

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

In the Matter of the Appeal of	)	NO. _____
	)	
	)	
<b>RTC 74<sup>th</sup> Street Property LLC</b>	)	<b>Redmond Town Center Apartments</b>
	)	<b>Impact Fees Appeal</b>
	)	
of the November 17, 2017	)	
Approval of BLDG-2016-09558	)	ORDER SETTING HEARING AND
related to the Redmond Town Center	)	PRE-HEARING DOCUMENT
Apartments project in Redmond, WA	)	EXCHANGE SCHEDULE
_____	)	

A pre-hearing conference was convened on December 18, 2017 to expedite efficient proceedings in the above captioned appeal, which was timely filed on November 30, 2017. The purpose of the conference was to clarify the issues on appeal and to determine the pre-hearing schedule for the matter. This Order provides information to the parties to facilitate their participation.

**Parties Participating in the Conference**

The following persons participated in the conference, which was held by telephone.

*For Appellant RTC 74<sup>th</sup> Street Property LLC:*

- Larry Martin, Attorney
- Chuck Maduell, Attorney

*For the City:*

- Daniel Kenny, Attorney
- Steven Fischer
- Sarah Pyle

Counsel for both parties confirmed that they are unaware of additional necessary participants.

**Clarification of Issues on Appeal**

The City requested no clarification of the issues as stated in the appeal document, but did request to see, or to be given specific citations to, documents that are referenced in the appeal statement. The ensuing conversation revealed that the documents will be offered as exhibits by the Appellants.

**Discussion of Other Pre-Hearing Procedural Issues**

*Dispositive Motions:* The Appellants indicated that they do not anticipate filing dispositive motions. The City, through counsel, indicated that none are thought to be likely; however, not

having reviewed the documents referenced in the appeal statement in context of the alleged errors, the City requested to reserve the option to submit dispositive motions. Because the schedule for the instant appeal fills two months and there are holidays throughout, it was recognized by the parties that if dispositive motions are submitted, there would be a need to revise the schedule agreed to during the pre-hearing conference.

### **Anticipated Order of Proceedings at Hearing**

At the hearing, the following is the anticipated order of business. The Examiner may change the following order of proceedings on motion by a party or at her own discretion.

- Introductory remarks by the Examiner calling the hearing to order and explaining the procedures to be followed.
- Appellants' case, including witness testimony and introduction of exhibits. Each Appellant witness will be subject to cross examination by the City.
- The City will then present witnesses and exhibits, with cross examination by the Appellants.
- The Appellant would have an opportunity to present rebuttal.
- Closing arguments would be heard first from the City and last from the Appellant; or the parties may request to make closing arguments in writing after adjournment.
- Note: there is no public comment period during the open record appeal hearing. Only persons called as witnesses by the parties will be allowed to testify, and all testimony will be subject to cross examination.
- Conclusion of the hearing - housekeeping, post-hearing scheduling (if any), and confirmation of decision due date.

### **Order**

#### *Hearing Scheduling*

1. **The appeal hearing is scheduled in the Redmond City Council Chambers on February 26, 2018 at 9:00 am.** The hearing will proceed until 6:00 pm, with breaks as appropriate.
2. It was agreed that in the interests of efficiency, the parties should now identify and reserve a second date, in the event the matter is not completed by 6:00 pm on the first date of hearing. It has been identified that the Examiner, the Council Conference room (across the hall from Chambers), and the Appellants can be available February 28, 2017, on which date the hearing room is available from 9:00 am to 1:00 pm and again after 3:00 pm. However, Mr. Kenny was not able to confirm availability of necessary City witnesses.
3. Further pre-hearing email communication will ensue until a second hearing date is confirmed and reserved.

### *Motions*

4. No motions schedule was established, provided that it was agreed that any dispositive motion that would seek to reduce the scope of the matters to be considered at hearing must be submitted by January 31, 2018. Should such a motion be submitted by either party, an order revising the schedule established herein would be issued. Alternatively, the parties may include dispositive motions in pre-hearing briefing, which would be addressed in the decision document.

### *Document Exchange*

5. The Appellants shall submit Witness and Exhibit Lists (explained below) and the exhibits themselves not later than January 17, 2018.
6. The City shall submit Witness and Exhibit Lists and the exhibit themselves not later than January 24, 2018.
7. From this initial submission, the Hearing Clerk shall create a paginated master record, with Appellants' documents first and then City documents.
8. Should these initial disclosures cause either party to desire to supplement their lists, that party shall submit an Addendum Witness and/or Exhibit list not later than February 16, 2017. Addendum exhibit lists shall be numbered to start where the party's original list left off.
9. The Hearing Clerk will compile an addendum to the master record with all additional disclosed documents submitted by both parties by February 20, 2018, or as soon as possible. Each party will be responsible for printing and bringing as many copies of the complete master record as they need for their own use to the hearing.
10. To the best of their ability, parties should reference the bates stamped page numbers during hearing testimony.
11. Note: Witness list and exhibit exchange is intended as a good faith effort to disclose all evidence supporting each party's case to promote efficiency during the proceedings. However, this matter is an open record appeal hearing, which means new/ previously undisclosed evidence may be offered by either party up to the close of the record. Should late disclosure of witnesses and/or exhibits cause undue surprise to any party at hearing, the record may be held open to allow written rebuttal after adjournment.
12. Pre-hearing briefing shall be submitted by both parties on February 5, 2017.
13. Pre-hearing response briefs may be submitted on February 20, 2017.

**Submittals must comply with the following requirements:**

14. Exhibit and witness lists shall be prepared as **auto-numbered Word documents, no tables or columns, numbered 1 through X.** In the decision document each party will be assigned a prefix (e.g., R.1-[x] and C.1-[x]).
15. Witness lists shall specify:
  - Name and relationship to appeal (appellant, neighbor, expert, etc.)<sup>1</sup>
  - If offered as expert, a concise statement on the nature of the individual's credentials (Transportation Engineer, Wetland Biologist, etc)
  - A one sentence or less summary of the content of anticipated testimony ("Addressing traffic and parking," etc)
16. Exhibit lists shall specify:
  - Title and date of document - please give each exhibit a name and date
  - If correspondence, the title shall include to/from parties and date (e.g., "email from \_\_\_ to \_\_\_ dated \_\_\_")
  - If photographs, by whom, when, and from where taken
  - If other materials, identify the source
  - Brief summary of content (not more than one sentence)
17. Addendum exhibit lists and documents offered at hearing shall proceed from where the previous exhibit list left off.
- 18. For the purpose of satisfying the deadlines above, the witness list, exhibit list, briefing, and the exhibits themselves shall be exchanged via email.**
19. On the day of hearing, any party intending to rely on previously undisclosed exhibits not included in the master record shall bring printed copies as follows: one for the official record; one for examiner's working papers; one for the other party; and as many copies as that party wishes for their own use.
20. On or before the day of hearing, each party shall email a Word version (not .pdf) of their complete exhibit list (including addenda) to the Office of the Hearing Examiner at the email address below.
21. To be considered timely, **submittals shall be sent via email not later than 4:00 pm on the due date identified.** All email submittals shall be directed to the attention of the Office of the Hearing Examiner at the email address below. The Clerk's office will circulate email communications to all parties and the Examiner.

Office of the Hearing Examiner  
Attention Cheryl Xanthos, Deputy City Clerk  
[cdxanthos@redmond.gov](mailto:cdxanthos@redmond.gov)

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<sup>1</sup> Note: These instructions relating to witness and exhibit list exchange are generic and used in all pre-hearing scheduling orders. It is not required or expected that all parties would have expert witnesses, transportation engineers, or would bring representatives from the other professions listed as examples.

22. In order to avoid *ex parte* contact: At no time should any party email the Examiner directly absent exigent circumstances, and all parties should be cc'd on any such urgent communications.
23. Should either party desire/need to amend the schedule as issued herein, the attorneys are encouraged to attempt to submit stipulated schedule revisions.
24. Clarifying questions about this order and any other procedural questions may be directed to the Examiner via email to the same contact information above.

Ordered December 19, 2017.

By:



Sharon A. Rice  
Redmond Hearing Examiner