



**APPEAL (LAND-2016-00426)  
OF SEPA DNS (SEPA-2015-01939)  
REDMOND CITY CENTER SITE PLAN ENTITLEMENT  
PLANNING DEPARTMENT REPORT TO HEARING EXAMINER**

MEMO TO: Sharon Rice, Hearing Examiner

FROM: Planning Department

DATE: April 20, 2016

PREPARED BY: Gary Lee, Senior Planner (425) 556-2418

SUBJECT: ADMINISTRATIVE APPEAL OF THE SEPA DETERMINATION OF  
NON-SIGNIFICANCE (SEPA-2015-01939) FOR THE PROJECT  
KNOWN AS REDMOND CITY CENTER (LAND-2013-01989)

REQUEST: The appellant is appealing the SEPA Determination of Non-Significance  
for the project

HEARING DATE: April 20, 2016

**ATTACHMENTS**

EXHIBIT A: Appeal (LAND-2016-00426)

EXHIBIT B: Site & Surrounding Zoning

EXHIBIT C: SEPA Determination of Non-Significance

EXHIBIT D: Design Review Board Plans

EXHIBIT E: Transportation Technical Report

EXHIBIT F: Transportation Impact Analysis Memorandum

EXHIBIT G: Tree Protection Standards Exception Request

EXHIBIT H: Tree Exception Protection Approval

EXHIBIT I: Notice of Decision, approving project

## BACKGROUND

**Appellant** Irina Berger  
16275 NE 85<sup>th</sup> Street, #409  
Redmond, WA 98052 (Exhibit A)

**Project**  
**Applicant:** Cosmos Development c/o  
Oscar Del Moro  
11747 NE 1<sup>st</sup> Avenue, Ste. 300  
Bellevue, WA 98005

**Site Plan Entitlement Application Date:** January 6, 2016, File # LAND-2013-0189

**SEPA Appeal Filed:** February 11, 2016

**Hearing Date:** April 20, 2016

**Location:** The proposed project is located at 16135 NE 85<sup>th</sup> Street

**Parcel Size:** The total area of the site is 2.3 acres

**Neighborhood:** The proposed project is within the Downtown Neighborhood as identified within the Comprehensive Plan.

**Land Use Designation:** This property is within the Downtown Urban Center which is envisioned as a higher density neighborhood attracting businesses and people to the advantages of distinct economic opportunities, distinctive places to live, and proximity to shopping and other amenities. These goals are further defined in the Comprehensive Plan Policies UC-4, UC-7, DT-11, and DT-38 through DT-41.

**Zoning Designation:** The property under consideration for this development application is zoned Town Square (TSQ), within the Downtown Neighborhood.

**Surrounding Land Use and Zoning:** The project site is the former location of the Redmond Post Office. The existing building has been vacant for several years, since the Post Office moved to 185<sup>th</sup> Avenue NE. The surrounding zoning and land use is as follows (see Exhibit B):

	<u>Zoning</u>	<u>Land Uses</u>
North:	Town Square (TSQ)	Two-Story Commercial (across NE 85 <sup>th</sup> Street)
East:	Town Square (TSQ)	4-Story Mixed-Use Multi-Family (condominiums)
South:	Town Square (TSQ)	Metro Bus Transit Center
West:	Town Square (TSQ)	Fire Station

**Access:** Vehicle access for this site will be from NE 85<sup>th</sup> Street.

**SEPA:** A Determination of Non-Significance was issued January 29, 2016 (See Exhibit C). The appeal period for this Determination ended February 12, 2016. The appeal was submitted February 11, 2016 (See Exhibit A).

**NOTICE OF DECISION:** The project was approved and the Notice of Decision was issued January 16, 2016 (Exhibit I, Notice of Decision). No appeals of the Notice of Decision were filed.

### **JURISDICTION**

In accordance with RZC Section 21.76.060(I), Appeal of Type II Decisions, the appellant is required to specify the basis of their appeal. An appeal must be based on an error of law or fact, procedural error, or new evidence which could not have been reasonably available at the time of the public hearing or consideration of approval. The appellant must provide: 1) facts demonstrating that they were adversely affected by the decision, 2) a concise statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria, 3) the specific relief requested, and 4) any other information reasonably necessary to make a decision on the appeal.

The burden of proof for demonstrating that the City's issuance of the SEPA Determination of Non-Significance for the Redmond City Center proposal was in error lies on the appellant, as outlined in Hearing Examiner's Rules, Burden of Proof.

### **APPELLANT'S BASIS FOR APPEAL**

The appellant has appealed the Determination of Non-Significance based upon the following assertions:

- 1) The proposed building is too high for the City of Redmond and will block sunlight to the surrounding buildings.

- 2) The proposed development will affect traffic in the area.
- 3) The proposed building height is inconsistent with the surrounding buildings.
- 4) The proposed building will decrease property values.

### RELIEF SOUGHT BY APPEAL

The appellant is seeking the following relief through this appeal:

- 1) A limitation on the proposed building to be consistent with the surrounding buildings, including Fraser Court.
- 2) A reduction in the number of dwelling units in order to reduce traffic impacts.
- 3) A limitation on the removal of the existing trees on the site.

### ANALYSIS

The following is an analysis regarding the assertions raised by the appellants.

**Assertion 1:** The proposed building is too high and will block sunlight to the surrounding buildings.

**Staff Response:** The Town Square (TSQ) zone, where the site lies, allows up to 5 stories, without Transfer Development Rights (TDRs) or Green Building Program (GBP) incentives, per RZC Table 21.10.080.B. One additional floor (to 6 floors) can be achieved by using TDRs or GBP incentives (see screen shot below). RZC Table 21.10.080.B also allows up to 8 stories, as a bonus, for the provision of 20 percent on-site open space in the form of publicly accessible plaza/arcade, etc, per note "C" in the row of the table identifying the building height of 8 stories (see screen shot below). Additionally, RZC 21.10.110. A, Building Height Tradeoff, allows floor area that is sculpted away at the edges of the top of the building to be added to one additional floor – in order to achieve a better design and stepped building. Thus, the applicant is proposing 9 stories of building height which is allowed through the zoning code.

The proposed development is providing 20 percent of the site area in the form of publicly accessible space on the raised plaza. Additionally, the building's roofline has been nicely sculpted, eroding/terracing the edges of the building top to make it more interesting and to allow more sun light into their residential court yards. See Design Review Board Plans, Exhibit D.

Other Standards		
Minimum Building Height	2 Stories	
Maximum Building Height without TDRs or GBP	5 Stories	Building height is limited in certain areas. See RZC 21.10.110.B, <i>Height Limit Overlay</i> .
Maximum Building Height with TDRs or GBP	8 Stories	<p>A. Building height is limited in certain areas. See RZC 21.10.110.B, <i>Height Limit Overlay</i>.</p> <p>B. One floor of additional height may be achieved with the use of Transfer of Development Rights. See RZC 21.10.160, <i>Using Transfer of Development Rights (TDRs)</i>, or through compliance with RZC 21.67, <i>Green Building and Green Infrastructure Incentive Program (GBP)</i>, except they may not be used to exceed eight stories where eight stories is allowed through bonus provisions.</p> <p>C. Maximum height for buildings is five stories without Transfer of Development Rights (TDRs) or bonuses. Bonus to eight stories granted for provision of 20 percent on-site usable open space in the form of plazas/arcades with water features that are accessible to the public during extended business hours, public meeting rooms, day care services, or the preservation of historic buildings or sites. The amenities shall be on the project site or within the zone in which the building is located. Such approval shall be granted through the site plan entitlement review process. TDRs or GBP may not be used to exceed the eight-story height allowed through these bonuses.</p>

The appellant asserts that the proposed building will block sun light to the neighboring building. As the proposed development will be west of the appellant's building, the proposed building will block sunlight from the west, after mid-day. The Redmond Zoning Code does not contain regulations that prohibit the casting of shadows onto adjacent properties, and the casting of shadows onto neighboring properties is not considered to be a significant environmental impact.

The appellant did not identify any alleged error in the decision regarding this assertion.

**Assertion 2:** The appellant asserts that the proposed project will affect traffic in the area.

**Staff Response:** Staff has reviewed the required Traffic Impact Analysis report (see Exhibit E, Transportation Technical Report, and Exhibit F, Transportation Impact Analysis Memorandum). On Page 26 of Exhibit E, Transportation Technical Report, it shows that the proposed project is anticipated to generate about 311 net new vehicle trips in the PM peak hour; however, the traffic operations analysis on page 30 of Exhibit E, Transportation Technical Report, indicates that the proposed project would not change the level of service at any of the study area intersections during the PM peak hour but only a slight delay would be added to the study intersections.

Based on the analysis, no off-site specific improvements to the study intersections are needed as a result of the proposed Redmond City Center Project; however, the proposed project is required to pay approximately \$2.2 million traffic impact fees to mitigate the system traffic impact. In addition, the City Center project proposes on-site mitigation by restricting the left-turn movement from the site access during the AM and PM peak hours.

There are no significant environmental impacts regarding trip/traffic generation anticipated with this project.

The appellant did not identify any alleged error in the decision regarding this assertion.

**Assertion 3:** The appellant asserts that the proposed building height is inconsistent with the surrounding buildings and requests a limitation on the removal of surrounding trees.

**Staff Response:** The proposed 9-story building will be taller than the surrounding buildings. The Town Square (TSQ) zone allows buildings to be 8 stories tall, by a bonus provision, and the zoning regulations allow one additional floor with the Building Height Tradeoff provision. There are no design standards or zoning regulations that require buildings to be consistent in height with their surrounding buildings, and there are no significant environmental impacts anticipated regarding differing building heights in the surrounding area.

The City's transition overlay regulations, outlined in RZC 21.50, Transition Overlay Areas, are designed to minimize potential conflicts between abutting higher and lower intensity zones, mainly single-family and moderate-density multi-family zones and commercial/industrial zones. The City has specifically excluded the establishment of transition overlay areas within the two urban centers (Downtown and Overlake neighborhoods) and their adjoining zones, as well as between the zones within the Downtown and Overlake urban centers (as in this case), as the City envisions the redevelopment of these two urban centers into higher intensity, and taller, urban scale uses and buildings – with all of the uses within the urban centers being compatible with each other (side-by-side) – as well as being compatible with the adjoining zones outside of the urban centers.

The appellant also asserts the building will decrease the amount of trees in the area and requests a limitation on the removal of trees. The applicant (developer) requested an exception to the Tree Protection regulations, for NOT retaining 35% (12 of the 34 significant trees), and 2 landmark trees (see Exhibit G, Tree Protection Standards Exception Request). An approval of the request was granted per RZC 21.72.090.b.1.e, (see Exhibit H, Tree Exception Protection Approval) as strict compliance with the provision of the code would be in conflict with the goals of increased density of the urban center (Downtown) which would result in development that would be inconsistent with the adopted vision for the neighborhood – as preserving the subject trees would result in a development that would not produce the density desired and envisioned by the Comprehensive Plan.



In exploring the preservation of some of the trees on site, in the proposed planting areas, it was confirmed by the City's Arborist that saving and/or transplanting some of the existing trees in/to the proposed planting areas along the east property line would likely NOT produce good results, as the trees would likely not survive. With the granting of the exception request, 64 replacement trees will be required to be planted on site, or paid for by in-lieu fee, per the

The appellant has not identified any alleged error in these decision regarding this assertion.

**Assertion 4:** The appellant asserts that the proposed building will decrease property values.

**Staff Response:** Staff is unaware of any evidence that would support this assertion. Staff believes that ultimate property values will increase in the area with the completion of the proposed development. There are no significant environmental impacts regarding property values anticipated with this project.

The appellant has not identified any alleged error in the decision regarding this assertion.

#### **STAFF RECOMMENDATION**

Prior to the public hearing and based on the analysis included in this report, staff recommends the Hearing Examiner deny the appeal of the SEPA Threshold Determination for the Redmond City Center proposal.

#### **CONCLUSIONS IN SUPPORT OF THE STAFF RECOMMENDATION**

The appellant has the burden to prove that the City erred in issuing the Determination of Non-Significance. The appellant has provided no evidence to meet that burden and cannot establish that the City erred procedurally or substantively in issuing the SEPA Threshold Determination for the Redmond City Center Site Plan Entitlement proposal.



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