



**CITY OF REDMOND
HEARING EXAMINER
MINUTES**

October 17, 2011

Redmond City Council Chambers
15670 NE 85th Street, Redmond
6 p.m.

Hearing Examiner

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

Staff

Thara Johnson, Associate Planner
Carolyn Hope, Senior Parks Planner
James Haney, City Attorney
Elizabeth M. Adkisson, CMC, Deputy City Clerk

Convened: October 17, 2011, 6 p.m.

Adjourned: November 14, 2011, 11:53 p.m.

I. CALL TO ORDER

Hearing Examiner Sharon Rice convened the hearing at 6 p.m.

II. DESCRIPTION OF HEARING SEQUENCE AND PROCEDURES

Ms. Rice introduced the matter under consideration, reviewed the sequence of the hearing for the evening, and explained the proceedings. Ms. Rice noted that she will issue a decision on the Redmond Bike Park Appeal within 21 days of the closing of the record.

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:

Thara Johnson, Associate Planner, City of Redmond
Carolyn Hope, Senior Parks Planner, Applicant, City of Redmond
James Haney, City Attorney, City of Redmond
Mr. Harold Zeitz, Appellant Spokesperson
Mr. Robert Katz, Appellant Spokesperson

III. APPEAL HEARING

A. REDMOND BIKE PARK APPEAL

L110271 Appeal of Site Plan Entitlement Notice of Decision
(L110182, DEV110016)

L110272 Appeal of SEPA Determination (L110183)

Location: 17195 NE 100th Street, Redmond, WA 98052; 720000-1950

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

A1 - Appellant Binder 1:

- A1-1 Redmond Comprehensive Plan, Education Hill Neighborhood, pages 13-20 through 13-22.17, 13-97, and 13-98
- A1-2 RDCG 20D.140.030 Wetlands
- A1-3 2009 case study from John Forrest National Park, Western Australia
- A1-4 Amanda Roberts email, dated April 20, 2009
- A1-5 John Lang email, dated April 22, 2011
- A1-6 Sign-In sheet from May 5, 2009 public meeting
- A1-7 Appellant analysis of May 5, 2009, public meeting sign in sheet
- A1-8 Sign-In sheet from June 3, 2009, public meeting
- A1-9 Bikes Belong Grant Application, November 5, 2009
- A1-10 Email exchange between Kat Sweet and Carolyn Hope, last date November 19, 2009
- A1-11 Memorandum: Site Selection Document, prepared by HilRide Progression Development Group, dated February 9, 2010
- A1-12 Email Exchange last dated February 10, 2010
- A1-13 City of Redmond Press Release, dated February 23, 2010
- A1-14 Video Recording of Redmond City Council meeting of March 2, 2010 (*provided via link to City Website*)
- A1-14a Excerpts from March 2, 2010, Redmond City Council Meeting with Appellant notes inserted in text (*provided via Compact Disc*)
- A1-15 Email exchange from Eric O'Neil, last dated March 3, 2010
- A1-16 Email exchange from Carolyn Hope, last dated March 3, 2010
- A1-17 Email exchange from Carolyn Hope, last dated March 30, 2010
- A1-18 Application for Grant from Specialized, dated April 26, 2010
- A1-19 Landscape Plan, dated April 26, 2011
- A1-20 30 percent Concept Plan from HilRide, dated May 13, 2010
- A1-21 Email from Carolyn Hope, last dated May 20, 2010
- A1-22 Email from Carolyn Hope, last dated May 25, 2010
- A1-23 Email from Carolyn Hope, last dated May 25, 2010
- A1-24 Email from Carolyn Hope, last dated May 28, 2010
- A1-25 Email from Carolyn Hope, last dated June 3, 2010
- A1-26 Article entitled "BMX Safety Gear: Life Savers" from She Knows Parenting (online magazine), dated October 15, 2010
- A1-27 Email from Richard Cole dated March 1, 2010
- A1-28 Email exchange from Carolyn Hope, last dated July 12, 2011
- A1-29 Tree Removal Permit Application, dated April 7, 2011, with Tree Inventory and Arborist Report, prepared by Tree Solutions, Inc., dated September 15, 2010

- A1-30 Tree Removal Plan (from Redmond Bike Park Existing Conditions and Demolition Plan by HilRide), dated April 11, 2011
- A1-31 Tree Removal Plan, 30 percent Concept Plan, prepared by Dowl HKM, dated April 19, 2011
- A1-32 Tree Removal Permit Application, submitted April 19, 2011, with Tree Inventory and Arborist Report, prepared by Tree Solutions, Inc., dated September 15, 2010
- A1-33 Notice of Application for Site Plan Entitlement and Optional DNS process, dated May 12, 2011
- A1-34 Email exchange from Carolyn Hope, dated June 15, 2011
- A1-35 Email exchange from Carolyn Hope, dated June 23, 2011
- A1-36 Email from Tricia Thompson, dated July 18, 2011
- A1-37 Wetland reconnaissance memo by Emmett Pritchard of Raedeke & Associates for Appellants, dated July 28, 2011
- A1-38 Email from Cathy Smoke, Redmond Police Records requests, dated September 8, 2011
- A1-39 Email exchange from Thara Johnson, last dated September 14, 2011
- A1-40 Community Notice Evaluation, written by XDM Corporation for Appellants, dated September 28, 2011
- A1-41 Redmond Bike Park Facebook Group members page
- A1-42 Redmond Bike Park Website screen shot, printed September 25, 2011
- A1-43 Duthie Hill Website screen shot, printed September 25, 2011
- A1-44 Plan enlargement showing placement of 12-foot buffer to trail
- A1-45 Redmond Bike Park Website screen shot, printed September 26, 2011
- A1-46 Appellants' Rebuttal to Site Selection Memo (PowerPoint slides)
- A1-47 Photo from John Lang of "well-constructed dirt jumps"
- A1-48 Photos of existing condition in southwest corner of site, taken by Appellants
- A1-49 Photo taken from Google of neighborhood around BMX site
- A1-50 Layout Plan, prepared by HilRide, dated April 26, 2011, with photos of existing conditions at points on plan
- A1-51 Appeal Hearing Notice, dated September 26, 2011
- A1-52 Email exchange from Thara Johnson, last dated March 29, 2011
- A1-53 Email exchange from Thara Johnson, last dated March 25, 2011
- A1-54 Email from Amanda Roberts, dated March 20, 2009
- A1-55 Email from Nigel and Pamela LeGresley, dated March 3, 2010
- A1-56 Email from Carolyn Hope, dated March 2, 2010
- A1-57 Appellant Analysis of Redmond Biker Park Facebook group followers by location
- A1-58 Photo of a BMX biker in mid-jump
- A1-59 Email exchange from John Marchione, last dated June 28, 2011
- A1-60 Copied excerpts from a book listed as "BMX and Dirt Jumping"
- A1-61 Information from XDM Corporation website
- A1-62 Screenshot of email from Carolyn Hope to Bike Park email list, dated February 23, 2010
- A1-63 Copied excerpts from book entitled "BMX Trix & Techniques"
- A1-64 Screenshot from Redmond Bike Park website
- A1-65 Email exchange from Hank Myers, last dated June 21, 2011
- A1-66 Email exchange from Carolyn Hope, last dated June 15, 2011
- A1-67 Letter from Kat Sweet, Director of Trips for Kids, Seattle, dated November 18, 2009
- A1-68 Email exchange from Hank Margeson, last dated February 10, 2010
- A1-69 Email exchange from Hank Margeson, last dated February 28, 2010
- A1-70 Email from Rick Miller, last dated June 10, 2010
- A1-71 Email exchange from Hank Margeson, last dated March 3, 2010
- A1-72 Email exchange from Hank Margeson, last dated March 3, 2010
- A1-73 Resume of G. Emmett Pritchard, Raedeke Associates
- A1-74 Raedeke Associates Statement of Qualifications

- A1-75 Aerial photograph of subject property
- A1-76 Appellants' figure showing current bike jump land usage next to planned bike jump usage
- A1-77 Appellants' Witness and Exhibit list
- A1-78 Clarified statement of Issues on Appeal, required by August 18, 2011 Pre-Hearing Order
- A1-79 Excerpts from Department of Ecology Publication #04-06-025, Washington State Wetland Rating System for Western Washington, submitted by Emmett Pritchard for Appellants
- A1-80 Appellants Binder 1 Table of Contents
- A1-81 Affidavit of Amanda Roberts, dated November 14, 2011
- A1-82 Appellants' Illustrative Exhibit identifying Issues not adequately addressed in SEPA and Site Plan Entitlement Review processes

A2 - Appellant Binder 2:

- A2-1 Mailed notice of application, dated May 12, 2011
- A2-2 View of park from 171st
- A2-3 Redmond Neighborhood Watch program
- A2-4 Redmond Skate Park
- A2-5 Photos of current conditions, taken by Appellants October 2, 2011
- A2-6 Parking on 171st
- A2-7 Drive Path to Parking
- A2-8 Randall Facebook posting, dated June 16, 2011
- A2-9 Land Use Notice Sign
- A2-10 Bikes Belong Members
- A2-11 National Wildlife Federation letter, dated October 3, 2011
- A2-12 Tree Removal Notes
- A2-13 Map of Neighborhood Appeal Supporters
- A2-14 Meeting Notes from Carolyn Hope, dated June 30, 2010
- A2-15 Email from Doug Schmidt, dated August 19, 2010
- A2-16 Jude's notes from meeting with city committee
- A2-17 Municipal Code 4.50 Technical Committee
- A2-18 Redmond Zoning Code Adopted April 5, 2011 Section 21.08.170.A
- A2-19 Redmond Zoning Code Adopted April 5, 2011 Section 21.08.180.B.1
- A2-20 Redmond Zoning Code Adopted April 5, 2011 Section 21.72
- A2-21 Bruce Roberts Affidavit
- A2-22 Regina Hamlin Affidavit
- A2-23 Rick Miller Affidavit
- A2-24 Alan Tai Affidavit
- A2-25 Jude Runchel Affidavit
- A2-26 Pam LeGresley Affidavit
- A2-27 Ed Barnett Affidavit
- A2-28 Byunggook "Brian" Lee Affidavit
- A2-29 Lannynd Tong Affidavit
- A2-30 Mark Brunner Affidavit
- A2-31 Amanda Roberts Affidavit
- A2-32 Wei Zhang Affidavit
- A2-33 Hua Lin Affidavit
- A2-34 Imran Ali Affidavit
- A2-35 Steve Gasser Affidavit
- A2-36 Elisa Tseng Affidavit
- A2-37 Kenichiro Chiba Affidavit
- A2-38 Maura Barr Affidavit
- A2-39 Rob Katz Affidavit

- A2-40 Jodie Miller Affidavit
- A2-41 Harold Zeitz Affidavit
- A2-42 Marlene Katz Affidavit
- A2-43 Appellant Binder 2 Table of Contents

R – City of Redmond:

- R-1 Redmond Bike Park Planning Department Report to Hearing Examiner
- R-2 City of Redmond General Application Form for Site Plan Entitlement *(Items attached to application are produced as separate exhibits or parts of separate exhibits below and are omitted from this exhibit to avoid duplication)*
- R-3 Redmond Bike Park Plan Set – 100 percent submittal
- R-4 Redmond Bike Park SEPA Submittal, including:
 - SEPA Application Form
 - SEPA/CAO Worksheet
 - SEPA Checklist, together with
 - Attachment A - Site Selection Memo and Public Works/Parks Agreement for Use of Site
 - Attachment B - Maps
 - Attachment C - Soils Data
 - Attachment D - Continuation of Response to Question C1*(Additional Items attached to checklist are produced as separate exhibits and are omitted here to avoid duplication)*
- R-5 Critical Areas Report prepared by Carolyn Prentice, Group 4, dated October 12, 2009
- R-6 Supplement to Redmond Bike Park Critical Areas Report prepared by Doug Gresham, Group 4, dated September 13, 2011
- R-7 Stormwater Technical Memorandum prepared by Chris Kovac, DOWL HKM dated March 30, 2011
- R-8 Redmond Bike Park Design Guidelines dated April 25, 2011
- R-9 Tree Inventory and Arborist Report prepared by Sean Dugan, Tree Solutions, Inc., dated September 15, 2010
- R-10 Clearing and Grading Permit Application Form dated April 27, 2011
- R-11 Certification of Public Notice - Notice of Application with Optional DNS - May 12, 2011 *(with Notice of Application and SEPA Checklist containing reviewer comments attached)*
- R-12 Public Comments Received in Response to Notice of Application with Optional DNS *(various dates)*
- R-13 Certification of Public Notice, Final Determination of Non-Significance, June 8, 2011, with Final DNS attached
- R-14 Certification of Public Notice, Revised Final Determination of Non-Significance, June 14, 2011 *(with Revised Final DNS attached)*
- R-15 Certification of Public Notice - Notice of Decision *(with Notice of Decision and Technical Committee Letter of Final Decision attached)*
- R-16 Tree Removal Permit dated April 25, 2011 *(without attached Tree Inventory and Arborist Report produced as Exhibit R-9)*
- R-17 April 22, 2011, Letter Granting Tree Exception Request for Tree no. 752
- R-18 Photographs of Tree no. 752
- R-19 Flyer, “Public Meeting: Future of Dirt Jumps, May 5, 2009, Public Meeting”
- R-20 Press Release for May 5, 2009, Public Meeting
- R-21 Flyer, “Help Design the Dirt Jumps on Education Hill, June 3, 2009, Public Meeting”
- R-22 Press Release for June 3, 2009, Public Meeting
- R-23 Meeting Agenda, June 3, 2009
- R-24 Education Hill Dirt Jump Design Charette Packet, June 3, 2009
- R-25 Mailer, “Redmond Bike Park Site Selection Public Meeting, February 10, 2010”

- R-26 Map showing area to which R-25 was mailed
- R-27 Press Release for February 10, 2010, Public Meeting
- R-28 Mailer, "Redmond Bike Park Charette Public Meeting, March 31, 2010"
- R-29 Press Release for March 31, 2010, Meeting
- R-30 Map showing area to which R-28 was mailed
- R-31 Mailer, "Redmond Bike Park Preliminary Design Review Meeting, May 24, 2010"
- R-32 Map showing area to which R-31 was mailed
- R-33 Map showing boundaries of all mailing areas on R-26, R-30, and R-32 and showing location of appellants' residences
- R-34 Press Release for May 24, 2010, Public Meeting
- R-35 Press Release for June 30, 2010, Public Meeting
- R-36 Wetland Photos taken by Doug Gresham, Group 4, September 12, 2011
- R-37 Photographs of alleged vandalism at Bike Park taken by Teresa Kluver on September 20, 2011
- R-38 Photographs of Parks Department's restoration of alleged vandalism, September 20, 2011
- R-39 Examples of Other Bike Parks
- R-40 Dirt Jumps on Education Hill, April 2009
- R-41 Dirt Jump Field Trip, Bike Park Constructed by Dirt Corps, Snoqualmie, WA, July 1, 2009
- R-42 Dirt Jump Field Trip - Colonnade, Seattle, WA, July 9, 2009
- R-43 Wetland Buffer Map dated August 18, 2011
- R-44 Appendix 8-C to *Wetlands in Washington State - Volume 2: Guidance for Protecting and Managing Wetlands* (Washington State Department of Ecology, April 2005)
- R-45 September 12, 2011, email exchange between Cathy Beam, Senior Environmental Planner for City of Redmond, and Tom Hruby, Washington State Department of Ecology, re: DOE Wetland Rating System
- R-46 Appeal Statement Regarding the Redmond Bike Park SEPA Determination
- R-47 Appeal Statement Regarding the Redmond Bike Park Site Plan Decision
- R-48 Order Requiring Pre-Hearing Conference, issued July 22, 2011
- R-49 Pre-Hearing Order Setting Submission schedule, dated August 18, 2011
- R-50 City's Witness and Exhibit List
- R-51 City Binder Table of Contents
- R-52 City's Rescoring of HilRide's Site Selection Checklist using values Appellants assert are more accurate, submitted November 14, 2011
- R-53 Amanda Roberts email, dated February 17, 2011

Ms. Thara Johnson, Associate Planner, provided an overview of the project and appeal to-date.

APPELLANT TESTIMONY:

Mr. Harold Zeitz, and Mr. Robert Katz, Appellant Spokespersons, identified the appeal issues to be as follows:

Appellants allege the following defects in the State Environmental Policy Act Review process:

- That the wetland boundary was incorrectly identified.
- That the use intensity used in calculating the wetland buffer was incorrect.
- That the size of the buffer required was incorrect.
- That a wildlife impact assessment was improperly omitted.
- That the environmental impacts of traffic, parking and increased use were not correctly evaluated.
- That the environmental documents inaccurately describe proposed tree removal.

Appellants allege the following defects in the Site Plan Entitlement review process:

- Incomplete and improper public notice.
- Inaccurate, misleading, and /or dishonest communication from City Staff.
- Inaccuracies and bias in the site selection process.
- Failure by City Staff to consider and accurately report neighboring land owner concerns to City Council and Technical Committee.
- In deciding the land use application, the Technical Committee relied on erroneous SEPA conclusions.
- That the site plane approval did not properly consider and mitigate for: impacts to the wetland and wooded area; increased traffic and parking; the size of the attraction; recreational activities too close to neighboring homes causing noise and visual encroachment; and adverse public safety from increased crime and increased jump opportunities which would be adverse to rider safety.

Mr. Zeitz and Mr. Katz provided testimony, exhibits, and the following witnesses in support of their case: Dr. Amanda Roberts; Jodie Miller; Emmett Pritchard, Raedeke & Associates; Steve Gasser; Bruce Roberts; Jude Runchel; Paige Norman; and Kathleen Courtney, XDM Corporation. Witnesses were cross-examined by Mr. James Haney, City Attorney.

CITY TESTIMONY:

Mr. Haney provided testimony, exhibits, and the following witnesses in support of the City's case: Ms. Johnson; Dough Gresham, Group Four, Inc.; Carolyn Hope, Senior Park Planner, City of Redmond Parks and Recreation Department; Nat Lopes, HilRide Progression Development Group; Sean William Duggan, Tree Solutions Inc.; Audrey West, Nakano Associates; Teresa Kluver, Park Operations Supervisor, City of Redmond; Officer Julie Beard, Redmond Police Department; and Doug Schmidt, Redmond Bike Park Steering Committee Member. Witnesses were cross-examined by Mr. Zeitz and Mr. Katz.

CONCLUSION:

The City and Appellant offered closing statements.

Ms. Rice called for any further comments. Hearing none, Ms. Rice stated that the record is closed on the Redmond Bike Park Appeal matter; and a written decision would be issued in no later than 21 days.

IV. ADJOURNMENT

The appeal hearing closed at 11:55 p.m., November 14, 2013, and the meeting adjourned.*

**Clerk's Note: The hearing took place over the course of three days, as follows: October 17, 2011, 6 p.m. to 12 a.m.; October 24, 2011, 5 p.m. to 10:45 p.m.; and November 14, 2011, 3 p.m. to 11:55 p.m.*