

## **Land Use Reviews: A Primer for Neighborhood Land Use Chairs**

This is an updated version of a handout for the "ABCs of Land Use" training offered regularly through the Office of Neighborhood Involvement. This material was prepared by Amanda Fritz when she served as a neighborhood association land use chair.

*[Downloaded on 10/12/12 from  
<http://www.portlandonline.com/fritz/index.cfm?a=240868&c=49247>]*

\* \* \* \* \*

How to Participate" section - by *Amanda Fritz, 17-year Neighborhood Association land use chair*

### **A. So you received a land use review (LUR) or Environmental Zone Development Standards notice - now what?**

Here's what I used to do, in the order I did it.

#### **Responding to the notice**

1. Read the entire notice carefully, twice.
2. Look up the site by entering the address on [www.Portlandmaps.com](http://www.Portlandmaps.com)
3. Visit the site. Note: you can't go on private property without permission, but you can view it from the right-of-way. Take the LUR/Environmental Zone notice with you, and compare site plan (if any) with what's there.
4. **Go to the Pre-Application conference** ("Pre-App") if there is one. It may be listed on the notice, or you may need to ask. NOTE: The applicant pays for the "Pre-App" meeting. It is designed for staff to help the developer prepare a good application, telling them what rules apply. It is not a hearing, and likely neighbors will be told you may attend but not speak. Take plenty of notes, and call the applicant and/or staff afterwards (or ask to speak with them after the meeting) if you want them to know something from the neighborhood perspective.
5. Call the planner listed on the notice. Ask many questions, including, "Is there a question I should have asked you?" and "Here are my concerns for this site - how can I best address them?". Ask for the pre-application notes, if there were any. *Note: your goal is to help the planner understand your*

*concerns and in turn help you to express them in ways most likely to be heard. Always start by assuming the planner wants to help you as much as they need to help the applicant.*

6. Look up the section of the Code referenced in the notice, so you know what the rules are. The Code is [here](http://www.portlandonline.com/auditor/index.cfm?c=28148&). (<http://www.portlandonline.com/auditor/index.cfm?c=28148&>) Most often, you need Title 33, then the subsections are in numerical order.

7. Remember, **only the listed "Approval Criteria" matter**. Don't waste your time reviewing whether all the application requirements were submitted, for example, unless the absence of information makes it impossible to assess whether the proposal meets the Approval Criteria.

### ***If you still have concerns or need more information***

1. If applicable, call staff in other bureaus - Transportation, Environmental Services, Fire are the main ones usually. **Call 503-823-4000**, and the helpful Information and Referral staff will help you figure out who you want to talk with and connect you.

2. Go to the Permit Center on the ground floor at 1900 SW 4th and ask to see the record. The staff there may send you to another floor. Read everything, taking notes. You may ask for copies but you may be asked to pay for them.

### ***Public Process***

1. Some applications, mostly subdivisions, require the developer to meet with the Neighborhood Association (NA) before submitting the application. If this hasn't been required and there's time, put the issue on the agenda for the NA's next meeting (and/or its Land Use Committee, if there is one). If no time, look at your bylaws to see whether you need to call a special meeting to speak on behalf of the NA. Always be careful to be very clear whether you are speaking for yourself and/or the NA. Follow the bylaws and code rules meticulously if you're speaking for the NA. *If applicable, I state in every oral and written testimony, "I'm speaking for the Neighborhood Association and also for myself."* *This preserves your right to appeal on behalf of the NA and as an individual.*

*NOTE: People will show up at an NA meeting when a development application is on the agenda, who have never participated before and may never come again. This is both a challenge and an opportunity. Remember every visitor is a potential new volunteer, also that they came because they*

*care about the issue. Be welcoming, friendly, and ready to help. Be polite to the developer's representative if present, and try to avoid attacking the developer even if no representative is there. Even people opposed to the development may be uncomfortable if the process seems overly adversarial.*

- Have the chair lay out ground rules at the beginning of the discussion, e.g., one person speak at a time, respectful/polite, stay on the issue no personal attacks, everyone's opinion should be heard.*
- Don't use abbreviations or acronyms*
- Explain the rules and limitations of the land use review - the two minute version of what you've learned in this class.*
- Stating that people have a right to develop their property and the question for discussion is how, can be helpful, as can occasional reminders that if this application is stopped, the next one may be worse. But also state that citizens have a right to participate in discretionary decisions, and that development must comply with the code.*
- Consider other strategies such as buying the property or conservation easements, suggesting other uses the neighbors could support, requesting modifications to design or amenities, if applicable and possible*

2. Consider inviting the developer to a meeting, and/or calling to review your/NA concerns, if they don't contact you or your NA president first.

3. Call the land use specialist at your coalition/district office and visit the land use committee asking for your item on the agenda, if there is a land use specialist/committee. Ask experts (staff and/or volunteers) in other parts of the city for help if there aren't folks available in yours. Again, 503-823-4000 will help you find the right person in the coalition/district office

4. Call the planner and other bureau staff again to review the NA's concerns.

5. Send in written testimony before the deadline for the planner's decision or recommendation. Request specific Conditions of Approval, if applicable. In your comments, always talk about the application, not the applicant. Talk about the flaws of the proposal, not the supposed evil intent of the developer. Fight fair. Don't say anything you can't prove/back up/say to a person's face at the neighborhood block party. Make sure your testimony is delivered, not postmarked, by the deadline. Email may or may not count - ask the planner.

6. If it's a Type 3 review, you will receive a Staff Report before the hearing if you submitted comments or if you request to be sent one. Send more comments in writing to the Hearings Officer before the hearing, stating which parts of the planner's recommendations you agree with, which not.

7. Read the planner's Staff Report with the decision/recommendation over and over. You'll understand it more each time. If you don't understand something, call the planner and ask.

8. Get people to attend the hearing, whether before the Hearings Officer or at City Council on appeal. While they're supposed to rule on the evidence in the record, having supporters there emphasizes the need for careful review. Having several people testify helps, too. Each will say the points in a slightly different way, which may catch the decision-maker's attention. But having lots of people talk in generalities, basically saying they don't want the development, doesn't help at all.

9. Most times you can talk for as long as you stay on topic before the Hearings Officer, for prescribed amounts of time (usually 3 minutes) at Council. Write out your comments ahead of time, and practice out loud. See [Testimony Tips](#) for more advice on how to make the most of your 3 minutes.

### **Considering an Appeal**

1. When you receive the decision (it will be mailed to you if you submitted comments or spoke at a hearing), you have a stated amount of time to appeal to the Hearings Officer (Type 2), City Council (Type 3), or Land Use Board of Appeals (after the local appeals are completed). It's cheaper for the NA to appeal to the Hearings Officer or City Council, cheaper for an individual to appeal to LUBA (because NAs get the appeal fee waived in the city, while groups are required to hire an attorney at LUBA). If in doubt, appeal - you can always withdraw the appeal later. Except, frivolous appeals are a waste of everyone's time and money, and will lower your credibility for the next application. Only appeal if you can point to one of the Approval Criteria that the application doesn't meet. Put the Approval Criteria and reasons for appeal in the appeal notice, with an attachment if you run out of space.

2. If you appeal, stay with the process outlined above for appeals to the Hearings Officer (Type 2 processes). Switch into Legislative Lobbying mode if you're appealing to Council, except you're not allowed to talk directly with Council members. You can and should talk with their staff, though - call and email each office's land use staffer. See [Testimony Tips](#). Consider contacting

the press to alert them of the issue if you're appealing to City Council. where political pressure as well as the Approval Criteria comes into play.

3. Considering appealing to LUBA (the Land Use Board of Appeals)? Contact experienced NA folk, including your district/coalition office, if you want to explore this option.

### **After the Final Decision**

Use each application to build your knowledge and add to case law. Or, if you don't win on an important issue, read the decision over and over, and try to figure out how to counter the arguments next time. If necessary, start work on a legislative amendment to change the code language, if what's there currently isn't addressing the community/neighborhood values you care about. Remember, you did the best you could with the resources of time and assistance available to you, which ultimately furthers the long term public good whether you got what you wanted in this particular case or not.

### **B. Involvement in Legislative changes**

See [Testimony Tips](#) on the *Next Up at City Council* page of Commissioner Fritz's City web page.

### **C. Taking it to the next level**

**1) Citywide Land Use group - meets 4th Monday, 7 p.m., 2nd floor at 1900 SW 4th (the Development Services building).** Citywide Land Use group brings Neighborhood Association Land Use Committee members together to discuss development issues, new and proposed regulatory changes, and Bureau initiatives that involve land use. To be on the notification list for meetings and other CWLU sponsored activities, contact [Bonny McKnight](#).

**2) Citywide decisionmaking/advisory committees** - volunteer on the Office of Neighborhood Involvement web site. Planning Commission, Design Commission, Historic Landmarks Commission, Adjustment Committee, Development Review Advisory Committee, Urban Forestry Commission. Application form on the Office of Neighborhood Involvement web site here.

**3) Wider community involvement** - Metro and county, statewide. Don't start here, work your way up as you gain experience. You will find that the time spent learning more and participating more broadly will pay dividends

in your ability to understand and make connections in the process, thereby increasing your success in neighborhood cases.

**CONCLUSION** - *by Bonny McKnight, Citywide Land Use group chair*

All of this isn't as difficult as it may sound. Neighborhoods are where land use decisions turn into livability. Get involved in making development and/or land use decisions the best they can possibly be - you'll find it frustrating at times, but rewarding.

Neighborhood Association land use volunteers are the early warning for problems that may be solved before they grow. sometimes neighborhoods and developers can work together with the city to provide a better quality development while eliminating some of the potential problems that could result. You will bring real benefit to your own street and neighborhood, and help make our community a better place to live. Your involvement in your Neighborhood Association land use review functions will provide a way to keep Portland a better place to live - and working with your neighbors to support a common interest is the best way to build a strong community.