

Guide to Public Hearings
of the
Pierce County Hearing Examiner

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INTRODUCTION

The Office of the Pierce County Hearing Examiner publishes this guide pursuant to Section 1.22.080(D) of the Pierce County Code to help you participate effectively in quasi-judicial hearings conducted by the Pierce County Hearing Examiner. Specific rules governing the public hearing process are set forth in Chapter 1.22 of the Pierce County Code, Pierce County ordinances addressing the matter at issue, and the Hearing Examiner rules. Copies of applicable ordinances and rules are available from the Clerk of the Pierce County Council, Pierce County Planning and Land Services, and the Hearing Examiner's Office. If you desire more detailed information concerning the public hearing process, have questions, or need procedural information please contact the office of the Hearing Examiner.

The vast majority of Examiner hearings are public hearings held on behalf of the Pierce County Council to consider requests for approval of land development projects on specific parcels of property. These hearings encourage participation by the general public and are designed to ensure that all interested parties have a reasonable opportunity to provide information and comment, and obtain answers to questions about the specific project under consideration. Examples include applications for:

- Preliminary plat approval.
- Shoreline management permits.
- Conditional use and other types of special use permits.
- Wetland variances and reasonable use exceptions.
- Planned Development Districts (PDD).

A second type of hearing considers appeals by one or more persons from a decision made or action taken by a County agency. While public participation is allowed, the appeal hearing has two specific parties: the appellant(s) and the County. To ensure your right to participate, contact either the appellant or the County's representative prior to the hearing and ask to be called as a witness. Examples of appeal hearings include:

- Appeals from decisions of the Pierce County Environmental Official made pursuant to the authority of the State Environmental Policy Act (SEPA).
- Appeals of Cease and Desist Orders.
- Appeals from any final administrative order or decision of the Director of Planning and Land Services in the administration, interpretation, or

enforcement of the Pierce County Code.

- Appeals from decisions of the Public Works Director, Building Official, or Fire Marshal.
- Appeals of the approval or denial of an administrative use permit.

PURPOSE OF HEARING

The Examiner conducts public hearings to ascertain facts and hear arguments regarding how applicable laws, ordinances, and administrative regulations apply to the proposed land use, alleged violation, administrative decision, or other matter under consideration. The applicant, appellant, County agencies, and all interested persons must use the public hearing to provide any information and argument they wish the Examiner, and if appealed the Court, Shoreline Hearings Board, or County Council to consider. Both facts and argument may be submitted at the hearing orally and/or in writing.

The most effective presentations identify applicable State statutes and/or County Code sections and show how the project meets or does not meet the criteria set forth therein. While the Examiner considers the views of community residents, the Examiner must evaluate the proposal in accordance with validly adopted standards of legislative bodies. Community displeasure cannot be the basis of a permit denial.

EX-PARTE CONTACTS; APPEARANCE OF FAIRNESS

The Examiner conducts quasi-judicial hearings as opposed to legislative hearings which are conducted by the County Council and other elected legislative bodies. State law and County ordinance prohibit any person from contacting the Examiner outside of the public hearing for the purpose of influencing a decision, since the Examiner is in a position similar to a judge hearing a civil lawsuit. However, persons may contact the Examiner's office to obtain information on procedural matters.

The Washington State Supreme Court has ruled that not only must quasi-judicial proceedings be fair, they must also appear to be fair. Accordingly, Examiners may not conduct hearings considering matters or property in which they have a financial interest or in which they may appear to be biased by either personal friendship with either a party or neighbor, or where a party or neighbor is a client of the Examiner's firm. Any person who has reasonable grounds to believe that an Examiner might be influenced by factors outside of the public record of the hearing should promptly bring that concern to the Examiner's attention. However, the fact that an Examiner has considered the same or a similar proposal in another hearing, has made a ruling adverse to the interest of a party in this or another hearing, or has previously considered and ruled upon the same or a similar issue

are not bases for disqualification.

STAFF REPORTS AND COUNTY FILES

A County staff report to the Examiner is ordinarily available to the public at the Planning Division office in the Pierce County Annex one (1) week prior to the hearing date. If you do not obtain a copy in advance of the hearing, copies will be available at the entrance to the hearing room. The staff report contains a general summary of the facts as interpreted by Pierce County Staff assigned to the project, an analysis of the comprehensive plan and applicable ordinances, a recommendation to the Hearing Examiner, and proposed conditions of approval should the Examiner decide to approve the project.

The County maintains a separate file for every land use application and/or appeal. The file is available for public review and normally includes the application, an environmental checklist, SEPA threshold determination, draft and final environmental impact statements (if required), technical studies, record of public notice, agency comments, and all correspondence received. Persons desiring to review the file should call the Planning Division for an appointment in advance of the hearing.

AGENDAS AND HEARING ROOMS

An agenda setting forth the matters scheduled for hearing that day is posted on the door of the hearing room, and future agendas are available from Pierce County Planning and Land Services (PALS). The Examiner will start each hearing promptly at the time shown on the agenda unless the previous hearing lasts longer than its allotted time. In such case the next scheduled hearing will commence immediately following conclusion of the overtime hearing. During severe inclement weather periods, hearings will either be delayed or rescheduled. Hearings are scheduled at specific times throughout the day to ensure that persons attending the hearing are away from their offices and homes for as short a time as possible. Therefore, it is important that the hearing commence on time, and all persons should attempt to arrive five or ten minutes in advance of the scheduled time.

USUAL ORDER OF PROCEEDINGS

Following a formal announcement of the matter to be heard and introductory remarks by the Examiner, a public hearing will generally proceed as follows:

1. Presentation of the Staff Report by County staff.
2. Presentation by the applicant or appellant and their representatives.

3. Statements by persons in support of the application or appeal.
4. Statements by persons who oppose the application or appeal or who have questions or concerns.
5. Response by the applicant or appellant to include answers to questions.
6. Response by County staff.

HOW TO PARTICIPATE

The Washington Supreme Court requires the Examiner and the County to provide a complete, verbatim record for consideration on appeal. Therefore, each speaker must use a microphone so that all statements or questions are recorded. When you speak for the first time spell your last name and state your mailing address including zip code. For each subsequent time you speak, state only your name. Agents or representations of a party(ies) should clearly identify said party and state their positions.

State law requires that all testimony be given under oath or affirmation. The Examiner may administer a group affirmation at the opening of each hearing, and if you did not join in the group affirmation, please advise the Examiner before testifying. Testimony at public hearings is not a formal question and answer format as in judicial proceedings. Thus, you should state directly and succinctly all relevant facts and argument that you wish considered, but you should avoid repetitive testimony. You may use notes, written statements, visual aids, etc., during your presentation. Please request County assistance for audio/visual equipment, easels, etc., prior to the hearing. If a prior speaker addresses your concerns, you do not need to restate what has already been said, and may either say nothing or simply indicate your agreement.

Exhibits introduced into evidence become part of the permanent record of hearing, and if appealed, will be forwarded to the Courts. Persons desiring to submit written documents into the record should bring three copies: one for the Examiner, one for the County, and one for the applicant/appellant.

Address your comments only to the Hearing Examiner and not to the audience or the applicant. The Hearing Examiner makes the decision, not the audience, and you will not convince the applicant to withdraw the application. Please refrain from cheering, applauding, or otherwise audibly showing your support for speakers with whom you agree. Likewise refrain from booing, hissing, or yelling at speakers with whom you disagree. Verbal displays of support or objection are not in keeping with the decorum of a quasi-judicial hearing, and do not assist in the decisionmaking process. Please be as quiet as possible when people testify, and show all speakers the same courtesy that you will want

shown to you when it is your turn to speak. The Hearing Examiner needs to hear all of the testimony and people in attendance want to hear as well. If a question arises during the hearing concerning a procedural matter, raise your hand to get the Examiner's attention, and when acknowledged, ask your question. If you cannot hear or see adequately, feel free to move to a different location.

Private discussions in the hearing room are extremely distracting to all participants. Persons desiring to converse should either leave the hearing room or wait until there is a recess in the hearing.

CONTINUANCES

Once opened, a hearing will normally proceed to completion. However, the Examiner may continue a hearing to a future date for completion of testimony and argument, to allow for the introduction of evidence not yet available or for other valid reasons. The Examiner may leave the record open for the future submission of specified additional written evidence or argument.

EXAMINER'S REPORT

Both State law and the Hearing Examiner Code require the Examiner to issue written Findings of Fact, Conclusions of Law, and a Decision. Therefore, the Examiner will not make a decision at the conclusion of the hearing, but will mail the written decision to persons who speak at the hearing, print their name and address on the sign-up sheet, or individually write the Examiner requesting a copy of the decision. The report is normally mailed within fourteen (14) days following the close of the record.

REQUEST FOR RECONSIDERATION AND APPEALS FROM EXAMINER DECISIONS

The Report and Decision will include a page explaining the procedures, requirements, and time limits for filing a Request for Reconsideration. You may generally file an appeal of a final decision to the Superior Court for Pierce County. However, certain matters are subject to review by other agencies such as the Shoreline Hearings Board prior to an appeal to court.