

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

In the Matter of the Appeals of	)	NOs. SEPA-2015-00017
	)	LAND-2014-01610/SPE
	)	
<b>Keith Brewe,</b>	)	
<b>Rosemarie Ives, the Nokomis Club,</b>	)	<b>"162TEN"</b>
<b>Redmond Historical Society, and</b>	)	
<b>and Curtis Nelson</b>	)	
	)	
of the February 17, 2015 Determination of	)	
Non-Significance (SEPA-2015-00017), the	)	
April 2, 2015 Technical Committee	)	
Approval of a Site Plan Entitlement, and	)	ORDER SETTING HEARING AND
the April 22, 2015 Revised Technical	)	PRE-HEARING SCHEDULE
Committee Approval	)	
<u>(LAND-2014-01610/SPE)</u>	)	

On May 20, 2015, the Redmond Hearing Examiner convened a pre-hearing conference in the above captioned appeals. The following persons participated in the conference:

*Appellants:*

Keith Brewe, Appellant

Appealed DNS on 3/2/15, the 4/2/15 Technical Committee Decision on 4/16, and the Design Review Board decision on 4/16

Former Mayor Rosemarie Ives, Appellant

Appealed DNS on 3/2/15, the 4/2/15 Technical Committee Decision on 4/16/15, and the 4/22/15 Technical Committee decision on 5/6/15

Curtis Nelson, Appellant

Appealed the "2/17/15 decision" on May 5, 2015

Joe Townsend, President of the Redmond Historical Society, representing the Nokomis Club

Alexa Munos, President of the Nokomis Club, Appellant

Nokomis Club together with Redmond Historical Society appealed the DNS on 3/3/15; the Nokomis Club appealed the 4/2/15 Technical Committee decision on 4/16/15 and the 4/22/15 decision on 5/6/15

*Applicant:*

Robert Pantley, Natural and Built Environments, Applicant  
Angela Rozmyn, Natural and Built Environments, Applicant  
Duana Kolouskova, Attorney, representing the Applicant

*City:*

Gary Lee, Senior Planner  
Steven Fischer, Planning Manager

During the pre-hearing conference, the parties discussed hearing procedures, possible dispositive motions, and scheduling.

The instant proceedings are unusually complex for the number of simultaneous appeals by overlapping parties of three related but separate City decisions. At the conference, the parties discussed various methods of facilitating ease of appellant participation while also protecting the integrity of the record in each of the ten consolidated appeals. Of note, some of the appeals filed by Brewe, Ives, and the Nokomis Club/Redmond Historical Society contain identical language. The Appellants agreed to work together to consolidate their appeal presentations in order to facilitate and expedite presentation of witness testimony and maintain a smooth proceeding.

**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 following procedural steps
- Brief introductory description of the decision appealed from by City Staff
- DNS appeals:
  - Appellants will jointly present their SEPA appeal case, identifying witness testimony that is universal to all appeals and that which is specific to individual appeals without recalling witnesses to speak on the same topic more than once to the extent possible.
  - Each Appellant and any witnesses they call will present testimony and introduce additional exhibits, if any.
  - Each Appellant witness will be subject to cross examination by the Applicant and by the City.
  - Next, the Applicant will present DNS appeal witness testimony and introduce exhibits.
  - Each Applicant witness will be subject to cross examination by the City and by the Appellants.
  - The Appellants will coordinate their cross examination so that no witness is asked the same questions by multiple parties; for example, all cross examination of a given witness may be done by one Appellant, with each Appellant contributing questions to that questioner.
  - Next, the City will present its DNS appeal witnesses and exhibits.
  - Each City witness will be subject to cross examination in a similar fashion as described above.

- Then, the City will have a chance to make closing remarks on the DNS Appeal or reserve closing for the end of the hearing.
  - The Applicant will have a chance to make closing remarks on the DNS Appeal or reserve closing for the end of the hearing .
  - Finally, the Appellants will each have the opportunity to make closing remarks in the DNS appeal.
  - To save time, any party may choose to submit closing remarks in writing.
  - Testimony offered during the DNS appeal may be relied upon for the appeals of the Technical Committee Decisions. If any party anticipates additional, separate questions for a given witness in the later Technical Committee Decision appeal portion of the proceedings, they may identify this fact and ask the questions during the SEPA appeal.
  - 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.
- Technical Committee Decision(s) Appeal:
    - For the purposes of the hearing, the appeal of the April 2 and April 22 Technical Committee decisions will be consolidated.
    - The Technical Committee Decision appeal will proceed in the same manner as noted above for the DNS appeals.
    - Parties may reference testimony and cross examination conducted during the earlier portion of the proceedings without reintroducing witnesses to provide identical testimony.
    - Note there is no public comment period during the open record appeal hearing.
  - Conclusion of the hearing - housekeeping, post-hearing scheduling (if any), and identification of decision due date.

Note: There was a request to identify a specific time during which various citizen Appellant witnesses will be called to provide testimony in order to facilitate the witnesses' ability to schedule time off from work, etc. Because the first day of hearing is a full day and Appellants' witnesses will be called first, it is likely we will get through Appellants' witness testimony on the first day of the hearing. [When the Appellants submit their witness and exhibit lists and the number of Appellants' witnesses is known, it will be possible to better estimate how long Appellants' witness testimony and cross examination will take.] However, if Appellants intend to recall witnesses for the second portion of proceedings, or if the Appellants' desire to offer witness rebuttal testimony after hearing the Applicant and City cases, their witnesses will need to stay after their testimony.

Note: The order of presentation described above may be modified on the motion of a party or by the Examiner at her discretion.

## **Order**

### *Hearing Scheduling*

1. The consolidated appeal hearing is scheduled in the Redmond City Council Chambers at the following times:  
  
July 9, 2015 - 9:00 am to 6:00 pm  
July 10, 2015 - 10:30 am to 6:00 pm  
July 21, 2015 - 9:00 am to 3:00 pm
2. If the hearing is not concluded on July 21, 2015, it will be continued to a date certain and location agreed upon on the record.
3. On July 9th and 10th, there will be an approximately one hour lunch break, with five to ten minute breaks in the morning and afternoon as appropriate. On July 21st, there will be an approximately 40 minute lunch break, with five minute breaks morning and afternoon as appropriate.
4. If the proceedings are near to completion at the end of the day on July 9th or 10th, the Examiner may decide to continue until completion rather than reconvene on July 21st.
5. All persons attending are encouraged to bring snacks and bottled water for the breaks. There are vending machines on the ground floor of City Hall.
6. 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*

7. Only the Applicant was represented by counsel at the pre-hearing conference. If any other party retains counsel for these proceedings, the attorney must submit a notice of appearance as soon as possible. The schedule agreed to will not be altered to accommodate counsel retained after the pre-hearing conference.

### *Motions*

8. On or before June 3, 2015, the Applicant and the City may submit dispositive motions addressing scope of issues to be heard.
9. The Appellants shall submit any responses to dispositive motions on or before June 12, 2015.
10. The Applicant and City may reply to Appellants' responses, if any, by June 17, 2015.
11. The Examiner will issue a ruling on any motions by June 19, 2015, or will issue an order requiring argument at hearing and/or reserving decision on the motion for the written appeal hearing decision.

*Document Exchange*

12. All parties shall submit Witness and Exhibit Lists (explained below) not later than June 25, 2015.
13. On or before June 25, 2015, all parties shall submit their exhibits including expert witness credentials. The City's Staff report on the appeals shall be included in the City's exhibits.
14. Should witnesses and exhibits disclosed on June 25th 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.
15. Pre-hearing legal briefing, if any, shall be submitted on July 7, 2015.
16. Deadlines for post-hearing briefing, if any, shall be established on the record at hearing.

*Submittals - Note the following requirements:*

17. **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)
18. **Exhibit lists** shall specify:
  - Title and date of document - please give each exhibit a name
  - If correspondence, to/from parties and date (e.g., "email from \_\_\_ to \_\_\_ dated \_\_\_")
  - If photographs, by whom taken and when
  - 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.
19. 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), provided that:
  - Appellants do not need to provide additional copies of documents submitted with appeals to the City, but do need to include their appeals and supporting documentation in their exhibit lists and provide a complete set of hard copies for the Applicant and two copies for the Examiner.
  - Appellants do not need to provide any additional documents to the other Appellants, but do need to provide them to the Applicant, the City, and two copies for the Examiner.

20. 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.
21. 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, the proceedings are open record appeal hearings which means new witnesses may be called and previously unidentified evidence may be offered by any party 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.
22. To be considered timely, submittals shall be sent via email not later than 4:00 pm on the due date. All submittals shall be directed to the attention of the Office of the Hearing Examiner, Attention Cheryl Xanthos, and shall be cc'd to the other parties:

Office of the Hearing Examiner  
Attention Ms. Cheryl Xanthos, Deputy City Clerk  
[cdxanthos@redmond.gov](mailto:cdxanthos@redmond.gov)  
PO Box 97010/3NFN  
Redmond WA 98073  
425.556.2191 ph

23. 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 due to the procedural complexity of the consolidated matters. It is the Applicant's discretion to grant such an extension.
24. Clarifying questions about this order and any other procedural questions may be directed to the Examiner via email to the same contact information above. Please cc representatives for the other parties on all questions.

Office of the Hearing Examiner  
Attention Ms. Cheryl Xanthos, Deputy City Clerk  
[cdxanthos@redmond.gov](mailto:cdxanthos@redmond.gov)  
PO Box 97010/3NFN  
Redmond WA 98073  
425.556.2191 ph

**Ordered** May 26, 2015.

By:



Sharon A. Rice  
Redmond Hearing Examiner