

1 Opinion by Gustafson.

2 **NATURE OF THE DECISION**

3 The county appeals the city's denial of the county's
4 request for a comprehensive plan amendment and zone change.

5 **DISCUSSION**

6 The county applied to the city for a comprehensive plan
7 amendment and zone change for the county fairgrounds property
8 from a residential to a commercial designation and zone. The
9 city council denied the application. The county alleges the
10 city deprived it of a fair and impartial hearing due to (1)
11 the bias of the mayor and one city council member and (2) the
12 city council's refusal to consider a "special fairground zone"
13 that had been recommended by the planning commission. The
14 county also alleges that the city's decision violates ORS
15 227.160, 227.173 and the city's comprehensive plan and zoning
16 designations; and that the city's decision violates ORS
17 565.230.¹

18 The city asserts that the county waived its right to
19 raise the issue of bias on the part of the mayor because it

¹ORS 565.230(2) provides, in relevant part:

"In order that the fairgrounds and building may be utilized to the fullest extent for pleasure, recreation and public benefit, the [fair] Board shall at all times have the authority to provide park facilities for the public or to issue licenses and grant permits for the holding of any exhibitions, shows, carnivals, circuses, dances, entertainments or public gatherings upon the fairgrounds."

The county argues this statute constitutes a "legislative mandate" that the fairgrounds be zoned for commercial use. We do not read such a mandate in this language.

1 did not raise the issue below. We need not determine whether
2 the mayor's alleged bias was raised with sufficient
3 specificity to allow the city to understand the issue and to
4 respond to it. Even if it was raised, neither the mayor nor
5 the city council member whom the county alleges was biased
6 voted on the challenged decision. The county does not allege
7 or establish that the remaining city council members, all of
8 whom voted to deny the application, were biased. The county
9 has not established that it was deprived of a fair and
10 impartial hearing due to bias on the part of the decision
11 makers.

12 The county has also not established it was deprived of a
13 fair and impartial hearing due to the city council's refusal
14 to consider a special zone for the fairground. The county's
15 application did not request such a special zone, and the city
16 council was under no obligation to consider the planning
17 commission's recommendation that it approve such a zone.

18 The county's other allegations likewise provide no basis
19 for remand or reversal of the city's decision.

20 The city's decision is affirmed.