

FOR THE RECORD, or NOT

Outline

EXECUTIVE SUMMARY

I. AUTHORS

- A. Hugo Land Use Committee
- B. Goal One Coalition
- C. Rogue Advocates

II. “FOR THE RECORD”

- A. Rules and Regulations
- B. Josephine County Rural Land Development Code (RLDC): Rules For Accepting Testimony “For The Record”
 - 1. Duties of the Planning Director
 - 2. Quasi-Judicial Review Procedures
 - 3. RPC’s Review Procedures
 - 4. BCC’s Review Procedures
 - 5. Application Information Is Tardy
 - 6. Public Land Use Hearings
 - 7. Public Notice Prior to A Decision
 - 8. Appeal Of Decisions
 - 9. Amending & Updating the Comprehensive Plan
 - 10. RPC Review Procedure for Amending & Updating the Comprehensive Plan
 - 11. BCC Review Procedure for Amending & Updating the Comprehensive Plan
 - 12. Summary. Rules For Accepting Testimony For the Record
- C. LUBA Opinions and Headnotes
 - 1. Testimony Period During Course of the Proceedings Before the Final Decision Maker
 - a) Course of the Proceedings: Application to Appealable Record
 - b) Final Decision Maker

2. Testimony Submitted in Manner Specified in the Notice of Hearing and/or Identified Methodology
 - a) Local Government Methodology: No Established Procedures for How Documents must Be Submitted into the Record in Land Use Proceedings
 - b) Local Government Methodology: Some Procedures Established for How Documents Must Be Submitted into the Record in Land Use Proceedings
 - c) Notice of Hearing Invites Comments
3. Request That Testimony Be Included in Record
4. Written Testimony or Other Written Materials Specifically Placed Before the Final Decision Maker
 - a) Specifically “Placed Before” the Final Decision Maker
 - b) Considered By Final Decision Maker
 - c) Incorporated by Final Decision Maker
 - d) Words Spoken During Public Hearing Before the Final Decision Maker
5. Written Testimony or Other Written Materials Specifically Placed Before the Final Decision Maker And Rejected
6. Written Testimony or Other Written Materials Specifically Placed Before the Final Decision Maker And Erroneously Rejected

III. FINDINGS

- A. Standards
- B. Law
- C. LUBA Opinions
- D. Anomalies
 1. Testimony Submitted Prior to a Local Hearing.
 2. Testimony Submitted At A Local Hearing.
 3. Testimony Submitted At A Local Planning Commission Hearing

IV. LOCAL JOSEPHINE COUNTY'S HISTORY

- A. Josephine County Rural Land Development Code (LDC)
- B. Analysis of Josephine County's Notice of Public Hearing
- C. Conduct of Staff, Rural Planning Commission, and Final Decision Maker
 - 1. Staff Report
 - 2. Conduct of Staff and Chair of Rural Planning Commission
 - 3. Conduct of Rural Planning Commission
- D. Perils of An Applicant-Driven User Fee Funded Planning Office

V. TESTIMONY ALTERNATIVES

- A. Alternative A. Testimony Submitted Prior to Public Hearing
 - 1. Alternative A1. Land Use Assessments
 - a) Lynch Ranch Land Use Assessment
 - b) Ockenden Woodlot Land Use Assessment
 - c) Dickerson's Corner
 - d) Other Farm And Forest Land Materials
 - e) Written Testimony
 - 2. Alternative A2. Pre-Application Review Period
 - 3. Alternative A3. After Land Use Application and Prior to Notice of Public Hearing
 - 4. Alternative A4. After Notice of Public Hearing and Prior to Public Hearing
- B. Alternative B. Testimony Submitted At Public Hearings
 - 1. Alternative B1. Public Hearing Before Rural Planning Commission
 - 2. Alternative B2. Public Hearing Before the Final Decision Maker
- C. Alternative C. Testimony Submitted At Continued Public Hearing(s)
- D. Alternative D. Testimony Submitted During Periods When the Record Is Open after Public Hearing(s)
- E. Alternative E. Testimony Submitted During Public Comment for a Written, Signed, and Final Decision by the Final Decision Maker for Purposes of Appeal

VI. STRATEGY CONSIDERATIONS FOR TESTIMONY ALTERNATIVES

- A. Alternative A. Testimony Submitted Prior to Public Hearing
 - 1. Alternative A1. Land Use Assessments
 - 2. Alternative A2. Pre-Application Review Period
 - 3. Alternative A3. After Land Use Application Complete and Prior to Notice of Public Hearing
 - 4. Alternative A4. After Notice of Public Hearing and Prior to Public Hearing

- B. Alternative B. Testimony Submitted At Public Hearings
 - 1. Alternative B1. Public Hearing Before Rural Planning Commission
 - 2. Alternative B1. Public Hearing Before the Final Decision Maker

- C. Alternative C. Testimony Submitted At Continued Public Hearing(s)

- D. Alternative D. Testimony Submitted During Periods For When the Record Open after Public Hearing(s)

- E. Alternative E. Testimony Submitted During Public Comment for a Written, Signed, and Final Decision by the Final Decision Maker for Purposes of Appeal

VII. SUMMARY

VIII. DISCLAIMER

IX. SIGNATURE PAGE

Appendices

- Appendix A - Authors
- Appendix BA - OAR 661-010-0025 - Record
- Appendix BB - OAR 661-010-0026 - Objections to the Record
- Appendix BC - Josephine County Regulations “For The Record”
- Appendix C - LUBA Procedures/Rules: Headnotes 27.3.1 - Record Generally
- Appendix D - LUBA Procedures/Rules: Headnotes 27.3.2 - Record – Content/Form
- Appendix E - Headnotes - Record (27.3.1 and 27.3.2) Organized
- Appendix F - Submitted Testimony For Ockenden Land Use Proceedings
- Appendix FB - Ockenden Rural Planning Commission Hearing before the Josephine County Rural Planning Commission, December 18, 2006, HEARING FOR TEXT AMENDMENT (selected minutes)
- Appendix FC - Ockenden Rural Planning Commission Hearing before the Josephine County Rural Planning Commission, January 22, 2007, HEARING FOR MAP AMENDMENT (selected minutes)
- Appendix G - Planning Director December 15, 2006 Communication On Copies Of “Printed Testimony”
- Appendix H - Planning Director January 9, 2007 Communication On Copies Of “Printed Testimony”
- Appendix I - Perils of An Applicant-Driven User Fee Funded Planning Office