



**CITY OF REDMOND
HEARING EXAMINER
MINUTES**

November 20, 2015

Redmond City Council Chambers
15670 NE 85th Street, Redmond
2:30 p.m.

Hearing Examiner

Sharon Rice, Offices of Sharon Rice,
Hearing Examiner, PLLC

Staff

Heather Maiefski, Associate Planner
Steven Fischer, Development Review Division
Manager
Cindy Wellborn, Senior Stormwater Engineer
Cheryl Xanthos Deputy City Clerk

Convened: 2:30 p.m.

Adjourned: 5:07 p.m.

I. CALL TO ORDER

Hearing Examiner Sharon Rice convened the hearing at 2:30 p.m.

II. DESCRIPTION OF HEARING SEQUENCE AND PROCEDURES

Ms. Rice introduced the matter under consideration, reviewed the sequence of the hearing for the day, and explained the proceedings. Ms. Rice noted that she expects to issue a decision in writing on the Nouri Short Plat Appeal 10 business days following the close of the record, but may ask for more time due to the complexity of the matter.

Ms. Rice administered the swearing in of all those in attendance testifying on these matters, reminded the attendees that the proceedings were being recorded, and asked them to identify themselves for the record. The following Parties to the Appeal were in attendance:

Ms. Sandra Eisert, Appellant Spokesperson;
Mr. Tom Hinman, Witness for Appellants;

Mr. Hamid Nouri, Applicant;
Mr. Brian Way, PACE Engineers, Applicant Representative;
Mr. Scott Sharrow, PACE Engineers, Applicant Representative;

Ms. Heather Maiefski, Associate Planner, City of Redmond; and
Mr. Steven Fischer, Development Review Planning Manager, City of Redmond.

III. APPEAL HEARING

A. NOURI SHORT PLAT APPEAL

File No. LAND-2014-01980

Request: Appeal of a Type II Technical Committee Decision regarding the approval of a three lot short plat on a 0.5 acre site in the R-6 zoning district for three detached single-family dwelling units

Location: 7502 132nd Avenue NE, Redmond, WA 98052

Documents submitted to the record prior to the hearing were:

Appellant Exhibits

- A-1 Hinman Statement on Nouri Short Plat dated 10/31/15
- A-2 Nouri_ShortPlatReport-Tina Cohen, dated 10/9/15
- A-3 Redmond Tree Exception Approval Practices - Tree Retention Study Findings from Sustainable Redmond, April 2, 2013 as presented to Redmond City Council
- A-4 Gilles Affidavit, Nouri SP, Redmond
- A-5 Flawed Public Notices in Redmond - Sustainable Redmond Testimony to the Redmond City Council, June 17, 2014
- A-6 Even Application of the Law to Single-Family Homeowners
- A-7 Nouri Water Report by Chris Pitre
- A-8 Clarification of Tree Issues

City of Redmond Exhibits

- C-1 Redmond Planning Department Staff Report, dated October 6, 2015, with 16 attachments

Applicant Exhibits

- P-1 (Withdrawn)
- P-2 *Dry Well Infiltration Considerations*, Technical Memo, Dated Oct. 9th, 2015, by Associated Earth Sciences, Inc.
- P-3 Credentials for Curtis J, Koger, L.G., L.E.G., LHg., Senior Principal Geologist, and Danika M. Globokar, EIT, GIT, Senior Staff Geotechnical Engineer at AESI, Inc.
- P-4 *Response to Review of Tree Retention Plan by Tina Cohen, Northwest Arborvitae*, Dated November 11th, 2015 by Tony Shoffner, ISA Certified Arborist, Shoffner Consulting
- P-5 *Response to Gilles Affidavit – Nouri Short Plat*, Dated November 19th, 2015 by Tony Shoffner, ISA Certified Arborist, Shoffner Consulting

Over the course of the hearing, Ms. Rice allowed the submission of the following exhibits into the record and identified accordingly:

City of Redmond:

- C-2 PowerPoint Presentation
- C-3 Responses to emails
- C-4 Error in Zoning Code

Pre-hearing Procedural Issues and Questions:

Mr. Brian Way, Applicant Representative stated that the Applicant sent an email stating concerns that the Appellants' scope is going beyond the items that were in their original appeal, and would like to keep to keep to the original timeframe.

Ms. Rice responded stating that they will keep with the timeframe and advised the Appellants to keep within the scope of the appeal.

APPELLANT TESTIMONY:

Ms. Sandra Eisert, Appellant Spokesperson, identified the appeal issues to be as follows:

- The lot is too small to fit the proposed two duplexes and one house.
- The neighbors questioned stated that they value trees, quiet, and the lower density of the area.
- The City of Redmond had decided that the duplexes were not appropriate for the site, but was still shown on the map.
- Drainage and tree removal was based on a plan that is no longer active.
- The approved project is constantly changing.
- The main concerns are regarding trees and groundwater.
- The 30-foot-wide strip of land is considered buildable property rather than a street.
- No answers have been provided regarding why the land is considered open space.
- There is no benefit to the future residents of the short plat or the neighborhood.
- Shrubs cover the property and are not included in the tree count.
- Plans sent with the City's notice show no tree removal.
- The arborists stated that the tree inventory, tree health assessment and location of trees are incorrect.
- The grading and construction can have a negative effect on the healthy remaining and neighboring trees.
- Dry wells will hurt the roots of some trees, depending on location.
- Building footprint has changed.
- The property slopes to the open space and may cause runoff and flooding.
- The storm sewer grates already are at capacity and flood regularly.
- The dry wells conflict with drip lines of the remaining trees.
- Testing guidelines were not followed.
- A new tree inventory should be completed; a more thorough assessment of the dry well; and an answer should be provided as to why a strip of land is a buildable property.

Mr. Tom Hinman, Witness for Appellants, provided the following testimony:

- The Nouri Short Plat sets a precedent for zoning changes in the neighborhood.
- Trees will be removed at the entrance to the neighborhood.
- The neighborhood has large homes amongst the trees.

- The Appellants would like the Notice of Decision to be revoked and the developer to submit a new application for a permit, provided there is a community meeting to allow for input.
- Preserving stands of trees is a first priority in the City code.
- The Appellants didn't discover there were any tree exemption requests until after the fact.
- The City regularly allows tree exemption requests.
- Significant changes continued with the property after the notice of development was mailed.
- Uneven application of the law regarding tree exemption requests for individual homeowners and developers.
- The letter sent to neighbors from the developer didn't mention tree removal and looked like junk mail.
- The letter sent to neighbors from the City included a site map and didn't mention tree removal.
- The Technical Committee's Notice of Decision Letter mentioned tree retention.
- The public did not have access to the same information as staff, and therefore were unable to provide comments.
- Open space requirements are not meeting the intention of the code.
- Potential pedestrian safety issues with driveways.
- Better counter staff training is needed regarding tree requests.

Mr. Steven Fischer, Development Review Division Manager, inquired from the Appellants regarding:

- The neighborhood using the term "gateway", and if it has been adopted by the Zoning Code.
- Items the Appellants have asserted need clarification in the Zoning Code has been heard by the City Council.

CITY TESTIMONY:

Ms. Heather Maiefski, Associate Planner, provided a PowerPoint presentation that included:

- the vicinity;
- single-family urban designation;
- site requirements for each home;
- two open space tracts;
- neighborhood meeting was held;
- Notice of Application was mailed;
- City received a petition from residents against the project;
- error in the code has been corrected;
- spokesperson for the petition was notified that the project changed from two duplexes and a single-family home to three single-family homes;
- the Zoning Code does not require new noticing for a reduction in density of a project;
- tree retention plan shows 37 percent retention, and the tree retention is still met with the Appellants arborist report;
- the Applicant can move through the civil construction phase of the project after the notice of decision is issued at their own risk;
- required tree replacements and frontage improvements; and
- staff recommends the appeal be denied due to adequate tree retention, public notification was complete, and the project is exempt from the water quality requirements.

Ms. Cindy Wellborn, City of Redmond Senior Stormwater Engineer, provided testimony on the stormwater plan: the stormwater runoff from the driveways will flow into the roadway and go into the City-owned conveyance system; the roof and landscape areas will flow into drywells; and Tract A and B will maintain the existing flow path.

Mr. Way, inquired from the City regarding other homes located near parcel B.

Ms. Eisert inquired from the City regarding:

- Ms. Maiefski questioning if the land is buildable in an email;
- Appellants notified the City regarding the mistake in the code allowing duplexes;
- providing help to Appellants;
- number of trees included in the landscape plan; and
- lack of complete public notice.

APPLICANT TESTIMONY:

Mr. Way provided the following testimony:

- The arborist could not attend the hearing, and provided a written response to the two arborists hired by the Appellants, and the required retention is being met.

Mr. Curtis Koger, Principal Hydrogeologist, provided the following testimony on stormwater:

- used small scale testing method as it is not realistic to use full-scale test;
- analysis method was created in the early 2000's by King County;
- test period was longer than required and a different type of inflow approach;
- nothing unusual with the site; and
- drywells are imbedded to puncture through stratification.

The City and the Applicant provided the following testimony in response to the Appellants questions:

- Mr. Koger explained the three components used for the factor of safety.
- Ms. Wellborn stated that Tract B is an open space and is not part of the stormwater plan; arrows on the civil plan showed that the runoff will be directed towards the drywells; the drywells have storage for a 100-year storm; if the drywell fails, the overflow may go back up the downspouts or come up to the surface; and drainage issues can be reported to the City's Public Works department.

CONCLUSION:

The City, Applicant and Appellant offered closing statements.

Ms. Rice stated that the record is closed on the Nouri Short Plat Appeal matter; and a written decision will be issued in 10 business days.

IV. ADJOURNMENT

The appeal hearing closed at 5:07 p.m., and the meeting adjourned.