

**BEFORE THE HEARING EXAMINER  
FOR CITY OF REDMOND**

In the Matter of the Appeal of	)	NO. LAND-2014-01980
	)	
	)	
Kim Yates, Randy Brown, et al	)	
	)	<b>Nouri Short Plat Appeal</b>
	)	
	)	
of the August 12, 2015 Notice of Decision	)	
approval of the Nouri Short Plat at	)	<b><u>REVISED</u> ORDER SETTING HEARING</b>
7502 - 132nd Avenue NE, Redmond	)	<b>AND PRE-HEARING DOCUMENT</b>
TPN 7419700010 and 1025059200	)	<b>EXCHANGE SCHEDULE</b>
_____	)	

On September 21, 2015, the Redmond Hearing Examiner convened a pre-hearing conference in the above captioned appeal. The following persons participated in the conference:

*For Appellants:*

Sandra Eisert, Spokesperson  
Kim Yates, Spokesperson

*For the City:*

Heather Maiefski, Planner  
Steven Fischer, Development Review Planning Manager

*For the Applicant:*

Hamid Nouri, Owner  
Brian Way, PACE Engineers, Applicant Representative  
Scott Sharrow, PACE Engineers, Applicant Representative

During the pre-hearing conference, the parties discussed pre-hearing document exchange, hearing procedures, and scheduling.

**Anticipated Order of Proceedings at Hearing**

At the hearing, the following is the anticipated order of business. The Examiner may change the following order of proceedings on motion by a party or at her own discretion.

- Introductory remarks by the Examiner calling the hearing to order and explaining the procedures to be followed.

- Appellants will present witness testimony and introduce additional exhibits. Note the one hour time limit. Each Appellant witness will be subject to cross examination by the Applicant and by the City.
- The City will then present witnesses and exhibits, with the same one hour time limit. Each City witness will be subject to cross examination by the Appellant and the Applicant.
- The Applicant will present its case, with the one hour time limit. Each Applicant witness will be subject to cross examination by the City and by the Appellants. Applicant will make their final argument at this time.
- The City can present rebuttal evidence (30 minutes), if any, and make their final argument.
- The Appellants can present rebuttal evidence (30 minutes), if any, and make their final argument.
- Note there is no public comment period during the open record appeal hearing. Only parties called as witnesses will be allowed to testify, and all will be subject to cross examination.
- Conclusion of the hearing - housekeeping, post-hearing scheduling (if any), and identification of decision due date.

### **Various Open Questions**

Although at the time of the pre-hearing conference no party was represented by attorneys, Appellant representatives indicated that they are looking into retaining counsel. The parties were informed that any retained counsel for any of the parties must submit a notice of appearance as soon as possible once retained. The schedule will not be altered for to accommodate counsel retained after the pre-hearing conference date.

In the Order Requiring Pre-Hearing Conference, the hearing was originally scheduled to commence at 1:00 pm on October 21, 2015. However, a separate matter scheduled for that morning has settled and now an earlier start time is available. Commencing this hearing at 10:00 am would allow more certainty that the appeal can conclude on October 21st and is preferred. Even a noon start time is preferred to 1:00 pm. Appellant representatives were unsure whether a 10:00 am start time would work for them. They were informed that this order would set a deadline for that decision.

### **Order**

#### *Hearing Scheduling*

1. The consolidated appeal hearing is scheduled in the Redmond City Council Chambers on October 21, 2015.
2. Appellant representatives shall have till close of business on October 5, 2015 to notify the Clerk's office as to whether a 10:00 am start time will work for them. Hearing notice will be prepared on October 6th, announcing whether the proceedings will commence at 10:00 am or 1:00 pm.

3. At hearing, each party shall have a maximum of one hour to present evidence and argument, 30 minutes total for cross examination of opposing witnesses, and 30 minutes for rebuttal testimony and argument. Parties should plan witness testimony accordingly.
4. If the hearing is not concluded by 6:30 pm on October 21, 2015, it will be continued to a date certain and location agreed upon on the record.
5. If a lunch break is appropriate, we will break for one hour, and other five minute breaks will be allowed as requested and appropriate.
6. All persons attending are encouraged to bring snacks and bottled water for the breaks. There are beverage vending machines on the ground floor of City Hall.
7. Note there is no public comment during the appeals. Only persons called as witnesses by a party may testify during the appeals. The comment period on all decisions at issue has closed, and therefore no written comments will be accepted unless submitted by an identified Appellant witness as an Appellant exhibit.

#### *Representation*

8. Any party may retain counsel for these proceedings. In the event this occurs, the attorney shall submit a notice of appearance as soon as possible. As discussed at the pre-hearing conference, the Appellants are required to inform the parties whether they are retaining counsel by a date certain in order to allow the other parties time to retain counsel as well. The Appellants shall have until September 30, 2015 to inform the parties (via email to the Office of the Hearing Examiner) whether they will be represented by counsel at hearing. The schedule agreed to will not be altered to accommodate counsel retained after the pre-hearing conference.

#### *Document Exchange*

9. All parties shall submit Witness and Exhibit Lists (explained below) not later than October 7, 2015.
10. Should witnesses and exhibits disclosed on October 7th cause any party to offer additional witnesses or exhibits, the party shall disclose the additional witnesses and/or exhibits at the earliest opportunity with an Addendum Witness and/or Exhibit List.
11. On or before October 14, 2015, all parties shall submit their exhibits including expert witness credentials if any. The City's Staff report on the appeal shall be included in the City's exhibits.<sup>1</sup>
12. Pre-hearing legal briefing, if any, shall be submitted on October 14, 2015.

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<sup>1</sup> At the pre-hearing conference, the Examiner made reference to a code-based requirement for the staff report to be issued 21 days prior to hearing. This was an error. It is the Clerk's Office standard practice to make the staff report available at the time of hearing notice, rather than a code-based requirement. In the instant appeal, no party would be adversely affected if the City's staff report is issued on October 14, 2015, and the Staff Report may be issued at the same time as all other exhibits are disclosed.

13. Deadlines for post-hearing briefing, if any, shall be established on the record at hearing.

*Submittals - Note the following requirements:*

14. **Witness lists** shall specify:

- Name and relationship to appeal (appellant, neighbor, expert, etc.)
- If offered as expert, a brief summary of credentials (Transportation Engineer, Wetland Biologist, etc)
- A concise summary of the content of anticipated testimony (Addressing traffic and parking, etc)

15. **Exhibit lists** shall specify:

- Title and date of document - please give each exhibit a name and date
- If correspondence, to/from parties and date (e.g., "email from \_\_\_ to \_\_\_ dated \_\_\_")
- If photographs, by whom taken, when, and from where taken
- If other materials, identify the source
- Brief summary of content
- Each party's exhibit list shall be prepared as a Word document using numbering with no tables or columns.

16. For the purpose of satisfying the deadlines above, the witness list, exhibit list, briefing, and the exhibits themselves may be exchanged via email. On or before the day of hearing, each party shall provide a complete paper set to each other party and two sets to the Examiner (one for the official record, one for working copies), or four total sets of hard copies.

17. Exhibit and witness lists shall be prepared as Word documents, no tables or columns. A Word version of the documents shall be emailed to the Office of the Hearing Examiner by the date of the hearing at the email address below.

18. All submitted documents will be scanned and placed on the Redmond Hearing Examiner web page available at the City's website. To be sent an email link to the Hearing Examiner page, send a request by email to the Hearing Examiner Clerk at the email address below.

19. Note: Witness list and exhibit exchange is intended as a good faith effort to disclose all evidence supporting each party's case in order to promote efficiency during the proceedings. However, this matter is an open record appeal hearing, which means new/ previously undisclosed evidence may be offered by any party during their presentation up to the close of the record. Should new witnesses and/or exhibits cause undue surprise to any party at hearing, the record may be held open to allow written rebuttal after adjournment.

20. To be considered timely, submittals shall be sent via email not later than 4:00 pm on the due date identified. All submittals shall be directed to the attention of the Office of the Hearing Examiner at the email address below. The Clerk's office will circulate all communications to all parties and the Examiner.

Office of the Hearing Examiner  
Attention Cheryl Xanthos, Deputy City Clerk  
[cdxanthos@redmond.gov](mailto:cdxanthos@redmond.gov)  
425.556.2191 ph

21. Note: At the conclusion of the hearing, the Examiner may request additional time for decision issuance beyond the ten business days required in the Redmond Zoning Code.
22. In order to avoid *ex parte* contact: At no time should any party email the Examiner directly absent exigent circumstances, and all parties should be cc'd on such urgent communications.
23. Clarifying questions about this order and any other procedural questions may be directed to the Examiner via email to the same contact information above.

**Order Revised** September 23, 2015.<sup>2</sup>

By:



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Sharon A. Rice  
Redmond Hearing Examiner

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<sup>2</sup> The Order as issued on September 22, 2015 inadvertently omitted a deadline by which the Appellants are required to inform the parties whether they will be represented by counsel at hearing. The revisions to this order are contained in Order Section 8, Representation.