONSHIP WITH OTHER RULES

These Rules supercede other Board and Planning Commission rules.

SECTION 10. DECISIONS

Following the joint hearing, the Planning Commission and Board of County Commissioners will make their separate decisions in accordance with MCC §11.05.300 through MCC §11.05.400.