

## Appendix BA - OAR 661-010-0025 - Record

### OAR 661-010-0025

#### Record

**(1) Contents of Record: Unless the Board otherwise orders, or the parties otherwise agree in writing, the record shall include at least the following:**

- (a) The **final decision** including any **findings of fact** and conclusions of law;
  - (b) **All written testimony and all exhibits, maps, documents or other written materials specifically incorporated into the record or placed before, and not rejected by, the final decision maker, during the course of the proceedings before the final decision maker.**
  - (c) **Minutes and tape recordings of the meetings conducted by the final decision maker as required by law, or incorporated into the record by the final decision maker.** A verbatim transcript of audiotape or videotape recordings shall not be required, but if a transcript has been prepared by the governing body, it shall be included. If a verbatim transcript is included in the record, the tape recordings from which that transcript was prepared need not be included in the record, unless the accuracy of the transcript is challenged.
  - (d) **Notices** of proposed action, public hearing and adoption of a final decision, if any, published, posted or mailed during the course of the land use proceeding, including affidavits of publication, posting or mailing. Such notices shall include any notices concerning amendments to acknowledged comprehensive plans or land use regulations given pursuant to ORS 197.610(1) or 197.615(1) and (2).
- (2) **Transmittal of Record: The governing body shall**, within 21 days after service of the Notice on the governing body, **transmit to the Board a certified copy of the record of the proceeding** under review. The governing body may, however, retain any large maps, tapes, or difficult-to-duplicate documents and items until the date of oral argument. Transmittal of the record is accomplished by delivery of the record to the Board, or by receipt of the record by the Board, on or before the due date.
- (3) **Service of Record:** Contemporaneously with transmittal, the governing body shall serve a copy of the record, exclusive of large maps, tapes, and difficult-to-duplicate documents and items, on the petitioner or the lead petitioner, if one is designated. The governing body shall also serve a copy of the record on any other party, including intervenors-petitioner, requesting a copy provided such other party reimburses the governing body for the reasonable expense incurred in copying the record. The governing body shall also serve a copy of any tape included in the record, or any tape from which a transcript included in the record was prepared, on any party

requesting such a copy, provided such party reimburses the governing body for the reasonable expense incurred in copying the tape.

**(4) Specifications of Record:**

(a) The record, including any supplements or amendments, shall:

(A) Be filed in a suitable folder; the cover shall bear the title of the case as it appears in the Notice or in the Board's order consolidating multiple appeals, and the Board's numerical designation for the case, and shall indicate the numerical designation given the land use decision or limited land use decision by the governing body; if the record consists of multiple volumes, the cover shall indicate the page numbers contained in each volume;

(B) Begin with a table of contents, listing each item contained therein, and the page of the record where the item begins (see Exhibit 2), and listing each large map, tape, item or document retained by the governing body under section (2) of this rule;

(C) Be securely fastened on the left side;

(D) Have pages numbered consecutively, with the page number at the bottom outside corner of each page;

(E) Be arranged in inverse chronological order, with the most recent item first. Upon motion of the governing body, the Board may allow the record to be organized differently.

**(b) Where the record includes the record of a prior appeal to this Board, the table of contents shall specify the LUBA number of the prior appeal, and indicate that the record of the prior appeal is incorporated into the record of the current appeal.**

(c) A record which does not conform to the preceding requirements shall not be accepted by the Board.

(5) If no record objection is filed and the governing body transmits an amendment to the record, the date the amendment is received by the Board shall be considered the date the record is received for the purpose of computing time limits as required by these rules.

[ED. NOTE: Exhibits referenced in this rule are available from the agency.]

Stat. Auth.: ORS 183.545 & ORS 197.820(4)

Stats. Implemented: ORS 197.830(10)(a), ORS 197.830(14) & ORS 197.835

Hist.: LUBA 1-1979(Temp), f. & ef. 11-1-79; LUBA 2-1980, f. & ef. 4-29-80; LUBA 1-1983, f. & ef. 10-3-83;

LUBA 1-1987, f. & ef. 12-30-87; LUBA 1-1992, f. &

cert. ef. 1-21-92; LUBA 2-1992, f. & cert. ef. 3-19-92; LUBA 1-1994, f. & cert. ef. 6-22-94; LUBA 1-1995, f. &

cert. ef. 2-6-95; LUBA 1-1998, f. 2-12-98, cert. ef.

3-1-98; LUBA 1-2001, f. 10-15-01, cert. ef. 1-1-02