BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

LEAGUE OF WOMEN VOTERS OF COOS COUNTY and MARGUERITE WATKINS, Petitioners, vs. COOS COUNTY and RUSSELL YOUNG, Respondents.	LUBA No. 85-023 FINAL OPINION AND ORDER

Appeal from Coos County.

Robert L. Liberty, Portland, filed the petition for review and argued the cause on behalf of Petitioners.

John K. Knight, Coquille, filed a response brief and argued the cause on behalf of Respondent County.

Michael O. Whitty, Coos Bay, filed a response brief on behalf of Respondent-Participant Russel D. Young.

KRESSEL, Referee; BAGG, Chief Referee; DUBAY, Referee, participated in the decision.

REVERSED 08/09/85

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

Opinion by Kressel.

NATURE OF THE DECISION

Petitioners seek review of an order of the Coos County Board of Commissioners dismissing their appeal of a planning commission decision. The planning commission voted to approve a conditional use permit allowing construction of a residence and barn in the county's F-160 district. The governing body dismissed the appeal for two reasons: (1) petitioners did not have standing to appeal, and (2) their notice of appeal was filed after expiration of the appeal period established by the zoning ordinance.

FACTS

The county planning commission held hearings on the permit in issue on June 14 and November 8, 1984. Petitioner Watkins, who is a member of Petitioner League of Women Voters of Coos County (League), attended the November hearing and commented on the application. The nature of her comments will be discussed later in this opinion. The planning commission approved the permit on November 8, 1984.

Petitioners attempted to file a joint appeal of the planning commission decision on December 19, 1984. The appeal was rejected as untimely by planning officials. On the following day, however, the appeal was accepted by the planning director. He indicated he would recommend dismissal by the governing body on grounds the 30 day appeal period established by the zoning ordinance had expired prior to the filing.

Under the Coos County Zoning Ordinance, once a notice of intent to appeal has been filed, the governing body is required to determine whether (1) the appeal is timely, (2) the required fee has been paid, (3) the notice provides the information required by the ordinance, and (4) the appealing party meets the standing requirements set forth by the ordinance.

The Board of Commissioners took up petitioners' appeal and the planning director's recommendation for dismissal on several occasions, ending on March 6, 1985. During the proceedings, petitioners and Respondent Young, the permit applicant, appeared through legal counsel.

On March 6, 1985, the governing body adopted Order 85-03-029L, the order challenged in this appeal. The order can be summarized as follows:

1. Watkins and the League do not satisfy ordinance standing requirements. Neither was entitled as of right to notice of hearing prior to entry of the planning commission decision and neither is aggrieved or adversely affected by the decision.

2. The League lacks standing to appeal for the additional reason that it failed to appear before the planning commission through an attorney, as required by county ordinance and state statute.

3. Even if Watkins and the League have standing, their appeal was filed after expiration of the 30 day period set forth in the zoning ordinance.

Petitioners take issue with each of the above conclusions. Before we address their claims, however, we must take up a preliminary question raised by respondents, viz. whether, under ORS 197.830(3)(c),[1] petitioners are "aggrieved" by Order

85-03-029L and therefore have standing to appeal the order to this Board.

PETITIONERS' STANDING TO APPEAL ORDER 85-03-029L

Judicial review of our orders (including orders on standing) is available to any party to our proceedings. ORS 197.850(1). LUBA's review authority, however, is available only to persons who demonstrate a protected interest in the land use decision made at the local level. See Benton County v. Friends of Benton County, 294 Or 79, 90, 653 P2d 1249 (1982). In this instance, petitioners argue they have standing under ORS 197.830(3)(c) as aggrieved persons. Respondents dispute that claim.

In their briefs on the issue of standing before LUBA, the parties put the aggrievement issue in the context of the planning commission's allowance of the requested conditional use permit. Relying on Jefferson Landfill Committee v. Marion County, 297 Or 280, 286 P2d 310 (1984), petitioners insist they are aggrieved under ORS 197.830(3)(c) because they expressed opposition to the permit before the planning commission and the decision was adverse to their stated position. Respondents, in turn, take the negative side of this debate, relying on Jefferson Landfill Committee v. Marion County, supra, for the proposition that we should defer to the governing body's subsequent "gatekeeping" decision to dismiss the appeal. Like petitioners, respondents assume that standing to appeal Order 85-03-029L is to be determined by reference to petitioners'

interest in the permit decision they ultimately seek to overturn.

The direction taken by the parties on the standing issue is incorrect. Order 83-03-029L (the order to be reviewed here) determines that petitioners do not have standing to appeal the permit decision of the planning commission to the governing body. The challenged order does not reflect action by the governing body on the permit itself. Correspondingly, the petition does not call on us to review the permit on the merits, but asks us only to remand the case so that petitioners' claims on the merits can be taken up by the governing body.

Given these circumstances, we believe the inquiry under ORS 197.830(3)(c) should focus on petitioners' interests in participation (i.e., standing to appeal) in the local decision-making process, not on their interests in the permit addressed in that process. Whether petitioners are aggrieved by the planning commission's approval of the conditional use permit, and therefore have standing under the county zoning ordinance to seek the governing body's review of that approval, is a separate question taken up later in this opinion.

We conclude petitioners are aggrieved by Order 85-03-029L. The order is adverse to their claim of standing to appeal the planning commission's decision, a claim they vigorously pressed before the governing body. They are therefore entitled to our review of the validity of Order 85-03-029L, and to relief

should we conclude the order erroneously barred consideration of their challenge to the planning commission's decision. ORS 197.830(3); see Jefferson Landfill Committee v. Marion County, supra.[2]

FIRST AND THIRD ASSIGNMENTS OF ERROR

Under the county zoning ordinance a quasi-judicial decision by the planning commission may be appealed to the governing body by a person who:

> "i. appeared before the Hearings Body orally or in writing; and,
>
> "ii. was a person entitled as of right to notice and hearing prior to the decision to be reviewed or was a person whose interests are adversely affected or who was aggrieved by the decision." Section 5.8.100(B), Coos County Zoning Ordinance.

The county's order contends Petitioner League failed to satisfy the appearance requirement quoted above because, although the League appeared at the planning commission's November 8th hearing concerning the permit, its appearance was not through an attorney. Legal representation was required, according to the county, because the League is a corporate entity and as such is subject to ORS 9.320. The statute reads:

> "9.320 Necessity for Employment of Attorney; Effect of Employment. Any action, suit, or proceeding may be prosecuted or defended by a party in person, or by an attorney, except that the state or corporation appears by attorney in all cases, unless otherwise specifically provided by law. Where a party appears by attorney, the written proceeding must be in the name of the attorney, who is the sole representative of his client as

between him and the adverse party, except as provided in ORS 9.310."

The county also cites Coos County Ordinance 81-003 in support of its contention that the League did not make the required appearance before the planning commission. The ordinance, which establishes procedural rules for the planning commission, provides, in pertinent part:

"12.300 All corporations and government agencies must appear through their attorneys."

Petitioners do not take issue with the county's authority to require an appearance before the planning commission as a precondition to an appeal to the county governing body. However, objection is made to the governing body's refusal to recognize the appearance actually made by the League. We conclude the objection is well taken.

Although the Attorney General has expressed the opinion that ORS 9.320 is applicable to local government land use proceedings, 36 Op Atty Gen, 960, 988 (1974), no appellate decision on the question has been issued. However, even assuming that the statute and/or the local ordinance require corporate entities to be represented by legal counsel in quasi-judicial land use hearings in the county, we do not believe the League's failure to comply in this instance should entail a forfeiture of its appeal rights.

At issue is the scope to be given an appeal provision (Section 5.8.100(B)(i)) of the county zoning ordinance.

Respondents advocate a narrow scope by arguing that a corporation which appears before the planning commission without legal counsel forfeits its right to appeal the commission's decision to the governing body. Generally speaking, however, rules pertaining to the right of appeal are to be liberally construed. The leading text writer states: "an interpretation which will work a forfeiture of that right is not favored." 3 Sutherland Statutory Construction, 4th Ed, §67.08 (1974). Oregon law reflects a relatively permissive orientation to the availability of review to challengers of local land use decisions. See ORS 215.422, 197.620, 197.830; Jefferson Landfill Committee v. Marion County, supra; Benton County v. Friends of Benton County, 294 Or 79, 653 P2d 1249 (1982); Overton v. Benton County, 61 Or App 667, 658 P2d 574 (1983).

It is undisputed that the League appeared at the planning commission hearing and that its appearance was recognized by the commission in connection with the permit at issue. The League's representative was not advised that the appearance would not be recognized for purposes of further appeal and a reading of the zoning provisions governing appeals to the board of commissioners would not have provided such notice. Under these circumstances, we believe the county's reliance on ORS 9.320 and Ordinance 81-003 as a bar to the League's appeal should not be sustained. Other consequences may attend violation of the requirements for legal representation;

however, we do not believe forfeiture of the right of appeal should be imposed.

We conclude the appearance requirement set forth in the county zoning ordinance was satisfied by the League. The county erred in reaching a contrary conclusion based on ORS 9.320 and Ordinance 81-003.

The first assignment of error is sustained.

Petitioners also take issue with the county's conclusion that they do not qualify under the zoning ordinance as persons "aggrieved" by the planning commission's approval of the permit and therefore lack standing to appeal it to the governing body. In connection with this claim, the parties rely on authorities construing ORS 197.830(3)(c), the statute governing appeals to LUBA. See e.g., Jefferson Landfill Committee v. Marion County, supra. We agree the cited authorities are controlling. Lamb v. Lane County, 70 Or App 364. 368, 689 P2d 1049 (1984).

In Jefferson Landfill Committee v. Marion County, supra, the Supreme Court broke down the statutory aggrievement standard into three elements:

> "1. The person's interest in the decision was recognized by the local land use decision-making body;
>
> "2. The person asserted a position on the merits; and
>
> "3. The local land use decision-making body reached a decision contrary to the position asserted by the person." 297 OR at 284.

After setting forth these elements, the court added the following:

> "This construction of 'aggrieved' gives to the local land use decision-makers a gate-keeping responsibility for appeals to LUBA. Local decision-makers, by ordinance or otherwise, may determine who will be admitted or excluded as an interested person or limited to the status of a disinterested witness in a quasi-judicial proceeding. [Citation omitted]. These determinations may vary according to the nature of the land use decision and dispute, the issues involved and the particular proceeding. If the decision-makers have not made such a determination, by ordinance or otherwise, it will be assumed that when a person appears before the local body and asserts a position on the merits, the person has a recognized interest in the outcome.
>
> "When the interests were not specifically recognized by the local decision-makers, LUBA will sometimes be able to discern from the record whether the person appeared at the proceeding to urge a position on the merits in his or her own behalf or merely as a disinterested witness, i.e. a planner, engineer, or economist. [Citation omitted]. Likewise, if a petitioner's status as an interested person or disinterested witness is contested, LUBA may determine the status based upon the record, including any applicable ordinances." 297 Or at 284-85.

The dispute in this case centers on the proper application of the preceding rules. The important facts are as follows.

At the November 8th hearing on the permit, Petitioner Watkins requested the opportunity to comment on the proposal. Her brief comments on behalf of the League expressed concern over the proposed conversion of a tract of commercial forest land to residential use. The transcript of her comments includes the following:

> "Marguerite Watkins: Marguerite Watkins, representing the League of Women Voters. One of the concerns that

> we've had is the protection of the forest lands and the reason that, ah, the county zoned that land 160 acres is that it is commercial forest and should be saved for the production of timber. One of the things that concerns me is that, Menasha has said that they plan to cut timber in the area and they will be spraying. And the spray, most of the sprays that are used, um, are, have an adverse affect on gardening, and on fruit trees and also on the water supply. And that's one of the problems that we have when we allow residences in the commercial forest land." Record at 36.

At the conclusion of the hearing the planning commission voted to approve the permit. The minutes identify "Marguerite Watkins, LWV" as against the proposal. Record 91.[3]

Petitioners filed a joint notice of appeal to the governing body. The notice claims the League has standing to appeal because of its extensive record of involvement in state and local land planning matters. The prime focus of League activity is described in the notice as assuring

> "that Coos County will have a comprehensive plan which complies with state law and that the decisions being made by the planning commission and board of county commissioners uphold the laws and comply with the goals." Record 22.

The notice adds that Petitioner Watkins is an active member of the League, that she appeared for the League in opposition to the requested permit and that she "supports the state's land use laws and the goals and believes Coos County has a legal obligation to obey state laws." Id.

Order 85-03-029L concludes that neither petitioner is aggrieved by the planning commission's action. In pertinent

part, the order reads as follows:

> "5. The hearings body did not recognize the interest of Marguerite Watkins or the League of Women Voters of Coos County as they did not assert a position on the merits of the application, did not fill out a request to speak form and the hearings body did not send notice to the appellants of its decision;
>
> "6. The League of Women Voters of Coos County and Marguerite Watkins lack standing as persons aggrieved because even if the League of Women Voters of Coos County did appear, Marguerite Watkins and the League of Women Voters of Coos County were merely disinterested witnesses, did not assert a position on the merits of the application and were at the hearing body's hearing only for other matters. The Board of Commissioners, in the exercise of its gate-keeping responsibility, does not believe their broad, abstract interest in land use planning and the securing compliance with the law is the type of interest which qualifies them as being 'aggrieved' as to confer standing in a quasi-judicial decision." Record 14-15.

In our analysis of the challenged order, we bear in mind that we are bound by any finding of fact adopted by the county for which there is substantial evidence in the whole record. ORS 197.830(11). Lamb v. Lane County, supra, 70 Or App at 369, n. 7. Further, if the county applies the correct legal test and reaches a rational conclusion, its decision on standing must be upheld. Id; Benton County v. Friends of Benton County, supra, 294 Or at 90. Applying these principles, we conclude that the county's order denying petitioners' standing should be reversed.

Order 85-03-029L includes two critical determinations: (1) petitioners did not assert a position on the merits of the

permit in question, but instead appeared as disinterested witnesses before the planning commission, and (2) petitioners' broad interests in land use planning are not deserving of recognition for standing purposes in a quasi-judicial case. We are unable to concur in either determination.

We do not believe a fair reading of the record supports the finding that petitioners appeared as disinterested witnesses before the planning commission. At the November 8th hearing, petitioners clearly acted in their own behalf, espousing their concerns that the goal of resource conservation could be threatened by the proposal. The comments they presented through Marguerite Watkins to the commission were concededly general in nature, but they nonetheless expressed this concern. We think a fair reading of the record would characterize petitioners as opponents of the proposal.[4]

Our conclusion that petitioners appeared before the planning commission, asserted a position on the merits of the requested permit and suffered a decision adverse to their position would appear to warrant reversal of the governing body's determination that petitioners were not aggrieved by the lower body's decision. As the Supreme Court noted in Jefferson Landfill, supra,

> "if the decision-makers have not made such a determination, by ordinance or otherwise it will be assumed that when a person appears before the local body and asserts a position on the merits, the person has a recognized interest in the outcome. Since the

> record shows petitioners interest was recognized, and since the planning commission's decision to allow the permit is adverse to their position, it would follow that petitioners have standing as aggrieved persons to appeal the decison to the governing body." 297 Or at 285.

The county correctly contends, however, that the ultimate determination of who is an interested person (and therefore who is aggrieved) is for the governing body, not the planning commission, to decide. See Lamb v. Lane County, supra (party whose interest in land use proposal is recognized by hearings officer is only "part way through the gate"). We are reminded that in this instance, the governing body decided petitioners could not be classified as interested persons because their stated interests in securing compliance with land planning law are too abstract to be recognizable in a quasi-judicial case. The question presented is thus whether the county's understanding of the scope of the aggrievement standard represents a correct construction of the applicable law. Lamb v. Lane County, supra, 70 Or App at 369 n. 7. We answer this question in the negative.

The governing body's conclusion that the interests asserted by petitioners are not cognizable in a quasi-judicial case seems overly restrictive. As we read the applicable cases, the scope of protected interests is dependent on "the nature of the land use decion in dispute, the issues involved and the particular proceeding." Jefferson Landfill Committee v. Marion County, supra, 297 Or at 285. Here, the proposal is for

establishment of a residential use on land that would otherwise be available for resource (timber) production. The existence of statewide goals for the preservation of resource lands suggests the scope of cognizable interests should be quite broad. See Benton County v. Friends of Benton County, supra, 294 Or at 88 n. 9; Overton v. Benton County, 61 Or App 667, 658 P2d 374 (1983). This point is especially pertinent where, as here, the county's comprehensive plan and zoning measures have yet to be acknowledged as in compliance with the statewide goals. We conclude petitioners' interests in assuring that county resource lands are not improperly converted to non-resource uses is deserving of recognition and that the county's conclusion to the contrary was an improper construction of the applicable law ORS 197.835(8).[5]

The third assignment of error is sustained.

SECOND ASSIGNMENT OF ERROR

TIMELINESS OF PETITIONERS' APPEAL TO THE GOVERNING BODY

Under Section 5.8.200 of the Coos County Zoning Ordinance, a 30 day appeal period commences on "the date of the public hearing at which the Hearings Body made a final decision." The record indicates the planning commission voted to approve the permit in question on November 8, 1984. On the following day, a written decision was entered. Petitioners filed their joint appeal on December 20, 1984, more than 30 days after the planning commission's vote and entry of the written order. As a consequence, the governing body dismissed the appeal as

untimely.

Petitioners contend the dismissal was improper. Their principal argument is that, as parties to the permit proceeding before the planning commission, they were entitled to but were not given written notice of the decision.

ORS 215.416(8) provides:

> "Written notice of the approval or denial shall be given to all parties to the proceeding."

Petitioners cite Bryant v. Clackamas County, 56 Or App 442, 643 P2d 649 (1982) for the proposition that the appeal period could not begin to run until the statutory notice requirement was satisfied. They add that their appeal was filed within 30 days of the date they first saw the written decision in the files of the county planning department.

Respondents contend petitioners cannot rely on ORS 215.416(8) and Bryant v. Clackamas County, supra, because they were not parties to the planning commission proceeding. In support of this argument, however, respondents rely on a point we have previously found unsupported in the record, i.e. that petitioners appeared before the planning commission only as disinterested witnesses, not as persons who espoused an interest on the merits of the proposal. We conclude the petitioners were recognized as interested parties to the planning commission proceeding and were therefore within the coverage of ORS 215.416(8).

The remaining question is whether, viewing the facts in

light of Bryant v. Clackamas County, supra, petitioners' December 20th appeal was timely filed. We hold that it was.

In Bryant a county ordinance required an appeal of the hearings officer's decision to be filed with the governing body within 10 days of the announcement of the oral decision. Petitioners opposed certain land division proposals and appeared at hearings concerning them held by the hearings officer. Their appeals of the officer's decisions were filed more than 10 days after the decisions were orally announced. As in this case, the appeals were dismissed by the governing body as untimely.

On appeal, the county's dismissal order was reversed. In pertinent part, the Court of Appeals' opinion states:

> "Petitioners argue that the statutory scheme leaves to the judgment of the county the provision of procedures for appeal and that the ordinance applied by the county here is within the county's authority under those statutes. While it is true that the provision of procedures for appeal is for the most part left to the counties under the statute, those procedures cannot conflict with the requirements that are established in the statute. The county's ordinance requirement that appeals must be made within 10 days of the oral decision of the hearings officer does conflict with the statute and is therefore invalid.
>
> "Although LUBA decided that written findings must be entered by the hearings officer under ORS 215.416(6) before the time for appeal may begin to run, we decide the case on a more limited basis. Whether or not the statute requires that the findings of the hearings officer must be reduced to writing before the time for appeal may begin to run, subsection (7) specifically requires that '[w]ritten notice of the approval or denial shall be given to all parties to the proceeding.' It would make that requirement a nullity if a county were allowed to provide that the time for appeal may expire before the parties have been given

that required notice. The time for taking an appeal cannot begin to run until written notice is given." 56 Or App at 448. (Footnote omitted). (Emphasis provided).

We construe Bryant to support petitioners' contention that the 30 day appeal period provided by the county's ordinance did not begin to run against petitioners until November 20, 1984, the day they first obtained and inspected the written decision in issue. Respondents offer a different construction of Bryant, but we find it implausible. As they read the case, the appeal period begins to run against a party once the planning commission's decision is "entered," i.e filed in the county planning department (here, November 9, 1984). However, as we read the statute on which Bryant is based, public entry of a written decision is not sufficient. Parties to contested case proceedings are entitled to individual written notice of the decision. The statutory language simply does not support the county's construction.

We conclude as follows:

1. Petitioners were parties to the planning commission proceedings.

2. Under ORS 215.416(8) they were entitled to written notice of the decision. The period for appeals could not begin to run until such notice was provided. Bryant v. Clackamas County, supra.

3. Petitioners obtained actual written notice of the decision on November 20, 1984. Under the county ordinance, they had 30 days from that date to file their appeal.

4. Petitioners attempted to file their appeal on December 19, 1984. The filing was accepted by

the county on December 20, 1984. In either case, the appeal was timely filed.

Based on the foregoing, it was error for the county to dismiss the appeal. We sustain petitioners' second assignment of error.

FOURTH ASSIGNMENT OF ERROR

Petitioners' final claim is that the county governing body improperly failed to address their objection to the amount of the appeal fee charged in connection with their appeal of the planning commission decision. They cite ORS 215.416(7) and ORS 215.422(1)(c) as authority for the proposition that responsive findings should have been included in Order 85-03-029L.

The statutes relied on by petitioners read as follows:

> "Approval or denial of a permit shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth." ORS 215.416(7).

> "The governing body may prescribe, by ordinance or regulation, fees to defray the costs incurred in acting upon an appeal from a hearings officer or planning commission. The amount of the fee shall be reasonable and shall be no more than the average cost of such appeals or the actual cost of the appeal, excluding the cost of preparation of a written transcript. The fee shall be reasonable and shall not exceed the actual cost of preparing the transcript up to $500 plus one-half the actual costs over $500." ORS 215.422(1)(c).

We do not read these statutes to require the kind of findings demanded by petitioners. ORS 215.416(7) requires

discussion of the relevant criteria and standards. The appeal fee is neither a criterion nor a standard relevant to the decision in issue. ORS 215.422(1)(c) authorizes imposition of reasonable appeal fees. It does not expressly or impliedly require findings when a fee is claimed to be unreasonable.

Since petitioners cite no other authority in support of their request for relief, no further discussion is warranted.

Order 85-03-029L is reversed.

FOOTNOTES

[1] Under ORS 197.830(3) a quasi-judicial land use decision may be appealed to LUBA upon petition of a person who:

> "(a) Filed a notice of intent to appeal the decision as provided in subsection (1) of this section;
>
> "(b) Appeared before the local government, special district or state agency orally or in writing; and
>
> "(c) Meets one of the following criteria:
>
> "(A) Was entitled as of right to notice and hearing prior to the decision to be reviewed; or
>
> "(B) Is aggrieved or has interests adversely affected by the decision."

The parties agree Order 85-03-029L constitutes a quasi-judicial land use decision and that standing before this Board is therefore governed by ORS 197.830(3).

[2] The challenge to the League's standing to appeal Order 85-03-029L also seems to include another argument. The argument is that because the League was not represented by an attorney before the county planning commission, it did not appear before the local government orally or in writing as required by ORS 197.830(3)(b).

As the record reveals, the League was represented before the planning commission by Marguerite Watkins, who is not an attorney. Respondents argue the appearance was legally ineffective by virtue of ORS 9.320 and Section 12.300 of Coos County Ordinance 81-003. The statute provides that a corporation appearing in any "action, suit or proceeding" must do so by attorney. The county ordinance applies a similar representational requirement to corporations appearing in county planning commission proceedings.

We are unpersuaded by the standing challenge under ORS 197.830(3)(b). Assuming, arguendo, that the cited authorities apply as respondents contend, we conclude the necessary

appearance was made by Petitioner League. It is undisputed that the League was represented by legal counsel during the governing body's proceedings leading up to adoption of Order 85-03-029L. That is the decision petitioners have appealed to this Board. For purposes of ORS 197.830(3)(b), it is of no consequence that the League was not represented by an attorney at the planning commission level. See Warren v. Lane County, 297 Or 290, 296-98, 686 P2d 316 (1984).

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[3] Order 85-03-029L concludes that Petitioner Watkins appeared on her own behalf at the planning commission hearing of November 8, 1984. Record 14. The transcript of her testimony leaves some doubt whether this is so, but there is sufficient evidence to support the conclusion. Her comments at times refer to the League's concerns and at times refer to her own concerns about the proposal. Record 36-37.

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[4] See Footnote 3, supra.

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[5] It bears notice that the applicable law in this instance is set forth in state legislation as well as in the county ordinance. ORS 215.422(1) allows local appeals from initial contested case decisions by any "party aggrieved." The county ordinance, which employs other language, is to be construed consistently with the statutory enactment. Lamb v. Lane County, 70 Or App 364, 368, 68 P2d 1049 (1984).