

## Cheryl D. Xanthos

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**From:** Keith W Brewe <kbrewe@rgia.com>  
**Sent:** Thursday, April 16, 2015 4:59 PM  
**To:** Cheryl D. Xanthos  
**Subject:** 162ten Appeal of Technical Committee decision  
**Attachments:** 3062\_001.pdf

Cheryl,  
Attached is my appeal of the Technical Committee decision for 162ten. Please acknowledge receipt. Thanks  
Keith

Keith W. Brewe, CPCU  
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Please contact us for your Group Medical, Life, Business, and Personal insurance needs!



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**CITY OF REDMOND**  
**APPEAL APPLICATION FORM**

(Staff Use Only)

File No: \_\_\_\_\_  
Date Received: \_\_\_\_\_

This appeal application form is for appeals of Technical Committee and Hearing Examiner decisions only.

Do not use this form if you are appealing a decision on a:

- Shoreline Permit
- Shoreline Variance
- Shoreline Conditional Use Permit
- Hearing Examiner decision on a SEPA appeal
- City Council approval or denial

Appeal Applications may be delivered to the Office of the City Clerk-Finance/Hearing Examiner by email, mail, personal delivery or by fax before 5:00 P.M on the last day of the appeal period.

City of Redmond Office of the City Clerk-Finance/Hearing Examiner Contact Information:

Mailing Address:  
Office of the City Clerk/  
Hearing Examiner  
P.O. Box 97010, 3NFN  
Redmond, WA 98073

Physical Address:  
City Hall, 3<sup>rd</sup> Floor  
15670 NE 85<sup>th</sup> Street  
Redmond, WA 98052

Phone: 425-556-2191  
Fax: 425-556-2198  
Email: [cdxanthos@redmond.gov](mailto:cdxanthos@redmond.gov)  
Web: <http://www.redmond.gov>

Appeals of City Council decisions may be appealed to Superior Court by filing a land use petition which meets the requirements set forth in RCW Chapter 36.70C. The petition must be filed and served upon all necessary parties as set forth in State law and within the 21-day time period as set forth in RCW Section 36.70C.040. Requirements for fully exhausting City administrative appeal opportunities must be fulfilled.

**Section A. General Information**

Name of Appellant: Keith Brew  
Address: PO Box 847  
City: Redmond State: WA Zip: 98073 Email: KBrew@rgia.org  
Phone: (home) 425 4151765 (work) 425 9522660 (cell) 206 9531402

What is your relationship to the project?

- Interested Citizen     Project Applicant     Government Agency



**CITY OF REDMOND**  
**APPEAL APPLICATION FORM**

(Staff Use Only)  
File No: \_\_\_\_\_  
Date Received: \_\_\_\_\_

Name of project that is being appealed: 162 Ten  
File number of project that is being appealed: Land - 2014 - ~~01610~~ 01610 / SPE  
Date of decision on project you are appealing: 4-2-15 / Technical Committee  
Expiration date of appeal period: 4-16-15

Please choose the applicable appeal:

- Appeal to the Hearing Examiner of a Technical Committee Decision
- Appeal to City Council of a Hearing Examiner decision on an appeal
- Appeal to City Council of a Hearing Examiner decision on an application

Pursuant to the Redmond Zoning Code, only certain individuals have standing to appeal a decision on application or appeal. Below, please provide a statement describing your standing to appeal. (Please review the back page to determine if you have standing to appeal.)

I am a party of record

**Section B. Basis for Appeal**

If you are appealing a Technical Committee Decision, please fill out items 1, 2, and 3 only. If you are appealing a Hearing Examiner's decision on an application, or a Hearing Examiner's decision on an appeal, you only need to fill out item 4 below. Attach additional sheets if necessary.

1. Please state the facts demonstrating how you are adversely affected by the decision (attach additional sheets as necessary):

**We will be adversely affected in the following ways:**

As nearby residents and businesses and/or residents of the City of Redmond we will be directly affected by construction impacts, incompatible buildings, incompatible uses, diminished property values and redevelopment options, diminished traffic safety, increased congestion, reduction of parking opportunities, increased glare, noise, reduction of beneficial sunlight and airflow, reduced urban services, loss of cultural and historic values, diminished aesthetics, and reduced open space. Additionally, our due process rights and expectation of compliance with adopted policies and codes will be abridged.



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2. Please provide a concise statement identifying each alleged error and how the decision has failed to meet the applicable decision criteria (attach additional sheets as necessary):

*See attached*

3. Please state the specific relief requested (attach additional sheets as necessary):

**We request the following relief:**

Deny the proposal.

In the alternative 1: Remand to the Design Review Board and Technical Review Committee to correct deficiencies in process, analysis and conditioning.

In the alternative 2: Apply conditions and revise the project to correct errors and eliminate impacts that we have identified and documented.

4. Please provide a written statement of the findings of fact or conclusions (as outlined in the Hearing Examiner's decision) which are being appealed (attach additional sheets as necessary):

*See attached*



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**Standing to Appeal**

**TECHNICAL COMMITTEE DECISIONS**

For appeals of a Technical Committee Decision on a Type I or II permit, the project applicant or any person who submitted written comments (party of record) prior to the date the decision was issued may appeal the decision. The written appeal must be received by the City of Redmond's Office of the Hearing Examiner no later than 5:00pm on the 14<sup>th</sup> calendar day following the date of the decision by the Department.

**HEARING EXAMINER DECISION ON APPEALS OF TECHNICAL COMMITTEE DECISIONS**

For appeals of a Hearing Examiner Decision on an Appeal of a Technical Committee Decision, the project applicant, any person who participated in the public hearing as provided in RZC 21.76.060, or the City may appeal.

**HEARING EXAMINER DECISIONS**

For appeals of a Hearing Examiner Decision, the project applicant, any person who participated in the public hearing as provided for in RZC 21.76.060, or the City may appeal.

**Appeal Issues**  
**Regarding the Design Review Board Approval and**  
**Technical Committee Decision**

***Special Note:*** We wish to incorporate by reference all of the issues that we raised in our pending SEPA appeal because they have relevance to the SEPA threshold determination as well as the Design Review Board's Approval and the Technical Committee Decision.

1. The code deviation for parking was based on the applicant's submittal, but there is no information in the record that the submittal was independently reviewed by City staff.
2. The code deviation for parking did not consider impacts on surrounding uses or the impacts associated with the proposed retail and conference facility. The Transportation Management Program conditions will not result in adequate mitigation for off-site parking violations.
3. The alternative parking stall and aisle dimensions are based on "standards that are more current than existing City standards". This admitted deviation from the code is not authorized. Moreover, there is no independent analysis in the record that this so-called "more current" standard will adequately provide a safe parking facility in this exceptionally dense residential development.
4. The Administrative Design Flexibility Request should have been denied because the so called "Woonerf" does not convey an additional public benefit but is rather a substandard unsafe street proposed as a substandard unsafe open space feature in place of code required street improvements and courtyards.
5. The Administrative Design Flexibility Request is inconsistent with design standards for overhead protection. It will also result in potential safety problems associated with the column's intrusion into what should be an ADA compliant pedestrian walkway.
6. The Administrative Design Flexibility Request will reduce open space opportunities for occupants who will already be cramped and stressed in their tiny "living suites".
7. The Woonerf and driveway spacing deviations will create safety hazards.
8. The street lighting should be conditioned to reduce night-time glare and impacts on neighboring properties.
9. The existing sewer connections are inadequate and will increase the risk of leaks and overflows.
10. The infiltration system for the site is inadequately designed. The required analysis of soil types and infiltration rates is inadequate. The proposal is not consistent with NPDES and

DOE guidelines and regulations regarding the use of low impact development techniques. The water quality treatment condition is inadequate.

11. The provisions for fire-flows, evacuation and access are inadequate.
12. The three month requirement for relocation of the existing building is inadequate and should be extended to at least six months.
13. There are no provisions in the record regarding adequate school capacity to serve the development.
14. There are no provisions in the record regarding mitigation for local and regional traffic impacts and traffic concurrency.
15. The Design Review Board's deliberations at the pre-application conference stage truncated the Board's review and limited participation by the public.
16. There is inadequate information in the record regarding the Board's compliance with RMC 4.23.070 and 4.23.090.
17. The staff report states:

*"b. If, after this Design Review Board approval, there are any inconsistencies found in the information provided for the elevations, floor plans, landscape plans, lighting plans, materials and color between the presentation boards and the 11" x 17" submitted drawings, the Design Review Board and the Redmond Planning Staff will review and determine which design version will be followed for Site Plan Entitlement and Building Permits."*
- This condition would violate the public's due process rights to challenge decisions of the Board. The Board's decision should be based on actual submittals.
18. There are questions of title that are unresolved that pertain to ownership rights and covenants.
19. The proposed use is not consistent with the intent of the Town Square District.
20. The building is totally out of scale with surrounding uses, with inadequate consideration of sunlight and airflow blocking and aesthetic impacts. Large potentially obtrusive "art" is little consolation for the livability of adjoining properties.
21. The zoning for the site would allow 7.92 dwelling units, but the proposal would allow 96 "residential suites". This level of residential impact was not contemplated during the review and SEPA analysis of the Town Square District.
22. The City's development code did not contemplate the nature or intensity of impacts that would occur on this small site. For example, the open space requirements are insufficient

to accommodate any reasonable level of service for the occupants of these small units who will seek out open areas in order to get respite from their cramped living conditions.

23. The stated intent of the project to serve "the arts community" is unsupported by any market analysis or any other consideration of what that community seeks in its living environments. The project's lack of amenities normally associated with "the arts community" is obvious on its face, yet the applicant's stated intent still seemed to steer the deliberations of the Board.
24. The idea that families with young children would occupy a number of these units, with only a substandard courtyard and unsafe, substandard streets and zero setbacks is a disturbing prospect and should have been considered by the Board. Under these circumstances, the "Woonerf" would actually become a safety hazard as it would appear to children to be a reasonable play area when in fact it is an unsafe roadway.
25. The corner of 162<sup>ND</sup> Ave NE and NE 81<sup>st</sup> St. has substandard geometry, as do other impacted roads.
26. No traffic safety analysis has been done to determine the safety of the Woonerf, nor its functional relationship with NE 81<sup>st</sup> and NE 80<sup>th</sup>. Calling Cedar Street a Woonerf doesn't change the fact that this street will be unsafe for both pedestrians and vehicles.
27. The so-called Woonerf is simply an unsafe road pretending to be an open space feature.
28. The courtyard dimensions inside the project do not meet the City's courtyard dimension standards. The additional open space offered by the Woonerf is not of sufficient utility or value to justify reducing the courtyard dimensions.
29. The intrusion into the sidewalk area of structural columns on six foot centers creates safety problems and reduces the open space values of the sidewalk.
30. No documentation or substantiation is in the record for the following statements in the staff report:  
  
*"The design of the building is consistent with the goals and vision for the neighborhood. The materials, colors, architectural detailing, lighting, and landscape concept are well designed..."*  
  
*"Staff recommends that laser cut metal panels, with an artistic graphic pattern, be used instead of wire mesh as **there is no opportunity for live vegetation to grow well in this area.**" (Emphasis added)*
31. The zero setback should not be approved because it is not consistent with code requirements, is incompatible with surrounding uses, and does not serve the public interest.
32. Inadequate provisions have been made to control night-time light spillage.



33. Inadequate provisions have been made to reduce large areas of blank wall space and provide natural light for occupant units and living areas.
34. Inadequate provisions have been made to accommodate transit.
35. The provisions of Article III Design Standards have not been fully addressed including but not limited to the following quoted excerpts:

*Identify existing neighborhood characteristics that can be enhanced or incorporated into the designs of new development projects;*

*Address neighborhood compatibility and transitions between adjacent land uses, buildings, and street frontages; and*

*To create contexts that capture the community visions and values as reflected in the Comprehensive Plan, Redmond Zoning Code, and Design Review Handbook.*

*Developments that have a historic or cultural context should incorporate or enhance historic or cultural references with the use of symbolic design details, interpretive signs, or informational plaques.*

*To ensure that new buildings are appropriately designed for the site, address human scale, and become a positive element in the architectural character of the neighborhood;*

*To ensure new development is compatible with the goals for the neighborhood and with the architectural scale [the scale of the building(s) in relation to surrounding development] and character of those surrounding developments that meet the intent of the City's design review criteria;*

*To ensure buildings are based on human scale (the scale of the building and how it relates to the people that use it);*

*To ensure that large buildings reduce their apparent mass and bulk on the elevations visible from streets or pedestrian routes;*

*Integration. Large buildings should integrate features along their facades visible from the public right-of-way, and pedestrian routes and entries, to reduce the apparent building mass and achieve an architectural scale consistent with other nearby structures.*

*To promote a gradual transition between different uses.*

*Coordinate proposed development with surrounding site planning and development efforts on adjacent properties.*

*Maintain adequate space between buildings to allow for landscaping or buffering. Avoid creating fragmented and unrelated landscape strips and edging.*

*In residential developments, incorporate open space, privacy, and separation, while maintaining safety, from adjacent units through careful location of building entrances, windows, fences, walls, and landscaping.*

*Where nonresidential ground floor uses such as structured parking are permitted, windows, rather than blank walls, shall be provided on the street level in order to encourage a visual link between the business and passing pedestrians. A minimum of 60 percent of the length of the storefront area facing streets (between two feet and seven feet above the sidewalk) shall be in nonreflective, transparent glazing.*

*To balance the needs of vehicular, transit, pedestrian, and bicycle uses, and to create attractive streetscapes, while maintaining safety as the top priority*

*Promote safety through adequate sight distance, limited driveways on busy streets, and avoidance of difficult turning patterns.*

*Allow safe, efficient access for emergency vehicles.*

*Accommodate transit on arterial streets and, where appropriate, within internal circulation systems. Width, geometry, slopes, and construction materials should be suitable for transit service. Transit stops should be included at appropriate intervals.*

*If the development will have a retail use, locate the storefront close to the transit stop.*

*Provide direct access to transit stops from buildings via defined, safe pathway systems.*

*Provide easements for pedestrian access to facilitate the future extension of paths as adjoining properties are improved.*

*Providing protection from wind and rain, especially at main building entrances and over public walkways;*

*Design pedestrian walkways to be at least six feet wide and distinguishable from vehicle areas by pavement texture, elevation, or other treatment that achieves the same result. Use of painted striping is not adequate for meeting the intent of this section.*

*Parking structures shall have landscaping around the perimeter which will correspond to that used by the adjacent land uses and activities. Landscaping shall include, but not be limited to, a combination of shade trees, evergreen trees, shrubs, groundcovers, deciduous native and ornamental shrubs, and vines to further screen the structures.*

*Except on exclusively multifamily, manufacturing, or industrial use buildings, portions of buildings that are adjacent to a pedestrian walkway or sidewalk shall provide overhead weather protection as follows:*

*The protection should be at least 48 inches wide along at least 80 percent of the building's front face. The weather protection may be in the form of awnings, marquees, canopies, or building overhangs.*

*Canopies or awnings shall have a minimum clearance of eight feet above sidewalks and should not be more than 15 feet above the sidewalk at its highest point.*

*The color, material, and configuration of the pedestrian coverings shall carry forward the architectural theme of the building. All lettering and graphics on pedestrian coverings must conform to RZC 21.44, Signs.*

*Street-facing, ground floor facades of mixed-use and retail structures shall include one or more of the following characteristics:*

*Transparent window area or window displays along at least 60 percent of the length of the ground floor facade.*

*Sculptural, mosaic, or bas-relief artwork over 50 percent of the length of the ground floor facade.*

*Other similar building design or landscaping feature approved by the City.*

*Enhance the primary public entries of all buildings by two or more of the following means:*

*Providing weather protection, such as an awning, canopy, marquee, or other building element, to create a covered pedestrian open space.*

*Providing at least 100 square feet of landscaping at or near the entry.*

*Providing pedestrian facilities, such as benches, kiosks, special paving, bicycle racks, etc.*

*Mitigation of Adverse Visual Impacts. Provide planting to soften the visual impact of less desirable development and structures, such as large blank walls, dumpster areas, service areas, and large areas of pavement.*

*Definition or Emphasis. Use planting to highlight significant site features and to define site use areas and circulation corridors without interfering with the use of such areas. Examples include site and building entrances, pedestrian walkways, and focal points, such as gathering areas or plazas.*

*Design. Plants should be selected and arranged according to the following design criteria:*

*Variety. Select a variety of plants providing interest, accent and contrast, using as many native species as possible.*

*Consistency. Develop a planting design conforming to the overall project design concept and adjoining properties.*

*Appropriateness. Select plants with an awareness of their growth requirements, tolerances, ultimate size, preferences for soil, climate, and sun exposure, and negative impacts.*

*Density. Provide adequate plant quantity, size, and spacing to fulfill the functional and design objectives within the stipulated time.*

*Provide shade trees along all streets.*

*To incorporate open stormwater facilities into project site design and landscaping as a design amenity for active or passive recreation;*