

Planning Commission Opening Statement (to be read before each item on the agenda)

We will now commence the public hearing on agenda item [REDACTED], a request for approval of [REDACTED] to allow [REDACTED] in the [REDACTED] zone.

The criteria for approval of a land use action are contained in Chapter 10 of the General Ordinances of the City of Pendleton (Ordinance 3250, as amended). The specific criteria applicable to this request are contained in Sections [REDACTED] through [REDACTED], which contain(s) standards for uses in the [REDACTED] zone. The criteria for approval of a [REDACTED] are contained in Sections [REDACTED] through [REDACTED]. The proposed development must comply with applicable provisions contained in the City of Pendleton Comprehensive Plan. Generally, unless otherwise noted, if a request is found to be consistent with the General Ordinances it is considered consistent with the Comprehensive Plan.

If you wish to participate in this hearing, including challenges for bias or conflict of interest, you must complete the sign in form located on the table at the front of the room and deliver it to the Secretary; please do so immediately. The Chair will only recognize those who have submitted complete forms.

Testimony will be taken in the following order:

1. Applicant
2. Testimony in favor
3. Testimony in opposition
4. Rebuttal by applicant

When recognized by the Chair, please come forward to the podium, give your name, address and make your statement. All testimony, arguments and evidence presented regarding this request must be directed toward the applicable criteria or other criteria in the plan or land use regulation which the person believes to apply to the decision. Please address only the applicable criteria for the decision. Please do not repeat testimony. If you wish, you may choose merely to agree with a previous speaker's statements. The Chair may limit testimony to a certain time limit. When recognized by the Chair, Commissioners may ask questions of staff and participants without affecting time limits.

An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing. Such issues shall be raised and accompanied by statements or evidence sufficient to afford the Commission and the parties an adequate opportunity to respond to each issue. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision makers and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

Failure of persons to participate in the public hearing, either orally or in writing, precludes that person's right of appeal to the city council or LUBA. Written testimony submitted prior to the hearing constitutes participation in the hearing.

Failure of the applicant to raise constitutional or other issues related to proposed conditions of approval with sufficient specificity to allow the decision maker to respond to the issue precludes an action for damages in Circuit Court.

Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The Commission shall grant such request by continuing the public hearing pursuant to the standards contained in ORS 197.763.

In the event of a continuance: (not to be read as part of the opening statement)

Should the Commission leave the record open for additional written evidence, arguments or testimony the following procedure shall be followed:

- (6) (a) Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The local hearings authority shall grant such request by continuing the public hearing pursuant to paragraph (b) of this subsection or leaving the record open for additional written evidence, arguments or testimony pursuant to paragraph (c) of this subsection.
- (b) If the hearings authority grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, arguments or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.
- (c) If the hearings authority leaves the record open for additional written evidence, arguments or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the local government for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings authority shall reopen the record pursuant to subsection (7) of this section.
- (d) A continuance or extension granted pursuant to this section shall be subject to the limitations of ORS 215.427 or 227.178 and ORS 215.429 or 227.179, unless the continuance or extension is requested or agreed to by the applicant.
- (e) Unless waived by the applicant, the local government shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. This seven-day period shall not be subject to the limitations of ORS 215.427 or 227.178 and ORS 215.429 or 227.179.
- (7) When a local governing body, planning commission, hearings body or hearings officer reopens a record to admit new evidence, arguments or testimony, any person may raise new issues which relate to the new evidence, arguments, testimony or criteria for decision-making which apply to the matter at issue.
- (8) The failure of the property owner to receive notice as provided in this section shall not invalidate such proceedings if the local government can demonstrate by affidavit that such notice was given. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.
- (9) For purposes of this section:
 - (a) "Argument" means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent to a decision. "Argument" does not include facts.
 - (b) "Evidence" means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to the decision.

Staff reports / documents / evidence:

All documents or evidence relied upon by the applicant shall be submitted to the local government and be made available to the public.

Any staff report used at the hearing shall be available at least seven days prior to the hearing. If additional documents or evidence are provided by any party, the local government may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by an applicant shall result in a corresponding extension of the time limitations of ORS 215.427 or 227.178 and ORS 215.429 or 227.179.