

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

In the Matter of the Appeal of)	NO. SEPA-2015-01939
)	
)	
Irina Berger)	
)	Berger SEPA Appeal
)	
)	
of the January 29, 2016 Determination of)	
Non-Significance for the)	ORDER SETTING HEARING
Redmond City Center project at)	AND PRE-HEARING DOCUMENT
16135 NE 85th Street)	EXCHANGE SCHEDULE
_____)	

On or before February 11, 2016, Irina Berger (Appellant) filed an appeal of the above-captioned State Environmental Policy Act (SEPA) determination of non-significance (DNS), issued by the City of Redmond Technical Committee after completion of review of the Redmond City Center proposal for SEPA compliance.

The appeal of the DNS was timely filed.

On February 18, 2016, the Technical Committee issued a Notice of Decision approving the land use with conditions. No appeal of the Notice of Decision was filed. Therefore, the above-captioned appeal will be limited to review for compliance with applicable State Environmental Policy Act provisions.

The land use approval authorized construction of a mixed use, nine-story building with a residential and a residential/office tower above two levels of combined parking and retail, totaling approximately 249 dwelling units, 84,000 square feet of office space, and 25,000 square feet of retail space. Approval is stayed pending the outcome of the instant SEPA appeal.

The City of Redmond Hearing Examiner attempted to convene a pre-hearing conference; however, there was not a date on which all parties could be present in advance of the April 20, 2016 hearing date. The following information would have been provided at such a conference and is provided now in writing.

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 procedures to be followed.
- Appellant will present witness testimony and introduce exhibits. Each Appellant witness will be subject to cross examination by the Applicant and the City.
- The City will then present witnesses and exhibits, with cross examination by the Appellant and the Applicant.
- The Applicant will present witnesses and exhibits, with cross examination by the City and by the Appellant. Applicant will make their final argument at this time.
- The City may present rebuttal evidence, if any, and make final arguments.
- The Appellant may present rebuttal evidence, if any, and make final arguments.
- Note: there is no public comment period during the open record appeal hearing. Only parties called as witnesses by the parties will be allowed to testify, and all will be subject to cross examination.
- Conclusion of the hearing - housekeeping, post-hearing scheduling (if any), and identification of decision due date.

The following Order sets the hearing date and also establishes pre-hearing information exchange deadlines with which all parties must comply.

Order

Hearing Scheduling

1. **The DNS appeal hearing is scheduled in the Redmond City Council Chambers on April 20, 2016 at 10:00 am.** If the matter proceeds past noon, a lunch break of one hour will be called. Additional five minute breaks will be called as requested and appropriate. The hearing will proceed until the appeal is completed.

Representation

2. Any party may retain counsel for these proceedings. In the event any party so chooses, the attorney(s) shall submit a notice of appearance at the earliest possible time. Attorneys for any party may submit pre-hearing dispositive motions and should do so at the earliest possible time.

Document Exchange

3. **All parties shall submit Witness and Exhibit Lists (explained below) not later than April 4, 2016.**
4. Should witnesses and exhibits disclosed by any party cause another party to offer additional witnesses or exhibits, the additional witnesses and/or exhibits shall be disclosed with an Addendum Witness and/or Exhibit List at the earliest opportunity.
5. **On or before April 13, 2016, 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.

6. Pre-hearing legal briefing, if any, shall be submitted not later than April 18, 2016.
7. Deadlines for post-hearing briefing, if any, shall be established on the record at hearing.

Submittals - Note the following requirements:

8. **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)
9. **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 taken, when, and from where taken
 - If other materials, identify the source
 - Brief summary of content
10. For the purpose of satisfying the deadlines above, the witness list, exhibit list, briefing, and the exhibits themselves may be exchanged via email.
11. 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. Note, parties typically also want a copy for themselves.
12. 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.
13. 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, this matter is an open record appeal hearing, which means new/ previously undisclosed evidence may be offered by any party during their presentation 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.
14. To be considered timely, submittals shall be sent via email not later than 4:00 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

15. 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.
16. 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.
17. 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 March 14, 2016.

By:

A handwritten signature in blue ink, appearing to read "Sharon A. Rice", written over a horizontal line.

Sharon A. Rice
Redmond Hearing Examiner