

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

In the Matter of the Appeal of	)	Nos. L110182, DEV110016
	)	SEPA L110183
	)	
Harold Zeitz, Rob Katz, et al	)	Consolidated Appeals of the
	)	Redmond Bike Park Site Plan Entitlement
	)	and
	)	SEPA Determination of Non-Significance
of a June 8, 2011 approval of	)	
a Site Plan Entitlement and a	)	
June 8, 2011 Final SEPA	)	FINDINGS, CONCLUSIONS, AND
Determination of Non-Significance	)	DECISIONS
	)	

SUMMARY OF DECISIONS

Appellants did not provide evidence demonstrating that the City SEPA Responsible Official's environmental threshold determination was in error. The appeal of the Final SEPA Determination of Non-Significance (MDNS) issued June 8, 2011 is **DENIED**.

Evidence in the record does not support the conclusion that the application materials submitted and process provided fall short of the requirements of the Redmond Zoning Code for approval of site plan entitlement. Because no clear error is shown, the appeal of the Type II decision is **DENIED**.

SUMMARY OF RECORD

Request:

On June 22, 2011, Howard Zeitz and Rob Katz, together with and on behalf of approximately 32 additional neighbors,¹ appealed the June 8, 2011 the City of Redmond Technical Committee approval of the Redmond Bike Park Site Plan Entitlement application. On the same day, Zeitz, Katz, et al. appealed the City of Redmond's State Environmental Policy Act Determination of Non-Significance, issued May 12, 2011, which became final and appealable with the issuance of the June 8, 2011 site plan decision.

Issues on Appeal:

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

1. That the wetland boundary was incorrectly identified;
2. That the use intensity used in calculating the wetland buffer was incorrect;
3. That the size of the buffer required was incorrect;

¹ The names of all Appellants are listed in Exhibits R-46 (SEPA Appeal) and R-47 (Site Plan Entitlement Appeal).

4. That a wildlife impact assessment was improperly omitted;
5. That the environmental impacts of traffic, parking, and increased use were not correctly evaluated; and
6. That the environmental documents inaccurately describe proposed tree removal.

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

1. Incomplete and improper public notice;
2. Inaccurate, misleading, and /or dishonest communication from City Staff;
3. Inaccuracies and bias in the site selection process;
4. Failure by City Staff to consider and accurately report neighboring land owner concerns to City Council and Technical Committee; and
5. In deciding the land use application, the Technical Committee relied on erroneous SEPA conclusions.
6. Appellants also alleged 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.

See Exhibits R-46, R-47, A1-78, and A1-82.

Hearing Date:

Consistent with Redmond Zoning Code (RZC) 21.76.050.E.6, the appeals were consolidated. The City of Redmond Hearing Examiner convened an open record hearing on the consolidated appeals on October 17, 2011. The matter continued for additional hearing on October 24 and November 14, 2011. On the last date, the record closed after more than twenty hours of testimony and argument.

Testimony:

During the open record hearing, the following individuals presented testimony under oath:

For Appellants:

Dr. Amanda Roberts
Jodie Miller
Emmett Pritchard, Raedeke & Associates
Harold Zeitz
Rob Katz
Steve Gasser
Bruce Roberts
Jude Runchel
Paige Norman
Kathleen Courtney, XDM Corporation

For the City:

Thara Johnson, City of Redmond Associate Planner
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
Doug Schmidt, Redmond Bike Park Steering Committee Member

Representation:

The City of Redmond Technical Committee, Parks and Recreation Department, and Community Development Department² were represented by James Haney, Ogden Murphy Wallace, City Attorney.

Appellants Harold Zeitz and Rob Katz, *pro se*, represented the Appellants.

Exhibits:

At the open record hearing the following exhibits were admitted into the record:

Appellant Binder 1 (white binder):

A1-1	Redmond Comprehensive Plan Education Hill Neighborhood, pages 13-20 through 13-22.17, 13-97, and 13-98
A1-2	RDCG20D.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

² The City of Redmond Parks and Recreation Department is the Applicant in the Site Plan Entitlement application, and the City of Redmond Technical Committee, as advised by the Community Development Department, is the decision maker in both the Type II land use permit and the SEPA environmental threshold determination. The City Attorney represented all three City departments/agencies. For the remainder of the instant decision, the various City departments are collectively referred to as "the City".

- 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% 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 SheKnows 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% 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

Appellant Binder 2 (grey binder):

- 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	Municode 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

City of Redmond Binder:

R-1	Redmond Bike Park Planning Department Report to Hearing Examiner (separately filed by Planning Department)
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% 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 #752
 - R-18 Photographs of Tree #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

Upon consideration of the argument, testimony, and exhibits submitted, the Hearing Examiner enters the following findings and conclusions. Note: due to the nature of the consolidated proceedings, all of the following findings apply to both appeals.

FINDINGS

Background and Decisions Appealed From

1. The 7.1-acre subject property is located southeast of the intersection of NE 100th Street and 171st Avenue NE, addressed as 17195 NE 100th Street, in Redmond, Washington. Owned by the City water utility, the forested parcel is generally flat with a gentle gradient sloping down to the east. The eastern two-thirds of the property contain a wetland and are in a natural forested condition. There are no buildings on-site. *Exhibits R-1; R-2; R-3, AS-03; R-4, October 26, 2010 Interdepartmental Agreement.*
2. The subject property has an R-6 zoning designation. Located in Redmond's Education Hill Neighborhood, the parcel has a land use designation of Single-Family Urban. It is surrounded by low to moderate density single-family development and related uses. Adjacent to the north is the Ashford Trail (a public pedestrian trail that connects with Avondale). North of the trail there are single-family residences with R-6 zoning, parking areas for the Church of Jesus Christ of the Latter Day Saints on 172nd Avenue NE, and Hartman Park. Further north are the LDS Church building and Horace Mann Elementary School. Parcels to the east and south are zoned R-5 and developed with single-family residences. The west boundary of the site abuts 171st Avenue NE, and across the street is additional R-5 zoned land developed with single-family residences. *Exhibits R-1, R-2, and R-3, AS-03.*
3. Since at least the 1990s, approximately 0.7 acres of the western 2.5 acres of the subject property have been developed by cyclists with an unofficial (unauthorized) dirt jump bike park. Public comments in the record show that while some neighbors have indicated the existing informal use of the site as a park was not objectionable, others indicated that the illegal use resulted in undesirable impacts to surrounding residences including: noise, impacts to trees from digging and piling soil in tree root zones to create jumps, vandalism inside and near the park, and parking problems. *Exhibits R-4, SEPA checklist, R-12; R-37, Photos of evidence of illegal activities; Exhibit R-40, Site Photos; Roberts Testimony; Miller Testimony.*
4. Over the years, the City has conducted occasional maintenance and demolition at the site. In the wake of such activities, users complained to the City about their jumps being taken down. Comments from neighbors who were concerned that the jumps continued to exist also continued. Under the previous administration, the Mayor's Office instructed the Parks Department to officially acknowledge the site. Parks Staff posted signage and installed garbage cans. The City continued to receive complaints about illegal activities at the site. As recently as September 2011, Parks Department personnel and volunteers restored some damaged root zone areas. *Exhibits R-8, R-38, Photos of restoration actions; Hope Testimony; Kluver Testimony.*
5. In 2009, Mayor Marchione instructed staff to investigate the concerns raised by neighbors and to take the steps necessary to formalize the bike park. The first public meeting to address the future of the dirt jumps was held on May 5, 2009. It was advertised by flyers posted at site and around the neighborhood, as well as by a press release. The City's agenda for the meeting included getting neighborhood and user

opinions, to find out how many people used the site and what for, to explain problems with jump construction-related damage, and to discuss potential locations for a City jump park. According to Senior Park Planner Carolyn Hope, who conducted an informal head count, approximately 70 people attended the May 5, 2009 meeting, about 50 of whom signed the sign in sheet. Ms. Hope was surprised by the overwhelming support at the meeting for the existing dirt jump location expressed by families and kids of all ages. At the same time, there were neighbors in attendance who voiced opposition to formalizing the use in its present location whose concerns related to safety, crime, and environmental issues. *Hope Testimony; Exhibits A1-6, R-20, and R-21.*

6. The City held a second public meeting on June 3, 2009 at Mann Elementary. The second meeting was advertised in advance by posting the site, press release, and email to interested parties email list generated from the first meeting. The agenda for the meeting included discussion of conceptual design (what kind of jumps and site conditions), evaluation of potential locations for design criteria and critical areas, and informing those present about the permitting processes and opportunities for public participation. Among the attendees were some non-cyclists and one of the appellants, Amanda Roberts. *Hope Testimony; Roberts Testimony; Exhibits R-21, R-22, R-23, and A1-8.*
7. In the summer of 2009, Parks Staff organized a work party filling gaps in the existing jumps on-site, in order help users feel ownership over the project as well as continue to monitor park developments. Anyone who had signed up to volunteer at the public meetings was invited to the work party. A steering committee was formed to allow public participation. Interested persons were invited to join field trips to other bike park facilities to see what kinds of features are available and who uses them. Discussions at the public meetings and in the steering committee were in favor of keeping the bike park in Education Hill and in the vicinity of Hartman Park, where it would continue to serve the neighborhood that had generated the demand for the use. Many people supported keeping the use at its current location, rather than inserting it in among the other many uses at Hartman Park. *Hope Testimony; Schmidt Testimony.*
8. In the fall 2009, the City advertised a request for proposals for bike park design consultants, because the Staff did not have the expertise required. After completing the proposal process, the City hired HilRide Progression Development Group (HilRide). HilRide recommended that a formal bike park provide a variety of skill levels, so that users could progress in their abilities over time and to provide opportunities for beginners to safely learn the sport. *Hope Testimony.*
9. Hilride prepared and submitted a site selection memo comparing three potential public bike park locations in Education Hill suggested by the Parks Department. Option A was within Hartman Park north of fields 5 and 6, providing approximately 25,000 feet of bike park area. Option B, east of the restrooms and west of the tennis courts within Hartman Park, would have provided 11,500 square feet for bike park use. Option C was the existing bike park location. *Exhibit R-4, Site Selection Memo; See figure titled "Site Location Options" on page 3.* To these three potential locations, HilRide applied its in-house site evaluation criteria in categories including: location: "Bike Park Specific

Criteria" (including terrain, vegetation, etc); environmental factors; risk management, security, and safety; traffic, parking, and accessibility; community support/public opinion; and development status. Option C scored the highest, with 212 of 255 possible points. *Exhibit R-4, Site Selection Memo.*

10. Another public meeting was held on February 10, 2010 to get community input on the HilRide site selection process and outcome. Notice of the February 10 meeting was mailed to owners of properties within 500 feet of the site as well as published in the Redmond Reporter. At the meeting, the approximately 24 attendees were invited to participate in an informal vote among the three possible bike park locations. Option C, the existing location, received the most votes at the meeting. *Hope Testimony; Exhibits R-4, R-25, R-26, and R-27.*
11. Parks Staff presented the bike park conceptual design in open public meetings before the Parks and Trails Commission (a citizen advisory board) and the Parks and Human Services Committee (a subcommittee of the City Council). Then, on March 2, 2010, the proposed bike park project was heard by the City Council in an open public meeting. According to the Council Ombudsman, testimony included support for the existing location as well as concerns regarding parking, safety, and potential crime associated with enhanced park use. The Council concluded that the specific neighbor concerns would best be addressed during the design phase and unanimously approved the site and the name, Redmond Bike Park. All three of the open public meetings held at the City were advertised in advance. *Exhibits A1-71 and R-4 (See AM No, 10-034, report to City Council from Parks); Hope Testimony.*
12. On March 31, 2010, Parks Staff held another public meeting, this one intended to gather public input as to park redesign at the existing location. The flyer for the March 31 meeting was mailed to homes within a quarter mile of the site (approximately 9,000 homes), emailed to interested parties, posted on the Redmond Bike Park webpage, and issued in a press release. Twenty-five to thirty people attended, including from among the Appellants the Roberts and Jodie Miller. The purpose of the meeting was to survey attendees about desired design features. The outcome of the meeting was a preliminary design for redevelopment of the existing use. *Hope Testimony; Exhibits R-28, R-29, and R-30.*
13. Parks Staff held an additional public meeting on May 24, 2010, inviting comment on the preliminary design of the park. The flyer for the May 24 meeting was mailed to approximately 10,000 households surrounding the project site and a press release was issued, publishing the information in the Redmond Reporter. A final public meeting on project design was convened on June 30, 2010. *Exhibits R-31, R-32, R-34 and R-35.*
14. The Redmond Bike Park 100% design was completed on April 26, 2011. The project would expand the 0.7-acre disturbed area by 0.65 acres, for a total 1.35 acres disturbed area within the western 2.5 acres of the utility property. The park is designed as a dirt jump bike park for BMX riders and mountain bikers of various skill levels. The proposal would replace the (one) existing fairly advanced, amateur-designed jump line with five

professionally designed jump lines including: a beginning level perimeter trail that would be a multiuse trail for walkers and cyclists; a beginning jump trail, pump track, return trail, and short elevated segment; a long intermediate trail including 22 jumps and some elevated trail segments; an advanced jump trail; and an expert jump trail with elevated segments. Total proposed length for each skill level would be: 1,890 feet of beginner trail; 770 feet of intermediate trail; 270 feet of advanced trail; and 340 feet of expert trail. Trail and jump surfacing would be a mixture of wood boardwalk and dirt trail. Trail segments that are prone to erosion and ruts, including but not limited to jump take offs, landings, and berms, would be armored using rock, wood, or concrete. Dirt jumps would primarily consist of table top features (four to six feet wide on top), which riders can pedal over without jumping. Other project features include vegetation enhancements throughout the site, particularly at the northwest corner, along the west site boundary, and along the south site boundary, as well as compost amended planting strip along the eastern edge of the park to trap any sediment laden runoff draining towards the wetland to the east. *Exhibits R-3, R-4, SEPA checklist, and R-8.*

15. The proposed 2.51-acre project area includes some off-site right-of-way that would be improved at the corner of NE 100th Street and 171st Avenue NE. Existing impervious area within the site is 2,567 square feet. After project construction, impervious area would total 423 square feet. Approximately 0.65 acres of native vegetation would be converted to landscaped area. Total disturbed area would be approximately 0.7 acres. The natural drainage of stormwater from west to east would not be altered. No pollutants other than sediment-laden water are anticipated to be generated on-site. Site design and landscaping would control runoff. Mulch would be placed along trail edges and a compost amended mulch vegetated filter strip would be placed along the eastern site boundary. After review of the proposal, the Applicant's stormwater consultant concluded that the project is not anticipated to result in adverse impacts to downstream areas due to the limited nature of the proposed improvements, the existing vegetated condition of the site, and the intended use. *Exhibit R-7.*
16. On May 2, 2011, a site plan entitlement application and SEPA application were submitted. Attachments included: the SEPA critical areas ordinance worksheet; the SEPA environmental checklist; the HilRide site selection memo; an October 26, 2010 interdepartmental agreement in which Public Works authorized Parks to pursue the project on-site; and vicinity and site maps, among others. Project review included a critical areas report, which identified the western edge of the wetland and the western buffer, and a professional tree inventory and arborist's report. *Exhibits R-2, R-4, R-5, R-7, and R-9.*
17. On May 12, 2011, notice of application and Optional SEPA determination of non-significance was distributed by mail to owners of property within 500 feet, by email to SEPA commenting agencies, and also posted on-site. The notice included a vicinity map, description of the proposal, methods and deadlines for providing comments, a preliminary site layout, a process flow chart, and a preliminary tree preservation plan. *Exhibit R-11.*

18. The City began to receive public comments as early as May 16th from eight neighboring households with concerns about the proposal. Concerns included parking, hours of operation, potential effects on property values, use of public monies, the type of person that would be brought to the area by the project, the size of the project, traffic, alleged inaccuracies in the tree plan, reduction in the forested area, impacts to neighborhood safety, crime, increase in the project footprint, and proximity of improvements to residences. *Exhibit R-12*. The comments were forwarded to the Technical Committee for its consideration. *Johnson Testimony*.
19. On June 8, 2011, the Technical Committee issued a Notice of Decision approving the Redmond Bike Park with conditions of approval and issued its Final SEPA determination of non-significance (DNS). *Exhibit R-15*.
20. On June 22, 2011, appeals of both the SEPA DNS and the site plan entitlement approval were timely submitted. *Exhibits R-46 and R-47*.

Issues on SEPA Appeal

Wetland Boundary, Wetland Classification, Use Classification, Wetland Buffer

21. Appellants argue that the wetland boundary was incorrectly delineated, that the wetland was incorrectly rated Category III instead of Category II, that the land use was incorrectly rated moderate rather than high intensity, and that the buffer should be 100 feet. *Exhibits R-46, R-47, and A1-78; Zeitz Testimony*.
22. In September 2009, Group Four, Inc., the City's wetland consultant, delineated the western boundary of the on-site wetland and assessed the extent of the associated buffer. Wetland A is an approximately 1.7-acre wetland in the central portion of the subject property which extends into Hartman Park to the north. It is divided in half by a dirt trail, but connects via culvert under the trail such that it is considered one unit. The western edge was delineated in the field with pink flags and verified with soil log holes (SP1 and SP2), consistent with the practices in the Department of Ecology (DOE) Wetland Delineation Manual. The consultant evaluated the wetland for function and value and arrived at a total score of 49, with a low level habitat function score of 11. The consultant rated the feature as a Category III wetland, which requires a 60-foot buffer pursuant to the Redmond critical areas ordinance (CAO). Because all construction and ongoing use of the proposed park would be outside of the 60-foot buffer, Group Four concluded that the project would not impact the wetland's functions and values. *Exhibit R-5; see specifically Figure 3, page 6*.
23. Appellants retained an independent wetland consultant who visited the site in June and July 2011. In reviewing the flagged western wetland boundary, Appellants' consultant dug one test pit west of the delineated boundary that he determined should have been included in the wetland. The consultant reviewed the Group Four's wetland rating scoring sheets and determined that several questions had been incorrectly answered. In particular, he asserted that in the Western Washington Wetland Ratings Forms attached to the 2009 report, the City's consultant awarded a number of points for question H2.3 that was inconsistent with its own findings and the form's instructions, asserting it was a

computation error and not a question of professional judgment. Including other alleged errors, by Appellants' expert's assessment, the total points for water quality functions should have been 30 and the total points for habitat function should have been 16, for a total score of 62, which would result in a Category II wetland rating. Appellants' consultant noted that the proposed recreational use would either be considered a moderate or high intensity land use, but because of the wetland's large and native condition in the urban setting, that it should be provided with a 100-foot buffer to protect habitat functions. *Exhibit A1-37; Pritchard Testimony.*

24. Prior to application, there was internal difference of opinion between City departments as to whether the wetland was properly classified as Category III or Category II. Because the scoring cut off for Category II wetlands is 51 points, the score of 49 was a very close result. *RZC 21.64.030.A.* This was disclosed in the SEPA checklist. *Exhibits A1-28 and R-4, SEPA checklist.*
25. Based on neighbor concerns about wetland classification, the City asked its consultant to review the October 2009 wetland study. A different staff person from Group Four revisited the site in September 2011 and reviewed the delineation, the soil log pits, and the 2009 report. The 2011 Group Four consultant found the pink flags in place and investigated the boundary. He found evidence of standing water throughout the area delineated as wetland in the form of a very distinct plant community only found in saturated conditions. The consultant concluded that the plant communities, the topographic break, and secondary signs of hydrology visible in the field verified the boundary identified in 2009 as accurate. The 2011 consultant generally agreed with the wetland rating scores assigned by the 2009 consultant, stating that he "might have scored the potential and opportunity to provide habitat functions slightly differently but this is somewhat subjective." *Exhibit R-6, page 1; Gresham Testimony.*
26. During the September 2011 site visit, the Group Four consultant found the Appellants' consultant's test pit in the vicinity and west of soil pit 2. He disagreed that the third pit was inside the wetland boundary based on the surrounding vegetation which was "of a typical upland plant assemblage". The Group Four consultant stated that even if it had shown wetland characteristics, one test pit by itself would not establish a new wetland boundary west of the flagged boundary or render invalid the previous delineation. He said he was not surprised there had been evidence of soil saturation, because it was an unusually wet spring with rain into June. *Gresham Testimony: Exhibit R-36.*
27. In Redmond, buffers are assigned in part based on the classification of land use proposed adjacent to the wetland: low, moderate, or high intensity. *RZC 21.64.030.B.* Appellants asserted that the proposed bike park was a high intensity use due to erosion from BMX and mountain bike tires, dust, and the repeated impacts of jumping bikes landing on site soils which could damage tree roots. *Zeitz Testimony.*
28. In determining which use classification to apply to the proposal, City Staff contacted the author of the current DOE wetland buffer guidance manual. According to Tom Hruby and the DOE Manual, parks with biking and walking/jogging (without motorized

vehicles) are classified as moderate impact land uses. High impact recreation uses include ball parks and golf courses, which replace natural vegetation with grass that requires heavy use of chemicals and irrigation. *Exhibit R-45; Gresham Testimony.*

29. The Redmond CAO requires buffers of up to 100 feet depending on use classification for Category II wetlands with habitat function scores under 20. *RZC 21.64.030.B.* Although some on City Staff acknowledged that the 2009 report's overall score of 49 was possibly too low and that the wetland could be a Category II wetland, neither City Staff nor their consultants re-scored the wetland ratings sheets. *Gresham Testimony; Exhibit R-36.*
30. The 2009 delineated wetland boundary, the proposed 60-foot buffer, and a potential 110-foot wetland buffer are visually depicted in Exhibit R-43. The depiction graphically demonstrates that a 110-foot buffer would intrude slightly into the lower southeast quadrant of proposed improvements. By estimating from the 60 and 110-foot lines, one could see that a 100-foot buffer may also intrude to a lesser degree in the southwest quadrant. If a 100-foot buffer were required, improvements in that small area could be shifted to avoid the buffer area, or the City could apply buffer averaging techniques to expand the buffer in other locations. A 75-foot buffer, if applied, would not intrude into the project area. *Exhibit R-43; Hope Testimony; Johnson Testimony.*

Impacts on Wildlife

31. Appellants assert that the project's wildlife impacts were not assessed. *Zeitz Testimony; Exhibits R-46 and R-47.*
32. As part of the 2009 critical areas study, the City's consultant recommended additional review for species protected by the Endangered Species Act (ESA). City Staff reviewed priority habitat maps from the Washington Department of Fish and Wildlife and Department of Natural Resources Natural Heritage and Non-Game Data System databases. No ESA or state protected species are identified as being within the site. The SEPA checklist disclosed that songbirds and small mammals have been observed within the site and that the site lies within the north-south migratory bird route known as the Pacific Flyway. In order to mitigate project impacts on site wildlife, the proposal would enhance vegetation in some area, mitigate areas of disturbed vegetation, and improve the quality of stormwater runoff towards the wetland. No additional wildlife studies were required. *Exhibits R-1 and R-4, SEPA Checklist.*

Traffic and Parking

33. Appellants contest that the impacts of traffic and parking from increased use of site were not properly evaluated. They assert that the park's address on NE 100th Street will send bike park-bound traffic to the northwest corner of the site and that cyclists will park along NE 100th Street or the site's frontage on 171st Avenue NE, even with no parking signs posted. Appellants allege that park users will ignore signage and web information directing them to park at Hartman Park. Neighbors contend that this 90 degree angle intersection is already dangerous due to illegal parking, the sharp corner, and limited visibility. Appellants assert that additional traffic to the area will increase hazards for neighborhood drivers and pedestrians as well as for bike park users. They offer evidence

of unanticipated parking problems at Duthie Hill Bike Park in Issaquah as evidence of this project's failures. Appellants contend that traffic impact and parking studies should have been required. *Zeitz Testimony; Exhibits R-46, R-47, A1-43.*

34. The SEPA checklist states that the proposed park expansion would generate six additional daily PM peak hour trips to and from the site. In testimony, Parks Staff stated that this figure was based on the Institute of Traffic Engineers (ITE) Trip Generation Manual's estimated counts for city parks. The ITE manual estimates that city parks generate 1.59 trips per acre per day. Staff rounded the estimate up to six trips in order to be conservative. Staff testified that there was no information available that suggested bike parks generate more trips than other city parks. *Exhibit R-4, SEPA checklist; Hope Testimony.*
35. There is no evidence in the record of current daily bike park usage volumes. No official counts have been made. Neighbors have noted that bike park users tend to visit the site afternoons, evenings, and weekends, later in the summer as daylight permits. *Zeitz Testimony.* Parks Staff and the design consultant expect that bike park attendance would increase if the project were developed as proposed, but not to the point of negatively impacting the neighborhood. Based on experience from bike parks he's designed in many other states and internationally, the design consultant expects that initially attendance will rise and higher rates would last a couple of months, but that the "honeymoon" would end and a more modest rate of use would occur, from between five to thirty users per day, with attendance to remain concentrated in the afterschool and weekend daylight hours. *Lopes Testimony; Hope Testimony.*
36. There is no requirement in city code to provide parking for local public parks. Users of neighborhood parks often live nearby and walk or ride their bikes to parks. In order to address the parking demand generated by the enlarged park, there are 72 parking spaces available at adjacent Hartman Park, 32 of which are located 255 feet from the bike park. There is public parking for an additional 40 cars along 172nd Avenue NE, at the western boundary of Hartman Park. Although there is no standing agreement, in the past, the City has made temporary arrangements with the LDS Church to have overflow parking in their lot (with approximately 175 spaces), and such temporary arrangements could be made in the future either with the Church or with the schools in the vicinity, for large special events. *Hope Testimony; Exhibits R-1 and R-3.*
37. The project includes sidewalk improvements at the 90 degree intersection of 171st Avenue NE and NE 100th Street. Proposed removal and replacement of existing sidewalk with new sidewalk, curb, gutter, and ramp is intended reduce the existing illegal parking problem at the corner. *Lopes Testimony; Exhibit R-3, Sheet C4.1.*
38. Neighbors have noted that in the past the police had difficulty finding the bike park because it did not have an address; however they object to the NE 100th Street address. *Miller Testimony; Zeitz Testimony.*

39. The park's address was assigned by the Redmond Fire Department. Parks Staff testified that emergency services requires the park to be addressed as close as possible to the least confusing, easiest point of emergency vehicle access, which would not be from Hartman Park. The Redmond Bike Park street address would not be posted on the website, which would direct park users to Hartman Park. On-site signage posted at all bike park entrances including the northwest corner would direct park users to park vehicles at Hartman Park. *Hope Testimony; Exhibit R-4.*

Tree Removal

40. Appellants contend that proposed tree removal was not accurately portrayed in the SEPA documents and that City Staff has been inconsistent and inaccurate with regard to tree removal and tree replacement. They object to the fact that the landmark tree removal exception, administratively approved April 22, 2011, addressed to the need to remove landmark trees to allow "the necessary utilities required to serve the required frontage and created lots" (*Exhibit A1-32, page 1*), an apparent typo. They dispute that trees smaller than six inches in diameter at breast height need not be counted and replaced. They argue that replacement trees only 2.5-inches in diameter that will take decades to mature do not constitute adequate replacement. Finally, they contend that approval of the tree removal permit and actual removal of trees from the site prior to approval of the park project constitutes inappropriate, fraudulent process and demonstrates a disregard for the expressed concerns of the neighbors. *Exhibits R-46 and R-47; Zeitz Testimony; Miller Testimony.*
41. The City had the site inventoried and reviewed by a professional arborist in September 2010. The inventory found 172 healthy significant trees (trees equal to or greater than six inches in diameter at breast height, or dbh), of which thirteen were landmark trees (equal to or greater than 30 inches dbh). The arborist's report noted that there were areas on-site affected by tree diseases including Brown Crumbly Rot. Working from the then-current plans, the arborist surveyed the site and determined that the project would require removal of 34 significant trees, including three landmark trees. Redmond's tree preservation ordinance requires developers to retain a minimum of 35% of all significant trees and all landmark trees, which would be 60 trees in the project site. At the time of the arborist's report, the project proposed to retain 115 trees, including eight landmark trees. *Exhibit R-9.*
42. City Staff testified that after the arborist's report was issued, the project was refined in an effort to avoid some of the trees that would have been impacted. Regarding the landmark tree for which the exception was granted, that tree was in the middle of the pump track, a feature that could not be easily relocated on-site. Redesign included moving jumps away from tree root zones in order to prevent loading. The project would repair some existing damage to trees where dirt has been built up or pits dug around roots, and where trees have been hit with paint balls or had bark removed. City Staff noted that if the site becomes a city park, it would be monitored by Staff over time allowing any impacts to trees from the park use to be addressed. *Hope Testimony.*

43. The environmental checklist indicated that 28 significant trees and two landmark trees were proposed for removal. Removed trees would be retained on-site for habitat and other uses. Of those thirty trees, 24 were believed to be diseased or otherwise hazardous including one landmark tree at the time of the SEPA submittal. Redmond's tree preservation ordinance requires replacements trees at a 1:1 ratio for healthy significant trees and at a 3:1 ratio for healthy landmark trees. Per code, replacement trees must be at least 2.5 inches dbh if deciduous and six feet tall if coniferous. *Exhibits R-1 and R-4; RZC 21.72.080.*
44. Staff applied for a tree removal permit on April 19, 2011. The permit, approved April 25, 2011, authorized removal of nine trees including one (thought to be) healthy landmark big leaf maple and three significant healthy western red cedars. It also authorized removal of five unhealthy significant trees. Consistent with the City's tree preservation ordinance, the permit required one replacement tree for each healthy significant tree removed and three replacement trees for the landmark tree, for a total of six replacement trees. Work pursuant to the tree removal permit began but was not completed because complaints were received from neighbors. When it was removed per the permit, the healthy landmark tree was found to be diseased. *Exhibits R-9 and R-16; Hope Testimony.*
45. The April 26, 2010 tree plan calls for six coniferous trees and four deciduous trees that satisfy replacement tree criteria. It also calls for 34 additional smaller trees, 414 woody shrubs, 130 ferns, and more than 1,100 square feet of native ground cover. *Exhibit R-3 Sheet, L1.0.*
46. Planning Staff noted that approval to remove trees prior to project approval is unusual but not prohibited by any provision of the City Code. *Johnson Testimony.* Staff indicated that the tree removal permit was processed prior to site plan approval because the identified hazard trees presented a danger to park users and to volunteers who joined City work parties who maintained the site for the ongoing informal use. *Hope Testimony.*

Site Plan Entitlement Appeal

Appellants' Arguments on Appeal

47. Appellants assert the following errors or omissions by the City in processing the site plan entitlement application:
 - Staff did not consider community concerns;
 - Staff misrepresented to City Council that community concerns had been addressed;
 - That information about the type of park was misleading (bike park or jump park);
 - That the size of the park as advertised was inaccurate;
 - That Staff misrepresented the scope of the facilities proposed;
 - Staff failed to notify and/or improperly excluded some parties from notice;
 - That the Parks Department enlisted regional support while disingenuously maintaining that project is a neighborhood amenity;

- Staff failed to include the public on any discussion of increased liability exposures;
- Construction started prior to final approval;
- The Technical Committee's land use approval was based on an erroneous SEPA determination, based on inadequate information;
- The alternative site evaluation (process and scoring) was flawed;
- That vegetation impacts, wetland impacts, traffic and parking impacts, and wildlife impacts were not properly evaluated;
- That the steering committee was improperly made up entirely of cycling enthusiasts; and
- That the decision doesn't evaluate potential visual impacts from vegetation removal, noise impacts, and the impacts of public urination resulting from lack of restroom facilities.

Exhibit R-47.

48. In May 2010, Appellant Katz contacted Ms. Hope via email while conducting due diligence on the residential parcel he subsequently purchased adjacent to the park site; he asked if there were plans to change "the beautiful forest area" the residential lot was on (by which he meant the subject utility property). Ms. Hope responded: "The City is working on a redesign of the dirt jump bike park on this property. The footprint of the site won't change much. We will be making landscaping and sidewalk improvements along 171st and improving the soft surface walking trails that skirt the south side of the wetland. You can keep up to date on the project at [URL omitted]. If you want to be added to an email list about the progress of the project, I can add you. Let me know if you have further questions." *Exhibit A1-25*. Based on this representation, Mr. Katz, together with other Appellants, objects to the project's increase in size as inconsistent with the statement that the "footprint of the site won't change much". *Katz Testimony; Zeitz Testimony; Roberts Testimony; Miller Testimony*.
49. After Mr. Katz purchased the adjacent property, he was informed at some point by Ms. Hope that the project would not come within 30 feet of the shared property line. However, the final plans reveal that the multiuse trail would pass within 12 feet of the Katz property line. Together with the earlier comment about not increasing the foot print much, Mr. Katz takes these communications as misrepresentations on the part of Parks Staff. Appellants assert that the final proposal is six times larger than the existing informal bike park on-site. *Katz Testimony; Exhibit A1-44*.
50. Appellants allege that Ms. Hope improperly processed the bike park project, ignoring or undervaluing public comments out of bias, because she is a cycling enthusiast. *Zeitz Testimony*.
51. Appellants object to the site selection process carried out by HilRide, calling the questions biased, the scoring factually wrong, and the materials inaccurate to a degree that reveals that selection of the subject site had been predetermined. As one example,

Appellants objected in particular to the figure depicting the three potential locations in the site selection memo at page 3, saying the "L" shaped markings for Option C misled people to believe the proposal would only occupy the orange "L" shape. *Katz Testimony; Zeitz Testimony; Exhibits A1-11, page 3 and A1-46.*

52. Appellants contend that the changing and confusing information regarding how many trees would be removed amounted to misrepresentation on the part of Staff. They assert that the aesthetic values of the neighborhood would be drastically damaged by construction consistent with the April 26, 2010 design plans and also that the removal of trees would increase noise impacts to nearby residences. Appellants object to the idea that trees smaller than six inches dbh can be removed without permit or replacement. *Zeitz Testimony.*
53. Appellants contend that Staff's discussion of the Redmond Bike Park as a local park, rather than a regional facility, is misleading in light of all of the outreach conducted by Parks Staff to cycling organizations outside the city. They contend the size of attraction and the out-of-city advertising means the project is a regional facility inappropriate to their neighborhood and that the project is likely to have impacts similar to those experienced at Duthie Hill in Issaquah. *Zeitz Testimony; Roberts Testimony.*
54. Appellants contend their concerns were not adequately portrayed by Parks Staff to City Council or by Planning Staff to the Technical Committee. They further contend that the City Council's unanimous site approval was premised on the idea that neighbor concerns would be addressed in the design phase, but that in fact, none of the neighbor concerns were addressed. *Zeitz Testimony; Roberts Testimony; Exhibit A1-14a.*
55. Appellants argue that the flyers for public meetings were specifically targeted to a BMX biking audience, rather than to attract the interest of neighboring property owners who were not enthusiasts and that therefore notice of public meetings was ineffective. *Zeitz Testimony; Courtney Testimony; Exhibit A1-40.*
56. Appellants contend that increased use of the park site by cyclists would lead to increased rates of crime in the neighborhood. Appellant Jodie Miller testified that she called the police to report vandalized signs on her street; she stated that she was told by the responding officer that she could expect more malicious mischief once the bike park was expanded. *Zeitz Testimony; Miller Testimony.*
57. Appellants assert that, despite Staff representations that the project was intended to enhance rider safety, the proposal would increase the chance of rider injury on-site by attracting more users and providing a larger, more challenging facility. Appellants state that they are concerned both about rider safety and also about City liability in the event of accidents on-site. *Zeitz Testimony; Miller Testimony.*
58. Appellants allege it was improper for the Technical Committee to rely on the October 2009 critical area report, with its alleged scoring errors, and on the resulting SEPA determination. Citing Redmond Municipal Code 4.50.010-.020, Appellants argue that

relying on inaccurate or incomplete information is a breach of the Technical Committee's duty to bring multi-disciplinary knowledge and judgment to their duties to review land use permits either in advisory capacity or decision making capacity. *Zeitz Testimony.*

City's Response to Appellants' Arguments

59. Regarding the project footprint, Ms. Hope testified that the area under consideration for bike park use was always the western 2.5 acres of the subject property and that the 2.5-acre site was the footprint she had in mind when she said it wouldn't change much. The disturbed area would approximately double, but all of it would be located within the western 2.5 acres of the parcel. *Hope Testimony.* The 30% concept plan from May 2010 shows the project occupying the western 2.5 acres of the subject property. *Exhibit A1-20.*
60. Regarding proximity of improvements to the Katz parcel, Ms. Hope testified that no portion of the jump trails or pump track would be placed within 30 feet of the shared boundary. The multi-use trail would be located within 12 feet of the property line. There is about twenty feet of elevation difference between the park parcel and the Katz parcel. It would be planted with trees and shrubs which would grow up and eventually provide screening. *Hope Testimony; Exhibit R-3, Sheet L1.0.*
61. Regarding the changes over time in the tree removal plans and locations and numbers of trails and amenities proposed, Ms. Hope testified that park planning is an iterative process with elements changing over time in response to studies, public comments, and other factors as they become known. Once the site was selected, the City committed that the project would stay within the current site west of the wetland. The City also committed to increasing the number of jumps and the variety of skill level opportunities provided. In order to provide skills progression opportunities to riders of all skill levels and to make the formal features challenging enough to deter riders from building unsanctioned jumps at this park or elsewhere, more jump lines were necessary than in the existing informal park. *Hope Testimony; Exhibits R-1 and R-8.*
62. At no time did Staff issue knowingly false information or intentionally mislead parties of interest. City Staff denied allegations of bias and misrepresentation. The 60% plans were posted online and emailed to parties of record and the public was invited to meetings to discuss the project as it evolved over time. Parks Staff presented public comments to the various committees and the City Council, and Planning Staff included public comments in the materials presented to the Technical Committee. *Hope Testimony; Exhibits R-1, A1-14, A1-14a, A2-14, and A2-16; Johnson Testimony.*
63. The City's site plan entitlement process does not require the consideration of alternative sites. The site selection process employed by the City's design consultant was designed and carried out at the discretion of the designer for the purpose of creating opportunities for public participation and a sense of ownership of the resulting project on the part of participants. Although the site selection memo was attached to the SEPA submittal, the Technical Committee did not rely on the document in approving the park location, as it had previously been approved by City Council. The site selection memo is not relevant

to the site plan entitlement process or the evaluation of environmental impacts. *RZC 21.76.070.Y; Exhibit R-1; Johnson Testimony; Lopes Testimony.*

64. The site plan entitlement process does not require public meetings before notice of decision. *RZC 21.76.070.Y; Exhibit R-1.* The seven public meetings held before application approval were intended to gather concerns of both parties opposed to continuing the informal bike park use and those opposed to removal of the bike park from the current site. Parks and Planning Staff attempted to provide consistent messaging about the project throughout the voluntary public meetings phase. Promotional materials and communications referred to "dirt jumps", referenced the location adjacent to Hartman Park, and used graphics depicting showing the type of bicycling intended. None of the flyers announcing public meetings were designed by persons with professional marketing experience; all were designed by City Staff for the express purpose of bringing people's attention to the fact that the existing bike park was under discussion. Each was subject of a press release and published in the Redmond Reporter. A map showing the mailing radii of the flyers for all three pre-application public meetings shows that all Appellants but one were mailed all three flyers, and one Appellant was mailed the last two flyers. Several Appellants attended some or all of the public meetings. *Exhibits R-1, R-25, R-26, R-27, R-28, R-29, R-30, R-31, R-32, and R-33; Hope Testimony; Johnson Testimony; Roberts Testimony; Miller Testimony.*
65. Parks Staff testified that outreach to cycling organizations outside of Redmond was intended to spread the word for fundraising and volunteer identification purposes. Outreach outside Redmond was not meant to, and in the opinions of Parks Staff and the design consultant, cannot convert the proposed park into a regional facility like Duthie Hill in Issaquah (approximately 120 acres) or Summit Ridge in Black Diamond (approximately 90 acres). The limited size of the facility, number of runs, and limited technical trail features are intended to operate as a passive, automatic limit on the number of users who would be drawn to use the site. Redmond Bike Park would be more similar to Snoqualmie Bike Park at Fisher Creek Park (approximately one acre). *Hope Testimony; Lopes Testimony.*
66. Redmond Police Officer Julie Beard is a neighborhood resource office whose patrol includes Education Hill. She has received Crime Prevention Through Environmental Design (CPTED) certification. Officer Beard testified that police patrols in Redmond parks is call driven due to budget constraints. She testified that there has been no increase in crime reported associated with the informal bike park use. There have been parking complaints in the vicinity, but not a high volume. Because of the park design, officers would not be able to patrol in their vehicles but they would patrol the park on foot in response to a call. However, there are aspects of the design that work to deter crime, including: areas where the interior of the park is visible to the street; posting of signage with rules that police can enforce when called; park hours that can be enforced by call; and formal self identification as a park. Officer Beard does not anticipate an increase in crime in the neighborhood as a result of the bike park. Regarding testimony about the other officer's statement to the contrary, she testified that the officer, John Atkinson, is a traffic officer who was off his regular beat when he responded to Ms.

Miller's call, and she stated respectfully that there is room for differing opinions among officers. *Beard Testimony*.

67. No arrests were made in the sign vandalism incident and no one knows the vandalism was done by bike park users. *Beard Testimony; Miller Testimony*.
68. In its current state, the bike park poses some safety risks. Riders coming down the trail that connects to Hartman Park gain speed and enter jump run by crossing the Ashford Trail (a multi use path) at speed, which can result in dangerous collisions. The existing jumps have been built for advanced riders without taking the varying skill levels of park users into consideration. Safety oriented improvements would include barrier fencing, gateway signage, and a program of educational signage to help parents and riders with tips and technique information. Chicane entrances are proposed at each park entrance, eliminating the collision potential. In the experience of the park design consultant, negative or illegal uses are dissuaded by formalization and regularization of use. Park users who contribute to maintenance develop a feeling of stewardship and self-regulate when on-site. The project would remove all gap style jumps, providing table top jumps instead which can be pedaled over by less experienced riders as they learn. Consistent with state law, the park would be an unstaffed and at risk facility, like a skate park, and users would be responsible for their own safety when using site amenities.³ *Lopes Testimony; Schmidt Testimony; Hope Testimony*.
69. Redmond Bike Park, similar to neighborhood parks such as Meadow and Nike Parks, are not required by code to provide parking or restrooms. However, virtually connected to Hartman Park, Redmond Bike Park would be able to access parking and restroom amenities at the adjacent property, which are only a minute way on a bike. *Exhibits R-1, R-4, Site Selection Memo*.
70. Doug Schmidt, a member of the bike park steering committee, testified who has been riding at the existing facility for five or six years. He confirmed that the existing jumps are for advanced riders and that provision of jumps of varying skill levels would increase site safety for more users. In the years he has used the existing facility, he has never had complaints about noise or observed criminal activity or public urination. Mr. Schmidt drives to the park and parks at Hartman. He said during baseball games, the Hartman parking can be congested, but that he's never witnessed bike park users parking dangerously or illegally on 171st Avenue NE. According to his understanding, the steering committee was intended to informed about what's going on, to promote the bike park, to teach responsible riding, and to train volunteers for building trails and jumps. Mr. Schmidt stated that the steering committee was formed from people who volunteered at the public meetings and it had no special role or authority in park design process. *Schmidt Testimony*.

³ RCW 4.24.210 provides that public landowners who allow members of the public to public lands for the purposes of outdoor recreation, which term includes, but is not limited to, ... non-motorized wheel-based activities... without charging a fee shall not be liable for unintentional injuries to such users.

71. Maintenance plans are not required in the site plan entitlement process. Public comments included questions about the costs of maintaining the proposed park. Consistent with the design concept of stewardship, most maintenance would be performed by trained volunteers. City Staff would make periodic inspections and repairs as needed. Operating costs for the park are projected to be \$2,000 annually. *Exhibit R-1.*
72. The SEPA checklist disclosed temporary construction related noise, including supply vehicles, tractor and chainsaw and other power tools during construction. During park operations, the primary noise would be people talking at the park. Construction would be limited to daytime hours and park use would be limited to daylight hours. No electricity is available to the site, so no after dark uses or amplified sounds would result from this approval. The site not designed for competitions like those at larger facilities. *Exhibits R-4, SEPA checklist and R-8; Hope Testimony.*
73. The project's landscaping plan was designed specifically to address neighbor concerns: restoration of certain areas within bike park and a focus on providing screening for neighbors to protect their privacy. The City's landscape consultant did a visual site assessment, walking the perimeter to find areas that could benefit from additional screening. In the northwest corner, some mid to low screening including evergreen shrubs, which would grow 10 to 12 feet tall, and some smaller deciduous trees of different heights would provide attractive entry and a dense visual screen. Down west side of site along 171st Avenue NE, larger replacement trees would be placed on the outer edges where temporary irrigation can be provided more easily for the first couple years, mixed in with larger shrubs, which grow faster to provide screening sooner. There is existing vegetation along this lot line, and new plantings are proposed in more open areas. When grown, they would provide a dense visual screen. In the southwest corner of site, larger shrubs and small evergreen trees would be planted in the open areas, and further away from irrigation in existing native area, smaller plant materials would be added. Along the south site boundary, plantings proposed in areas that are most open, and existing vegetation would be retained where it is relatively dense. In the southeast corner, proposed plantings would fill gaps and create a dense buffer in what is essentially an open, grassy area. The proposed landscaping would provide a better screen than presently exists. Along the east project site boundary, the project edge would be planted, increasing diversity along the proposed multi use walkway, to provide screening and enhance wetland buffer habitat for wildlife. Along the north lot line, it would be desirable to maintain visibility so park users and trail walkers can see each other. Lower plantings are proposed to provide a visually pleasing border. In the interior of the site near the jumps, proposed landscaping would restore existing and project disturbed areas, filling in open spaced with native species. *West Testimony; Hope Testimony; Exhibit R-3, Sheet L1.0.*
74. City Staff provided notice of application and Optional DNS by mail to all residents within 500 feet of the site, providing a 21-day comment period. The Appellants' marketing expert commended the May12, 2011 notice of application as one that clearly informed recipients that the action described in the notice could impact their properties and how they could become involved in the process. Appellants testified that they first

became aware of the project's scope and nature on receiving the May 12 notice. Comments submitted in response to the notice of application were added to the record and presented to the Technical Committee for its consideration prior to issuance of its decision on the application and the DNS. *Courtney Testimony; Zeitz Testimony; Exhibits R-1 and A2-1.*

CONCLUSIONS

Jurisdiction:

Pursuant to Redmond Zoning Code (RZC) 21.76.050.C, Site Plan Entitlement and SEPA Environmental Threshold Determinations are both Type II Administrative decisions made by the City of Redmond Technical Committee. Pursuant to RZC 21.76.050.B and RZC 21.76.060.I.1, the Hearing Examiner is authorized to conduct open record appeal hearings and issue decisions on appeals from Type II Technical Committee decisions, including site plan entitlements and SEPA threshold determinations.

Criteria and Standards for Review

SEPA Appeal

The State Environmental Policy Act (Chapter 43.21C RCW or “SEPA”) specifies the environmental review procedures the City must follow for proposals that may have an impact on the environment. One purpose of SEPA is to ensure that “presently unquantified environmental amenities and values will be given appropriate consideration in decision making along with economic and technical considerations.” Every proposal that may impact the environment (unless it is exempt from the act) must undergo some level of environmental review. *RCW 43.21C.030(b).*

The SEPA threshold determination is a determination as to whether a proposal is “likely to have a probable significant adverse environmental impact.” *WAC 197-11-330.* If the responsible official determines that a proposal will not have a probable significant adverse environmental impact, a Determination of Non-Significance (DNS) is issued. If the responsible official determines that a proposal *will* have a probable, significant adverse environmental impact, a Determination of Significance (DS) is issued and an Environmental Impact Statement (EIS) must be prepared. SEPA provides a process in which a Mitigated Determination of Non-Significance (MDNS) may be issued to address identified probable significant adverse environmental impacts so that an EIS need not be prepared. *WAC 197-11-350.*

“Significant” as used in SEPA means a reasonable likelihood of more than a moderate adverse impact on the environment. Significance involves context and intensity and does not lend itself to a formula or a quantifiable test. *WAC 197-11-794.* Several marginal impacts when considered together may result in a significant adverse impact. *WAC 197-11-330(3)(c).*

“Probable” means likely or reasonably likely to occur. The word probable is used to distinguish likely impacts from those that merely have a possibility of occurring, but are remote or speculative. *WAC 197-11-782.*

The lead agency must make its threshold determination “based upon information reasonably sufficient to evaluate the environmental impact of a proposal.” WAC 197-11-335.

Clear error is the standard of review applicable to substantive decisions under SEPA. *Cougar Mt. Assocs. v. King County*, 111 Wn.2d 742, 747, 765 P.2d 264 (1988). The determination by the governmental agency is clearly erroneous only if the reviewing tribunal is left with “the definite and firm conviction that a mistake has been committed.” *Id.* at 747 (quoting *Polygon Corp. v. Seattle*, 90 Wn.2d 59, 69, (1978)).

The Hearing Examiner may consider environmental information presented after issuance of the threshold determination in deciding the appeal. The purposes of SEPA are accomplished if the environmental impacts of the development are mitigated below the threshold of significance, even if the mitigation is not identified in the SEPA document. *Moss v. City of Bellingham*, 109 Wn. App. 6, 25 (2001).

The burden of proof is on the Appellant to show that the proposal will have probable, significant adverse environmental impacts. *Boehm v. City of Vancouver*, 111 Wn. App. 711, 719, 47 P.3d 137 (2002).

The determination of the City's Responsible Official shall be accorded substantial weight in appeals. RZC 21.76.060.I.4.

Pursuant to RZC 21.76.060.B, Environmental Review under the State Environmental Policy Act:

1. All applications shall be reviewed under the State Environmental Policy Act (SEPA) unless categorically exempt under SEPA. The City's environmental procedures are set forth in RZC 21.70.
2.
3. Optional DNS Process. For projects where there is a reasonable basis for determining that significant adverse impacts are unlikely, a preliminary DNS may be issued with the Notice of Application. The comment period for the DNS and the Notice of Application shall be combined. The Notice of Application shall state that the City expects to issue a DNS for the proposal and that this may be the only opportunity to comment on the environmental impacts of the proposed project. After the close of the comment period, the Technical Committee shall review any comments and issue the final DNS in conjunction with its decision or recommendation on the application.

Appeal of a Type II Decision:

Pursuant to RZC 21.76.060.I, the Hearing Examiner may grant the appeal or grant the appeal with modifications if the Examiner determines that the appellant has carried the burden of proving that the Type II decision is not supported by a preponderance of the evidence or was clearly erroneous. In reaching the decision, the Examiner is required to accord substantial weight to the decision of the Technical Committee.

Site Plan Entitlement:

Pursuant to RZC 21.76.070.Y.3, Site Plan Entitlement Decision Criteria:

- a. The Technical Committee, composed of the Departments of Planning and Public Works, shall review all Development Review permits with the State Environmental Policy Act and the RZC.
- b. The Landmarks and Heritage Commission will review all Certificates of Appropriateness for compliance with the RZC.

Conclusions Based on Findings:

1. **SEPA Appeal:** In order to succeed in a challenge of an environmental threshold determination, an appellant must show that the determination was based on misleading or inaccurate information, that the SEPA Official did not exercise appropriate judgment based on the submitted information, or that the project will result in probable, significant, adverse environmental impacts. In judging any such allegations, substantial weight must be given to the decision of the SEPA Official, which in the present case is the Technical Committee. In the present case, the Appellants must provide evidence that leaves the decision maker with the firm and definite conviction that a mistake was made. Considering the evidence and argument submitted on appeal in light of the substantial deference that must be accorded to the SEPA Official's determination, the Appellants have not met their burden.
 - A. Regarding wetland delineation: The record contains contradictory expert opinions as to the accuracy of the wetland boundary. In weighing the Group Four 2009 delineation and the 2011 Group Four boundary verification against Appellants' consultant's one test pit that showed evidence of hydrology, the decision maker is not persuaded that the wetland boundary was in error. *Findings 21, 22, 23, 24, 25, and 26.*
 - B. Wetland Classification: The SEPA checklist disclosed that the wetland on-site could be either classified as a Category III or a Category II wetland and noted that in either case all project work would occur outside the required buffer. City Staff considered that the wetland might properly be a Category II wetland, but they didn't rescore the rating sheets. Based on alleged calculation errors in the 2009 rating sheets, on the close score of 49, and on the 2011 Group Four consultant's acknowledgement that he might have rated habitat functions differently, it is prudent to look to other evidence available as to scoring. Assuming Appellants' consultant's wetland function scoring is accurate, it results in the following scores: water quality function: 30; hydrologic function: 16; and habitat function: 16. This total score of 62 qualifies the wetland as a Category II wetland, which is consistent with the SEPA checklist. *Findings 21, 22, 23, 24, 25, 26, and 27.*
 - C. Land Use Classification: The DOE manual author's opinion of how to classify the land use adjacent to the wetland is the most persuasive evidence in the record. That opinion rates the proposed bike park as a moderate intensity use. Next to a Category II wetland with a water quality function score of 30 and a habitat function score of 16, the project requires a 75-foot buffer per RZC 21.64.030.B. The required 75-foot buffer would be located wholly outside the area proposed to be disturbed. The record shows no direct

impacts to the wetland buffer from the proposed improvements. *Findings 25, 26, 27, and 28.*

- D. Regarding other potential impacts to the wetland or wildlife: The SEPA checklist disclosed anticipated noise during construction and ongoing operations. There's no evidence in the record to support allegations of adverse or undisclosed noise impacts to the wetland. With the erosion control measures and compost amended plant filter strip to be placed along the eastern edge of the bike park site, adequate measures are in place to prevent sediment-laden runoff from entering the wetland. The record contains no evidence of any other potential contaminants to the wetland. Proposed plantings would increase native species on-site, mitigating the proposed loss of the trees and undergrowth. No undisclosed or adverse impacts to the wetland have been shown. The SEPA checklist disclosed that song birds and mammals have been observed on the property and that the site is within the Pacific Flyway. City Staff reviewed appropriate resources to determine whether the site is known to contain ESA listed or otherwise protected species and found that no species are associated with the site. Appellants offered no evidence that sensitive wildlife makes use of the subject property. *Findings 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, and 32.*
- E. Regarding traffic: The SEPA checklist discloses six new peak hour vehicle trips. The traffic estimates were based on industry standard traffic generation information from the ITE manual. Uses generating that few trips are not required to provide traffic studies. Appellants' assertions that Redmond Bike Park will experience similar parking difficulties as have apparently been encountered at Duthie Hill are based on speculation rather than evidence. The SEPA checklist was not inaccurate or misleading regarding traffic. *Findings 33, 34, 35, and 69.*
- F. Regarding parking: The SEPA checklist disclosed that there is off-site parking available 255 feet away at Hartman Park. The record shows there is also on-street parking available on 172nd and 171st Avenues NE. Appellants' assertions that the parking will not be adequate and/or not be used by park patrons are not supported by substantial evidence. *Findings 36, 37, 53, 65, and 69.*
- G. Regarding tree removal, the SEPA checklist discloses that 30 significant trees would be removed, of which 24 were known to be hazardous. The Appellants offered no information that shows the checklist is in error. *Findings 40, 41, 42, 43, 44, 45, and 46.*
- H. The Appellants offered no evidence to show that Technical Committee failed to properly review the materials and exercise appropriate judgment. Appellants didn't argue that the project as approved would result in probable, significant, adverse environmental impacts and didn't provide evidence of any such impacts. Based on the record created, the decision maker is not left with a firm conviction that the DNS was issued in error and their SEPA appeal must be denied.

- 2. **Site Plan Entitlement Appeal:** In order to be granted an appeal of the Type II Site Plan Entitlement decision, Appellants must show that the proposed project fails to satisfy the

approval criteria in RZC 21.76.070.Y.3. Appellants did not argue that the site plan fails to comply with site plan entitlement criteria. The Technical Committee properly reviewed the application materials for compliance with the applicable requirements of the Redmond Zoning Code and exercised proper discretion in approving the site plan entitlement.

A. Parks are allowed in the R-6 zone if public and non-commercial. *RZC 21.08.160.*

Appellants have alleged adverse impacts to their property values from approval of the park, but the record contains no evidence other than assertion. As noted by courts of the state, the legislative determination that the use is allowed in the zone is tantamount to recognizing that the impacts of parks on adjacent residences are acceptable or necessary and that the impact analysis should focus on the neighborhood as a whole and the welfare of all persons residing there, rather than just neighboring property owners. *Washington State Dept. of Corrections v. City of Kennewick*, 86 Wn.App. 521, 533 (1997).

B. The Comprehensive Plan calls out the subject property for recreational development:

Neighborhoods Policy N-EH-8: Encourage the acquisition or shared use of land that may become available for open space or recreational purposes, e.g., such as the City of Redmond water utility property adjacent to Hartman Park or school district surplus property.

The proposal would be consistent with the additional following Comprehensive Plan Parks, Arts, Recreation, Culture, and Conservation policies:

Parks Policy PR-13: Seek funding opportunities from a variety of sources (federal, state, and private) for the acquisition and development of parks, trails, open space, and the arts.

Parks Policy PR-22: Provide facilities for non-organized active recreation such as but not limited to: rollerblading, skateboarding, and bicycling. Continue to develop safe facilities for recreation enjoyed by youths and teens where such needs have been demonstrated.

C. Critical areas review consistent with the CAO was conducted. The critical areas evidence in the record, taken as a whole, shows that the project would comport with critical areas regulations applicable to the site. The record supports the City's assertion that the project is a moderate intensity use for critical area buffer determination purposes. The record supports a wetland rating of Category II, consistent with the SEPA checklist, even with the wetland rating sheet scoring calculated by the Appellants' expert. A 75-foot buffer is required. All improvements would occur approximately 95 feet or more from the wetland edge, outside the required buffer. *Findings 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30.*

D. The tree removal and preservation plan is consistent with the requirements of the City Code. The project would retain more than 80% of the site's significant trees, far in excess of the 35% minimum. The proposed replacement trees satisfy tree replacement ratios and

requirements for minimum size at planting. Thirty-four additional trees would be planted along with hundreds of native woody shrubs, ferns, and groundcover. *Findings 40, 41, 42, 43, 44, 45, 46, 52, and 61.*

- E. Site selection is not under review in the current proceedings. The City Council selected the site in March 2010. The site selection process implemented by the design consultant was a voluntary process intended to encourage public participation and solicit input. It is not relevant to the site plan entitlement criteria for approval and the Technical Committee did not rely on it in deciding the permit. *Findings 9, 51, and 63.*
- F. Regarding Rider and Neighborhood Safety: The park was designed with rider safety in mind, replacing the single advanced jump run with multiple runs at varying skill levels and replacing all gap jumps with table top jumps, which are safer for learners. Signage would include information on technique and rider safety. Riders would be unsupervised and at risk, like other similar recreational venues, and the City would not experience liability exposure. A representative of the Redmond Police Department, trained in crime prevention through environmental design, credibly testified that the proposed park design is anticipated to deter crime in the area through formalizing the park use and providing enforceable rules of park use including hours of operation. In support of their assertion that approval would increase crime in the area, Appellants offered hearsay opinion and speculation. Washington courts have conclude that generalized fears of threats to safety, in the absence of evidence of specific, credible threats, is not competent, substantial evidence upon which denials of land use applications may be based. *Sunderland Family Treatment Services v. City of Pasco, 127 Wn.2d 782, 795 (1995); Washington State Dept. of Corrections v. City of Kennewick, 86 Wn.App. 521, 534 (1997).* *Findings 56, 57, 66, 67, 68, 69, and 70.*
- G. There record contains no evidence of fraud, dishonesty, or intentional misrepresentation on the part of any staff member. Planning is a complex, highly detailed, iterative process that changes in response to new information until a project is built. *Findings 14, 46, 48, 49, 50, 53, 54, 59, 60, 61, 62, 65, and 71.*
- H. Notice provided to neighboring property owners and the community at large exceeded the requirements of the RZC. *Findings 5, 6, 10, 22, 12, 13, 17, 18, 19, 20, 55, 62, 64, 64, and 74.*
- I. In response to public comments, jump runs were redesigned to avoid as many significant trees as possible and protective construction methods were selected for features near tree root zones. Site landscaping was designed to provide additional screening in less densely vegetated areas while retaining as much existing plant cover as possible. The park's address would not be listed on the park website and users would be instructed to park at Hartman Park. *Findings 3, 4, 14, 15, 42, and 73.*
- J. All parties agree that it is unfortunate that the Appellants don't feel that the City has considered their concerns in designing the project. The record shows that public input has been solicited and included to an extent above and beyond the City Code's

requirements. Some of the project's neighbors, with great effort and diligence, have strongly opposed the City's proposed development of a park on City-owned property called out in the Comprehensive Plan specifically for recreation uses. However, courts of Washington have held that while the opposition of the community may be given substantial weight, it cannot alone justify a local land use decision. *Sunderland Family Treatment Services v. City of Pasco*, 127 Wn.2d 782, 797 (1995); *Maranatha Min., Inc. v. Pierce County*, 59 Wn.App. 795, 804 (1990). No evidence has been submitted that shows the proposal fails to comply with any applicable provision of the RZC. In absence of such evidence and in light of the substantial deference owed to the Technical Committee's decision, the appeal of the site plan entitlement approval must be denied.

DECISIONS

Based on the foregoing findings and conclusions, both the appeal of the June 8, 2011 SEPA DNS and the appeal of the June 8, 2011 Notice of Decision approving the Redmond Bike Park site plan entitlement application are **DENIED**.

Decided December 5, 2011.



Sharon A. Rice
City of Redmond Hearing Examiner