

**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>FIFTH</u> PRE-HEARING ORDER</b>
7502 - 132nd Avenue NE, Redmond	)	<b>SETTING HEARING SCHEDULE</b>
TPN 7419700010 and 1025059200	)	
_____	)	

In accordance with pre-hearing orders, the parties submitted witness and exhibit lists on October 7 and 8, 2015. Appellants' submittal was not in the format requested by the pre-hearing order; instead it was a bulleted list of arguments to be presented at hearing, which included the following item (among others):

- A tree risk assessment certified arborist, Tina Cohen, will discuss concerns with the tree reports and tree count. An additional similarly qualified arborist affidavit may be included; that has not yet been confirmed.

On receipt of this, representatives for the Applicant requested clarification of "concerns with the tree reports", which were not specifically listed in the appeal. The Applicant asked that the Appellant be required to "outline their concerns with the tree report ahead of time, or specifically how their concerns with the tree report relate to the 5 alleged errors" in order that the Applicant's arborist is prepared to respond at hearing.

This request was forwarded to the Appellants at the direction of the Examiner, who requested a timely response.

Subsequently, on October 13, 2015, spokesperson for the Appellants in the above-captioned appeal requested a continuance of the hearing date due to personal injury.<sup>1</sup> After receiving responses to the request from the Applicant and from City representatives, the Examiner granted the continuance request.

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<sup>1</sup> At the pre-hearing conference, two spokespersons from among the 21 appellants were identified: Kim Yates and Sandra Eisert. After the pre-hearing conference, Ms. Yates alerted the Examiner that she was unable to proceed as spokesperson due to family emergency, leaving Ms. Eisert as the sole spokesperson.

Having objected to this continuance request due to the need to expeditiously move forward with development of the short plat, the Applicant requested that the Appellants be required to name alternative spokespersons who can represent Appellants going forward in the event that Ms. Eisert's injury continues to prevent her full participation in order to prevent subsequent continuances.

After conferring regarding availability of the parties, a new hearing date was selected, necessitating new timelines for pre-hearing submittals, which are established in the following

## **ORDER**

1. The above-captioned appeal hearing shall commence on **November 20, 2015 at 2:30 pm**. 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.
2. Note there is no public comment during the appeals. Only persons called as witnesses by a party may testify during the appeals. No written comments will be accepted unless submitted by an identified Appellant witness as an Appellant exhibit.

### *Alternate Spokespersons*

3. The Appellants shall identify one or more alternative or additional spokespersons who will represent the group as presenter(s) at hearing, in order to assist Ms. Eisert and/or take her place should she remain unavailable due to her injury. The name(s) and email contact information for (an) alternative spokesperson(s) shall be submitted (via email) **not later than October 23, 2015**.

### *Issue Clarification*

4. **On or before October 26, 2015**, Appellants shall submit a statement clarifying or identifying "concerns with the tree report(s)" as they relate to the five tree issues in the appeal document.

### *Document Exchange*

5. The City and the Applicant have submitted witness lists, and the Applicant has submitted an exhibit list, consistent with previous pre-hearing orders. The Appellant did not submit witness and exhibit lists in the form specified in the orders. **All parties shall submit Witness and Exhibit Lists** (consistent with the detailed format identified below) **not later than 2:30 pm on November 6, 2015**. [The Examiner requests that the City submit its Exhibit list by the November 6th deadline even though the report is not due until later.]
6. If there is no change to the Applicant's witness and exhibit lists already submitted, they may so indicate via email.
7. Should witnesses and exhibits disclosed on November 6th cause any party to desire 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.

8. **On or before November 13, 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.
9. Pre-hearing legal briefing, if any, shall be submitted on November 13, 2015.
10. Deadlines for post-hearing briefing, if any, shall be established on the record at hearing.

***Submittals - Note the following requirements:***

11. **Witness lists** shall specify:
  - Name and relationship to appeal (Appellant, neighbor, expert, etc.)
  - If offered as expert, a brief summary of credentials (e.g., Transportation Engineer, Wetland Biologist, etc)
  - A concise summary of the content of anticipated testimony (e.g., "Addressing traffic and parking")
12. **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, when, and from where taken
  - If other materials, identify the source
  - Brief summary of content (e.g., "statement of personal observation by 20 year neighbor of property", "response of arborist to tree study", etc.)
13. 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.
14. 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.
15. 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.
16. Note: Although this matter is an open record appeal hearing, meaning new/ previously undisclosed evidence may be offered by any party during their presentation up to the close of the record, **all parties are required to provide pre-hearing identification of witnesses and exhibits.** 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. 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.

17. To be considered timely, **submittals shall be sent via email not later than 2:30 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

18. 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.
19. 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.
20. Clarifying questions about this order and any other procedural questions may be directed to the Examiner via email to the same contact information above.

**Ordered** October 16, 2015.

By:



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Sharon A. Rice  
Redmond Hearing Examiner