

CITY OF GAINESVILLE
CITY COMMISSION

Quasi-Judicial Registration Form

RE: Petition 1ZON-07PB. Henry Property, Inc. Rezone property from PD (Planned Development - Office to UMU-2 (Urban Mixed Use-2, up to 100 units per acre). Located at 727 Southwest 4th Avenue.
Meeting Date: 06/11/07

2007 JUN 20 AM 10:37

Name: (please print) E H WISE, III

Address: 239 W University Ave

Telephone Number: 352-372-4371

Please indicate whether you are for or against this petition: FOR or AGAINST (mark "X")

Please indicate whether you are requesting a Formal Hearing: YES or NO (mark "X")

Complete the following section of the form **only if you are requesting a formal quasi-judicial hearing:**

(Please refer to the enclosed Quasi-Judicial Hearing sheet contained in this mail-out for more information)

As an affected person receiving notice of the public hearing on Petition 1ZON-07 PB, I hereby request, that the City Commission conduct a formal quasi-judicial hearing as described above.

Signature: _____

This form and exhibits to be presented to the City Commission must be delivered to the Clerk of the Commission at least 7 days prior to the ORDINANCE READING/PUBLIC HEARING as stated in the notification letter sent to you. The Clerk of the Commission Office is located at City Hall, 1st floor, 200 East University Avenue, Gainesville, Florida. Forms may be mailed to the following address: Clerk of the Commission—Station 19, Quasi-Judicial Hearing, Petition 1ZON-07 PB, P.O. Box 490, Gainesville, Florida, 32602.

Attorney Information (If applicable):

Name: (please print) Edgar H Wise

Address: 239 W University Ave

Signature: Edgar H Wise

Telephone Number: 372-4371

Quasi-Judicial Hearings

In 1993, the Florida Supreme Court, in the case of Board of County Commissioners of Brevard v. Snyder, held that an individual rezoning was a quasi-judicial act rather than a legislative act of a local governing body. As a result of this decision, the way that the City holds public hearings on individual land use actions such as rezonings, special use permits and site plans has changed dramatically. The City has established two types of quasi-judicial proceedings: informal and formal. The informal process, which is most widely used, includes a presentation by both City staff and the petitioner, followed by questions by the governing body, of staff and the petitioner. The next step in the process is public comment. During public comment, citizens may ask the governing body questions, and offer their testimony and opinions.

The formal quasi-judicial hearing is more like a trial court (an administrative hearing). All public testimony is taken under oath. Everyone testifying before the governing body is subject to cross-examination. All documents and exhibits that the governing body deems admissible is entered into evidence. The giving of opinion testimony is limited to expert witnesses, i.e., people whom the governing body finds have education or practiced experience in an area to be able to render an informed opinion on the subject. Finally, the closing arguments to the governing body are limited to the evidence presented. After hearing closing arguments for and against the petition the governing body receives public comment (5 min. per person maximum) and makes its decision to approve or deny the petition.

Whether informal or formal, decision makers, City Commission, Plan Board, and the Development Review Board are not allowed to discuss quasi-judicial matters outside of the meeting room with anyone. All discussions about petitions must occur during the hearing. The reason for this restriction is that ex parte contacts with decision makers are presumed to be prejudicial to the side not represented.

What is the meaning of quasi-judicial? Quasi-judicial: means somewhat like a trial process. Rezoning, special use permits and site plan approval applications, which have an impact on a limited number of persons or property owners, on identifiable parties and interests, where the decision is contingent on a fact or facts arrived at from distinct alternatives presented at the hearing, where the decision can be functionally viewed as policy application rather than policy setting, are considered quasi-judicial actions. (Source: Zoning Law and Practice After Brevard County v. Snyder, page 5.93)

Who determines if a quasi-judicial item will follow the formal or informal procedures? All quasi-judicial items are placed on the agenda as informal petitions, unless a formal hearing is requested by the petitioners or an affected party.

Who would be considered an affected party? All property owners who are entitled to actual written notice of the petition provided by the Community Development Department. A party who is not entitled to actual written notice, but who believes that he or she has a special interest or would suffer an injury distinct in kind and degree from that shared by the public at large, by the decision, may apply for affected party status by filling an application form with the Clerk of the Commission during regular business hours no less than 7 days prior to the meeting when the petition is scheduled to be heard. The request must be received by the clerk, during business hours. The decision making body will approve or deny the application prior to the start of the hearing.

How do you request a formal hearing? An affected party is automatically sent a registration form; others may request a form from the Department of Community Development. The form must be received by the Community Development Department no less than seven days prior to the public hearing for Special Use Permits and site plan approvals with all the evidence and documentation to support the affected party's or petitioner's position. For all rezoning petitions, the form must be received by the Clerk of the Commission no less than seven days prior to the City Commission public hearing on the petition.