



**Legal Training**  
**Planning Commission**  
**April 15, 2026**



# *What will we discuss today?*

- 
- Roles and Responsibilities
  - Land Use Approval Procedures
  - Public Meetings
  - Ex Parte Contact / Conflict of Interest / Bias
  - Approval Criteria/Findings
  - Final Decisions
  - Examples and Q&A



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# Roles and Responsibilities



## Planning Commission

TMC 11.1 – Primary duties include

- Recommendations to City Council regarding Plan Map and Text Amendments
- Recommendations to City Council regarding a variety of planning efforts
- Decision body for certain land use decisions including conditional use permits, and certain variances

## Planning Staff

- Responsible for explaining procedures and requirements, reviewing land use applications for completeness and preparing staff reports/recommendations
- Conduct pre-application meetings with developers to alert them to potential code requirements prior to submittals
- Handling all public notice requirements and hearing administration
- *Informs the PC on state requirements, recent case law, and rules of procedure for public hearings*
- Reviews subsequent permit submittals to ensure compliance with land use conditions of approval



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# Land Use Approval Procedures



## Ministerial

- Reviewed and approved by staff without any notice or opportunity to comment or appeal (Type 1)
- Clear and objective approval criteria and applying standards that require no discretion
- Examples include single family dwellings, following Clear and Objective Standards, property line adjustments

## Administrative Decisions

- Staff level decisions that are made without a hearing but with notice provided to neighbors with an opportunity to appeal to a quasi-judicial hearing where testimony would be taken (Type II)
- Low level of discretion
- Examples include subdivisions, certain architectural reviews, minor variances



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# Land Use Approval Procedures



## Quasi-Judicial Decisions

- Quasi-judicial decisions are decisions where a governing body is applying adopted policies or standards to a *specific property*. Generally, have discretionary approval criteria (Type III)
- Staff makes a recommendation and the approval authority is a hearing body after a public hearing
- Must have a final written decision with *specific findings* related to applicable criteria
- Examples include conditional use permits and variances

## Legislative Decisions

- Require a greater level of discretion and go to the planning commission for a recommendation to Council who approves the decision usually through adoption of an ordinance (Type IV)
- Legislative decisions typically affect large areas and are not focused on small, localized segments of property
- Examples include code text amendments and comprehensive plan text amendments



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# Public Meetings

- Oregon’s open meeting law requires that decisions of any “governing body” be arrived at openly so that the public can be aware of the body’s deliberations and decisions.
- With a few exceptions, a meeting exists *any time* a quorum of the governing body’s membership is present. For the PC a majority of the members present constitute a quorum.
- No Private Meetings – “private meetings” can occur, at times unintentionally, when four members (quorum) of the PC find themselves in a social setting and discuss the details of a project currently under review. This violates public meeting law.
- Beware of Serial Meetings – “serial meetings” is a term used to describe a series of communications *of any kind*, directly or through intermediaries, regarding a topic under review and also violates public meeting law.
  - This can easily occur when an email discussing a project is forwarded to a “series” of commission members. If the email exchanges are forwarded to enough members that a **quorum** is reached, public meeting law may have been violated.



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# *Ex Parte Contact, Conflict of Interest, and Bias*

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## Ex Parte Contact (Quasi-Judicial Decisions)

- Occurs when a decision-maker receives information, discusses the land use application, or visits the site in question outside the formal public hearing
- Does *not* include discussions with and information received from staff
- Failure to disclose such contact may result in reversal or remand of a decision
- If ex parte contact does occur, the decision-maker must disclose it on the record at the hearing, and describe the circumstances under which it occurred
- *When in doubt, ask staff prior to the hearing.*



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# Ex Parte Contact, Conflict of Interest, and Bias

## Conflict of Interest

- A “*potential conflict of interest*” exists if the land use decision could result in a personal financial gain or loss to the decision maker, any member of their household, or any business with which they or a household member is associated.
  - Must publicly declare the potential conflict and explain the nature of the conflict *but may* continue to participate in the discussion and decision.
- An “*actual conflict of interest*” exists if the land use decision would result in a personal financial gain or loss to the decision maker, any member of their household, or any business with which they or a household member is associated.
  - Must declare the conflict in the same manner as for a potential conflict *but may not* participate in the discussion or decision.



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# *Ex Parte Contact, Conflict of Interest, and Bias*

## **Bias**

- “Actual bias” means prejudice or prejudgment of the facts to such a degree that you are incapable of rendering an objective decision on the merits of the case
  - A member of a governing body should not participate in a decision if he or she has an actual bias regarding the application
- Even though bias is often subjective, not all personal views or positions are actual bias in the eyes of the law
- While it is not unusual for decision-makers to have a perspective or background, the threshold test is if this will influence your decision

***When in doubt...Ask Staff!!***



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# Approval Criteria / Findings



- When making a quasi-judicial decision, the governing body must apply the *adopted criteria for approval* contained in the local government's comprehensive plan and development regulations
- If an applicant demonstrates compliance with these criteria, the application **must** be approved even if the governing body disagrees with the criteria or believes that additional unadopted criteria should be applied
- The applicant has the burden of proof. The applicant must introduce evidence that shows that all the approval criteria are satisfied
- **Approval Criteria** – For each quasi-judicial review the Tualatin Development Code has specific approval criteria. Staff will always identify the relevant approval criteria in the staff report
- **Findings:** statements of the relevant facts as understood by the decision-maker and a statement of how each approval criterion is satisfied by the facts



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# Final Decisions

As an approval body, you have the following options:

- **Approval** - The reviewing body found that the facts in evidence indicate the criteria are satisfied
- **Approval with conditions** - The reviewing body has found that the facts in evidence do not demonstrate the criteria are fully satisfied, but, through the application of conditions, the criteria can be satisfied.
- **Denial** - The reviewing body has found that the facts in evidence have not demonstrated that the criteria are satisfied and the application cannot be made to comply with conditions attached to it
- **Continuances** –
  - Per ORS 227.178 cities must make a final decision on a land use application, including resolution of all local appeals, within 120 days of the filing of a complete application
  - A hearing may be continued to address a variety of issues, provided it does not exceed the mandated timelines, unless agreed to by the applicant.



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# Examples and Q&A

