

00640). The DNS was timely appealed by four named individuals and the Abbey Road Homeowners Association (HOA)(appeal LAND-2018-00920).

Pursuant to Redmond Zoning Code (RZC) 21.70.190.E, the SEPA appeal hearing was consolidated with the open record hearing on the underlying permits for which the SEPA determination was made.

Procedural History

Two telephonic pre-hearing conferences were conducted, on September 5, 2018 and November 15, 2018, at which all three parties were represented by counsel. Scheduling of the hearing and pre-hearing document exchange was discussed and agreed to in these calls.

The hearing was scheduled to take place on three dates: January 7th, 14th, and 28th, with the SEPA appeal proceeding during the days between 9:00 am and 5:00 pm and the permit application hearings, including public comment proceedings in the evenings from 6:00 pm to 10:00 pm, to facilitate public participation.

All parties submitted timely post-hearing written legal argument in the appeal. In addition, the City and the Applicant submitted timely written post-hearing responses to the voluminous public comment received during the permit application hearings.

At the close of the hearing, the parties agreed to a March 11, 2019 decision issuance deadline; however, due to the volume of the record (over 8,000 pages) and the complexity of the multiple issues, additional time was needed to complete the decisions.

Issues on Appeal

In their appeal statement, Appellants alleged the following (paraphrased) probable, significant, adverse environmental impacts:

1. Aesthetic impacts from converting the “greenbelt buffer” forested area where the assisted living building is proposed into a building that is inappropriate in height, bulk, scale, architecture, and siting for a structure that cannot be screened;
2. Loss of privacy and views for those residences that are nearest and all passersby/neighborhood views permanently altered;
3. Lighting impacts resulting both from the height of the proposed buildings and rooftop mechanical equipment blocking light to adjacent residences and the street and from the external and internal lighting on the proposed buildings, which is not guaranteed to be fully screened by proposed plantings;
4. Significant loss of native vegetation and trees, reducing pervious surface area for stormwater drainage and causing aesthetic impacts;
5. Loss of native vegetation will impact local wildlife, to its detriment and the detriment of area residents and visitors who enjoy the local wildlife;
6. Trees proposed after construction will not provide the same greenspace buffer that

currently exists;

7. Increased traffic congestion in the Abbey Road subdivision from cars, buses, vans, trucks, and emergency vehicles, resulting in safety impacts to children and pedestrians;
8. Construction impacts including construction noise and dirt, sediment-laden runoff, and construction vehicle traffic;
9. Noise after completion from increased outdoor social activities;
10. Emission of noxious and hazardous odors and vapors from the institutional kitchen;
11. Potential for improper disposal of hazardous materials;
12. Incompatibility with the character of the surrounding, quiet neighborhood;
13. Future impacts due to permanent increase in new healthy residents aging in place; and
14. Adverse impacts to emergency services that will not be paid for due to property tax exemption.²

The Appellants alleged that the City’s SEPA Responsible Official erred in improperly weighing the benefits to the Applicant retirement community against adverse environmental impacts to neighbors within the Abbey Road development and that the determination of non-significance is arbitrary and capricious. They requested that all conditions imposed on previous Emerald Heights site development approvals be imposed on the instant proposal, especially including the previous conditions restricting development to the interior of the Emerald Heights property.

Finally, the Appellants alleged that a rezone approved for Emerald Heights in 2011 was premised on all future development being restricted to the interior of the site and on preservation of the forested area along Abbey Road, where the assisted living building is now proposed, and that approval of the current proposal sets a precedent for any developer who decides to ignore previously offered site development limitations that are accepted by the City. The Appellants requested that the DNS be overturned and an environmental impact statement (EIS) be required, or in the alternative, that the DNS be remanded for further review by the City for compliance with previous permit conditions and approvals.

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² This list paraphrases and merges the two lists of impacts attached to the appeal form, one from Appellants’ attorney and one from the Abbey Road Homeowners Association directly. *Exhibit A1*.

Testimony^{3,4}

*Witnesses called by the Appellants*⁵

John Stilin
Favero Greenforest, Greenforest, Inc.
Kaiyu Zhao
Peter Steinbrueck, Steinbrueck Urban Strategies
Mark Finocchio

Witnesses called by the Applicant

Dean Kelly, Rice Fergus Miller Architects
Moghan Lyon, Lyon Landscape Architects
Robert (Bob) Layton, American Forest Management
Michelle Brown, Heffron Transportation

Witnesses called by the City

Ben Sticka, Planner, City of Redmond
Min Luo, Senior Transportation Engineer, City of Redmond
Scott Turner, Assistant Fire Marshall, City of Redmond
Erika Vandenbrande, Planning Director, City of Redmond
Chief Tommy Smith, Redmond Fire Chief

Public Comment

Please see Appendix A for the list of persons who spoke during public comment portion of the CUP/SPE permit hearing.

Attorney Representation

Claudia M. Newman, Attorney, Bricklin & Newman, LLP, Attorney, represented the Appellants.

G. Richard Hill and Katie Kendall, Attorneys, McCullough Hill Leary, PS, represented the Applicant.

³ For the sake of expediency, testimony of witnesses called by the parties in the SEPA appeal was accepted as applicable to both the SEPA appeal and the land use permit hearing.

⁴ Public comment on the permit applications was opened at the conclusion of the City's and Applicant's presentations in the CUP and SPE permits between 7:00 and 8:00 pm on January 7, 2019 as advertised in the hearing notice, in order to allow those who could not stay for the entire hearing to be able to attend at a specific time and testify. As advertised, written comments were allowed to be submitted up until the close of the public hearing on the two permits. Additional public comments were heard verbally and received in writing on both January 14th and January 28th.

⁵ Although Appellants were parties to the SEPA appeal, they were not afforded the status of parties to the land use permit proceedings. They were allowed to participate in the CUP and site plan entitlement proceedings with the same status as all members of the public.

James E. Haney and Kate D. Hambley, Attorneys, Ogden Murphy Wallace, PLLC, represented the City of Redmond (City).

Exhibits

The following exhibits were admitted in the record of this matter:

For Appellants, Abbey Road Homeowners Association et al (denoted in findings with 'A' prefix):

1. SEPA appeal, dated August 22, 2018
2. Peter Steinbrueck, Curriculum Vitae
3. Favero Greenforest, Curriculum Vitae
4. Emerald Heights landscape plan (pages 1-3), dated September 6, 2018
5. Emerald Heights Design Review Board (DRB) packet for Independent Living Building (ILB), dated September 6, 2018
6. Emerald Heights DRB packet for Assisted Living Building (ALB), dated September 6, 2018
7. Notice of application, dated June 21, 2018
8. Public notice site plan, dated June 4, 2018
9. Emerald Heights Rezone 20110516 Hearing Examiner Decision, dated May 16, 2011
10. Emerald Heights rezone application environmental checklist, dated June 2010
11. Emerald Heights rezone application conceptual plan, dated 2010
12. City of Redmond Ordinance No. 1454, including Exhibit A, Attachments 1, 2, and 3
13. Addendum to environmental impact study (EIS) for Abbey Road/Emerald Heights (formerly Redmond Heights), dated April 1988
14. Emerald Heights roof site line study with added modifications, dated June 4, 2018
15. Photographs of Abbey Road homes and subdivision
16. Photographs of Abbey Road trail
17. Photographs of greenbelt
18. Photographs of trees
19. Tree study
20. Tree renderings
21. Setback photograph
22. "View down 176th Sidewalk, Site Renderings", Rice Fergus Miller
23. Appendix P: Set-Aside Requirements by Washington State, revised October 2018
24. King County Fire Commissioners Association assessed value projections and tax exempt properties, dated February 26, 2018

Redmond Hearing Examiner

Findings, Conclusions, and Decisions

Abbey Road HOA et al Appeal (LAND-2018-00920) of DNS (SEPA-2018-00640)

LAND-2018-00586 – Conditional Use Permit/LAND-2018-00617 – Site Plan Entitlement

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25. Setback comparison chart and photos
26. Comment letter on design standards checklist, Abbey Road Homeowners Association, undated
27. Regulatory agreement between Emerald Heights and Washington State Housing Finance Commission
28. Area traffic confirmation study, Heffron Transportation, dated July 13, 2017
29. Article, “Redmond to Tackle Senior Housing Again”, *Journal American*, dated May 15, 1988
30. Retirement care facilities data charts
31. Appellants’ analysis of Redmond Fire Department (RFD) service call data
32. Emerald Heights design intent memo, dated 2002
33. Institutional building setbacks chart
34. Technical Committee agenda, dated October 31, 2018
35. Emerald Heights Traffic impact analysis, Heffron Transportation, dated June 4, 2010
36. Transportation data
37. Emerald Heights ILB design standards checklist (highlighted, notated)
38. Emerald Heights drone flyover video
39. Comparison of Redmond retirement residences graphic
40. ALB massing graphic
41. Design review graphic highlighting ALB dimensions and length
42. Institutional building square foot comparison, Lake Washington School District vs. Emerald Heights
43. Abbey Road HOA boundary, King County iMap
44. Aerial overview, King County iMap
45. Memo from Ben Sticka confirming measurements for building from Emerald Heights
46. New Trailside building, 2013
47. Photos from 17603 – NE 110th Way
48. Skogland home photo
49. Green space calculations comparison for Emerald Heights and Abbey Road
50. Emerald Heights setbacks from property line (east side only)
51. Emerald Heights setbacks from property line
52. Final DRB east elevation with heights, dated September 6, 2018

53. Emerald Heights ALB design standards checklist (highlighted, notated by Appellant witness Peter Steinbrueck and Abbey Road HOA)
54. Email from Kaiyu Zhao to Emerald Heights
55. Email from Lisa Sheffield
56. *Engquist et. al. v. Lake Washington School District*, Hearing Examiner Findings, Conclusions, and Recommendation, dated February 18, 2000
57. “Improper Placement of Kitchen Chimney Next to R-4 Neighborhood” by Kaiyu Zhao, dated December 21, 2018

For the Applicant, Emerald Heights (denoted in Findings with an ‘E’ prefix):

1. Wind and shadow study, Rice Fergus Miller, dated November 15, 2018
2. Resume of Moghan Lyon
3. Resume of Bart Balko
4. Resume of Christina Hersum
5. Resume of Michelle Brown
6. Resume of Nell Lund
7. Resume of Brian Haakenson
8. Resume of Robert Layton
9. Resume of Dean Kelly
10. Updated PowerPoint presentation, Rice Fergus Miller
11. Design Review Board minutes, dated August 4, 2016, October 20, 2016, August 2, 2018, August 16, 2018, and September 6, 2018
12. SEPA checklist, Attachment B
13. Letter from Bob Layton to G. Richard Hill, dated December 28, 2018
14. Truck routing diagram
15. Draft construction parking form
16. Assisted and Independent Living Buildings CUP plan set plan sheets regarding tree protection plans (AL-TP1, AL-P2, AL-TP3, IL-TP1, and IL-TP-2), dated October 5, 2018
17. Emerald Heights Study Area Traffic Confirmation Analysis, Heffron Transportation, dated July 13, 2017
18. Emerald Heights Traffic Impact Analysis, Heffron Transportation, dated June 4, 2010
19. Annotated photos depicting internal Assisted Living Building nighttime lighting
20. Issues identified in building studies (chart)

21. Emerald Heights response to July 11, 2017 ALB letter, dated April 11, 2018
22. Letter from Al Chambard, CFO of Emerald Heights, dated January 14, 2019
23. Tree screening photos
24. Letter from Coughlin Porter Lundeen, regarding stormwater, water system, and sanitary sewer design
25. Letter from Mike Miller of Rice Fergus Miller, Principal Architect for Emerald Heights Retirement Community Master Plan, in response to Peter Steinbrueck testimony, dated January 24, 2019

For the City of Redmond (denoted in Findings with a 'C' prefix):

1. City of Redmond SEPA Appeal Staff Report to the Hearing Examiner, dated December 14, 2018, with the following attachments:
 - A. SEPA appeal, dated August 22, 2018
 - B. SEPA application, undated
 - C. SEPA checklist, dated July 12, 2018
 - D. Applicant's response to Planning Staff's questions on SEPA checklist, dated May 30, 2018
 - E. Determination of Non-Significance (DNS), dated July 26, 2018
 - F. Certification of public notice for DNS, dated July 26, 2018
 - G. Emerald Heights SEPA, CUP, and SPE PowerPoint presentation by Planning Staff to the Technical committee, dated July 18, 2018
 - H. Vicinity map
 - I. Email from Julie Lawton to Ben Sticka, regarding lighting for ALB, dated August 22, 2018
 - J. City of Redmond informational brochure entitled, "Critical Areas: Fish and Wildlife Conservation Areas User Guide"
 - K. [Not offered - duplicate of Attachment J labeled as Attachment K]
 - L. Traffic and mitigation confirmation technical memorandum, Heffron Transportation, dated June 1, 2018
 - M. CUP Stormwater management report for Emerald Heights Assisted and Independent Living Buildings, Coughlin Porter Lundeen, dated October 26, 2018
 - N. SPE Stormwater management report for Emerald Heights Assisted and Independent Living Buildings, Coughlin Porter Lundeen, dated September 17, 2018
 - O. Wildlife assessment, ESA, dated September 17, 2018

2. Emerald Heights critical aquifer recharge areas report update, Associated Earth Sciences, dated September 1, 2016
3. Letter from Nell Lund, The Watershed Company, to Julie Lawton, regarding Emerald Heights critical areas report recertification, dated June 8, 2018
4. Letter from Lisa Rigg, Development Engineering Manager City of Redmond, to Bart Balko, P.E., conditionally approving storm vault setback deviation for ILB (DEVREQ-2018-00914), dated August 23, 2018
5. Letter from Lisa Rigg to Bart Balko, conditionally approving storm vault setback deviation for ALB (DEVREQ-2018-00915), dated August 23, 2018
6. Letter from Lisa Rigg to Bart Balko, denying storm pipe deviation for ALB (DEVREQ-2018-00916), dated August 23, 2018
7. Letter from Lisa Rigg to Bart Balko, denying storm maintenance deviation for ALB (DEVREQ-2018-00918), dated August 23, 2018
8. Emerald Heights transportation concurrency application, dated September 25, 2018
9. Emerald Heights traffic mitigation plan, dated August 10, 2018
10. Email from Rob Crittenden to Ben Sticka, *et al*, clarifying that no transportation management plan is required for the Emerald Heights project, dated June 1, 2018
11. Emerald Heights tree preservation plan, dated October 5, 2018
12. Emerald Heights arborist report for the ALB, American Forest Management, updated April 5, 2018
13. Emerald Heights arborist report for the ILB, American Forest Management, revised January 3, 2018
14. Public notice for the Emerald Heights ALB tree preservation plan, dated October 5, 2018
15. Emerald Heights landmark tree exception request, Lyon Landscape Architects, dated August 6, 2018
16. Emerald Heights landscape irrigation plan for both new buildings, dated June 1, 2018
17. Emerald Heights Independent and Assisted Living Buildings plan set, dated October 5, 2018
18. Emerald Heights final photograph simulations, Rice Fergus Miller, dated June 4, 2018
19. Emerald Heights ALB final lighting plans for both buildings, Rice Fergus Miller, dated June 4, 2018
20. Washington State Housing Finance Commission Certificate of Continuing Project Compliance for Emerald Heights, dated January 23, 2018
21. Emerald Heights City of Redmond general application cover sheet for Courtyard and Assisted Living Buildings, undated

22. Emerald Heights City of Redmond greenhouse gas data worksheet, undated
23. Emerald Heights campus expansion conditional use permit phasing plan, dated June 4, 2018
24. Emerald Heights campus expansion conditional use phasing plan, dated September 6, 2018
25. Emerald Heights campus expansion ALB roof sight line study, dated June 4, 2018
26. Minutes from September 6, 2018 Design Review Board meeting (in which DRB approved Emerald Heights project), dated September 6, 2018
27. Redmond ALB Design Standards checklist, undated
28. Redmond ILB Design Standards checklist, undated
29. Letter from Jim Haney, City Attorney for the City of Redmond, to Benjamin Sticka and Steven Fischer, City of Redmond Department of Planning and Community Development, dated July 25, 2018, including the following attachments:
 - A. Redmond Ordinance No. 1454, dated October 17, 1988
 - B. Redmond Community Development Guide (“RCDG”) 20C.20.240(05), Permitted Uses Chart, dated January 1986
 - C. City of Redmond Office of the Hearing Examiner, Findings and Recommendations for File No. SDP-87-9 & PUD #48, dated June 22, 1988
 - D. City of Redmond Office of the Hearing Examiner, Revised Findings and Recommendations for File No. SDP-87-9 & PUD # 43, dated July 21, 1988
 - E. RCDG 20F.20.235(05), dated January 1986
 - F. RCDG 20F.20.035(35), dated January 1986
 - G. RCDG 20F.20.120, dated January 1986
 - H. Redmond Ordinance 2607, dated July 19, 2011
 - I. Redmond Ordinance 1901, dated July 12, 1996
30. Public comments related to the SEPA application (compiled) from: Abbey Road Homeowners Association, Sherry Stilin, Wendy Enquist, and Sherry and John Stilin
31. Emerald Heights rezone application, dated June 7, 2010
32. Rezoning maps associated with 2010 rezone of Emerald Heights property, various dates in May 2010
33. Letter from G. Richard Hill to Ben Sticka, regarding compliance with conditional use criteria and retirement residence approval criteria, dated June 4, 2018
34. Draft technical memorandum from R.W. Beck entitled, “Analysis of Proposed Emerald Heights and Redmond High School Developments in the Avondale Sewer Basin”, dated September 16, 2010

35. Redmond Fire Department report entitled, “Context for Emerald Heights and the Overall Demand for Emergency Services in Redmond Fire jurisdiction, prepared January 2019
101. City of Redmond CUP/SPE Technical Committee Report to the Hearing Examiner, dated December 14, 2018, including the following attachments:
 - A. Notice of application and certificate of mailing and posting, Emerald Heights Courtyard and Assisted Living project, with mailing vicinity map and mailing list, dated June 21, 2018
 - B. certificate of mailing and posting, Emerald Heights Courtyard and Assisted Living project SEPA Determination of Non-Significance, with mailing vicinity map and mailing list, dated July 26, 2018
 - C. Notice of public hearing, issued December 17, 2018
 - D. SEPA determination of non-significance (DNS), issued July 26, 2018, with SEPA environmental checklist
 - E. SEPA Appeal form submitted by Abbey Road Homeowners Association, dated August 22, 2018 (duplicate of Exhibit C1.A)
 - F. Design Review Board meeting minutes, dated September 6, 2018
 - G. Washington State Housing Finance Commission Certificate of Continuing Project Compliance for Emerald Heights, dated January 23, 2018 (duplicate of Exhibit C20)
 - H. L100204 Emerald Heights Development Guide Amendment Hearing Examiner Findings, Conclusions, and Recommendation to City Council, dated May 16, 2011
 - I. Ordinance 2607 Rezoning Emerald Heights from R-4 to R-6, dated July 30, 2011
 - J. Planning Staff’s PowerPoint presentation for the CUP/SPE public hearing⁶
102. Public comments in response to ALB notice of application (See Appendix B)
103. Public comments in response to ILB notice of application (See Appendix C)
104. Public comments in response to conditional use permit notice of application (See Appendix D)
105. July 26, 2018 Neighborhood meeting public comment cards (See Appendix E)
106. Public comments from September 6, 2018 Design Review Board meeting (See Appendix F)
107. Neighborhood meeting slides prepared by Planning Staff, dated October 26, 2017
108. Neighborhood meeting slides prepared by Applicant, dated July 26, 2018
109. Neighborhood meeting slides prepared by Planning Staff, dated July 26, 2018

⁶ At hearing, this PowerPoint presentation was mistakenly identified by the undersigned as an attachment to Exhibit C1, which is the City’s SEPA appeal staff report. It is properly included in the CUP/SPE record and is hereby reidentified as Exhibit C101, Attachment J.

110. Consolidated document containing all Staff memoranda to Design Review Board from August 2, 2018, August 16, 2018, and September 6, 2018
111. Applicant ALB presentation to Design Review Board, dated August 2, 2018
112. Applicant ALB presentation to Design Review Board, dated August 16, 2018
113. Applicant ILB presentation to Design Review Board, dated August 16, 2018
114. Applicant's Design Review Board 90% ALB materials, dated August 2, 2018
115. [duplicate of Exhibit C112]
116. Applicant's Design Review Board ALB materials, dated September 6, 2018
117. Applicant's Design Review Board 100% ILB materials provided by Staff, dated August 16, 2018
118. Applicant's Design Review Board 100% ILB materials, dated September 6, 2018
119. Written public comment submitted at hearing (See Appendix G)⁷

Record documents (denoted in Findings with a 'R' prefix):

1. Order Following Initial Pre-Hearing Conference, dated September 5, 2018
2. Scheduling Order Following Second Pre-Hearing Conference, dated November 19, 2018
3. Appellants' SEPA Appeal Witness and Exhibit List, dated December 7, 2018
4. Applicant's Preliminary Witness and Exhibit List, dated December 13, 2018
5. City of Redmond's Witness and Exhibit List for SEPA Appeal, dated December 14, 2018
6. Notice of Pre-Hearing and Appeal Hearing, dated December 17, 2018
7. Appellants' Final SEPA Appeal Witness and Exhibit List, dated January 3, 2019
8. Applicant's Final Witness and Exhibit List, dated January 3, 2019
9. City of Redmond's Final Witness and Exhibit List for SEPA Appeal, dated January 3, 2019
10. City of Redmond's First Amended Witness and Exhibit for SEPA Appeal, dated January 24, 2019
11. Appellant's Post-Hearing Argument, dated February 22, 2019
12. City's Post-Hearing Brief on the SEPA appeal, dated February 22, 2019
13. City's Post-Hearing Brief on the CUP/SPE applications, dated February 22, 2019
14. Applicant's SEPA Appeal Brief, dated February 22, 2019
15. Applicant's CUP/SPE Brief, dated February 22, 2019

⁷ There might have a different exhibit number announced on the record, but in the instant document, all written public comments submitted in the course of the CUP/SPE permit hearing are included in Exhibit C119.

16. Applicant's Consolidated Statement of Facts (supporting two briefs), dated February 22, 2019

Based upon the record developed at the open record hearings, the Hearing Examiner enters the following findings and conclusions addressing the SEPA appeal and the requested land use approvals.

FINDINGS

Proposal, Description of Site, and Surroundings

1. Eastside Retirement Association, doing business as Emerald Heights (Emerald Heights, Applicant), proposed alterations to their existing retirement community consisting of construction of a 54-unit Assisted Living building and a 42-unit Independent Living building on the eastern and southern portions of its property, respectively. These new buildings are intended to allow conversion of the existing 40-unit assisted living building into private, single occupancy skilled nursing suites. The proposal requires approval of a conditional use permit (CUP) and a site plan entitlement (SPE) from the City. In review of the proposal, the City of Redmond (City) SEPA Responsible Official issued an environmental threshold determination of non-significance (DNS) under the State Environmental Policy Act (SEPA). The DNS was timely appealed by the Abbey Road Homeowner's Association and four named individuals including Neil Barnett, Minaji Suzuki, John Stilin, and Sherry Stilin (collectively, Appellants). Consistent with the City's zoning code, the land use permit application hearing and SEPA appeal hearing were consolidated into one proceeding. *Exhibits C1, C101, R1, and R2*. The following findings and conclusions speak to both matters.
2. Emerald Heights is a not-for-profit community providing a continuum of living accommodations, supportive services, and health care for residents age 62 and older. The Emerald Heights campus occupies an approximately 38-acre parcel (the subject property) in the Education Hill neighborhood of Redmond.⁸ The irregularly shaped parcel is bordered by 176th Avenue NE to the east; NE 111th Street to the north; residential development to the northwest and west; and Redmond High School to the south. Across 176th Avenue NE is the Abbey Road subdivision, a 205-lot single family residential development. North of NW 111th Street is the Power Line Trail, a public recreational facility. Primary access to the retirement campus is from 176th Avenue NE, which is also known as Abbey Road. The subject property is zoned R-6 (Single-Family Urban Residential). Surrounding properties are zoned R-6 and R-4. *Exhibits C1, C1.H, and C101*.
3. Education Hill is characterized by primarily residential development. Institutional uses in the neighborhood include Redmond Junior High School, Redmond High School, Horace Mann Elementary School, and Saint Jude's Catholic Church. *Exhibit A33*.

⁸ The campus is known as tax parcel 3626059003. *Exhibit C.21*.

4. Emerald Heights is classified in the Redmond Zoning Code (RZC) as a Retirement Residence land use, which is a subtype of residential uses. *RZC 21.78, R Definitions; RZC Table 21.08.090.C*. The campus currently includes 333 independent living units, 40 assisted living units, 16 memory care units, and 61 skilled nursing units (in 32 skilled nursing rooms), for a total of 450 residential units on the site at present.⁹ As explained in testimony, independent living facilities are essentially individual apartments, while assisted living facilities include assistance with activities of daily living (such as mobility, dressing, etc.) from professional staff. Skilled nursing units provide around the clock medical care. *Dean Kelly Testimony; see also WAC Chapter 388-78A*.
5. The campus is designed around a loop road called 176th Circle NE. Outside the loop to the west and southwest, some standalone independent living cottages and an independent living building known as the Trailside building have been built. Northeast of the loop there are stormwater detention ponds, and north of the loop is a Facilities building where campus utilities are managed. Inside the loop are additional existing independent living facilities, the core common areas (including the main dining room, multi-purpose auditorium, fitness building, pool, and communal courtyard), and a skilled nursing facility, known as the Corwin Center. The Corwin Center currently contains 40 assisted living units; these 40 units are those sought to be converted to skilled nursing units. The western portion of the subject property is unbuildable due to critical areas including steep slopes and a stream buffer. There is an existing public transit stop on 176th Avenue NE along the subject property frontage. The property does not include any landmark designations or designated historic features. *Dean Kelly Testimony; Exhibits E10 and C101*.
6. According to information presented at hearing, the Abbey Road subdivision was built in the early 1990s by the same development company that later built Emerald Heights.¹⁰ The Abbey Road plat is characterized by large, single-family homes with yards, mature landscaping, traditional gabled roofs, and consistent exterior materials including lap board siding material. At the time of approval, the Abbey Road subdivision created both the homeowners association (HOA) and covenants, conditions, and restrictions (CCRs) that impose aesthetic controls within the subdivision. The CCRs include an internal design review process for proposed alterations to the landscaping or structures within the plat. Specific requirements include (but are not limited to) a height limit of two-and-a-half stories, a minimum roof-slope requirement, and minimum-square-footage requirement for new homes. *Testimony of John Stilin and Peter Steinbrueck; Exhibits A15, A16, A43, and C119.D.2, Attachment 3*.

⁹ Counting each double-occupancy skilled nursing room as a single unit, the City's staff report listed the existing unit count at 421. *Exhibit C101 (page 21)*. However, pursuant to RZC 21.08.370.C, each bed in a double-occupancy skilled nursing room is a separate "retirement residence unit." The correct existing total unit count is 450, not 421.

¹⁰ The Abbey Road subdivision was developed by Burnstead, which development company later formed a partnership with Kitchell to develop the Emerald Heights site. *John Stilin Testimony*.

7. At the boundary between the Emerald Heights property and the Abbey Road subdivision, 176th Avenue NE (also known as Abbey Road) functions as the boundary between the two residential land uses from Redmond High School at the south to the Power Line Trail at the north, where 176th Avenue becomes NE 111th Street. For this entire distance, it is a two-lane road with curbs, gutters, planter strips, street trees, and sidewalks on both sides. These street trees, which are in the City right-of-way and required to be retained, are mature deciduous sycamore and Norway maple trees¹¹, with generous green canopies between approximately April and September every year. On the subdivision's side (east side of the street), beyond the sidewalk is another strip of maintained lawn that abuts the wood fences of the backyards of the homes in the Abbey Road subdivision. On the Emerald Heights side (west side of the street), the sidewalk meanders so that it is sometimes abutting the road and sometimes inside the planting strip. At the western edge of the right-of-way is a chain link fence that is covered in a dense English ivy to the point of being completely obscured; this ivy-covered fence runs the entire length of the Emerald Heights property across from the Abbey Road subdivision. While the street tree canopies are in full leaf, 176th Avenue NE along this stretch is a pretty green boulevard that is well used by walkers in the neighborhood and by users of the Power Line and Abbey Road nature trails; it remains green even when deciduous trees are not in leaf due to the evergreen trees, shrubs, and lawn in the vicinity. *Exhibit A15; Site Visit; Testimony of John Stilin and Favero Greenforest.*¹²

8. In the 1980s, the Emerald Heights property was zoned R-4, which zone at the time imposed a 30-foot height limit. The initial developers of Emerald Heights applied for a planned unit development (PUD, a type of zoning overlay) to allow construction of buildings exceeding 30 feet in height. They also applied for a special development permit (SDP, the predecessor to the current CUP) because retirement residences were allowed in R-4 zone only subject to SDP review and approval. The original Emerald Heights PUD and SDP were approved in 1988 through Ordinance 1454, which created a 308-unit retirement residence that included a 60-bed skilled nursing facility and 30 personal care rooms. Conditions of approval for the SPD permit included a condition that restricted development within the Emerald Heights' campus to "the central approximately 40 acres of the site," (*Exhibit C29.A, sub-Exhibit A', page 2, item J*) and another condition that restricted development to "the central, flattest portion of the site" in order to "increase [the] amount of natural open space" and "locate the retirement center as far as possible from the single-family uses on neighboring land." (*Exhibit C29, sub-Exhibit A, sub-Exhibit O, page 2, Land Use Mitigation Measure 2*). Subsequently, in the early 1990s, Emerald Heights applied for and received a site plan entitlement (SPE) to construct several cottages for independent living for senior residents on the western portion of its site. *Exhibit C119.D.2, page 18.*

¹¹ Mr. Greenforest identified the street trees on 176th Avenue NE as sycamores or Norway Maples. Mr. Lyon identified them as London Plane trees, a hybrid of the sycamore.

¹² The undersigned conducted an unaccompanied site visit, driving along 176th Avenue NE and through the Abbey Road neighborhood on March 4, 2019.

9. In 1996, the City repealed its PUD ordinance and removed the PUD process from the City's zoning code. *Exhibit C29, Attachment I, page 6*. Following the adoption of the 1995 Regulatory Reform Act, the City replaced its regulations regarding "concomitant agreements" and "rezone contracts" with regulations authorizing "development agreements", a new regulatory device for providing development standard flexibility on a specific, identified piece of property. *Exhibit C29, page 8*.
10. In 2010, Emerald Heights applied for development guide amendment to rezone its property from R-4 to R-6, in order to allow additional density to be developed on the campus. Following a fact finding proceeding conducted by the Hearing Examiner, which resulted in a recommendation of approval, the City Council approved the rezone in 2011 in Ordinance 2607. *Exhibits A9 and C29, Attachment H*.
11. In 2013, Emerald Heights applied for and obtained approval of an SPE to build the Trailside Independent Building, which was built on the southern portion of the site between the loop road and the southern property line. At the time, Planning Staff operated under the assumption that as in the case of the cottages built in the 1990s, the 1988 SDP approval satisfied the requirement for land use review for the Trailside building and that only a site plan entitlement was required. This was later determined to have been error, as the zoning code in effect at the time the Trailside project application was submitted actually required conditional use permit review for retirement residence projects, and the 1988 SDP was no longer sufficient review of substantial additions to development on the site.¹³ *RZC Table 21.08.090.C; Exhibits C101 and C29*.

Brief Description of the Proposal

12. The proposal would renovate the existing Corwin Center by removing the 40 assisted living units currently there and converting the existing 32 double-occupancy skilled nursing rooms to single-occupancy skilled nursing rooms. This portion of the project is not subject to CUP and SPE application approval because it consists of only interior renovations to the Corwin Center. *Dean Kelly Testimony; Exhibit C101*.
13. The new 44,149 square foot assisted living building is proposed to be built in the eastern portion of the subject property between the loop road and 176th Avenue NE.¹⁴ This building would contain 54 assisted living units, for a net increase of 14 assisted living units. Forty of these new assisted living units would be occupied by the residents displaced by the Corwin Center renovation. The Applicant's selection of on-site placement for this facility was guided in part by the need to provide easy access for residents of the new units to skilled nursing units and amenities in the Corwin Center.

¹³ On April 16, 2011, the former city code, known as the Redmond Community Development Guide (RCDG), was repealed and replaced with the Redmond Zoning Code. *RZC 21.02.010*.

¹⁴ The correct square footages for both the assisted living and independent living buildings can be found on page 4 of the City's CUP/SPE Technical Report at Exhibit C101. The first page of the CUP/SPE Report lists incorrect square footages for the buildings as a result of scrivener error.

The reason to prioritize this is twofold. First, couples and close friends frequently experience prolonged separation when one partner or friend spends time in a skilled nursing unit. Also, making amenities more easily (and safely) accessible to assisted living residents encourages them to leave their units for the benefits of both exercise and community engagement. Thus, the proposed assisted living building includes a skybridge over the loop road that connects to other facilities in the campus core. Finally, the assisted living building would also provide one level of underground parking. *Exhibits C-17, C101, and E10; Dean Kelly Testimony.*

14. The proposal includes two new independent living buildings in the southern portion of the campus between the loop road and the southern property line adjacent to Redmond High School. The two independent living buildings would total 70,638 square feet and would add 42 new independent living units. The two buildings, known as Building A (western building) and Building B (eastern building) would be joined by a central courtyard that would be covered by a canopy to provide useable outdoor space. The independent living buildings would include several levels of underground parking. *Exhibits C17, C101, and E10; Dean Kelly Testimony.*

SEPA Appeal Findings

15. In support of the proposal, the Applicant submitted a SEPA application on June 14, 2018, including an environmental checklist and complete application materials. Upon completion of review, the City of Redmond Technical Committee, which body is the City's "SEPA Responsible Official," issued an environmental threshold determination of non-significance (DNS) on July 26, 2018, with a comment period running through August 9, 2018 and an appeal period running through August 23, 2018. The instant SEPA appeal was timely filed on August 22, 2018. *Exhibits C1, C1.A, C1.B, C1.C, C1.E, and C1.G.* Errors alleged on appeal are paraphrased in the Summary of the Record on pages 2 and 3 of the instant document.

Appellant Evidence

16. Appellants offered the testimony of John Stilin, former City of Redmond Councilmember and current Vice President of the Abbey Road Homeowners Association (HOA). Mr. Stilin provided testimony while showing photos of Abbey Road and the forested area on the eastern portion of the Emerald Heights property adjacent to Abbey Road where the assisted living building is proposed. He described the Abbey Road neighborhood as well laid out with wide streets, cul-de-sacs, and ample greenbelts. Currently the buildings on the Emerald Heights campus are not visible through the dense foliage on the east border of the campus. Mr. Stilin stated that all the greenspace makes Abbey Road feel more like an R-3 zoned neighborhood than an R-4 zoned one. Appellant witnesses expressed the opinion that removal of the existing greenbelt for the assisted living building would be a significant adverse impact to views and neighborhood character. *Testimony of John Stilin, Favero Greenforest, and Kaiyu Zhao; Exhibits A15, A16, and A17.*

17. According to Appellant witnesses, the existing character of the Education Hill Neighborhood, particularly in the Abbey Road area, is a distinctive, quiet, single-family residential area. While there are some multifamily uses and some non-residential, institutional uses, it is primarily single-family development. Mr. Stilin testified that within Abbey Road, the last home was built in 1994 and that, while there have been various additions and improvements to the homes over time, all homes remain consistent with the theme of the original design because of the recorded CCRs. Appellants asserted that, as originally built, Emerald Heights was compatible with the residential character of the neighborhood because the main and largest buildings were sited centrally on the campus, setback substantially from the nearest residences, and because they were designed to resemble residences, with gabled roofs and rooftop equipment concealed under the roof. The Appellants argued that the height, length, and nearness of the proposed building to the street would more resemble a hotel, hospital, or other institutional use than a residential use. *Testimony of John Stilin, Kaiyu Zhao, and Peter Steinbrueck.*
18. Regarding the “institutional” uses in the area, Appellants argued that they are all substantially setback from residences, which they consider a significant contributing feature of the Education Hill neighborhood character. Using information from the King County GIS online system, the Appellants submitted that the following setbacks are in place with existing non-residential uses in the area approved through the CUP process.

Existing Non-Single-Family Residential Uses	Setback of building to property line	Setback of building to homes
Hartman Pool	95	176
Redmond Junior High School	99	206
Redmond High School	148	217
Horace Mann Elementary	153	183
Emerald Heights main building	160	278
St. Jude’s Church	183	197

The proposal, in contrast, would place the assisted living building only 15 feet, four inches from the Emerald Heights property line at its nearest point and only 100 feet from the nearest single-family residence. *Exhibit A25.* They contended that 95 feet (or 32%) of the building’s length would be only 15 feet from the property line, while 135 feet of building face (46%) would be setback 25 feet from the property line, and only 65 feet (22%) of the building length would be setback 33 feet. They argued that these setbacks are inconsistent with the character of the neighborhood, regardless of whether they comply with zoning standards. Mr. Stilin testified that the existing setbacks of about 250 feet have worked for the neighborhood; neighbors don’t want the proposed buildings to be visible from their homes. Appellant witnesses contended that there are other places on the retirement campus where the proposed buildings could be placed without significant impacts. *Exhibits A25 and A50; Testimony of John Stilin and Peter Steinbrueck.* Appellant witness Kaiyu Zhao, whose residence is addressed as 17603 NE 110th Way,

owns the single-family residence directly across the street from the proposed assisted living building. He asserted that the structure would be less than 100 feet from his home, and the views from every west facing window in his house and his backyard would be dominated by the structure. *Kaiyu Zhao Testimony; Exhibits A47 and A54.*

19. In addition to the impacts of the setbacks, the Appellants alleged the proposal is out of character with the Education Hill Neighborhood both because of the overall square footage and because of the retirement campus's location in a single-family residential area. Based on information gathered from the King County Assessor website, Mr. Stilin determined that the total building square footage for Emerald Heights including the proposal would be 610,639 square feet, which he asserted comprises more building footprint than all of Lake Washington School District facilities in Education Hill combined (Mann and Rockwell Elementary, Redmond Middle, and Redmond High schools). He asserted that this is evidence that the proposal is inconsistent with the bulk, mass, and scale of typical development in the area and thus incompatible with neighborhood character. He also contended that Emerald Heights comprises 50% of all retirement residence square footage in the City of Redmond, with eight other facilities totaling 50%, which he argued is evidence that the bulk and mass of the proposal is unfairly imposed on the Abbey Road neighborhood. In addition, Mr. Stilin asserted that the majority of other retirement residence facilities are located on major arterials and not in the middle of single-family residential development. He requested that the instant decision render a judgment as to how many retirement residences is too many in one neighborhood, because the zoning code does not establish a threshold.¹⁵ *Exhibits A39 and A42; John Stilin Testimony.*
20. Also implicating bulk, mass, and scale, the Appellants contended that the information in the application materials regarding building height and apparent height is inaccurate and misleading. Using an Applicant graphic from a Design Review Board presentation depicting height calculations for the assisted living building and Microsoft Visio, Mr. Stilin calculated his own building heights and concluded that the majority of the building (72% of its length) is 40 feet in height or taller. *Exhibit A52; John Stilin Testimony.* Also using renderings created by Applicant architects for the CUP application and a protractor, Mr. Stilin calculated his own roof sight line angles and, based on his calculations, asserted that the application materials were misleading and inaccurate. He asserted that a person standing on the sidewalk nearest to the campus would have to tilt their head 60 degrees to see the top of the building and the sky beyond it, and he felt that such sightlines were incompatible with the neighborhood. *Exhibits A14, A40, and A54; Testimony John Stilin and Kaiyu Zhao.*
21. The Appellants offered the testimony of Peter Steinbrueck, architect and design consultant who has worked on many high-profile projects in the region, including

¹⁵ Such a determination would amount to a legislative policy enactment, which is outside the scope of a hearing examiner's authority.

Children's Hospital in Seattle. Mr. Steinbrueck reviewed the DNS to consider whether the SEPA Responsible Official considered enough information to make an informed decision. At the request of the Appellants, he formed an independent opinion on the proposed project based on his review of the former Emerald Heights approvals, the current applications, Design Review Board meeting information, the site plans, the DNS, Redmond's design standards and design standards checklist, the Redmond Comprehensive Plan, and at least one site visit. Mr. Steinbrueck characterized the proposal as a large-scale institutional use, disputing its treatment by the City as simply a multifamily residential development. He reached this conclusion because the proposed buildings would be in use 24/7, would generate traffic distinct from single-family residential uses, result in night lighting from interior and exterior lighting in the buildings, and the fact that it is a private, gated community protected by gate guards 365 days per year. None of the surrounding single-family residences include skilled nursing, administrative offices, or institutional kitchens. These characteristics, he contended, make the proposal nonconforming within the R-6 district and thus trigger the requirement for conditional use review. Mr. Steinbrueck opined that the existing Emerald Heights campus is of itself a unique and exceptional site that departs from surrounding uses but, under earlier approvals, is strictly restricted to the center of the site for the express purpose of avoiding dramatic impacts to the neighborhood. *Peter Steinbrueck Testimony.*

22. Mr. Steinbrueck testified that his overarching opinion is that the proposal will have probable adverse significant impacts to the neighborhood, because the reviewing parties failed to require adequate information on which a thorough environmental threshold determination could be based. He asserted that the Redmond Design Review Board process did not result in significant analysis or sufficient mitigation for adverse aesthetic impacts, reaching conclusions that are inconsistent with several applicable design standards. Mr. Steinbrueck characterized the various City approvals (DRB and DNS, in particular) as being premised solely on compliance with zoning code, which he contended is an insufficient review of aesthetic impacts because even code compliant buildings can cause significant impacts. One primary impact is the removal of the significant mature dense landscape buffer where the assisted living building is to be placed. There are limited tools available to conceal the proposed building which is incompatible with surrounding residences based on its height, bulk, and scale. He noted that the intended living building, although farther south, also has potential to impact views where south end of the building juts out near the guard gate; however, his remarks (as did those of most Appellant witnesses) focused on the impacts of the assisted living building. As can be seen in Applicant Exhibit E10, at page 14, the ALB is proposed on a prominent hill or landform that is at an elevation of 10 to 20 feet above the surrounding homes, thus accentuating the already oversized building. He contended that the ALB would occupy the same space as about 20 houses. The City's analysis of changes made through the Design Review process, including building modulation, step back, and design palette, does not demonstrate modifications to the original proposal that adequately address the resulting significant adverse aesthetic impacts. He stated that the City's reliance on the project's code compliance as evidence of lack of impacts failed to

consider Comprehensive Plan policies that are outside the scope of adopted prescriptive regulations. Finally, Mr. Steinbrueck asserted that the City's Design Review process, as reflected in the record at Exhibit C27, was fatally flawed. He contended that the design standards checklist did not call out analysis of specific, actual impacts and that the report at Exhibit C27 is grossly lacking in attention to detail. Comparing the final checklist (at C27) with an earlier draft (at A37), he does not see evidence of reasonable, thorough review or consideration of the project's impact to surrounding land uses. Noting that DRB members are not necessarily designers by trade but rather can be from any profession, Mr. Steinbrueck submitted the opinion that the City's standards are excellent, but that the DRB's recommendation of approval in the instant case is a failure of process. Looking at the checklist, he noted there are 217 line items and that there is no City Planner input on most lines showing analysis of the Applicant's submitted answers, making it appear that the City accepted the Applicant's unchanged original statements without critical analysis. He noted that 45 lines are not answered at all and contended that not all of these omitted answers are irrelevant. He stated that it was error for the DRB not to consider the siting of the ALB in its review process. Mr. Steinbrueck contended that the very first two design standard "intents" require consideration of building design that creates a transition between development and natural features, such as the green belt, and a gradual transition between differing land uses. He argued that the ALB, in particular, fails both of these intents because the placement of a building so much larger than any of the surrounding residences, at the edge of the subject property, requiring removal of a greenbelt and located at the top of a hill, would create a jarring edge effect. He testified that in his professional opinion, the DRB process for the instant project demonstrated a lack of rigor constituting failure of what is supposed to be an open, public, transparent process.¹⁶ *Exhibits A26, A37, A53, and C27; Peter Steinbrueck Testimony.*

23. The Appellants argued that the proposed tree plantings will not effectively screen the proposed buildings, especially the assisted living building. Appellants offered the testimony of consulting arborist Favero Greenforest, who testified that he reviewed the landscape plan and the design drawings and conducted a site visit. His review led him to conclude that if the proposed tree plantings are intended to effectively screen the assisted living building, they are doomed to fail. In his experience the success of landscape screening has to do with the diversity of species proposed, the proper selection of species for the location and purpose, and the depth of the planting bed. According to Mr. Greenforest, the new trees would be planted up against the existing ivy covered fence and in the shade cast by the fence and the building itself, as well as by the street trees and retained mature trees along the east elevation of the building. The species called out in the Applicant's tree plan do not do well in the shade and will not produce dense foliage as proposed. He stated it will take 15 years for the trees proposed to be as tall as the building and the top of the building will still be visible. As they get taller, they shade

¹⁶ Mr. Steinbrueck admitted on cross examination that he had never designed any projects in Redmond or appeared before the Redmond Design Review Board and that he was not aware of the professional qualifications of all of the DRB members who participated in the review of the instant project. *Peter Steinbrueck Testimony.*

their own lower branches, which suffer from lack of sun and fall off, leaving the base of the building visible. The proposed densities, he asserted, would contribute to tree unhealth, because they will require summer irrigation for many years, which in our region promotes root rot. Planting trees in a stressful density requiring irrigation is a set up for root fungus disease, as irrigation tends to lead to “the bathtub effect” in which tree roots soak in standing water and, as a result, develop root rot. Also, the new plantings would cause space and light competition for the street trees. Mr. Greenforest testified that the images at Exhibit A20 accurately depict the level of screening that will result from the proposed tree plan at time of planting. Finally, if they mature, the proposed trees would occupy the entire space between the property line and the assisted living building. They would need to be trimmed to stay off the building and to allow use of the trail. Mr. Greenforest contended that Leyland cypress is not a successful landscaping tree in the Pacific Northwest. *Exhibits A3, A4, A20, and C119.D.2, Attachment 14; Favero Greenforest Testimony.*

24. As additional information on the subject of whether the proposed buildings could be effectively screened, the Appellants offered a photo of a northern portion of the Emerald Heights campus to show that evergreen trees do not always provide effective screening, as often the lower branches fail and buildings can be seen through them, and the trees themselves can be “somewhat unsightly.” *Exhibit A16; John Stilin Testimony.* Regarding the most recently approved development on the campus, Appellants argued that the Trailside Building was screened in accordance with City requirements, which resulted in an unacceptable condition. The small pine trees that were planted to “screen” the building allow the building to be seen. The photograph at Exhibit A46 depicts what neighbors fear they will have to look at if the instant permits are approved: machine sheds, things on people’s balconies, roof top equipment, and a structure with an institutional look. Appellants argued that the Trailside Building can be seen from across the street and is especially visible at night, when it is very much lit up from lighting on and in the building. Mr. Stilin attempted to superimpose accurate silhouettes of the plantings proposed in front of the assisted living building and argued that they do not shield the structure from view. *Exhibit A19; John Stilin Testimony.* Appellants contend that such a structure, if visible, is incompatible with the character of the single-family residential neighborhood. *Exhibits A46 and A54; Testimony of John Stilin and Kaiyu Zhao.*
25. Regarding lighting, the Appellants contended that the proposed assisted living building in particular will result in excess light pollution, characterizing it as a “wall of windows”. Appellant witnesses asserted that “older folks don’t sleep at night” and will probably want their lights on, as well as needing around the clock nursing care. Even if some of the dwelling units are dark at night, the halls and stairwells will be lit and there will be 24/7 activity in much of the building. Although the Applicant removed exterior lighting from the east elevation of the assisted living building in response to neighbor comments, Appellants contended that the trail around the back of the building, which is required by the Fire Department to ensure access, will be lit for the safety of the residents who may

walk at all hours of the night. They argued that those lights, plus the lights from the dwelling units, will shine out into the night sky currently enjoyed by Abbey Road residents. Appellant witness Mark Finocchio used software called Blender (which he described as software used in animation packages to make renderings appear realistic) to generate the images in Exhibit A20, which he contended realistically depict the assisted living building at night. Appellants argued there will not be staff policing the building telling residents to lower their blinds at night, meaning neighbors could have to look at such scenes as depicted in Exhibit A20. The Appellants contend the environmental threshold determination is faulty for failing to analyze the impacts of the lights from the interior of the building and to require shadow analysis. *Exhibit A20; Testimony of John Stilin, Peter Steinbrueck, and Mark Finocchio.*

26. Also speaking to the “wall of windows”, Appellant witnesses expressed grave concern at loss of privacy in their yards and while engaged in activities along 176th Avenue NE as a result of being watched by residents in the assisted living building. The windows are 35 feet up and will look down into the backyards across the street from the assisted living building. Mr. Zhao, who lives directly across from the assisted living building, expressed concern about what he characterized as a complete loss of privacy in his backyard and his home. He provided photos of the proposed assisted living site from the windows of his residence. *Exhibits A47 and A54; Testimony of John Stilin and Kaiyu Zhao.*
27. In addition to loss of privacy, the Appellants contended that the proposed placement of the buildings would create significant adverse noise impacts. They expressed concern about both noise from inside the buildings and noise from residents of Emerald Heights outside the buildings, contending that such noise would affect the quiet of the neighborhood and adversely affect sleep and quiet enjoyment of neighboring residences. *Kaiyu Zhao Testimony; Exhibit A54.*
28. Additionally, Mr. Zhao contended that the proposed assisted living building would place a kitchen exhaust chimney less than 100 feet from his home. Like most residents in the Pacific Northwest, his home is not airconditioned and his family opens the windows in the summer for ventilation. He is certain that kitchen fumes will enter his yard and his home. Mr. Zhao testified that, in the current condition, any kitchen odors from the Emerald Heights campus are kept out of his yard by the existing greenbelt. He obtained a copy of and personally analyzed the data in the Applicant’s wind and shade study (Exhibit E1). Using his professional skills in data visualization, Mr. Zhao created his own graphics depicting his assessment of seasonal wind direction and came to different results from those stated in the Applicant’s wind study. He also compiled a list of articles about adverse impacts from kitchen fumes. He asserted that the City failed to adequately review these impacts prior to DNS issuance. *Kaiyu Zhao Testimony; Exhibit A57.*
29. Another alleged significant adverse impact is the increase in traffic from the proposed structures. Asserting that that the RZC’s retirement residence provisions require that a retirement residence use must demonstrate that “the use will not produce significantly

more traffic than the surrounding neighborhood,” the Appellants contended that the Applicant’s traffic evidence is insufficient to meet this standard in that no traffic counts were conducted of the actual traffic in the Abbey Road subdivision. Mr. Stilin commented that the traffic impact assessment in the record “is only guessing” at whether the proposal would generate significantly more traffic than the existing development. The Appellants argued that the proposal would increase the amount of cut through traffic in their neighborhood but emphasized that the concern is not so much the numbers as it is the type of traffic. They asserted that delivery trucks carrying institutional kitchen and medical supplies would dramatically increase on 176th Avenue NE (the only site entrance) and argued that their residences do not generate large delivery truck traffic or have their own private bus service or trips associated with 200 employees daily. They asserted that single-family residences do not generate as many emergency services vehicle trips as the proposed buildings will. Using the Applicant’s traffic consultant’s trip counts, Mr. Stilin generated tables showing that Emerald Heights traffic does not share the same peak periods as the surrounding neighborhood. This off-peak traffic is an impact that differs from the existing neighborhood traffic. *Exhibits A36 and A54; John Stilin Testimony.*

30. With respect to emergency services, the Appellants contended that the proposed project would generate undue demand for emergency services while at the same time failing to fund these services due to its tax exempt status, unfairly passing the significant costs on to surrounding residential taxpayers. Using data obtained from Redmond Fire Department, Mr. Stilin calculated Emerald Heights’ emergency services demand as compared to all retirement residence facilities in RFD’s service area, and the percentage of total RFD emergency services demand resulting from Emerald Heights calls. Of total retirement residence facility emergency service calls requiring transport between 2008 and 2018, Emerald Heights calls represented between 22% and 27% of transport calls. Of City-wide calls for transport in that same time period, Emerald Heights averaged 6.6% of total transport demand, which was higher than other retirement residence facilities in the RFD services area; the next highest average percentage of transport call demand was 4.8% at the Fairwinds community. Of all emergency services and fire suppression calls between 2008 and 2018, Emerald Heights generated demand ranging from 2.4% to 5.1% per year, averaging to 3.7% of total call demand City-wide. Appellants questioned whether this level of demand for service, which they alleged to be disproportionate, generated at Emerald Heights would result in increased response times to the single-family residential uses in the Abbey Road neighborhood, resulting in life safety impacts when Fire Station 17’s vehicles are busy at Emerald Heights and a neighbor with an emergency has to wait for an emergency vehicle to arrive from Station 11 downtown. Asserting that Emerald Heights reflects less than 1% of the RFD service area total population, the Appellants asserted that this increased demand represents a significant adverse impact to emergency services that was not properly studied in the City’s review of the project’s environmental impacts. *Exhibits A30 and A31; John Stilin Testimony.*

31. Appellants feel distrustful towards Emerald Heights and towards the City, in part as a result of the process used to approve and build the 2013 Trailside building. First, the architecture departed from the earlier residential design of the campus core buildings, with a flat roofed structure that more closely resembles the adjacent high school building than surrounding single-family residential development. The rooftop equipment is no longer enclosed, increasing its resemblance to an institutional building. Most significantly, the Trailside building was built into the existing, previously retained greenbelt. While in the 2011 rezone process, the conceptual plan had indicated that the cottages on the western perimeter of the campus would be removed and the increased density would be placed there, but instead the Applicant just built a structure that neighbors consider an eyesore in a greenbelt. Appellants are not satisfied that the current proposal could not be placed where the cottages are, as was indicated in the rezone proceedings. *Testimony of John Stilin and Kaiyu Zhao; Exhibit A54.*

32. Additionally, Appellants contended that Emerald Heights should remain bound by the conditions of their original permit approvals. Ordinance 1454, which adopted the PUD that allowed construction of retirement residence buildings taller than the R-4 zone's maximum height of 30 feet on the Emerald Hills Campus, imposed two conditions, which Appellants contended were necessary to render the project compatible with the surrounding neighborhood (addressed in Finding 8, above). These two conditions restricted development to the central portion of the overall campus, requiring the larger multifamily buildings to be located as far from surrounding single-family residential development as possible. Arguing that these conditions were intended to mitigate the bulk, mass, and scale of the project to ensure compatibility, Appellants contend that these two conditions remain in effect and prohibit the proposed locations of both the assisted living and independent living buildings. They argued that compliance with these conditions remains necessary to reduce visual impact of any increased density on site. They also contended that in obtaining the rezone to a higher density in 2011, Emerald Heights represented in its materials and in comments at the public hearings that the "greenbelt" along 176th Avenue NE would be retained and that the additional density would not be proposed on the perimeter of the site. The environmental checklist submitted with the rezone application materials included an Emerald Heights representative's signature attesting to the truth of the information submitted. Mr. Stilin, who was a Redmond City Councilmember at the time, testified that in 2011 he "took them at their word" that the buffer would be retained, and he argued that had the conceptual plan submitted in the rezone application showed the current proposal for development in the greenbelt, he would not have voted to approve the rezone. *Exhibits A10, A11, A12, and A54; Testimony of John Stilin, Kaiyu Zhao, and Peter Steinbrueck.*

33. At hearing, Appellants offered no evidence in support of alleged errors regarding loss of pervious surfaces, stormwater impacts, wildlife impacts, or impacts from the improper disposal of hazardous materials.

Applicant Evidence

34. In response to the appeal, the Applicant offered the testimony of the primary project designer, Dean Kelly, who led the design process for both buildings. Mr. Kelly provided an overview of the project at the outset of his testimony, which served as the project description for both the SEPA appeal and the permit application hearings. *Dean Kelly Testimony; Exhibits E9 and E10.*
35. Addressing the Appellants' contention that the proposed buildings are an "institutional" use, Mr. Kelly noted that the zoning code lists "Retirement Residences" as a residential use that is allowed in the R-6 zone with conditional use approval. The code defines the use as follows:

Retirement Residence. A building or group of buildings which provides residential facilities for residents 55 years of age or more, except for the spouses of such residents for whom there is no minimum age requirement. A retirement residence may provide a range of types of living units, including attached and detached housing units, and may also provide to its residents: food service, general health care supervision, medication services, housekeeping services, personal services, recreation facilities, and transportation services for its residents. Individual living units (suites) may include kitchens. A retirement residence may also include a skilled nursing facility provided that the number of nursing beds shall not exceed 25 percent of the total number of retirement residence units. Facilities with more than 25 percent of the retirement residence units having nursing beds shall be considered a long-term care facility.

The assisted living building would contain such amenities as a shared living room, dining room, lounge areas, a coffee shop, as well as informal areas for gathering at each level, and would have skilled nursing on site around the clock. Mr. Kelly asserted that all characteristics of the proposed buildings satisfy this code definition and are therefore residential use in Redmond. He noted that the R-6 permitted uses table contains a section identifying institutional uses, including: day care center, family day care provider, public safety, grade schools, and religious institutions. The proposal does not meet the definitions of and is not accurately classified as any of these identified institutional uses. He noted that institutional buildings are places that people go temporarily, while both of these buildings are designed to provide permanent daily living accommodations. *Dean Kelly Testimony; RZC Table 21.08.090.C, RZC Chapter 21.78, R Definitions.*

36. Addressing the Appellants' contention that the proposed buildings are "institutional" in appearance, Mr. Kelly testified that the buildings were designed to address residential use criteria, and, in his opinion, would be more accurately described as resembling an apartment building than hospital. The design of both buildings was reviewed during at least nine Design Review Board meetings, at which Mr. Kelly represented the project, throughout an open meeting process that took more than one and a half years. (In that time there was DRB member turnover.) The assisted living building was presented to the DRB at least four times, in May 2017, August 2, 2018, August 16, 2018, and September 6, 2018. The independent living buildings were presented at least three times, in November 2017, August 2018, and September 2018. The DRB meetings allowed public

comment prior to the vote, and the public's input was considered. *Exhibit C106*. Changes to the original proposal that were made as a result of the DRB process include:

Assisted Living Building

- 1) Setback from the east property line increased as follows: two-thirds of the building were shifted an additional eight feet from the eastern property line, for a final setback ranging from 15 feet, four inches to 24 feet, six inches; and the upper two floors of the remaining third of the building were shifted an additional five feet. The average setback is 21 feet.¹⁷
- 2) The building shift allowed an additional nine large mature trees to be retained, for a total of 22 existing trees retained near the assisted living building.
- 3) The Applicant agreed to remove the trail around the rear east) side of the building to allow a deeper vegetated buffer; however, the Fire Department required the trail to be retained for emergency services purposes. The original trail was five feet wide, while the currently proposed trail is three feet wide around the east elevation of the assisted living building, which was the minimum acceptable to the Redmond Fire Department.
- 4) An additional 44 new trees were added to proposal, increasing the total proposed plantings to 126 trees, including increasing the number of evergreen trees from 50 to 109 trees, and their size at time of planting was revised to 10 to 18 feet at install rather than the six feet required by RZC 21.32.050.D.2. An additional seven new street trees would be added offsite adjacent to the public sidewalk.
- 5) The total number of assisted living units was reduced from 56 to 54 units, allowing the northern end of the building to step down from three to two stories.
- 6) The materials palette was revised to reflect the residential character of the surrounding neighborhood, utilizing lap siding as the primary material and reducing panel siding to areas only visible from within the campus, and the color scheme was made darker to allow the building to recede into the landscape.
- 7) Residential style window bays were added to reduce the building scale and further articulate the facade of the building. Eave overhangs were added to the parapets with sloped roofs incorporated into vertical elements of the building design. The north lounge was revised to be less visible from the street.

Independent Living Building

- 1) Ten existing trees would be retained on site, ranging from 42 to 130 feet tall, nine of which are between the public right-of-way and the proposed building.
- 2) A previously proposed sidewalk extension in the northeastern corner of the site was removed to make room for additional screening trees.
- 3) Nine additional street trees are to be provided adjacent to the public sidewalk.
- 4) Building colors were revised to strengthen the contextual link to the adjacent Trailside building, reinforce horizontal character at building ends, and enhance contrast at unit balconies and vertical building elements, reducing building scale.

¹⁷ *Exhibit C101.F, page 2.*

- 5) Panel system articulation, window mullion patterns, and bay window design were revised to incorporate architectural details utilized on the Trailside building.
- 6) Feature wall and accent panel materials selected to provide warmth and interest, with tones complementing existing materials used throughout the campus and neighborhood.
- 7) The courtyard design was developed to create an inviting, human-scaled space with a variety of seating options.

Exhibits C101 and C101.F; Dean Kelly Testimony.

37. Addressing Mr. Steinbrueck’s testimony about inadequacy of the City’s design review process, Mr. Kelly testified that the goal in filling out the City’s Design Standards checklist is to address all criteria and show how the proposed design complies with elements identified on the checklist. Minutes of the various design review meetings reflect the extent to which public input was welcomed and included in the deliberative process that led to the final design considered by the DRB. Given the lengthy review process and number of times the project was presented to the DRB, and the changes made as a result of feedback from the DRB and Planning Staff, Mr. Kelly submitted that the design review standards checklists for both buildings were thoroughly reviewed and considered. The DRB’s input was considered after each meeting and changes made to address concerns raised. At the final meeting on September 6, 2018, the DRB voted to approve the final design of both buildings. *Exhibits E11, C27, C28, and C101.F; Dean Kelly Testimony; see Exhibit E10, pages 8-11, 21, 22, 31, 32, 34, and 35.*
38. Responding to Appellant witness contentions related to the Trailside building, how it differs from the rest of the campus, and the adequacy of its screening, Mr. Kelly testified that at the time the Trailside building was in design, his firm had been receiving consistent feedback from the Redmond DRB to reinterpret design materials and to make new buildings “of their time” rather than consistent with the campus’s original architecture, which had been done by a Midwest firm in the early 1990s. At Emerald Heights, Rice Fergus Miller first designed the fitness center in 2011 or 2012, and in the course of design review, the DRB asked that it be more Pacific Northwest oriented, which is when the more modern design elements began to be added to the campus. Mr. Kelly testified that the Trailside building was not landscaped to be screened, as the current buildings are, because there was no requirement that it be visually obscured as seen from off-site. The less dense vegetation around the Trailside building was selected largely because of the location of the loop trail and fire access. Thus, the plantings around that building are not a representation of the intended outcomes around the instant buildings, which are being landscaped to be screened from off-site views. *Dean Kelly Testimony.*
39. Responding to the Appellant argument that the 2011 conceptual master plan, submitted at the time of the rezone, shows that the proposed assisted living building can and should go elsewhere on the campus, Mr. Kelly testified that that conceptual plan was prepared

because the Applicant was required to demonstrate how full density could play out on the site. It was not proposed development or an assurance that the buildings would be placed as located on that image, but rather was an image generated for use in public meetings that showed all proposed uses on the site at the requested residential density. Mr. Kelly noted that the 2011 conceptual plan depicts buildings in the location of the Trailside building and the proposed independent living building, both of which are consistent with the conceptual plan. In selecting the locations for the proposed buildings, the Applicant is required to consider the wellbeing of residents, as well as the wellbeing of the surrounding neighborhood. Residents in independent living can, and should be encouraged to, travel back and forth across longer distances on the campus; they can better withstand the elements and cross the street with more assurance of safety, meaning their building can be placed on the perimeter without need for protected connection. Residents in assisted living require proximity and connection to the campus core. For their physical health and quality of life, they need to be able to attend functions in the dining room and main living room, to get to the fitness room, and to be able to visit friends and family in skilled nursing. To place the assisted living building in the location of the existing cottages would be to cut those residents off from meaningful access to campus amenities. *Dean Kelly Testimony.*

40. In addition, Mr. Kelly testified that after the rezone was approved and various projects began to be realized on the campus, a series of issues arose. Preliminarily, the site contains natural constraints, in the form of steep slopes and a stream in the western portion of the overall 38-acre property. A fairly large part of the site along the entire west boundary cannot be developed. The retirement residence programming, and contractual relationships with existing residents, required prioritization of three goals in selecting locations for new improvements: no displacement of existing residents, connection to core campus amenities, and minimal disruption to ongoing campus operations and existing residents. It was originally believed that the existing campus utilities buildings could be relocated. However, moving these utility functions requires extensive interruptions to all campus operations. It is of course necessary to preserve as many trees as possible, and to protect the existing stormwater ponds. Some thought was given to locating new density where existing stormwater ponds, of which there are three, would be affected; however, stormwater regulations have changed, and a new stormwater pond would be required to be 30% larger and would require reconfiguration of drainage patterns and much tree removal. It is necessary, if placing the assisted living building on the perimeter of the site, to select a location from which a skybridge can effectively connect the new dwelling units with the core campus amenities. It would be fruitless to build smaller buildings that would not meet projected demand, simply moving difficult choices to the future. At least 14 options were studied for placement of the proposed buildings. The instant proposal for assisted living placement was selected because: it didn't require relocating/reconfiguring the campus facilities building, it represented minimal impact to utilities and stormwater ponds onsite, it provided meaningful access to core campus amenities and could host a feasible skybridge, and it required no demolition

of buildings and no displacement of current residents. *Dean Kelly Testimony; Exhibits 20 and 21.*

41. Speaking to the Appellant concern that increasing independent living units on-site will drive up future demand for assisted living units onsite, Mr. Kelly testified that independent living residents have the option of moving into assisted living, but that not all of them will. He indicated that Emerald Heights assisted living units are reserved for existing Emerald Heights residents. *Dean Kelly Testimony.*
42. Responding to Appellants' contention that the building is taller than 35 feet, Mr. Kelly explained that according to the City's height definitions, height is calculated from the average finished grade measured at the midpoint of each elevation.¹⁸ Mr. Kelly testified that Appellants' Exhibit A52, which disputes the accuracy of height calculations in the Applicant's materials, is based on grade measurements taken from points other than those in the definition. He further explained that the image used by Mr. Stilin to generate Exhibit A52 was drafted as a conceptual building elevation, not as a civil engineering plan for the structure, using different software than Mr. Stilin used to make his annotations. It was intended as a graphic illustration of the conceptual appearance of the building that was not intended to be to scale or accurate for the purposes of height calculation. *Dean Kelly Testimony.*
43. In response to the appeal, Applicant consultants prepared a shadow study. Based on topographical and building footprint information from City of Redmond GIS, the shadow study shows shadows from the proposed buildings at three times per day (8:00 am, noon, and 4:30 pm), depicted during three sun positions per year: winter solstice, spring/fall equinox, and summer solstice. The proposed structures were geolocated on-site, and shadows from trees have been distinguished from building shadows. The study contains nine images showing the shadows that would result from the proposed structures. According to Mr. Kelly, this is a typical study prepared by Rice Fergus Miller for projects undergoing design review. In the graphics, shadows from trees are in green, while shadows from buildings are in gray. Maximum building shadow impact is shown in the equinox image, in which the shadow of the assisted living building appears to reach four residential lots across 176th Avenue NE. Portions of the building shadow appear to touch three of the residences (including Mr. Zhao's). Shadows from the street trees and mature trees retained in the screening buffer between the building and the street occlude those same portions of those residences and in fact extend much farther into the four properties touched by the assisted living building's shadow. *Exhibit E1; Dean Kelly Testimony.*

¹⁸ RZC Chapter 21.78, H Definitions: Height of Building or Structure. The vertical distance measured from the average finished grade around the building to the highest point of the structure. The approved average finished grade shall be measured by taking the smallest rectangle around the building and averaging the elevations at the midpoint of each side. (Effective on: 4/16/2011)

44. Applicant consultants prepared a wind study graphic depicting the percentages of time the prevailing wind travels in which direction over the retirement campus. According to Mr. Kelly, the windy study graphic depicts that for at least 75% of the time, the prevailing winds have blown across the site away from Abbey Road, rather than towards it. Mr. Kelly took exception to Appellant witness Kaiyu Zhao's characterization of the kitchen in the proposed assisted living building as an institutional kitchen. He contended that it is a commercial kitchen, which will prepare three meals per day and will be subject to inspection and approval by Washington State Department of Health. Noting that Mr. Zhao's submittal (Exhibit A57) primarily discusses hazards generated by frying foods, Mr. Kelly indicated that the proposed kitchen is intended to be a "healthy foods kitchen" and there would be no commercial fryer. The kitchen would be provided an exhaust hood that has a grease filter that removes 75% of grease particles. The exhaust chimney would be located on the second floor roof at north end of building approximately 110 feet from nearest residence. Exterior walls would surround the exhaust and portions of the building would block the exhaust from wind. Mr. Kelly submitted that in his professional opinion, there would be a very low likelihood of odor impacts from the assisted living building. *Exhibit E1; Dean Kelly Testimony.*
45. Addressing the challenge to the sufficiency of the proposed tree retention and planting plan for screening purposes, the Applicant offered the testimony of the project's landscape architect, Moghan Lyon of Lyon Landscape Architects. Mr. Lyon testified that the proposed landscape plan (Exhibit E10, page 13) was designed in collaboration with arborists to identify appropriate trees for retention, as well as optimal tree species for replacement plantings. He indicated that the plan was designed to include a native, native adapted, and ornamental palette to achieve colors and textures throughout the year and provide screening from 176th Avenue NE and from surrounding residential uses. Pursuant to RZC 21.08.370.C.3.v, the following landscaping is required for retirement residence uses:

Landscape Requirements. Setback areas located adjacent to the side, street side, and rear property lines shall be landscaped to sufficiently screen the development from surrounding residential uses. Similar landscaping shall also be provided within the front setback areas when needed to screen parking. Where possible, existing mature vegetation shall be retained. The Design Review Board may allow reduced landscaping requirements for projects that exhibit exceptional site and architectural design qualities that reflect nearby neighborhood character. Such projects shall be well integrated with the surrounding neighborhood, including linkages to surrounding uses through pedestrian and vehicular connections. Alternative linkages may be proposed by those facilities where an enclosed facility is mandated by licensing requirements for the type of care offered at the retirement residence, such as Alzheimer's or other dementia care facilities.

Mr. Lyon noted that the project proposes to remove 83 trees for the independent living building and 98 trees for the assisted living building, or 181 total trees. The removed trees would be replaced with 193 trees, 67 around the independent living building and 126 around the assisted living building. An additional 16 street trees would be added along the subject property's frontage where there are gaps. Mr. Lyon noted that the

Redmond zoning code requires between incompatible uses, at its most dense, a maximum 80% sight obscuring vegetative screen. Notwithstanding that the proposed use is residential, the City required Type I landscaping along the eastern site perimeter to screen the proposed buildings from the homes in Abbey Road. Redmond’s Type I landscaping requirements are as follows:

Planting Type	Purpose	Minimum Standard	Applicable uses
Type I – Solid Screen	Solid sight barrier	<p><u>Evergreen trees and shrubs:</u></p> <p>A. Minimum height of five feet at planting; and</p> <p>B. 80 percent sight-obscuring screen at the time of planting; or</p> <p>C. Combination of evergreen and deciduous trees and shrubs backed by 100 percent sight-obscuring, decorative wall or fence.</p> <p><u>Deciduous trees</u></p> <p>A. Minimum height of 10 feet at planting.</p> <p>B. The width of the barrier shall generally be 10 feet, unless otherwise specified by the Technical Committee.</p>	<p>A. Outdoor storage.</p> <p>B. Service yards.</p> <p>C. Trash containers.</p> <p>D. Mechanical/electrical ground mounted equipment.</p> <p>E. Between incompatible uses such as industrial or commercial and residential or recreation uses.</p> <p>F. Utility installations or equipment.</p>

RZC Table 21.32.080. Mr. Lyon testified that, as proposed, the landscaping plan is consistent with the Type I planting requirement and at time of planting would meet or exceed the 80% sight obscuring requirement. Further, the proposal calls for evergreen replacement trees that are 12 to 18 feet tall and the plan retains as many existing mature trees as possible, primarily Douglas fir and Bigleaf maple. Evergreen replacement trees would be planted in a double row along the east side of the assisted living building, with salal and other native ground covers and shrubs between. The ivy covered fence would be retained, meaning the bottom six feet of the building would be 100% sight-obscured. Mr. Lyon noted that the City requires a tree preservation bond, in place for five years, and a tree replacement and maintenance bond, in place for three years, which would ensure that the trees either become established or are replaced to ensure sufficient screening from the street. *Moghan Lyon Testimony; Exhibits E10 (page 13) and E13.* New street trees are proposed north of the north end of the detention pond at the north end of the assisted living building. *Dean Kelly Testimony.*

46. In preparation for the appeal, the Applicant’s landscape plan was reviewed by an arborist, Bob Layton, who submitted written comments indicating the following:

Given the allowable space, the proposed tree planting plan is consistent with industry standards for the screening of buildings and other structures. The plan calls for the planting of two staggered rows of coniferous trees for the majority of the length of the building, planted eight feet on center. Because of space limitations, the density is decreased to one row of coniferous trees along a smaller portion of the east building face at the north end, also planted eight feet on center.

...

The [existing] street trees are developing phototropic or natural leans away from the (existing mature forested buffer), as they compete for sunlight and space. Their crowns are asymmetric and disproportionate to the road side. Once the vegetation west of 176th Avenue is removed, the street trees will develop better form and structure... . More exposure to light will increase the density of foliage and allow the crown to develop into a more uniform or natural shape.

...

Along the east side of the building, the current plan calls for the planting of 50 Douglas fir and 30 Western red cedar. ... To improve the screening function... I would recommend...reducing the number of (proposed) Douglas fir to 20 [strategically planted where they will receive adequate sunlight] and replace them with 15 Leyland Cypress and 15 Excelsa western red cedar [which are both more tolerant of shade and available in the 15 to 18-foot range].

If the soils are amended properly, trees are planted to industry best management practices, and they get adequate irrigation, they would be expected to flourish in the new landscape. The main causes of failure of new tree plantings are inadequate soil preparation and lack of water. If the trees are well cared for, they would be expected to grow at two or three feet in height per year.

Exhibit E13; see also Exhibit E8. In addition to his written comments, Mr. Layton testified at hearing that the proposed landscaping plan is “pretty standard.” He did not feel that the potential for root rot was a significant issue, because the planting plan is based on a correctly prepared site, appropriately tilled soils, and appropriate irrigation, followed by landscape management. He stated that, “evergreen trees planted in staggered rows is how you screen things.” He testified that in the course of his career, he has seen frequent successful use of the Leyland cypress in the Pacific Northwest. He offered photos of landscape screening plantings with which he is familiar to show what could be expected in the future (Exhibit E23). The first photo shows a landscaping screening bed of Douglas fir and Western red cedar planted approximately 18 years ago, through which the screened facility cannot be seen. The second is an example of what happens to Douglas firs planted on eight-foot centers, when the lower branches do not get enough light – in this photo the trees are tall and healthy and the solid fence obscures below the healthy vegetation. The third photo shows a row of Leyland cypress planted six feet on center where they face north and get very little direct light; they are very healthy and provide a dense screen. Mr. Layton indicated that Leyland cypress and cedars are not known for losing their lower branches. *Exhibit E23; Bob Layton Testimony.*

47. Mr. Lyon testified that the recommendation for the use of other species in place of some of the Douglas firs has been noted and would be implemented if the project moves forward to the drawings stage. He noted that the final planting plans would not be developed until land use approvals are secured, and that planting specifications would be finalized in the final drawings at that time. The plan would contain technical specifications for soil preparation, would stipulate the use of standard nursery stock measured through industry standard practices for caliper and root ball size, and would be irrigated by an automatic irrigation system zoned to meet specific timing and watering needs. Speaking to Mr. Greenforest's concerns about root rot, Mr. Lyon testified that Mr. Greenforest must have been assuming that planting would not be done to industry standards. All trees would be placed in native amended soils in pits two times the width of the root balls, with a cone of soil at the bottom of the pit to ensure the root ball does not sit above standing water, avoiding the "bathtub effect." To ensure these measures are implemented, the landscape architect would be present at planting and would supervise construction near trees to be retained. Mr. Lyon testified that Emerald Heights contracts with a highly competent landscape company (BrightView Landscape), which has an arborist on staff. The plantings would have at least a one-year warranty. Any dead or unhealthy trees would be replaced by the contractor within the first year, and after the first year, would be replaced by Emerald Heights, with the work conducted by landscape professionals. The City requires landscaping bonds, including tree preservation and maintenance bonds. *Moghan Lyon Testimony.*
48. Mr. Kelly noted that the DRB and the City's Technical Review Committee both found the screening to meet or exceed code requirements. The number and proposed height at installation of evergreen trees well exceed code requirements. Mr. Kelly disputed that the Redmond Zoning Code requires continuity of the status quo and replacement of the existing density of screening on the site. While the code requires Type II screening for the type of development, the proposed tree retention and replacement actually exceeds Type I requirements, such as would be required to screen industrial uses from single-family residential development. *Dean Kelly Testimony.*
49. Regarding lighting, Mr. Kelly responded to the graphic image prepared and presented by Mr. Finocchio for the Appellants at Exhibit A20. Mr. Kelly made his own graphics, based on Mr. Finocchio's, to illustrate things he felt were misleading the Appellants' exhibit. Mr. Kelly annotated Mr. Finocchio's nighttime photos to identify the uses of the rooms inside the windows and to present information about what times of night those rooms could be anticipated to be lit. First, he noted that the image used in the Appellants' Exhibit A20 does not show the shift in building setback and so does not accurately depict how close those windows would be to the street. Mr. Kelly's annotations point out the rooms designated for group activities, activities storage, building management, building administration work stations, the medical records rooms, the salon, the spa, the dining room, and the kitchen office. He argued that it is not reasonable to assume that such rooms would be used frequently after business hours. He indicated that the kitchen and dining room would be lit with occupancy sensors, meaning

lights would go off when rooms are empty. Further, he contended that even though some residents may turn in late or be awake in the middle of the night at times, it is not realistic to assume that all living unit lights would be on 24 hours a day, seven days a week, and that none of the residents would choose to close blinds or curtains. He also contended that the Appellants' graphic failed to account for the light from the four street lights between the assisted living building and the homes across the street, and stated that the argument that the street would be perfectly dark but for the assisted living building is not accurate. Further, he noted that the Appellants' graphic shows the replacement trees at time of planting and does not reflect the fact that they will grow over the years. Mr. Kelly reiterated that there is no exterior lighting on the east elevation of the assisted living building. Specifically addressing the skilled nursing staff's impact on nighttime lighting, Mr. Kelly indicated that the submitted elevations show floor plans with the nurse charting station in a location with no exterior facing windows. *Exhibit E19; Dean Kelly Testimony*. Of note, approximately only six homes in the Abbey Road neighborhood face 176th Street near the proposed assisted living building. *Site Visit; Exhibit R16*.

50. Addressing Appellant contentions about increased traffic leading to significant impacts, the Applicant offered the testimony of transportation engineering consultant Michelle Brown of Heffron Transportation. Ms. Brown testified that she was lead transportation engineer for the instant project and has been working on Emerald Heights traffic studies since the traffic impact analysis (TIA) prepared for the 2010 rezone application. That study considered the full build out of the rezoned retirement campus's traffic potential. *Exhibit E18*. The June 4, 2010 study reviewed the then-existing traffic conditions by conducting a full week of traffic counts at the Emerald Heights access driveway in December 2009, December being the busiest traffic month at the retirement campus, in addition to the City-required 2% annual growth rate. The TIA compared projected future trip counts without additional density to projected future trips with full build out of the increased density. At full build out, the TIA concluded the fully developed campus would generate 610 average new daily trips, including 62 PM peak hour trips. With these counts, no intersection was projected to be impacted by 20 or more trips. The TIA concluded that full build would not adversely impact the local road network out to year 2025. The site driveway would still operate a good level of service. In addressing potential impacts to pedestrian safety, the TIA considered 3.5 years of collision data and found no history of existing safety issues, concluding that no significant safety issues for pedestrians would result from increased campus traffic. *Exhibit E18; Michelle Brown Testimony*.
51. Because of the concerns expressed by neighbors, the Applicant requested Heffron to take a fresh look based on current conditions. In July 2017, an evaluation was prepared to determine whether the assumptions in the 2010 TIA remained valid. *Exhibit E17*. The July 2017 evaluation determined that traffic had not kept up with the projected 2% annual growth. Traffic counts at the site driveway and along 176th Avenue NE confirmed that the numbers previously projected were still valid, conservative estimates. Then, on June

1, 2018, Heffron prepared an evaluation of the instant proposal as compared to the 2010 TIA to determine whether the trips to be generated by this proposal fall within the parameters previously studied with regard to trips, traffic operations, and parking, and to calculate traffic impact fees for the instant project. *Exhibit C1.L*. The June 2018 review concluded that the 2010 TIA had included all trips related to the currently proposed assisted and independent living buildings, as well as trips associated with the renovations in the skilled nursing unit. No significant impacts are shown and no mitigation beyond payment of traffic impact fees is required. Finally, although the project trip count doesn't meet the threshold triggering one, Heffron prepared an Emerald Heights traffic mitigation plan. This plan includes such strategies as: a designated transportation coordinator position; on-site visitor and employee parking; registration of resident vehicles; scheduling employee shifts to avoid peak commute times; providing bike facilities; and special event management, among other measures. This plan also addressed construction traffic, including: designated off-site satellite parking lots for construction workers; staggering construction shift times; valet parking for residents and employees during construction; and electronic communication with neighbors who wish to be notified of traffic issues at Emerald Heights. *Exhibit C9*.

52. Speaking directly to the Appellant concern that the Applicant did not formally study the existing traffic in the Abbey Road subdivision and therefore is unable to make the required comparison, Ms. Brown pointed out that every traffic study done for Emerald Heights so far has measured Abbey Road traffic. The data being relied upon is actual counts of trips on Abbey Road (176th Avenue NE). Appellants expressed concerns about the types of vehicles that serve retirement communities, such as buses, large delivery trucks, and others, and Ms. Brown acknowledged that these vehicles do have different types of impacts than typical single-family residential vehicle use; however, all of those different types of vehicles serve the existing campus without any measurable traffic impacts, according to repeated traffic studies. Ms. Brown testified that retirement residential uses tend to generate about one-quarter of the traffic that is generated by typical single-family residences, at 2.5 trips per day per assisted living unit, where a single-family residence typically generates closer to 10 daily trips. *Michelle Brown Testimony*.

City Evidence

53. For the last two and one-half years, the primary member of City Planning Staff tasked with shepherding review of the proposed assisted and independent living buildings through the SEPA process has been Planner Ben Sticka. Mr. Sticka reviewed the information submitted by the Applicant, routed it to the appropriate departments for review and comment, served as the reviewer for Planning Department issues, and was the City staff member who presented the proposal to the Technical Committee. *Ben Sticka Testimony*.
54. In assessing any project for probable, significant, adverse environmental impacts, the City initially considers whether compliance with adopted, applicable City regulations

would address potential impacts. Mr. Sticka asserted that before exercising substantive SEPA authority to condition a project, the state SEPA regulations, at WAC 197-11-660, require the City to consider whether compliance with the land use regulations will provide adequate mitigation of the project's environmental impacts. *Exhibit C1*. Review for adverse impacts under SEPA commences with review of the environmental checklist. In the instant case, Mr. Sticka indicated there were four or five completed checklists turned in, as the City sent checklists back to the Applicant for additional development on given issues. The design review checklists (Exhibits C27 and C28) were completed prior to the SEPA environmental checklist, meaning Mr. Sticka was able to consider that information while reviewing the Applicant's statements in SEPA checklist. The DNS was based on the SEPA checklist dated Junly 13, 2018, which was the final checklist that incorporated the Applicant's answers to all requests for correction or additional information from the various reviewing departments. On that final checklist, the initials 'BTS' with the date reflect that Mr. Sticka, or staff from the appropriate department, had gone line by line and verified that the information supplied in the checklist was consistent with the supporting project materials, and this verification took place over all the drafts of the checklist, until this list, which was final. *Ben Sticka Testimony*.

55. Aesthetics is the tenth element of the environment addressed in the SEPA checklist. *Exhibit C1.C, page 20*. Over the course of about two and a half years, there was a significant amount of consultation between Mr. Sticka and staff from other departments, the Applicant, neighborhood meetings resulting in input from the public, and the Design Review Board. Mr. Sticka determined that the information at element 10 of the final checklist (Aesthetics) was accurate based on the Applicant's submittals. Addressing Appellant contentions that the project would result in probable, significant adverse aesthetic impacts, the City concluded that compliance with the City's regulations would mitigate any aesthetic impacts the project would have. Despite Appellants' frequent use of the term greenbelt to discuss the existing forested area at the east perimeter of the Emerald Hills campus, that area is not a within a regulated, or required, greenbelt, native growth protection area (NGPA), or any other easement that would restrict such development. The Design Review process yielded significant alterations to the assisted living building, which is of primary concern to Appellants, including revised colors and materials, modulation, window treatment, roof line, shifting farther from the boundary, and reducing the total unit count by two, allowing the end of the building most visible from off site to be two stories rather than three stories tall. In addition, the project retains 86% of the existing significant trees on-site, well in excess of the code requirement for 35% retention; it provides more than the minimum number of required replacement trees. In addition, most of the replacement trees proposed are significantly taller than is required by code, meaning that the building would be screened to a higher extent than is required by code at time of planting. The proposal complies with City regulations intended to protect landmark and significant trees. Speaking to the contention that the proposed plantings won't effectively screen the proposed buildings, especially the assisted living building, the City contended that the project includes 109 evergreen trees installed at 10 to 18 feet in height at time of planting, and 17 deciduous trees at six to

eight feet in height at planting. All of these trees would exceed minimum size requirements of RZC 21.32.050 (required screening) at time of planting. Given these facts, the City concluded that the project would not have significant adverse environmental impacts to aesthetic screening. *Ben Sticka Testimony; Exhibits C1, C11, C12, C13, C14, C15, C27, and C28.*

56. Addressing the alleged impacts to views, the Redmond Zoning Code regulates views at RZC Chapter 21.42, entitled Public View Corridors and Gateways. Chapter 21.42 contains two sets of standards: Citywide public view corridor design standards and Shoreline Master Program view design standards. The subject property is not within the shoreline jurisdiction; however, the “Citywide standards shall apply to all projects located in the City within any of the view corridors identified in this chapter.” *RZC 21.42.020.* Neither Emerald Heights nor the Abbey Road Neighborhood are identified within the Citywide Public View Corridors and Gateways. There are no protected views protected by the proposal. *Ben Sticka Testimony; Exhibit C1.*

57. Addressing the Appellants’ contentions regarding adverse impacts from lighting, Mr. Sticka stated that the information in the environmental checklist (element 11, page 21) was accurate according to project plans and sufficient to determine potential impacts. The City concluded that compliance with applicable regulations would mitigate any impacts from project lighting. Pursuant to RZC Chapter 21.34, when exterior lighting is proposed with a project requiring Type II through VI review, the Technical Committee reviews the lighting design as a part of the permitting process. The application materials included a photometric analysis as part of the plan set, which Staff found shows no light trespass off the subject property. After DNS issuance, the Applicant’s lighting engineer confirmed that there are

no exterior mounted fixtures on the east side of the assisted living building. The interior lighting spaces are administrative and residential units. Lighting fixtures for both types of location are dimming fixtures and would more than likely be on occupancy sensors or dimmers. Unfortunately, there is not a lighting calculation program that can accurately determine the amount of light spill of interior spaces onto the exterior. But considering the programming of the floors the light spill will most likely be minimal.

Exhibit C1.I. Based on this, the City concluded that the information submitted was adequate to determine code compliance and to conclude that the project would not result in adverse lighting impacts. *Exhibits C1, C1.C, C1.I, and C19; Ben Sticka Testimony.*

58. Concerning alleged impacts to native vegetation and trees, Mr. Sticka noted that the information in the environmental checklist addressing plants as an element of the environment (element 4, page 10) was consistent with the application materials. Addressing potential impacts to plants, the City again contended that the proposal meets and exceeds the City’s tree preservation ordinance standards. The proposal retains 86% of significant trees on-site and plants more replacement trees than are required per RZC

21.72.060. *Ben Sticka Testimony; Exhibits C1, C1.C, C11, C12, C13, C14, C15, and C16.*

59. Speaking to the assertions in the appeal letter of significant adverse impacts to wildlife (fifth element of the environment, page 12), Mr. Sticka noted that the Applicant had submitted a wildlife assessment and a critical areas report prepared by qualified professionals. In the western portion of the site, the critical areas report identified a Category III Wetland, which requires a 150-foot buffer, and a Type III Stream, which requires a 100-foot buffer. No development is proposed in or near either critical area, and those areas would be preserved as wildlife habitat. The wildlife assessment concluded that the proposed development would not negatively impact any federally-listed species or associated critical habitat, nor any state-listed species, priority species, or priority habitats, nor documented migration routes. A member of the City Natural Resources Staff conducted a site visit in their review of the adequacy of these studies by Applicant consultants. The City concluded that the proposal would not substantially affect wildlife. *Ben Sticka Testimony; Exhibits C1, C1.C, C1.O, and C3.*
60. Concerning the alleged traffic impacts, Mr. Sticka confirmed that upon receipt of the SEPA checklist, he forwarded the information at element 14 Transportation (page 24) to the City's senior transportation engineer handling the project, Min Luo. Ms. Luo found the Applicant's information to be accurate and adequate to make a determination as to traffic impacts. With respect to traffic congestion, the submitted information showed a net increase in traffic for both new buildings of 15 PM peak hour trips. According to the traffic counts submitted, there were less than 100 vehicles per lane per hour on 176th Ave NE during the PM peak hour, while the capacity of the roadway ranges between 1,600 to 1,900 vehicles per lane per hour. Existing traffic plus the new traffic generated from the project would remain far below the street's capacity, which does not amount to significant adverse impacts from congestion. According to City Transportation Staff, the proposal only needs 40 mobility units to meet concurrency requirements; there are more than 20,000 mobility units available. Ms. Luo testified that traffic from this proposal would not change the level of service at any intersection, and that all affected intersections are currently meeting level of service standards. Addressing safety concerns, the project includes a requirement that the Applicant improve the sidewalk by adding a planter between the curb and the sidewalk and by adding eight street lights to 176th Avenue NE, including one at the intersection of 176th Ave NE and NE 110th. Speaking specifically to the Appellants' contention that the project failed to satisfy the requirement of RZC 21.08.370.C.3.b.iii (that retirement residences must not generate traffic significantly greater than surrounding neighborhoods), Ms. Luo testified that project complies with this standard and that the code does not require separate traffic study to calculate surrounding traffic. She confirmed Ms. Brown's statement that the Applicant's traffic study already captured background traffic from the neighborhood, including traffic from the Abbey Road subdivision. *Exhibits C1, C1.C, and C1.L; Testimony of Ben Sticka and Min Luo.*

61. Noise is addressed in the environmental health element of the SEPA checklist (element 7b, starting on page 15). The checklist disclosed construction noise as an impact. The checklist was reviewed by City Environmental Health staff, who found the information submitted to be complete and accurate regarding noise. The City determined that compliance with the City's noise regulations would mitigate any impacts from project noise. Noise is regulated through Redmond Municipal Code (RMC) 6.36.030. Both being residentially zoned properties, Emerald Heights and the Abbey Road subdivision are considered Class A residential noise generators/receivers, subject to a maximum daytime sound level volume at property boundaries of 55 decibels, which level reduces to 45 decibels between 10:00 pm and 7:00 am. Because the proposed retirement residences are residential, the City does not anticipate that they would generate noise in excess of these limits. If outdoor social activities exceed allowable standards, they would be subject to code enforcement and possible legal action. Construction activities are regulated through the RMC 6.36.050. The City has established the following hours of construction operation: Monday through Friday, 7:00 am to 7:00 pm; Saturdays, 9:00 am to 6:00 pm, and Sunday/legal holidays, prohibited. The table below shows the allowable days and times for construction activity. Again, failure to abide by construction hours of operation would subject the Applicant to code enforcement action. The City determined that compliance with these City ordinances would be sufficient to prevent any significant adverse noise impacts. *Exhibits C1 and C1.C.*
62. The City did not consider construction traffic to be a SEPA issue. As noted in the staff report, upon submittal of the civil construction plans and building permit applications, these submittals would undergo the review that is a standard part of the process. Any potential noise or construction/traffic related issues would be identified at that time. The Applicant would be required to submit a construction traffic control plan, which would instruct construction vehicles in required access, parking, and circulation; the plan must be approved prior to construction. All construction activities would be subject to compliance with the RMC noise standards and inspection by Transportation Engineering staff to ensure code compliance. Construction traffic would not be expected exceed a quantity or duration of maximum density that would be associated with construction of a traditional primary use in the R-6 zone. *Exhibit C1; Min Luo Testimony.*
63. In response to the Appellants' contentions regarding odors from the assisted living building kitchen, City Staff submitted that compliance with City regulations would sufficiently mitigate any impacts from proposed kitchen facilities. Odors are regulated in the Redmond Municipal Code at RMC 6.34.040, which states: "Recurrently generated offensive odors shall not be perceptible by a person of ordinary sensitivity, without instruments, at any point of any boundary line of the lot or lots on which the use or structure is located." Planning Staff submitted that the addition of both the independent and assisted living buildings would result in a negligible increase in the existing kitchen facilities and associated food preparation at the retirement campus. Staff noted that if odors are generated that violate RMC 6.34.040, it would be addressed through code

enforcement. Mr. Sticka testified that the City did not consider the additional kitchen exhaust an impact for SEPA purposes. *Exhibit C1; Ben Sticka Testimony.*

64. Although no evidence or argument was offered by Appellants on the allegation of stormwater impacts, the City submitted that compliance with City stormwater regulations would mitigate the impacts of increased stormwater runoff from the development. Pursuant to RZC 21.17.010.E, all new development is required to be served by an adequate surface water management system complying with the policies of the Comprehensive Plan and meeting the requirements of RMC Chapter 15.24, Clearing, Grading and Stormwater Management and the Stormwater Technical Notebook. As detailed in the land use permit findings below, the proposed stormwater management system was reviewed by City Staff and found to comply with applicable requirements such that there would be no significant impact from stormwater run-off. *Exhibit C1.*
65. Addressing the alleged significant adverse impacts to emergency services, Mr. Sticka noted that the information submitted by the Applicant in response to the Public Services element of the environment (element 15, page 26) was accurate and adequate to reach a determination as to SEPA impacts. He forwarded the submitted information to the Fire Department reviewer, who informed him that Redmond Fire Department had no further concerns. The project would be required to pay a per-unit fire impact fee consistent with RMC 3.10.050. These fees support emergency services and are accepted by the City as adequate mitigation for any increase in demands associated with the project. *Ben Sticka Testimony; Exhibits C1 and C1.C.*
66. Assistant Fire Marshal Scott Turner testified, confirming that the application materials and SEPA checklist were routed to the Fire Marshal for review of fire access, water supply, and other fire code requirements. Part of that review includes reviewing the building location to ensure that aid cars and fire apparatus can get around the building to conduct normal fire activities. In this case, when Fire realized the trail around the building had been removed to expand the buffer, they asked that it be at least partially restored. In a building when residents have limited mobility, it is important that the Fire Department be able to access the entire exterior of the structure for fire suppression and ladder access. Fire Code requires a minimum three-foot wide path set back at least four feet from the building (to allow proper ladder angles) and lower height landscaping between the trail and the building. The current proposal satisfies Fire Code requirements. *Scott Turner Testimony.*
67. Fire Chief Tommy Smith also testified at hearing regarding Appellants' allegations of significant adverse impacts to emergency services. He confirmed that Station 17 is the closest to Emerald Heights, at approximately 1.5 miles. It is equipped with an aid car with two firefighters and a suburban staffed by a medical services officer, but it currently does not have an engine company. Station 17 responds to any type of call in their service area. Staff at Station 17 includes those trained in basic life support services and emergency medical technician services, but no certified paramedic. If there is a call for

fire suppression in Station 17's service area, the fire response could come from Woodinville, Kirkland, or Station 11. A computer aided dispatch system sends the unit able to respond the fastest. City of Redmond's response time level of service is seven minutes to arrival on the scene. City-wide, this standard is satisfied approximately 85% of the time. In particular, Station 17 response times are in the high 80s (above 85%) for meeting the seven-minute response time standard. In response to Appellants' concerns, Redmond Fire Department analyzed calls from Emerald Heights to determine if the existing, or proposed, facilities would result in excessive demand for emergency response. In the years 2015 through 2018, Emerald Heights generated 1,020 calls for emergency response: 989 for emergency medical services and 31 for fire suppression. Averaged over the four years, this represented 3.5% of the total calls for service (4.4% of EMS calls and 0.4% of fire suppression calls). According to RFD's analysis:

The amount of automatic aid delivered to Emerald Heights from 2015-2018 is minimal. The 1,020 calls for service to the facility resulted in 1,208 apparatus responses, of which only 20 responses were automatic aid. This translates to 1.7% of the responses to Emerald Heights were automatic aid. Aid 17's high-reliability may factor into the minimal automatic aid figure.

For the period of 2015-2018, patient care records indicate that there are no Emerald Heights residents that would meet the classification of a high-utilizer of EMS services. This determination is in line with residents being more independent and having access to outside care.

Exhibit C35. According to Chief Smith, the proposal to add 42 independent living and 14 assisted living units would not result in a significant impact to Redmond Fire Department. In his experience, older adults living in private homes generate more demand for emergency response than do elders in retirement communities, such as Emerald Heights, where assistance and medical services are available on-site. He testified that he is confident that addition of the proposed units would not impact Station 17's call reliability or lead to the need for a new fire station. *Fire Chief Tommy Smith Testimony.*

68. Finally, as to Appellants' contention that the project violates local law because it conflicts with conditions imposed in a 1988 PUD rezone ordinance, Ordinance 1454, the City disputes both that the project conflicts with the previous ordinance and that such alleged conflict is relevant (as argued) under WAC-197-11-330(e)(iii), which indicates that "conflict with local, state, or federal laws or requirements for the protection of the environment" is relevant to the significance of an impact. The City submitted that the PUD created by the 1988 ordinance was a "floating zone" that was nullified by the 2011 rezone, which supplanted its terms. Additionally, each application is reviewed independently with respect to applicable City regulations and the City disputes that a precedent was set by the issuance of a DNS for the proposed project. *Exhibit C1.*

Land Use Permit Findings

69. Neighborhood meetings for the proposal were conducted on August 21, 2017, May 10, 2018, and July 26, 2018. There was extensive neighbor involvement and comment submitted during the neighborhood meetings. *Exhibits C101 and C105.*
70. The instant conditional use permit and site plan entitlement applications were determined to be complete on June 4, 2018. *Exhibit C101.*
71. The R-6 Single-Family Urban Residential zone provides for primarily single-family residential neighborhoods on lands suitable for residential development with an allowed base density of six dwellings per gross acre. This designation provides for stable and attractive suburban residential neighborhoods that have a full range of public services and facilities. To complement the primarily residential nature of these zones, some nonresidential uses are allowed. *RZC 21.08.090.A.* Retirement residences¹⁹ are an allowed land use in the R-6 zone if approved through the subdivision, binding site plan, or conditional use permit processes. They are subject to use-specific provisions in *RZC 21.08.370*, to specific parking requirements, and to approved traffic mitigation plans. *RZC Table 21.08.090.C.*
72. Under the current zoning, Emerald Heights is allowed approximately 684 units subject to compliance with the density bonus criteria in *RZC 21.08.370.C.3.* *RZC Table 21.08.090.A; RZC 21.08.370.C.3.b.* The proposed expansion would continue to comport with the calculation elements of the density bonus requirements in that: 1) at least 10% and not more than 25% of the total units are skilled nursing units; and 2) at least 25% of the units above the base density allowed in the zone are set aside as affordable units, as detailed in the next two findings. The addition of 42 independent living units and 14 additional assisted living units would result in a total of 506 units on-site, which falls well within the maximum density permitted on-site. *Exhibits C101 and C20.*
73. Redmond's retirement residence regulations require that, in the R-6 zone, a minimum of 10% of the units must be licensed for assisted living or skilled nursing care programs and that not more than 25% of the units are licensed for skilled nursing care. *RZC 21.08.370.C.3.b.i.* The existing the campus includes: 333 independent living units, 56 assisted living/memory care units, and 61 skilled nursing units, totaling 450 units. Of these 450 units, 117 fall into the "assisted living or skilled nursing" category, meeting the minimum 10% (or currently, 26%). The 61 skilled nursing units equate to 13.5% of the

¹⁹ *RZC 21.78, R Definitions: Retirement Residence.* A building or group of buildings which provides residential facilities for residents 55 years of age or more, except for the spouses of such residents for whom there is no minimum age requirement. A retirement residence may provide a range of types of living units, including attached and detached housing units, and may also provide to its residents: food service, general health care supervision, medication services, housekeeping services, personal services, recreation facilities, and transportation services for its residents. Individual living units (suites) may include kitchens. A retirement residence may also include a skilled nursing facility provided that the number of nursing beds shall not exceed 25 percent of the total number of retirement residence units. Facilities with more than 25 percent of the retirement residence units having nursing beds shall be considered a long-term care facility.

existing units, well within the “not more than 25%” maximum for skilled nursing. The current proposal would add 42 independent living units and 14 net new assisted living units, for a total of 506 units. Of the proposed total, 131 would be assisted/memory care/skilled nursing (approximately 26%), meeting the “at least 10%” requirement, and the retained 61 skilled nursing care units (12%) would still be under 25% of the total units. *Exhibit C101; Dean Kelly Testimony.*

74. The total number of units allowed on the site includes a density bonus that is based on Emerald Heights providing at least 25% of units above the number allowed by the underlying zone as units that meet fit the City’s affordable housing criteria. Compliance is documented annually by submission of a report from the Washington State Housing Finance Commission (WSHFC). For review of the instant proposal, the 2018 report was provided in the record. *Exhibit C101.G.*
75. The R-6 zone requires front and side street setbacks of 15 feet, rear setbacks of 10, and a minimum building separation of 15 feet in the Education Hill Neighborhood. It requires a minimum of 20% of the overall parcel be retained in open space and allows a maximum of 35% lot coverage by structure in Education Hill. Maximum site coverage by impervious surface is 65%. Maximum allowed building height is 35 feet. *RZC Table 21.08.090.B.*
76. The independent living buildings would provide the following setbacks: front/north, more than 956 feet; side/east, more than 100 feet; side/west, more than 1,040 feet; and rear, more than 10 feet. The assisted living building would provide the following setbacks: front/west, more than 1,120 feet; side/east, varies from 15 feet, four inches to 24 feet, nine inches; side/south, more than 418 feet; and rear/more than 10 feet. Zoning standards require a minimum building separation of 15 feet; the minimum proposed from the instant project is 40 feet. The proposal would retain 38% of the overall site in open space and result in not more than 20% lot coverage by structure. With the new buildings and related improvements, impervious surfaces would total 62% site coverage, within the 65% allowed. The maximum building height would be 35 feet, consistent with the height definition at RZC 21.16.020, as detailed in the next finding. *Exhibits C101 and C17.*
77. According to RZC 21.16.020, building height is calculated as follows.
 - Height.
 1. All zones set limits on building height. To calculate the height of a structure:
 - a. Draw the smallest rectangle possible around it.
 - b. Find the midpoint of each side of the rectangle.
 - c. Calculate the finished grade at that point.
 - d. Average the elevations for the four midpoints.
 - e. Subtract the result from the building’s highest elevation.

2. Hose towers (when associated with a fire station), chimneys, antennae, smoke and ventilation stacks, flagpoles, heating, cooling and ventilation equipment, mechanical equipment screens and enclosures, roof access stair enclosures, solar panels, and wind turbines may exceed the highest point of the existing or proposed structure by no more than 15 feet.

RZC 21.78, 'A' Definitions, defines average grade level as follows: "The average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure."

78. Planning Staff provided a narrative of how building heights were calculated in the CUP staff report. *Exhibit C101, pages 38-40; Ben Sticka Testimony.* To briefly summarize: For Building A of the independent living building, the average of the four midpoint grade elevations is 372 feet above sea level, meaning the structure height (excluding items listed in RZC 21.16.020(2)) can be a maximum of 407 feet above sea level. For Building B of the independent living building, the average of the four midpoint grade elevations is 364, meaning the structure height can be a maximum of 399 feet about seal level. For the assisted living building, the average of the four midpoint grade elevations is 347.25 feet, meaning the structure can be a maximum height of 382.25 feet above sea level. Planning Staff confirmed that the proposed plans satisfy these maximum heights as defined in the City code, with the allowed rooftop appurtenances not exceeding those maximum heights by more than 15 feet consistent with RZC 21.16.020(2). *Exhibits C101 and C17; Ben Sticka Testimony.*
79. Pursuant to RZC 21.32.180, the project must provide a minimum five-foot wide planting area provided between all exterior building walls and vehicular paved areas; all planting areas are required to be at least five feet in width and length, except where a greater dimension is required for the health and survival of the plants. The project provides five-foot planting areas as required by Code. *Exhibits C101 and C16.*
80. The City's tree preservation regulations require development projects to retain 35% of all healthy significant trees, and prohibit removal of landmark trees unless a landmark tree exception request is approved. *RZC 21.72.060.A.* Landmark trees are defined as trees that are greater than 30-inches in diameter at breast height, while significant trees are between six-inches and 30-inches in diameter at breast height. *RZC Chapter 21.78, Definitions.* The code requires a permit for tree removal and, at the discretion of the Code Administrator, an evaluation of the number, health, and condition of the trees on the site by a certified professional arborist may be required. *RZC 21.72.020.A; RZC 21.72.050.B.* The Applicant submitted two arborist reports, one for each proposed building, which were accepted by City Staff as satisfying tree study requirements established in code. *Exhibits C101, C12, and C13; Ben Sticka Testimony.*

81. The Applicant requested an exception to remove one landmark tree in the vicinity of the independent living building. *Exhibit C15*. Planning Staff indicated that the landmark tree removal exception request would be approved administratively if the instant site plan entitlement is approved. Pursuant to RZC 21.72.080.B, each removed landmark tree must be replaced through the planting of three replacement trees, while removed significant trees are required to be replaced at a 1:1 ratio. The following tables summarize significant tree removal and replacement proposed for each building. (The tables are taken “verbatim” from Exhibit C101 page 23.)

Assisted Living Building - Tree Preservation Summary Table				
	Proposed Action and Description			
Tree Type	Removal	Impacted	Retained	Total
Landmark	0 – 0%	0 – 0%	9 – 100%	9 – 100%
Significant	83 – 11%	27 – 4%	640 – 85%	750 – 100%
Totals	83 – 11%	27 – 3%	649 – 86%	759 – 100%
Replacement trees	83 required – 126 provided			

Independent Living Building – Tree Preservation Summary Table				
	Proposed Action and Description			
Tree Type	Removal	Impacted	Retained	Total
Landmark	1 – 11%	0 – 0%	8 – 89%	9 -100%
Significant	95 – 13%	10 – 1%	645 – 86%	750 – 100%
Totals	96 – 13%	10 – 1%	653 – 86%	759 – 100%
Replacement trees	98 required – 67 provided			

Note that while 181 replacement trees are required, 193 replacement trees are proposed, exceeding the minimum by 12 trees. Additionally, pursuant to RZC 21.72.080.C, minimum specifications for replacement trees require trees sized at least 2.5 inches in caliper for deciduous trees and a minimum of six feet in height for evergreen trees. The proposed evergreen replacement trees range from 10 to 18 feet in height, exceeding the minimum size required. *Exhibits C101, C11, and C15; Ben Sticka Testimony*. Further, approximately 22 existing significant trees would be retained between the assisted living building and the street, and approximately 11 significant trees would be retained along the end of the independent living buildings closest to 176th Avenue NE. *Exhibit C14*.

82. In addition to preservation of trees on-site, new development is required to provide new street trees where such trees are not already present. The City determined that seven additional street trees are required on 176th Avenue NE as a result of the assisted living building and nine additional street trees are required on 176th Avenue NE for the independent living building pursuant to RZC 21.32.090. Planning Staff recommended a condition of approval reflecting this requirement. *Exhibit C101*.

83. Pursuant to RZC 21.08.090B, Emerald Height is required to retain a minimum of 20% of the total campus as open space.²⁰ Of the 38-acre site, at least 330,610 square feet of open space must be preserved. The current proposal provides 627,700 square feet, or approximately 38%, of open space, exceeding this standard. *Exhibits C101 and C17.*
84. As previously noted, the subject property contains two regulated critical areas pursuant to RZC Chapter 21.64: a Class III Stream requiring a 100-foot buffer in the western portion of the site and a Category III Wetland requiring a 150-foot buffer, also in the west. In satisfaction of the critical areas standards, the Applicant commissioned a professionally prepared critical areas assessment, initially written February 16, 2017 and recertified on December 7, 2017. The assessment determined that the proposal would not result in any impact to the critical areas because no construction or changes are proposed in or near the critical areas or associated buffers. Planning Staff submitted that the proposal would comply with the City's critical areas ordinance. *Exhibit C101; Ben Sticka Testimony.*
85. All development within Redmond city limits is required to comply with the noise standards adopted by the Redmond Municipal Code (RMC) at RMC Chapter 6.36. Because both Emerald Heights and all abutting properties are residentially zoned, the daytime maximum sound volumes allowed by the RMC at Emerald Heights property boundaries is 55 decibels, and the loudest nighttime noise allowed is 45 decibels. As discussed in Finding 61 above, any exceedance would be subject to code enforcement or other legal action. *Exhibit C101.*
86. In June 2018 the Applicant commissioned a professional traffic consultant review of the 2010 traffic study prepared for the rezone assuming full build out of proposed density on-site, to ensure that the assumptions in the 2010 study remained valid. After conducting new actual traffic counts in 2017, the traffic consultant concluded that the 56 new units of the current proposal would generate 15 net new PM peak hour trips. The 2017 traffic counts revealed that actual background growth in trips had been less than the projected 2% annual growth assumed in 2010, meaning the 15 new trips fall within the previously studied impacts; no further traffic study is warranted. *Exhibits C1.L and E17.* As noted in Finding 51 above, this minor additional traffic would be easily accommodated by NE 176th Avenue, which roadway is operating well under capacity. Again, the project would be required to add a planter between the curb and the sidewalk on west side of 176th Avenue NE and to add eight street lights to the road along its frontage. In addition to these improvements, the project is required to add off-site frontage improvements to include a five-foot wide sidewalk and a five-foot wide planter strip on the west side of the street approximately 70 feet south of the main entrance along 176th Avenue NE and for approximately 600 feet of frontage along 176th Avenue NE north of NE 110th Way.

²⁰ Per RZC Chapter 21.78, O Definitions: "Open Space. Any land area, the preservation of which in its present use would (1) conserve and enhance natural or scenic resources; or (2) protect streams or water supply; or (3) promote conservation of soils, wetlands, beaches, or tidal marshes; or (4) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries; or (5) enhance recreation or gathering opportunities. Open space can consist of active or passive open space."

These proposed improvements are required pursuant to RZC Title 21 Appendix 2.A.2 and RZC 21.17.010 F.1.a. Finally, the Applicant would be required to restore any pavement damaged by new utility trenches on 176th Avenue NE. *Exhibit C101*.

87. Retirement residence uses are subject to specific parking standards established in RZC Table 21.08.090.C, stated as follows: “with no skilled nursing facility: Unit (1.0, 1.0); with skilled nursing facility: worker on largest shift (1.25, 1.25).” The current campus has a total of 532 parking stalls, including 332 for residents, five at the fitness center, 17 stalls that are ADA accessible, one load/unload stall, 48 designated visitor stalls, and 129 staff/open stalls. Both proposed buildings include underground parking. If built as proposed, the final parking count on-site would be 538 stalls, including 347 resident stalls, five at the fitness center, 22 ADA stalls, one load/unload stall, 48 designated visitor parking spaces, and 115 staff/open spaces. Planning Staff submitted that the proposed parking complies with applicable parking standards. *Exhibit C101*.
88. The proposed buildings include stormwater detention facilities. The area where the two independent living buildings are proposed is currently developed with a parking lot and green space. Each of the proposed independent living structures would have a storm vault set on the north side to detain roof runoff. No water quality treatment is required due to low quantities of pollution generating surfaces. The green space south of the independent living building would drain to a dispersion system east of the building. The proposal would continue the historic drainage patterns. Discharges associated with the independent living building would go to on-site private storm pipes at flow rates equal to if not less than historical discharge rates. The proposed assisted living building would have one storm vault south of the structure, again for detention only, with an outlet control structure on the west side of the vault for ease of access from the paved internal private street. This storm vault discharge pipe would connect to the municipal storm system in 176th Avenue NE. The Applicant’s stormwater report contained an analysis of downstream capacity, which concluded that the downstream municipal stormwater facilities have capacity for the additional discharge from the project. Staff submitted that, with the recommended conditions, the proposed stormwater facilities comply with the applicable requirements of RMC 15.24.080. *Exhibits C101, C1.M, C1.N, C17, and E24*.
89. Both proposed buildings would be connected to City of Redmond water and sewer utilities. The assisted living building is proposed to have one four-inch water service, two new fire hydrants, a fire line, a one-inch exempt irrigation water meter, and two side sewer connections. The independent living units are proposed to have a two-inch water service for each of the buildings, one new fire hydrant, a fire line, a one-inch exempt irrigation water meter, and one side sewer extension with three new manholes. The municipal utilities have capacity to serve the proposed buildings. A new grease interceptor may be required within the building. An existing problem with one off-site sanitary sewer manhole would be replaced, as described in the following finding. With conditions of approval, City Staff submitted that the proposal would comply with applicable utilities requirements in RZC 21.74.020.D, RZC 21.17.010, and City of

Redmond Design Requirements, Water and Wastewater Extensions for water main and sewer main design. *Exhibits C101, C17, and E24.*

90. As noted in public comment, the Applicant and the City have been made aware of an existing problem with City sewer manhole #SSMH 282, located at the intersection of NE 109th Court and 180th Court NE. *Forest and Bruce Juntti Testimony.* This manhole has two inlet pipes, one from the northeast that conveys flows from single-family residences, and one from the southwest, which conveys flows from single-family residences and Emerald Heights. The outlet flows to the southeast. Because of volume disparities, the flows from the southwest are not properly contained within the concrete channels in the floor of the structure, sometimes causing backflow into the pipe coming from the northeast. It appears that the manhole was constructed improperly. The Applicant has agreed to rebuild and upgrade manhole #SSMH 282 with a new larger manhole with improved directional channeling, which is expected to more effectively direct all flows to the outlet, reducing the possibility for backflows. *Exhibit E24.*
91. Through the development review process, the Applicant requested deviations from five code standards, which were administratively decided as follows:
- 1) DEVREQ-2018-00914: Deviation Request from the 2017 Redmond Stormwater Technical Notebook Section 2.9.3.6 regarding setback of two storm vaults from the independent living buildings: granted. The approved design would place two storm vaults adjacent to the north side of the building.
 - 2) DEVREQ-2018-00915: Deviation Request from the 2017 Redmond Stormwater Technical Notebook Section 2.9.3.6 regarding setback of the storm vault from the assisted living building: granted. The approved design would place the storm vault adjacent to the south side of the building.
 - 3) DEVREQ-2018-00916: Deviation Request from the requirement to provide a five-foot horizontal clearance between storm pipes and structures: denied.
 - 4) DEVREQ-2018-00918: Deviation Request from the requirement to provide access for a vector truck within the minimum distance to detention vault access and catch basins: denied.
 - 5) DEVREQ-2018-01270: Deviation Request from the requirement to provide access for a vector truck within the minimum distance to all storm vault entries: granted. The storm vault design was revised to better facilitate maintenance.
- Exhibits C101, C4, C5, C6, and C7.*
92. Planning Staff submitted that the proposal, as conditioned, would be consistent with the following goals and policies of the City of Redmond Comprehensive Plan.
- HO-2: Promote a mix of new residential units and use other strategies that are designated to at a minimum meet the targets called for in King County Countywide Planning

Policies for creating residences that are affordable to low- and moderate-income households.

HO-26: Encourage a range of housing types for seniors affordable at a variety of incomes, such as independent living various degrees of assisted living and skilled nursing care facilities. Strive to increase opportunities for seniors to live in accessible housing with services nearby.

HO-27: Encourage and support accessible design and housing strategies that provide seniors the opportunity to remain in their own neighborhood as their housing needs change.

LU-3: Allow new development only where adequate public facilities and services can be provided.

LU-6: Encourage infill development on suitable vacant parcels and redevelopment of underutilized parcels. Ensure that the height, bulk, and design of infill and redevelopment projects are compatible with their surroundings.

LU-9: Maintain development regulations to promote compatibility between uses; retain desired neighborhood character; ensure adequate light, air, and open space; protect and improve environmental quality; and manage potential impacts on public facilities and services. Throughout these regulations address features, including but not limited to: impervious surface area and lot coverage; building height, bulk placement, and separation; development intensity; access; and connections for walking and bicycling and landscaping.

LU-29: Designate allowed residential densities and housing types to provide for a range of housing stock that includes a range of choices to meet all economic segments and household types, including those with special needs related to age, health, or disability.

Exhibit C101.

93. The proposal was considered by the City of Redmond Design Review Board, a body of five design professionals and two Redmond residents at large who volunteer their time on behalf of all City residents. The Applicant's proposal to add buildings and increase dwelling units on-site underwent multiple iterations, in part due to the determination part way through that an incorrect process had been begun (site plan entitlement only for the first proposal) and in part as a result of substantial public comment. The Design Review Board considered the initial 2016 proposal during at least three meetings. A subsequent 2017 revised proposal was considered by the Design Review Board during at least three meetings. After the instant applications were submitted in 2018, the Design Review Board considered them during at least three meetings. At each stage, design changes resulted from Design Review Board input. *Exhibits C101, C110, C27, C28, and R16; Ben Sticka Testimony.* The changes made to the currently proposed buildings through the course of design review are briefly summarized in Finding 36 above and are spelled out in detail on pages 4 through 12 of the Technical Committee report at Exhibit C101. That detailed summation of changes made through Design Review is incorporated into these findings by this reference. *Exhibit C101.*

94. The Applicant’s final presentation to the Design Review Board contained side by side images showing the 2016, 2017, and 2018 proposals to demonstrate the changes to the structures based on DRB guidance and public input. *E.g., Exhibit C112, bates stamped page 002260; Exhibit C113, bates stamped page 002302.* They also contained side by side images depicting the proposed building with no vegetation, the proposed building with retained and proposed vegetation at time of planting in the summer, the proposed building and vegetation at time of planting in the winter, to depict screening upon project completion. *E.g., Exhibit C112, bates stamped page 002263.* Additional images projected what the proposed screening would look like in 10 years as compared to time of planting based on typical species growth rates. *E.g., Exhibit C112, bates stamped page 002265; Exhibit C113, bates stamped page 002315-2316.*
95. At the final (ninth) Design Review Board meeting on the project, on September 6, 2018 the board voted to recommend approval of the current design. The Board found the project compatible with the surrounding neighborhood due to the materials and design changes, including the step back at the assisted living building’s closest point to the property boundary (a reduction of two units, making the north end of the building two-stories instead of three where it is closest to the property line), and due to the increase in number of evergreen replacement trees and retention of some of the existing mature trees. The Board felt the proposed tree retention and replacement would provide an effective buffer that, with the ivy fence, would screen the higher density residential building from the neighboring single-family uses. The vote was four to one (with one abstention) in favor of recommending approval to the Hearing Examiner. Comments entered by the Board members included the following.

Ms. Monk: “Has spent time driving and walking around the neighborhood and cannot see why the character would change with these buildings being built where proposed... Feels the building style has been done well and likes the changes in materials to make it fit in better with the neighborhood...”

Mr. White: “Feels that the proposed project is in keeping with Redmond Design Code... Thinks that this project will be affecting people... Thinks the design is compatible...”

Mr. Sutton: “Feels it is a nice job with this design...”

Mr. Krueger (Board Chair): “What we have before [us] tonight is a code compliant site plan for both the independent and the assisted care buildings... So, in my mind in looking at this, as we have looked at it for over the last year and a half, both buildings, is that we have worked with them on the architecture to make it more compatible from the height standpoint and of course as regulated by the code, from the modulation, from the materials, from the colors, and the different aspects that go into the building as far as creating the form.” Mr. Krueger went on to discuss the changes that have been made to the design to provide screening and to address compatibility.

Exhibits C101.F and E11 (pages 46-47); Ben Sticka Testimony.

96. The Redmond Zoning Code does not define ‘neighborhood character’ or ‘character.’ Planning Staff noted that the Merriam Webster’s Dictionary defines character as, “a feature used to separate distinguishable things in to categories.” Character is referenced in the Code and the Comprehensive Plan, specifically in several design standards provisions, notably:

RZC 21.58.010(5) and (6): Ensure that new buildings are of a character and scale that is appropriate to their use and to the site. Encourage building variety while providing for designs that reflect the distinctive local character, the context of the site, and the communities historical character and natural features.

RZC 21.60.040(B)(1)(a)(iii) and 21.60.040(B)(1)(c)(i): To ensure that new buildings are appropriately design for the site, address human scale, and become a positive element in the architectural character of the neighborhood. The architectural composition, scale, elements and details of a building should relate to the site’s natural features and the character of the surrounding area.

RZC 21.60.040(B)(2)(a)(i)(ii)(iii): (i) To ensure new development is compatible with the goals for the neighborhood and with the architectural scale [scale of the building(s) in relation to surrounding development] and character of those surrounding developments that meet the intent of the City’s design review; (ii) To ensure buildings are based on human scale (the scale of the building and how it relates to the people that use it); and (iii) To ensure that large building reduce their apparent mass and bulk on the elevations visible from the streets or pedestrian routes.

Planning Staff asserted, and DRB endorsed the assertion by voting to approve, that the character of the assisted living building was rendered consistent and appropriate in the context of surrounding development through: shifting two-thirds of the building an additional eight feet away from the eastern property line and shifting the upper two floors of the remaining third of the building an additional five feet from the eastern property line; removing the northern most two top floor units, creating a two-story presentation to the street; revising the material palette to reflect the character of the residential surrounding neighborhood and existing campus, including lap siding and a color scheme; and adding residential style windows, among other revisions. *Exhibits C101.H (page 6) and C101.*

97. The Redmond Zoning Code likewise does not define compatibility, which Planning Staff noted is defined by Merriam Webster’s Dictionary as, “capable of existing together in harmony.” Both compatibility and consistency with neighborhood character are called for in the use-specific retirement residence criteria:

RZC 21.08.370(C)(5)(a): Developments shall be designed to project a residential, rather than institutional, appearance through architectural design, landscaping, the use of building materials, and surface length. Multiple structures are encouraged instead of large single structures to promote compatibility with surrounding residential neighborhoods. Site design, building placement, and perimeter landscape treatments shall screen the portions of the development, which are different in appearance from single-family dwellings from abutting single-family dwellings.

RZC 21.08.370(D)(2): The design, scale, and appearance of the development is consistent with the character of the existing and planned neighborhood in which it may be located.

RZC 21.60.020(B)(2)(c): Developments within an area that is consistent with the goals and vision within the Comprehensive Plan, and have a distinctive common architectural context in terms of building height, roof type, base, cap, windows, entries, and other similar features, should carry it forward with consistent architectural types, materials, and detailing.

RZC 21.60.020(D)(1)(a)]: To promote the functional and visual compatibility between adjacent neighborhoods and different land uses.

The Design Review Board cited the proposal's height, modulation, materials, colors, form, and landscaping as elements demonstrating compatibility between the proposed project and the surrounding neighborhood. Planning Staff agreed. *Exhibit C101.H; Ben Sticka Testimony.*

98. During the course of the various Design Review Board meetings, Senior Planner Gary Lee (not presented as a witness) who is staff liaison to the DRB, is noted as having explained to the Board that the scope of design review was review of the project proposed and did not include consideration of whether placement of the building elsewhere on the site would have resulted in better outcomes. *Exhibit C101.F; Ben Sticka Testimony.* With regard to the question of why the design standards checklists at Exhibits C27 and C28 show only Planning Staff's acceptance of the Applicant's stated information, Mr. Sticka testified that C27 and C28 are the final checklists prepared over the course of the 2.5 year design review process and include all revisions made at the requests of Planning Staff and the DRB. *Ben Sticka Testimony.*
99. Notice of the final proposed application for CUP and SPE was posted in two locations near the site, at City Hall, and at the Public Library, and was mailed to owners of properties within 500 of the Emerald Heights campus on June 21, 2018. Included with that notice were a vicinity map, a preliminary site plan, and a preliminary tree preservation plan, in addition to a process flow chart explaining how and when interested people could participate.²¹ *Exhibit C101.A.*
100. The City received 418 written comments in response to notices of application issued in 2017 (for an earlier iteration of the proposal) and 2018 (for the instant proposal). During the public comment portion of the permit application hearing, which took place over three nights, 50 people provided testimony and more than 4,530 pages of written public comment were submitted. There were many comments in support of the proposal and many comments opposing the proposal. *See Exhibits C102, C103, C104, C119, and Appendix A (list of those who gave verbal public comment).*

²¹ The 11-page notice packet was mailed to 504 surrounding properties and was also mailed to 228 people who had submitted comments previously or who had asked to receive notices on the proposal. *Exhibit C101.A.*

101. Those who supported the proposal spoke to the needs of Emerald Heights residents for private skilled nursing rooms (which the proposal would accomplish) and the need for those in assisted living to be able to get to core campus amenities, including the fitness center and the skilled nursing units. Residents testified about their involvement with the neighborhood, including: Emerald Heights employs Redmond High School students; campus residents attend sporting and performing arts events; residents pay for high school programming with advertising; Emerald Heights donated the electronic scoreboard to the high school, which they all get to look at out their windows during all the night time games, which they get to listen to. (Dines, Bowman, etc) Some testified about the fact that things change over time, senior populations are living longer, and housing at all levels is in demand throughout the region. Emerald Heights residents spoke to the many project revisions that resulted from what they considered “meaningful, good faith, exhaustive review” over the course of years while they wait impatiently for new accommodations for themselves, their friends, and loved ones. (Martha Carlson, etc) Several residents, or family members of residents, testified about the difficulties of shared skilled nursing rooms, in which residents frequently have to watch roommates suffer and die, and then watch strangers grieve, while they try to recover their own health. (DeButts, Caguiat, etc) Some noted that many Emerald Heights residents were long time tax paying Redmond residents before moving onto the campus. At least one person who spoke in support argued that Code references to compatibility require a balancing of needs of the entire community, “not just the little oasis called Abbey Road.” (Martha Carlson) In response to opposition comments that residents could be moved off site while new construction happens in the project interior, or that the mobility needs of campus residents should not be prioritized over the neighborhood character expectations of the surrounding community, several people commented that displacement would mean they wouldn’t be able to see friends or even spouses on site in the final days of their lives. At least one person in support noted that the majority of the footprint of the assisted living building is currently occupied by carport. (Cahn) *Exhibits C102, C103, C104, and C119, and Appendix A, comments in support.*
102. Those who opposed the project offered comments that focused on the following primary areas of concern: the mass and height of the buildings being out of character with the surrounding single-family homes, appearing so large as to be “institutional” or more like a hotel or hospital than like a home (“as long as a football field” – Barnett, etc) (“eyesore” – Fischer, etc) (“monstrosity” – Suzuki, etc); removal of the existing mature vegetation where the assisted living building is proposed; the visual presence of the assisted living building in place of what they consider a greenbelt; light from the assisted living building; loss of privacy for neighboring residences and passersby on 176th Avenue NE; and noise from the new residents. Neighbors uniformly saw large setbacks for institutional uses as an element of existing neighborhood character, and large setbacks with large buffers as keys to the project’s compatibility with neighborhood character. A common comment was that neighbors have compassion for the needs of the retirement residents, but that compassion did not rise to the level of agreeing to the change that is proposed. Several commented as to personal doubts or negative opinions they had

regarding Emerald Heights management’s decision making, their fiscal responsibility, that they got away with using the wrong process to construct the Trailside building, about their tax exempt status being a burden on the taxpaying members of the community, and the appropriateness of considering Emerald Heights’ financial concerns in the decision as to where to site new densities on the campus (“their cost related issues are not our problem” – Sherry Stilin, etc). Another common concern was that the proposed landscaping along the east side of the assisted living building would not screen it from view, that Emerald Heights would not adequately maintain it, and neighbors don’t want to see the assisted living building (“having to watch a row of trees grow for ten years is not compatibility” – Riddell, etc). Many stated that the reason Emerald Heights had been a good neighbor was because you could drive by and not know it was there, and that the current proposal would ruin that good neighbor relationship. Several people noted that they would not have moved to the neighborhood had they known such buildings could be approved in these locations. A frequently repeated concern was that neighbors believed Emerald Heights had given assurances at the time of the 2011 rezone, as they had been required by the initial 1988 PUD, to restrict all construction to the central portion of the site where it would not be visible to surrounding neighbors; project opponents felt that the current proposal constitutes a violation of those earlier commitments and of trust between the neighbors and the retirement community. Many people said that if the proposal is approved, their quality of life would be negatively impacted, and the character of the neighborhood would be “destroyed.” Those opposing the project universally felt that Emerald Heights should be required to redesign the proposal to place the new buildings on the interior of the site where the neighbors cannot see them. One member of the public went so far as to obtain a geotechnical report that posited that steep slopes on the west side of the campus could have the landslide hazard area buffer reduced from 50 feet to 15 feet, making more room for development in the western portion of the site.²² *Exhibits C102, C103, C104, and C119, and Appendix A, comments in opposition.*

103. Addressing concerns in public comment about the proposed removal of the greenbelt along 176th Avenue NE, Staff noted the RZC does not contain a definition for green belt. As noted in Finding 55 above, there is no legally recorded or recognized easement for vegetation in the mature landscaping bed along the eastern site boundary along 176th Avenue NE.²³ *Exhibits C101, C101.H, and C29.*

²² *Exhibit C119.D.2, Attachment 15.*

²³ The undersigned takes judicial notice of the following: Exhibit C101’s assertion that there is a formally recorded native growth protection easement in the western portion of the site, in the area of the slopes, stream, and wetland, is not consistent with the Decision on Reconsideration for Emerald Heights DGA, No. L100204 issued on June 14, 2011, which amended the findings in the hearing examiner’s recommendation to the City Council to specifically strike any reference to a recorded easement. The Decision on Reconsideration states: “Contested Finding 4 states that “[t]he stream, slopes, and buffer for each required pursuant to the City’s critical areas ordinance are set aside in a native growth protect easement (NGPE).” This is supported by information on page 5 of the Technical Committee report in the record at Exhibit 1. Contested Finding 14 refers to the stream and slope area of the site as being within a NGPE. However, as asserted by the Taves in the reconsideration request, the statements in the Technical Committee report about the existence of an NGPE are in error, as conceded by the City and stipulated by the Applicant in their June 8, 2011 responses. The stream, slopes, and associated buffers are protected by the City of

104. In response to comments from Abbey Road Homeowners Association arguing that the conditions of the 1988 PUD and SDP remain in effect, restricting any future development to the central portion of the retirement campus (see Finding 8, above), the City Attorney drafted a letter to advise the Planning Department on the legal questions presented. The City Attorney opined, based on his review of the documents, that the 1988 approval was project specific, meaning it governed the project proposed at the time, rather than forming a generic approval that authorized retirement residence development on the site generally. First, the 1988 proposal was a “project” use, in that specific buildings and site improvements were approved. Second, City land use regulations in effect at that time established that SDPs were limited to the project reviewed and approved. Should a later modification be desired, the Code provided a process for modification of approved SDPs (RCDG 20F.20.120, Modification of Final Order), which identified two processes: minor modifications and major modifications. Major modifications were defined as those that increased density, number of dwelling units, or the square footage of approved buildings. The instant project would be considered a major modification if those development regulations were still in effect. Third, the hearing examiner findings, conclusions, and recommendations were specifically limited to a specific number of units on 62 acres of property then part of the subject site. Thus, the City Attorney opined that the 1988 PUD and SDP were project-specific approvals addressing then proposed development.²⁴ As noted previously, the RCDG was repealed and the RZC adopted in April 2011. The instant applications are vested under the current RZC, which no longer contains PUDs as a mechanism for modification of zoning standards, and which requires conditional use permit approval for retirement residence uses in the R-6 zone. *Exhibit C29.*
105. On the question of whether these two conditions restriction development to the center of the retirement campus remain in effect, the City Attorney disagreed that the conditions remain in effect and preclude newly proposed development inconsistent with their restrictions. He based this opinion on the legal nature of the PUD mechanism as a “floating zone”, the fact that the PUD ordinance has been repealed, and that the only ways to change the zoning development standards for specific projects now include rezones and development agreements. The 1988 PUD had been requested in order to allow development of buildings on-site taller than 30 feet, which was the height limit in the R-4 zone. As a result of the 1988 approvals, the main building in the campus core was built to a height of 37.5 feet and other buildings were built to a height of 34 feet. When the 2011 rezone was approved, it changed the zoning to R-6, under which that 30-foot height restriction was replaced with a 35-foot height limit. The only reason the floating zone PUD was needed was eliminated, and the R-4 zoning the PUD granted

Redmond critical areas ordinance, regardless of recorded easement. Findings 4 and 14 should be corrected. No other changes are made to the May 16, 2011 Recommendation.”

²⁴ Findings 105 - 106 are intended to accurately and concisely capture the legal reasoning of the City Attorney for the sake of context and to show the complete information available to the Technical Committee at the time of its recommendation to the hearing examiner. These findings do not adopt or endorse the accuracy of the City Attorney’s advice to Staff – merely mean to accurately capture it. The hearing examiner’s independent legal conclusions on necessary questions are stated in the conclusions section of this document.

relief from was wholly replaced by R-6 zoning. Further, the ordinance under which PUDs could be granted and modified has been repealed and replaced. With respect to the SDP, which permit authorized the specific buildings in the 1988 proposal, its conditions would remain in effect on the subject property, the City Attorney opined, unless and until they were amended by a subsequent permit such as the requested CUP. *Exhibit C29*.

106. Regarding the effect of the 2011 rezone approval on the instant proposal: Many members of the public testified about the process of the 2010 rezone application, noting that the Applicant submitted a conceptual plan showing the proposed additional densities accommodated on the campus. *Exhibit A11*. Public comments focused on the fact that the conceptual plan showed the new densities largely placed in the location of the existing cottages (which would have had to be removed) along the western edge of campus development and showed the landscaping along the eastern site boundary intact. Specifically in response to the placement of the proposed assisted living building within 15 to 24 feet of the eastern site boundary in the existing landscaping area, project opponents submitted public comments (as did the SEPA Appellants) arguing that in the rezone process, the Applicant had committed to maintaining that landscaping bed as is when new densities were developed onsite, pointing to the following information from the rezone record:

- Emerald Heights’s attorney made representations to the City Council during a hearing in the rezone that “Emerald Heights is well-screened from the surrounding neighborhood and that will continue.” *Exhibit C119.D.2, page 16*.
- The rezone application and SEPA checklist indicated that the natural green space around the perimeter of the Emerald Heights site would continue if the Council approved the 2011 rezone. *Exhibit C119.D.2, pages 15-16*.
- The Hearing Examiner’s recommendation to the City Council on the rezone noted the existence of the natural greenspace on the eastern portion of the property as a mark in Emerald Heights’s favor. *Exhibit C101.H, page 5*

107. A comment letter was submitted from six of the sitting councilmembers who voted in favor of the rezone, two of whom testified at the instant hearing. This letter, and the testimony of the two former councilmembers, indicated that at the time of the vote on the rezone, Council considered retention of the eastern landscaping area to be the equivalent of a condition on the rezone proposal. They cited statements from the rezone SEPA checklist, such as:

“The greenbelts around the site will be retained except for a new water detention pond.”

“Views from neighboring developments will not be altered.”

“The cottages will be demolished and new independent living units constructed in their place.”

“Emerald Heights is surrounded by a fence and ample landscaping to buffer [it] from adjoining uses. This will remain the case under the requested rezone and future development.”

“The proposed new development within Emerald Heights will retain the current residential style and atmosphere.”

“The proposed development will make optimal use of the developed areas while retaining the existing greenbelts and natural areas around the site.”

“Rezoning Emerald heights will accommodate growth in the senior market without compromising the scale of a residential neighborhood and retains the natural green space around the site.”

Exhibit C119.D.2, Attachment 12 (pgs 196-197); Testimony of John Stilin and David Carson. A letter was also submitted from Arnold Tomac, Redmond City Councilmember from 1980-1992, who opposed approval of the project, stating it is inconsistent with the purpose and intent of the Code written in the 1980s and fails to maintain the City’s commitment to protecting neighborhoods from large, out of scale buildings. *Exhibit C119.D.2, page 183.*

108. A close review of the recommendation by the hearing examiner to City Council on the rezone shows no language directly discussing retention of specific vegetation along 176th Avenue NE or anywhere else onsite. In the recommendation to Council, the following findings and conclusions were entered that address screening or vegetation retention.

Finding 9: “[R]eview of any future development proposals would be required pursuant to the zoning code in effect at the time of development application...”

Finding 10: “Much of the new development in both conceptual phases would be placed over existing impervious surfaces, such as parking structures. This design technique was selected to minimize interruption to existing vegetation and the creation of new impervious surfaces with associated stormwater runoff.”

Finding 14: “Any future development proposals would be reviewed for compliance with the City’s tree retention requirements and for compliance with the critical areas ordinance regarding stream and steep slope setbacks and protection.”

Finding 20: “In the Technical Committee Report, Staff initially recommended several conditions of [rezone] approval relating to future site development. At hearing, Staff rescinded the recommended conditions of permit approval noting that they would be more appropriately applied during site plan entitlement review.”

Conclusion 4: “[A]ny development proposed subsequent to approval of the rezone would be consistent with existing site development, which has co-existed peaceably since 1992 with surrounding uses. Any future development would

undergo site plan entitlement review to determine conformance with R-6 development standards.”

Conclusion 5: “If future development is proposed, impacts to surrounding properties would be reviewed through site plan entitlement processes.²⁵ No neighbors of the subject property opposed the requested rezone, and the record contains no evidence of adverse impacts from the existing facility to the community at large.”

Conclusion 8: “... Future development would be reviewed prior to approval for compliance with transportation, parking, and landscaping standards...”

Exhibit C101.H.

109. In Ordinance 2607, the City Council “decided to accept the Hearing Examiner’s recommendation and amend its zoning map to rezone the subject property in order to more appropriately use the subject land and increase senior housing opportunities in Redmond...” including specifically adopting “the findings, conclusions, and analysis contained in the Hearing Examiner’s recommendation.” The ordinance was adopted July 10, 2011, with an effective date of July 25, 2011. There are no conditions in the ordinance and no specific reference to landscaping or vegetation anywhere on-site.

Exhibit C29.H.

110. In the portions of the transcript of the July 19, 2011 City Council meeting at which the rezone was adopted submitted in public comment C119.D.2, Ms. Lawrence is noted as stating: “There is no specific development proposal, including the conceptual rezone, a conceptual plan that will be approved as part of this rezone.” *Exhibit C119.D.2, page 189.* Councilmember Kim Allen is noted as stating, “Yes, I reviewed the hearing examiner’s decision with great care. It include[s] a motion for reconsideration, as well as the technical committee report, the documentation, and I find that the proposal for rezone meets the criteria that our ordinance sets forth. I don’t see any significant error and I don’t see any basis for not accepting the hearing examiner’s recommendation. I understand the concerns of the residents. I also know that the concerns that they have expressed can be addressed at –”. *Exhibit C119.D.2, page 189.*

111. The video of the full Council meeting (submitted in public comment) contains Ms. Allen’s complete comments, in the course of which she responded to concerns raised by Emerald Heights residents about potential disruption as a result of development. Ms. Allen continued (for above), “the concerns that they have expressed can be addressed at the time that a specific development proposal comes before the City and the Council. That’s where the impacts could be mitigated. This is a preliminary step; this is a change in the zoning that would permit such a development application to come forward, but it’s not the development application, so it would be premature to impose stringent conditions

²⁵ Note: The zoning code then in affect (the RCDG) was replaced with the RZC, which code requires CUP review for retirement residence uses in the R-6 zone. The rezone application vested to the RCDG.

at this point when there is no development application before us. So, I recommend that we accept the recommendation of the Hearing Examiner and grant the zoning change from R-4 to R-6.” *Exhibit C119.D.9, ending at 28:30.* Council member Hank Meyers then spoke, and his remarks included the following statement: “...I have to agree with Ms. Allen. The primary thing we have to consider here is whether the conditions required for a rezone are met, not that a specific plan meets either our own personal conditions or those which are imposed by City ordinance and regulation. ... I will support this as well.” (*Id, ending at 29:52*) During the following discussion, Councilmembers Margeson, Vache, Stilin, and Carson all addressed the concerns raised by Mr. Taves on behalf the Emerald Heights residents who opposed the rezone. Mr. Stilin stated, “I know from the audience perspective ... there’s an emotional side of issues, and I think when it concerns your home, that’s a very emotional thing. I don’t think there’s a person up here on the Council who doesn’t feel the emotion and the personal connection you have with these things. But we are bound to ...uphold what Redmond has put on record as their laws and ordinances, and that’s the decision that we have to make. ...” *Exhibit C119.D.9, ending at 33:25.* There was no discussion among Councilmembers of landscaping, buffers, specific vegetation that would be retained, where future development would occur, or conditions upon which any of the members were granting their votes to approve the rezone. It passed unanimously. No one other than Ms. Allen stated that they’d read the supporting documentation closely. *Exhibit C119.D.9, ending at 34:53.*

112. At the conclusion of the instant hearing, the Applicant submitted, and the City agreed, that the proposed buildings are appropriate infill development on vacant portions of campus because they satisfy or exceed the development standards of the R-6 zone, they are consistent with other existing buildings on campus with respect to height, bulk and design, and both buildings are setback more than the minimum required by Code and are screened by existing and proposed trees. The proposed replacements plantings exceed minimum Code requirements in that 46 of the 67 replacement trees are larger than the six-foot height required per RZC 21.72.80.C.4, and in that existing mature landscaping would be retained outside the plantings to further soften the appearance of the multifamily residential buildings from the adjacent single-family residential development. Having heard and considered public comment prior to and at the hearing, Planning Staff and the Technical Committee recommended approval of the CUP and SPE permits as conditioned in the staff report. The Design Review Board recommended approval of the project’s design review process. *Testimony of Erika Vandenbrande and Ben Sticka; Exhibit C101.*

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CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to decide appeals of SEPA determinations of non-significance pursuant to RZC 21.70.190, which incorporates WAC 197-211-680. The Hearing Examiner has jurisdiction to hear and decide applications for conditional use permit - including conditional use permit applications for retirement residences in residential zones - pursuant to RZC 21.76.060.J.3 and RZC Table 21.76.050.B. In addition, pursuant to RZC 21.76.050.E.2, the City's Hearing Examiner has original jurisdiction over the associated site plan entitlement permit. Finally, pursuant to RZC 21.76.060.G, the Hearing Examiner has jurisdiction to decide the proposal's compliance with Design Review requirements.

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. *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*. Pursuant to *WAC 197-11-330(3)*, in determining an impact's significance the Responsible Official must take into account the following (among other considerations): that the same proposal may have a significant adverse impact in one location but not in another location; that several marginal impacts when considered together may result in a significant adverse impact; and whether a proposal may to a significant degree:

- (i) Adversely affect environmentally sensitive or special areas, such as loss or destruction of historic, scientific, and cultural resources, parks, prime farmlands, wetlands, wild and scenic rivers, or wilderness;
- (ii) Adversely affect endangered or threatened species or their habitat; [and/or]
- (iii) Conflict with local, state, or federal laws or requirements for the protection of the environment;

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, (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 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, (2002).

The procedural determination of the City's SEPA Responsible Official shall be accorded substantial weight in appeals. *RCW 43.21C.075(3)(d); RCW 43.21C.090; WAC 197-11-680(3)(a)(iii); Cougar Mt. Assocs. v. King County*, 111 Wn.2d 742, 747 (1988).

WAC 197-11-330 Threshold determination process.

An EIS is required for proposals for legislation and other major actions significantly affecting the quality of the environment. The lead agency decides whether an EIS is required in the threshold determination process, as described below.

- (1) In making a threshold determination, the responsible official shall:
 - (a) Review the environmental checklist, if used:
 - (i) Independently evaluating the responses of any applicant and indicating the result of its evaluation in the DS, in the DNS, or on the checklist; and
 - (ii) Conducting its initial review of the environmental checklist and any supporting documents without requiring additional information from the applicant.
 - (b) Determine if the proposal is likely to have a probable significant adverse environmental impact, based on the proposed action, the information in the checklist (WAC 197-11-960), and any additional information furnished under WAC 197-11-335 and 197-11-350; and
 - (c) Consider mitigation measures which an agency or the applicant will implement as part of the proposal, including any mitigation measures required by development regulations, comprehensive plans, or other existing environmental rules or laws.
- (2)
- (3) In determining an impact's significance (WAC 197-11-794), the responsible official shall take into account the following, that:
 - (a) The same proposal may have a significant adverse impact in one location but not in another location;
 - (b) The absolute quantitative effects of a proposal are also important, and may result in a significant adverse impact regardless of the nature of the existing environment;
 - (c) Several marginal impacts when considered together may result in a significant adverse impact;
 - (d) For some proposals, it may be impossible to forecast the environmental impacts with precision, often because some variables cannot be predicted or values cannot be quantified.
 - (e) A proposal may to a significant degree:
 - (i) Adversely affect environmentally sensitive or special areas, such as loss or destruction of historic, scientific, and cultural resources, parks, prime farmlands, wetlands, wild and scenic rivers, or wilderness;
 - (ii) Adversely affect endangered or threatened species or their habitat;

- (iii) Conflict with local, state, or federal laws or requirements for the protection of the environment; and
 - (iv) Establish a precedent for future actions with significant effects, involves unique and unknown risks to the environment, or may affect public health or safety.
- (4) If after following WAC 197-11-080 and 197-11-335 the lead agency reasonably believes that a proposal may have a significant adverse impact, an EIS is required.
- (5) A threshold determination shall not balance whether the beneficial aspects of a proposal outweigh its adverse impacts, but rather, shall consider whether a proposal has any probable significant adverse environmental impacts under the rules stated in this section. For example, proposals designed to improve the environment, such as sewage treatment plants or pollution control requirements, may also have significant adverse environmental impacts.

WAC 197-11-794 Significant.

- (1) "Significant" as used in SEPA means a reasonable likelihood of more than a moderate adverse impact on environmental quality.
- (2) Significance involves context and intensity (WAC 197-11-330) and does not lend itself to a formula or quantifiable test. The context may vary with the physical setting. Intensity depends on the magnitude and duration of an impact.
The severity of an impact should be weighed along with the likelihood of its occurrence. An impact may be significant if its chance of occurrence is not great, but the resulting environmental impact would be severe if it occurred.
- (3) WAC 197-11-330 specifies a process, including criteria and procedures, for determining whether a proposal is likely to have a significant adverse environmental impact.

Conditional Use Permit Criteria for Review

Pursuant to RZC 21.76.070.K, a conditional use permit is granted if the applicant demonstrates compliance with the following criteria for approval.

1. The conditional use is consistent with Redmond Zoning Code (RZC 21.76.070(K)(4)(1)] and the Redmond Comprehensive Plan;
2. The Conditional Use is designed in a manner which is compatible with and responds to the existing or intended character, appearance, quality of a development, and physical characteristics of the subject property and immediate vicinity;
3. The location, size, and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;

4. The type of use, hours of operation, and appropriateness of the use in relation to adjacent uses minimize unusual hazards or conflict with existing and anticipated traffic in the neighborhood;
5. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood; and
6. The conditional use will be supported by adequate public facilities or services, and will not adversely affect public services to the surrounding area or conditions are established to mitigate adverse impacts on such facilities.

Site Plan Entitlement Criteria for Review

Pursuant to RZC 21.76.070.Y, site plan entitlement shall be granted when the following decision criteria are demonstrated to be satisfied.

1. 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.
2. The Landmarks and Heritage Commission will review all Certificates and Appropriateness for compliance with the RZC.

Retirement Residence Standards

Pursuant to RZC 21.08.370.D, retirement residence uses are approved if the applicant demonstrates compliance with the following decision criteria:

1. The application complies with the requirements of this section and the Zoning Code.
2. The design, scale, and appearance of the development is consistent with the character of the existing and planned neighborhood in which it may be located.
3. Adequate public facilities and services are available at the site to serve the development.
4. The development is located along a transit route, which provides all day service, or the applicant is proposing to provide affordable transportation services to transport residents to the Redmond Senior Center, library, shopping, medical services, and other basic needs. If the applicant is proposing to provide transportation services, the applicant shall provide those uses until all day transit service is provided to the site.

Design Review Determination

Pursuant to RZC 21.76.060.G, the determination of the Design Review Board has the effect of a recommendation in a Type III application. Pursuant to RZC 21.58.020.C.2, the design element intent statements describe the City's objectives for each design element and are the requirements that each project shall meet, where the design criteria that follow the intent statements are ways

to achieve the design intent. Each criterion is meant to indicate the preferred condition, and the criteria together provide a common theme that illustrates the intent statement.²⁶

RZC 21.60.020.B.1:

- a. To provide contextual references that can be used to encourage creative and distinctive designs for new development and redevelopment projects while avoiding sameness in design.
- b. To create contexts that capture the community visions and values as reflected in the Comprehensive Plan, Redmond Zoning Code, and Design Review Handbook. Contextual elements could include the following:
 - i. Context Defined by Natural Forms and Patterns. These are natural landforms found in the Sammamish River Valley and other parts of the City. Examples include river contour forms; river bench terraces; multiple silhouette ridgelines; and panoramic vistas with associated mountain, lake, river, and ravine forms.
 - ii. Historic and Cultural Context. Historic landmarks and the section of Leary Way framed by older historic structures have been identified as contributing to the historic character of the City. In addition, Redmond’s native peoples and Redmond’s heritage as a logging and farming community, and as a historic urban crossroads, define the more general historic and cultural context of the City.
 - iii. Architectural Context. This includes buildings with articulated facades, pedestrian-friendly scale and detailing, historic building features or character, and interesting rooflines.

RZC 21.60.020.C.1:

- a. To reduce natural hazards and impacts on the natural environment and to minimize the visual impact of development on hillsides.
- b. To respect natural landforms and to use them to provide definition between various parts of the community and to provide project identity.

RZC 21.60.020.D.1:

- a. To promote the functional and visual compatibility between adjacent neighborhoods and different land uses;
- b. To encourage building designs which use natural, historical, traditional, or cultural context references to create elements which link the development to the neighborhood and community;
- c. To use building design to create a transition between development and natural features; and
- d. To promote a gradual transition between different uses.

²⁶ As explained by the City Attorney: “Perhaps counterintuitively, the ‘intent’ statements are binding, while the ‘design criteria’ are merely illustrative examples of how the intent can be achieved.” *Exhibit R13, page 5.*

RZC 21.60.020.E.1:

- a. To create a relationship between a development and the street front that provides safety and amenities for a development's residents, employees, and customers, and for surrounding properties.
- b. To relate residential development to the street front that helps define neighborhood character. For example, residential areas with porches and balconies can create a sense of community and improve safety along public sidewalks and streets.
- c. To relate commercial development to the street front to ensure active street environments that encourage pedestrian activity, stimulate business, and encourage walking as a transportation mode. For example, commercial buildings with windows and entries oriented to the street can enhance pedestrian activity.
- d. To create an attractive street edge and unified streetscape and to provide pedestrian access where it does not conflict with private property security issues.

RZC 21.60.020.F.1:

- a. To balance the needs of vehicular, transit, pedestrian, and bicycle uses, and to create attractive streetscapes, while maintaining safety as the top priority; and
- b. To create attractive connections that provide safe linkages to public facilities, shorelines, and other public open spaces, and that complement the aesthetics of adjacent natural features and buildings.

RZC 21.60.020.G.1:

- a. To encourage transit use through building orientation and site design;
- b. To provide safe and continuous pedestrian access to transit facilities;
- c. To consider minimizing the distance between buildings and transit stops; and
- d. To encourage weather protection for those waiting for transit.

RZC 21.60.020.H.1:

- a. To improve the pedestrian and bicycling environment by making it easier, safer, and more comfortable to walk or ride among residences, to businesses, to the street sidewalk, to transit stops, through parking lots, to adjacent properties, and connections throughout the City; and
- b. To enhance access to on- and off-site open space areas, shoreline access areas, and pedestrian/bicycle paths.

RZC 21.60.020.I.1:

- a. To provide safe, convenient vehicular access to sites without diminishing pedestrian access and visual qualities.

RZC 21.60.020.J.1:

- a. To encourage parking design that provides for distribution of parking in a balanced manner across the project site plan, avoiding where possible a concentration of all of the parking in front of the building;
- b. To provide for clear internal vehicle circulation patterns and consideration of pedestrian walkways in parking lots;
- c. To set standards for paving, lighting, and other design elements;
- d. To provide for joint entrances and exits; and
- e. To reduce the negative impacts of parking and circulation facilities on highly visible public open spaces, such as shorelines and other natural open spaces.

Other Applicable Standards

RZC 21.08.370, Retirement Residences

- A. Purpose. The purpose of retirement residences is to help meet the housing needs of an aging population while protecting other uses from potential adverse impacts which may otherwise occur as a result of traffic, a concentration of people, and from buildings that may otherwise be out of scale with the area in which they are located.
- B. Applicability. Retirement residences are allowed in all residential zones through the subdivision or binding site plan processes. If a development is not to be subdivided or sold as a condominium, then a conditional use permit shall be required for the retirement residence rather than a subdivision or binding site plan.
- C. Requirements.
 1. Age Restriction. The development shall be restricted to persons age 55 or older and handicapped persons as defined by federal law. At least half the total housing units shall be occupied by persons 55 years of age or older, except for spouses of such residents for whom there is no minimum age requirement.
 2. Conversion from a Retirement Residence. No conversion of occupancy to persons other than those specified by subsection C.1 shall be allowed without first complying with the underlying zoning and site requirements.
 3. Density. The maximum number of retirement residence units shall not exceed the number permitted by the allowed density of the zone, except as follows:
 - a. In all residential zones which allow retirement residences, the maximum number of retirement residence units shall not exceed the number allowed for that zone in the zone use chart for the zone, together with any density bonus authorized under RZC 21.20.030, *Affordable Housing - General Requirements and Incentives*, or RZC 21.20.070, *Affordable Senior Housing*, except any facilities developing under subsection C.3.b of this section.
 - b. Retirement residences located in the R-4 through R-6 zones that provide some component of assisted living or skilled nursing care may be allowed an increase in

density by up to three times the number of units permitted by the underlying zone provided each of the following conditions exists:

- i. A minimum of 10 percent of the units are licensed for assisted living or skilled nursing care programs; however, no more than 25 percent of the units may be licensed for skilled nursing care.
- ii. There is adequate water and sewer capacity to serve the proposed development, together with the water and sewer capacity existing to accommodate the planned growth for the service area(s) in which the property is located.
- iii. Traffic generated by the retirement residence is not significantly greater than traffic generated in the surrounding residential neighborhoods. In addition, a traffic mitigation plan is required. The plan shall address traffic control, parking management (including the mitigation of overflow parking into the adjoining residential areas), and traffic movement to the arterial street system. In addition to on-site parking requirements, parking in excess of the maximum may be permitted on existing off-site satellite parking lots, subject to City approval of a joint use agreement. Off-site parking in a residential zone shall be limited to lots shared with existing institutional uses, such as schools.
- iv. The project shall comply with all development standards for the zone in which the development is located, including height, setbacks, open space, lot coverage, and impervious surface requirements.
- v. Landscape Requirements. Setback areas located adjacent to the side, street side, and rear property lines shall be landscaped to sufficiently screen the development from surrounding residential uses. Similar landscaping shall also be provided within the front setback areas when needed to screen parking. Where possible, existing mature vegetation shall be retained. The Design Review Board may allow reduced landscaping requirements for projects that exhibit exceptional site and architectural design qualities that reflect nearby neighborhood character. Such projects shall be well integrated with the surrounding neighborhood, including linkages to surrounding uses through pedestrian and vehicular connections. Alternative linkages may be proposed by those facilities where an enclosed facility is mandated by licensing requirements for the type of care offered at the retirement residence, such as Alzheimer's or other dementia care facilities.
- vi. Retirement residence facilities developed under these provisions shall not be entitled to any other senior housing density bonuses, including those described in RZC
- vii. Availability. A minimum of 25 percent of the new units increased above the underlying zone as a result of this section shall be set-aside for households earning less than 80 percent of the King County Median Income, adjusted for household size.
- viii. For existing developments that are expanding under these provisions, the set-aside units may be located either in the existing or new units, but shall be in addition to any set-aside units already provided in the existing facility.

- ix. The operator of the facility shall provide an annual report to the City providing information documenting compliance with the set-aside requirement. Facilities financed under Washington State Housing Finance Commission (WSHFC) programs may submit a copy of the annual report to WSHFC to satisfy this requirement.
 - x. Set-aside units required by these regulations shall be administered according to the same requirements as used by the Washington State Housing Finance Commission (WSHFC) for similar type facilities, regardless of how a retirement residence developed under these provisions is financed.
4. Site Requirements. All site requirements and development standards of the Redmond Zoning Code shall apply to retirement residences.
 5. Design and Development Standards.
 - a. Developments shall be designed to project a residential, rather than institutional, appearance through architectural design, landscaping, the use of building materials, and surface length. Multiple structures are encouraged instead of large single structures to promote compatibility with surrounding residential neighborhoods. Site design, building placement, and perimeter landscape treatments shall screen the portions of the development, which are different in appearance from single-family dwellings from abutting single-family dwellings.
 - b. Parking should be divided into small parking areas screened from on-site and off-site uses.
 - c. In the R-4 through R-12 zones, no retirement residence shall be located adjacent to another retirement residence development to avoid the adverse effects of a concentration of such housing.
 6. Recorded Covenant and Conditions. An agreement in a form approved by the City shall be recorded as a covenant or other legally binding limitation on the use and intensity of the property and requiring compliance with the requirements of this section, including any requirements for set-aside units. This covenant or other legally binding limitation on the use and intensity of the property shall run with the land, shall be binding on the assigns, heirs and successors of the applicant, and shall be recorded in King County's real property records before the use is occupied.

Conclusions Based on Findings

A. SEPA Appeal

1. In failing to present evidence on errors alleged in their appeal letter, Appellants abandoned the following issues at hearing: impacts resulting from reduction in pervious surface area/impacts to stormwater runoff; impacts resulting from construction including traffic, air emissions, and construction stormwater runoff; impacts resulting from noise; impacts from the improper disposal of hazardous materials; and impacts to wildlife. *Kittitas County v. Kittitas Cty. Conservation Coal*, 176 Wn. App. 38, 25 (2013)

(unsubstantiated arguments are deemed abandoned on appeal). This narrows the scope of issues to be decided in the instant SEPA appeal to alleged significant adverse environmental impacts to air (noxious odors from the commercial kitchen), aesthetics, light and glare, noise, traffic, and public services.

2. Before exercising substantive SEPA authority to condition a project, WAC 197-11-660 requires the SEPA Official to consider whether compliance with the City's land use regulations would result in adequate analysis and mitigation of a project's environmental impacts. The Redmond Zoning Code contains detailed land use regulations that are intended to "guide the development of the community in a logical and orderly manner, maintain a quality environment and provide for the conservaion, protection and enhancement of the public health, safety and general welfare." *RZC 21.02.030*. The City's land use regulations are also intended to implement the policies of the Redmond Comprehensive Plan, including policies that address the continued environmental health of the City. During review for compliance with the City's adopted land use regulations, the SEPA Official determined that code compliance would mitiagate the environmental impacts of the project to the point of non-significance, which determination is within the purview of the SEPA Official and is required to be accorded substantial deference.
3. Of the impacts alleged on appeal, Appellants offered the most evidence on the issue of aesthetics. The evidence submitted shows that the assisted living building and independent living buildings would be visible where currently no buildings are seen, that the proposed buildings would be closer to the site boundaries than other buildings in the neighborhood that are larger than single-family residences, and that especially the construction of the assisted living building would remove a swath of trees beloved for its contribution to the verdant, tranquil character of the street along 176th Avenue NE. The record presented made amply clear that these changes are not welcome by the Appellants. However, on the evidence submitted, the undersigned is not persuaded that being able to see multifamily residential buildings through a vegetated buffer constitutes significant adverse aesthetic impact. Considering the record as a whole, especially in light of the substantial deference owed to the SEPA Official's determination, the undersigned is not persuaded that the project, as mitigated by the Code, would result in probable significant adverse aesthetic impacts.
 - a. Procedurally, there is no evidence that the Technical Committee failed to require sufficient information, or failed to closely review sufficient information, to address the aesthetic element of the environment in the SEPA checklist. Over the course of more than two years, the City required and received from the Applicant multiple project revisions specifically addressing aesthetic concerns from surrounding neighbors. The Appellants' design expert's testimony, when considered with the rest of the record, did not succeed in showing error on the part of the City's Design Review process, during which the proposed buildings, tree removal, and replacement plantings were all repeatedly modified in response to public comment. There was no Design Review Board error for not considering the placement of the buildings. That

the Appellants' expert reached a different conclusion than the City's and Applicant's design professionals does not constitute demonstration of clear error, especially in light of the deference owed to the SEPA Official's determination. *Findings 1, 21, 22, 31, 37, 38, 39, 40, and 54.*

- b. Regarding the aesthetic impacts alleged from removal of mature vegetation from the so-called greenbelt: The vast majority of existing vegetation on-site is being preserved, including approximately 22 significant trees between the assisted living building and the right-of-way, and approximately 11 significant trees between the end of the eastern independent living building and the right-of-way. In response to public comment, the City required the Applicant to install Type I landscaping between the buildings and the road, as if the project were industrial development adjacent to residential uses, where Type II is required by code. As proposed, the project exceeds even the higher Type I landscaping standards. While the new buildings would be more visible to neighbors than previous campus development, the proposed plantings would increasingly screen the project from neighbors' views over time. As to the competing expert testimony on the question of whether the proposed plantings are well designed, would thrive, and can be maintained to perform as proposed, testimony established that Emerald Heights is known for its beautiful grounds, including landscaping. No evidence submitted supports a conclusion that the proposed landscaping would not also be well maintained by competent professionals. The difference of opinions in the record on landscape design does not demonstrate clear error on the part of the Technical Committee in concluding that compliance with tree preservation and replacement regulations adequately mitigates the aesthetic impacts of the project to a point of non-significance. *Findings 7, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 35, 36, 38, 45, 46, 47, 48, 55, and 58.*
- c. As to alleged impacts to views and neighborhood character, the only point of comparison offered was the design requirements in the Abbey Road covenants, conditions, and restrictions. Private CCRs are not an appropriate point of aesthetic comparison, because they are obligations entered into by private landowners that are wholly separate from, and unenforceable through, the City's regulatory processes. On a visual comparison basis, the style of the proposed buildings is relatively contemporary Pacific Northwest, but nothing in the record shows that contemporary design is inherently incompatible with the design of surrounding, existing development, which includes Abbey Road homes and also includes the high school, the development in place on the retirement campus, and other church and school uses in neighborhood. Most comments opposed to the project focused on the size, mass, and scale of the buildings. The record supports the conclusion that the proposed building heights are 35 feet as defined by code, which is the same height limit that applies to the surrounding residences. While the proposed buildings are larger in scale than single-family residential development is, the proposed plantings would achieve 80% sight obscuring screening and would block significant portions of the buildings from view at the time of planting. The plantings would screen even greater

- portions of the buildings over time. As to Appellants' contention of error in the SEPA checklist's statement that the project "will not alter or obstruct any views," the City reasonably applied its adopted regulations, which contain view protection provisions for specific, identified public views, and concluded that there are no protected views in the project vicinity. The Technical Committee's determination that impacts to private views are less significant than impacts to publicly protected views is reasonable, in that private views are enjoyed by fewer people and do not affect the community generally. *Findings 2, 3, 6, 7, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 35, 36, 42, 45, 46, 47, 49, 55, and 56.*
4. Evidence offered by the Appellants regarding odors does not demonstrate probable significant adverse impacts to air quality in the form of noxious odors from the proposed assisted living kitchen. The Technical Committee, as SEPA Official, acted reasonably in determining that compliance with applicable building, land use, and odor emission regulations – the last of which provide that “[r]ecurrently generated offensive odors” are not allowed to “be perceptible by a person of ordinary sensitivity, without instruments, at any point of any boundary line of the lot or lots on which the use or structure is located” - *RMC 6.34.040* - would adequately protect against adverse air quality impacts from the kitchen exhaust of the proposed buildings. The evidence offered by Appellants, which can best be characterized as speculative, does not create a firm conviction that the DNS is in error on this point. *Findings 28, 44, and 63.*
 5. The Appellants did not show clear error in the Technical Committee's determination that the project would not result in significant adverse light and glare impacts. The submitted lighting plan and photometric information demonstrate that the proposed buildings would not cause significant light spill onto surrounding properties. The assisted living building, which is closest to the property boundary, would have no exterior light fixtures facing 176th Avenue NE. Evidence offered by the Appellants failed to show that light from the buildings would cause greater illumination off the subject site than the existing and required new street lights would cause. Arguably, the six residences facing the assisted living building would be the most affected parties as to light impacts. Even for those six residences, any light from (or view of) the assisted living building would be filtered through and blocked by trees and fences in the residential yards, street trees on both sides of the street, the ivy-covered fence, and a mix of existing and new evergreen and deciduous replacement trees. The undersigned is not persuaded that the visible light shown in Appellants' light exhibits is accurate, or that it demonstrates significant adverse light impacts. *Findings 24, 25, 26, 43, 49, 55, and 57.*
 6. Aside from Appellant witness testimony expressing concern that noise would increase, Appellants offered no evidence of noise impacts. Such evidence, best characterized as speculative, is not sufficient to overcome the deference owed the SEPA Official's determination that the project would not result in significant adverse noise impacts. *Findings 27, 61, and 112.*

7. The record does not include credible transportation evidence capable of challenging the evidence provided by the Applicant, which was reviewed and accepted by the Technical Committee as demonstrating there would be no significant adverse traffic impacts. On balance, transportation evidence in the record shows: there would be no change in level of service at any intersection; 176th Avenue NE has ample capacity for the 15 net new PM peak hour trips; that construction traffic would be regulated through the civil engineering and building permit processes and would likely include a construction traffic plan; and that, even at full build out under current densities, Emerald Heights would generate significantly less traffic than is generated by the Abbey Road residences. No significant adverse transportation impacts are shown. *Findings 29, 50, 51, 52, 60, and 62.*
8. The record as a whole supports the Technical Committee's determination that the project would not result in significant adverse impacts on the City's ability to provide emergency medical or fire suppression services. No credible evidence was forwarded to contradict the testimony of the Deputy Fire Marshal Turner and Fire Chief Smith, who both opined that the project would not hamper Redmond Fire Department, and Station 17 specifically, in its service to the community. The Technical Committee reasonably concluded that payment of fire impact fees would adequately mitigate the project's impacts to emergency services. *Findings 30, 65, 66, and 67.*
9. The undersigned is convinced that the SEPA Responsible Official reviewed sufficient evidence to reach the environmental threshold determination that was issued. Considering the evidence as a whole, the Appellants failed to show probable, significant adverse impacts to (or impacts resulting from) aesthetics, light and glare, noise, traffic, noxious odors from the commercial kitchen, and public services. Especially in light of the deference owed to the SEPA Responsible Official, the SEPA appeal must be denied.
10. With sincere respect, evidence not cited and arguments not addressed in these findings and/or conclusions were found not to be sufficiently relevant, credible, or persuasive, and they were not relied on.

B. Land Use Permits

1. As can be seen in the plain language of Ordinance 2607, and as stated in the Hearing Examiner recommendation to Council adopted in that ordinance, the 2011 rezone approval was not conditioned to require future development to be restricted to the center of the site, as was suggested in public comment. Intending only respect to the former elected officials who submitted public comment in this matter, after-the-fact statements of intent from the City Council members who approved the rezone cannot retroactively serve as the basis for reading the ordinance to contain conditions. Washington courts have held, "legislative intent in passing a statute cannot be shown by depositions and affidavits of individual ... legislators." *Woodson v. State, 95 Wn.2d 257, 264 (1980)*. Neither assertions made by Applicant's then-counsel, nor comments in the Hearing Examiner's findings of fact, indicating that future additional density "would continue to

be well screened,” amount to legally enforceable restrictions on the placement of future additional density. Of note, the undersigned is persuaded that the greater than minimum setbacks provided for the proposed buildings, the required Type I landscape buffer where Code indicates a Type II buffer, the retention of approximately 30 significant trees between on-site the buildings and road, the addition of 16 street trees, and the fact that proposed replacement trees exceed both the required minimum number and required minimum size at time of planting can altogether be construed as “continuing to well screen” the proposed project. *Findings 8, 9, 10, 107, 108, 109, 110, 111, and 112.*

2. Based on a review of all argument forwarded, the undersigned is persuaded that the 1988 PUD was extinguished when rezone was adopted. The purpose for requesting the PUD was to allow buildings taller than the R-4 height limit of 30 feet; the need for this zoning flexibility no longer existed once the rezone passed. Under Washington law, a PUD is a zoning enactment. *See Lutz v. City of Longview*, 83 Wn.2d 566 (1974). When the City Council rezoned the property from R-4 with its PUD overlay to R-6 in 2011 - at which time the PUD mechanism no longer existed under City code - the only device available for eliminating PUD restrictions on property would have been a straightforward rezone. Said rezone was granted, and the PUD overlay was replaced by R-6 zoning. Public comment in the instant proceedings from Claudia Newman, counsel for the SEPA Appellants, argued the 2011 R-6 rezone could not have repealed the PUD restrictions because “repeal by implication is strongly disfavored in Washington” and because the City Council did not explicitly repeal the terms of the 1988 PUD. *Exhibit C119.D.2, page 9.* However, it is not necessary to resort to a “repeal by implication” theory to decide the question. Two types of zoning cannot exist on a property at the same time. Not only had the City’s PUD provisions been repealed, “concomitant rezones” and “rezone contracts” had been replaced by the development agreement mechanism following the 1995 Regulatory Reform Act. The only way to have made the Applicant’s representations at the rezone hearing binding would have been to accompany the rezone with a development agreement. However, upon a close review of the rezone recommendation, Ordinance 2607, and the City Council hearing at which the rezone was adopted shows no discussion of maintaining the previous PUD, and no discussion of the locations of future development on the subject aside from the fact that any future development would be subject to the regulations in effect at the time a complete application was submitted. Ordinance 2607 does not restrict the location of increased densities on-site and does not require retention of any particular vegetation. The 1988 SDP was a project-specific land use permit, the conditions of which governed then-proposed development. As stated in the rezone proceedings, future development was to be reviewed for compliance with regulations in effect at the time such development was proposed. The regulations underlying the 1988 land use permit have been repealed and replaced with the current regulations, which require review and approval of a conditional use permit and site plan entitlement for any further development of the property. The conditions of the 1988 land use permit do not control the instant proposal. *Findings 8, 9, 11, 32, 68, 105, and 106.*

3. Design Review Board: With respect to the challenge to the Design Review Board’s process - specifically its decision not to consider alternative locations for the proposed buildings - and the challenge to the DRB’s ultimate recommendation, the following conclusion is entered. Pursuant to RMC 4.23.010, the Design Review Board is granted jurisdiction to “review land use permit applications and to make urban design decisions that will promote visual quality throughout the City in accord with the purposes and design criteria set forth in the Redmond Zoning Code (RZC) Article III, Design Standards.” Similarly, RZC 21.76.060.G states, “[T]he Design Review Board shall consider the application at an open public meeting of the Board in order to determine whether the application complies with Article III Design Standards.” The City’s design standards do not address building siting generally. Design provisions speaking to building siting include RZC 21.60.020.C, which expresses a goal of nestling buildings behind ridgelines and vegetation, and in RZC 21.60.020.E, which aims to locate commercial business close to street fronts to create an active pedestrian environment. Other design considerations could of course affect siting of a building; however, there is no express directive for the Design Review Board to review siting issues, or to suggest alternative siting to achieve better compliance with design standards. Rather the express directive is to consider the application and determine if it complies. During nine meetings over more than two years, the project was considered and revised. There is no evidence that the Design Review Board failed to carry out its duties diligently and professionally.

In the final proposal, the buildings provide articulated facades, pedestrian-friendly scale, and interesting rooflines, and they blend the historic character of the older and newer buildings on the campus. The project avoids natural hazards and does no “disrespect” to any natural landform. Through repeated revisions, the materials, window design, roofline, and finish of the buildings were amended to accentuate typically residential features, and as screened by a greater than minimum-requirement vegetated buffer, would not result in a jarring transition between single-family and retirement residence uses. All “relationship with the street front” was removed at the request of neighbors. The buildings would not interfere with pedestrian, bicycle, or vehicular connectivity to the campus and the community. Each building provides underground parking. On the record submitted, including all comments in opposition to approval, the evidence supports the Design Review Board’s determination that the project as revised through the design review process complies with all applicable “intent” statements in the City’s design standards that are binding on applications. The Board’s recommendation for design review approval is adopted. *Findings 21, 22, 31, 36, 37, 39, 40, 42, 45, 46, 47, 48, 49, 54, 55, 57, 93, 94, 95, 96, 97, 98, and 99.*

4. Conditional Use Permit:
 - a. Retirement residence uses are allowed in the R-6 zone subject to CUP review and approval. Compliance with several Redmond Comprehensive Plan goals and policies, specifically including HO-2, HO-26, HO-27, LU-3, LU-6, LU-9 and LU-29, is shown through the following. The proposal increases the variety and availability of affordable senior housing options in Education Hill, satisfying Redmond affordable

housing standards for at least 25% of the units. These additional dwelling units would encourage seniors to remain in the neighborhood. Public utilities and services, including sewer and fire, have capacity to serve the proposed units. The new units meet City goals for appropriate infill development. The height of the proposed buildings has been shown to comply with code definitions of height measurement. The overall size of the buildings would be screened by landscaped buffers that exceed minimum requirements for density of screening and number and height of plantings. As designed to appear residential, used for residential purposes, and screened by the buffers already described, the project would protect neighborhood character. *Findings 2, 3, 12, 13, 14, 35, 36, 42, 45, 46, 47, 48, 55, 64, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 93, and 112.*

- b. The proposed buildings satisfy R-6 zone development standards. The building height is 35 feet as defined by code, with allowed rooftop equipment setback, within the 15-foot height allowance, and screened with “surrounds”. Property line setbacks meet or exceed minimums. As previously concluded, the Design Review process was implemented consistent with code requirements and the project was revised to meet all applicable design standards. Compatibility with existing development was carefully reviewed and is demonstrated through the following: residential style eaves and windows; materials and colors selected to blend and merge surrounding development; eliminating two upper story units nearest to the street on the assisted living building to present a two-story structure to the sidewalk; exceeding minimum setbacks for the majority of the buildings’ lengths; and an additional five-foot step back on the remaining third floor units of the assisted living building to reduce its apparent size. A Type I landscape buffer was required, rather than the applicable Type II, and the project would provide more and larger replacement trees than are required by code, screening the retirement residence to a greater degree than minimum standards require. *Findings 12, 13, 14, 36, 43, 45, 46, 47, 55, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84 101, 102, 103, 104, and 112.*

- c. In meeting or exceeding all development standards, especially screening standards, and in keeping all development inside the subject property, the project would not hinder neighborhood circulation. At only 15 net new PM peak hour trips, it would not generate significant traffic. The minimum parking standards are satisfied. All surrounding properties are fully developed, and the project’s placement within the subject property would not discourage redevelopment of any adjacent parcels. *Findings 42, 43, 45, 46, 47, 48, 5-, 51, 52, 55, 57, 60, 61, 70, 81 ,82, 83, 84, 86, 87, 88, 97, 98, and 112.*

- d. The primary use of each of the three buildings would be residential dwelling units; however, the assisted living building would contain some administrative and commercial uses. The record establishes that administrative spaces would be used during business hours. The kitchen and dining room would operate for three meals a day. All non-dwelling unit spaces in the building would be provided with occupancy

sensors so that lights would go out when the rooms are empty. The skilled nursing station has no external facing windows. The record does not show unusual hazards or traffic impacts that would interfere with surrounding uses. *Findings 35, 43, 49, 50, 51, 52, 60, 62, and 112.*

- e. The buildings would be provided with pedestrian access facilities, which would connect to sidewalk along the site frontage. In addition, the project includes installation of off-site sidewalk south of the main gate. There is no history of traffic safety issues with the existing retirement campus. Again, with an increase of only 15 PM peak hour trips, the project would have no discernable impact to traffic safety or congestion in the neighborhood. *Findings 5, 12, 13, 14, 50, 51, 60, 86, 87, and 112.*
 - f. The buildings would be served by City water and sewer. The project would construct an offsite sewer upgrade to correct an existing sewer system problem with manhole #SSMH 282. The stormwater management facilities would discharge to City stormwater facilities, which have capacity to accept the modeled flows. Based on credible evidence from both the Fire Marshal and the Fire Chief, the proposed buildings would not adversely affect emergency services. *Findings 64, 65, 66, 67, 88, 89, 90, 91, and 112.*
5. Site Plan Entitlement: As required pursuant to RZC 21.76.070.Y, the Technical Committee reviewed the proposed project at a regularly scheduled meeting and recommended approval. There is no review by the Landmarks and Heritage Commission required because there are no landmark designations for historic properties on the subject property. *Findings 1, 5, 12, 13, 14, 64, 65, 66, 67, 69, 70, 72, 73, 74, 75, 76, 77, 78, 79, 88, 89, 90, 92, 110, and 112.*
6. Retirement Residence standards: Retirement residences are an allowed use in the R-6 subject to CUP review and approval (next finding). The proposed buildings comply with all requirements in the R-6 zone including, but not limited to: setbacks, open space, lot coverage, impervious surface, and building height. Proposed parking exceeds the minimum number of spaces required for retirement residence uses. The compatibility of the proposed buildings with the immediate surroundings has been carefully reviewed and revised over time to ensure consistency through the use of colors and materials that blend with surrounding existing development, and through stepbacks, setbacks, and landscaped screening, to present a compatible appearance to the nearest structures. The record shows that the proposed retirement residences would not adversely affect existing public facilities or services. In fact, the project would upgrade an existing offsite sewer manhole that has functional problems due to construction. There is an existing public bus stop along the site frontage; however, Emerald Heights also provides shuttle service for residents. *Findings 2, 4, 12, 13, 14, 52, 60, 61, 64, 65, 66, 67, 72, 73, 74, 75, 76, 77, 78, 79, 86, 88, 91, 93, 97, 98, and 112.*

7. Project opponents have made their strong feelings clearly understood; they want to continue to see the mature trees along 176th Avenue NE and, equally importantly, to continue not to see multistory retirement residence buildings from the same vantage. These types of opinions are not uncommon and are not surprising; no one enjoys losing a favorite view on neighboring property or on a road they frequently travel. Project opponents invested a great deal of time and energy to study zoning code requirements and the Comprehensive Plan, and to develop and fill the record with their own interpretations of whether the project complies with required development standards. However, as stated at the hearing, land use permits are not decided by popularity contest or by vote. While reasonable minds can differ on interpretations of code requirements, based on the record submitted, the undersigned is not persuaded by the code interpretations of project opponents. As detailed in the previous conclusions, the evidence as a whole shows compliance with all applicable standards. Washington courts have held that community displeasure alone cannot serve as the basis for denial of a permit: “While the opposition of the community may be given substantial weight, it cannot alone justify a local land use decision.” *Sunderland Servs. v. Pasco*, 127 Wn.2d 782, 797 (1995); *Maranatha Mining, Inc. v. Pierce County*, 59 Wn. App. 795, 805 (1990); *Kenart & Assocs. v. Skagit County*, 37 Wn. App. 295, 303, review denied, 101 Wn.2d 1021 (1984). Based on the record submitted, the permits must be granted.

DECISIONS

Based on the foregoing findings and conclusions, the SEPA appeal must be **DENIED**.

The record as a whole supports approval of the requested conditional use permit and site plan entitlement to construct and operate the proposed independent living and assisted living buildings as described herein, and the permits are **GRANTED** subject to the conditions below. The Design Review Board’s recommendation for approval is adopted.

A. Site-Specific Conditions of Approval:

The following table identifies those materials that are approved with conditions as part of this decision.

Item	Date Received	Notes
Plan Set	10/30/18*	<i>and as conditioned herein.</i>
SEPA Checklist	10/30/18*	<i>and as conditioned herein and as conditioned by the SEPA threshold determination on July 26, 2018.</i>

Architectural Elevations	10/30/18*	<i>and as conditioned herein.</i>
Design Review Board Approval/Plans	10/30/18*	<i>and as conditioned herein.</i>
Conceptual Landscaping Plan	10/30/18*	<i>and as conditioned herein.</i>
Conceptual Lighting Plan	10/30/18*	<i>and as conditioned herein.</i>
Proposed Tree Retention Plan	10/30/18*	<i>and as conditioned herein.</i>
Traffic Mitigation Plan	10/30/18*	<i>and as conditioned herein.</i>
Stormwater Design	10/30/18*	<i>and as conditioned herein.</i>
<i>*Denotes final plans/documents upload date</i>		

The following conditions shall be reflected on the Civil Construction Drawings, unless otherwise noted:

1. Development Engineering - Transportation and Engineering

Reviewer: Min Luo, Senior Engineer

Phone: 425-556-2881

Email: mluo@redmond.gov

- a. Easements and Dedications. Easements and dedications shall be provided for City of Redmond review at the time of construction drawing approval and finalized for recording prior to issuance of a building permit. The existing and proposed easements and right-of-way shall be shown on the civil plans. Prior to acceptance of the right(s)-of-way and/or easement(s) by the City, the developer will be required to remove or subordinate any existing private easements or rights that encumber the property to be dedicated.
 - i. Easements are required as follows:
 - a) The Applicant and/or Owner is required to work with Puget Sound Energy (PSE) to relocate the existing 10-foot-underground electric transmission and/or distribution easement that is adjacent to the west side of the existing 176th Avenue NE right-of-way to be outside of the future sidewalk and utility easement or have PSE’s easement subordinated to City’s sidewalk and utility easement. PSE’s related electrical and communication wires and conduits shall be relocated to be out of the way of any current or future improvements along the project frontage. The property owner is required to provide additional PSE easement to accommodate the relocated equipment and/or related electrical/communication wires and conduits.

- b) A 10-foot wide sidewalk and utility easement (approximately 600 feet), granted to the City of Redmond abutting 176th Avenue NE, north of the NE 110th Way right-of-way (Frontage Improvement Scopes A and B Sections), as shown on the Independent and Assisted Living Buildings ROW Improvement Plans IL.C6.00, provided by Coughlin Porter Lundeen, dated October 5, 2018.
- c) A 10-foot wide sidewalk and utility easement (approximately 70 feet), granted to the City of Redmond abutting 176th Avenue NE south of the main entrance, as shown on the Independent and Assisted Living Buildings ROW Improvement Plans IL.C6.01, provided by Coughlin Porter Lundeen, dated October 5, 2018.
- d) A sidewalk and utility easement with varied width to cover the existing sidewalk, granted to the City of Redmond abutting the 176th Avenue NE right-of-way, south of NE 110th Way, as shown on the Independent and Assisted Living Buildings ROW Improvement Plans IL.C6.02, provided by Coughlin Porter Lundeen, dated October 5, 2018.
- e) At the time of construction, additional easements may be required to accommodate the improvements as constructed.

(Code Authority: RZC 21.52.030 (G); RMC 12.12)

- ii. Dedications for right-of-way are required as follows:
 - a) No right-of-way dedication is required from this development.

(Code Authority: RZC 21.52.030 (G); RMC 12.12)

- iii. Vacation of right-of-way is required as follows:
 - a) No right-of-way vacation is required from this development.

(Code Authority: RCW 35.79)

- b. Construction Restoration. In order to mitigate damage due to trenching and other work on 176th Avenue NE, the asphalt street shall be grinded, overlaid, and/or patched, per COR SD 202 or 203. If the Pavement Condition Index (PCI) of the existing pavement is below 70 (as determined by the City's bi-annual pavement survey), the development shall be required to grind and overlay the entire half street along the project frontage at a minimum as determined by the Traffic Operations and Safety Engineering Division in Public Works. Contact Rob Crittenden at 425-556-2838 with questions.

(Code Authority: RMC 12.08; Redmond Standard Specifications & Details)

c. Street Frontage Improvements.

- i. The frontage along 176th Avenue NE, approximately 70 feet south of the main entrance and approximately 600 feet north of NE 110th Way (Frontage Improvement Scopes A and B Sections), must meet current City Standards which include asphalt paving approximately 14 feet from centerline to face of curb with appropriate tapers, type A-1 concrete curb and gutter, 5-foot wide planter strips, 5-foot wide concrete sidewalk, storm drainage, street lights, street trees, street signs, and underground utilities including power and telecommunications. A meandering sidewalk may be necessary to accommodate existing utilities along the frontage that cannot be relocated. The minimum pavement section for the streets shall consist of:
- 7 inches of HMA Class ½-inch PG 64-22
 - 4 inches of 1¼-inch minus crushed rock base course per WSDOT Standard Spec 9-03.9(3)
 - Subgrade compacted to 95% compacted maximum density as determined by modified Proctor (ASTM D 1557)
 - Street crown 2% sloped to drain system

(Code Authority: RZC 21.52.030; RZC 21.17.010; RMC 12.12; RZC 21 Appendix 2; Redmond Standard Specifications & Details)

- ii. A separate 40-scale channelization plan may be required for any public street being modified or constructed. The plan shall include the existing and proposed signs, striping, and street lighting and signal equipment for all streets adjacent to the site and within at least 150 feet of the site property line (both sides of the street). The plan shall conform to the requirements in the City of Redmond Standard Specifications and Details.

(Code Authority: RZC 21.52.030(F), RZC 21 Appendix 2; Redmond Standard Specifications & Details; RCW 47.24.020)

- iii. Sidewalks constructed to City standards are required at the following locations:
- 5-foot wide concrete sidewalk in length of approximately 70 feet south of the main entrance, and 5 feet-wide concrete sidewalk in length of approximately 600 feet north of NE 110th Way along 176th Avenue NE (Frontage Improvement Scopes A and B Sections), are required.

(Code Authority: RZC 21.10.150, RZC 21.17.010; RZC 21.52.050; RMC 12.12)

d. Access Improvements.

- i. The type and location of the proposed site accesses are approved as shown on the Independent and Assisted Living Buildings Overall Campus Plan, prepared by Coughlin Peter Lundeen, dated October 5, 2018.

(Code Authority: RZC 21.52.030(E); RZC 21 Appendix 2)

- e. Underground Utilities. All existing aerial utilities shall be converted to underground along the street frontages and within the development. All new utilities serving the development shall be placed underground.

(Code Authority: RZC 21.17.020; RZC 21 Appendix 2-A.11)

- f. Street Lighting. New streetlights are required to illuminate the property frontage approximately 600 feet north of NE 110th Way along 176th Avenue NE (Frontage Improvement Scopes A and B Sections) to City standards. Luminaire spacing should be designed to meet the specified criteria for the applicable lamp size, luminaire height, and roadway width. Contact Paul Cho in Transportation Operations at 425-556-2751 with questions. The street lighting shall be designed using the criteria found in the City's Illumination Design Manual which can be accessed at: <http://www.redmond.gov/development/CodesAndRules/StandardizedDetails>.

(Code Authority: RZC 21.52.030(F), RZC 21 Appendix 2)

2. Development Engineering - Water and Sewer

Reviewer: Zheng Lu, Senior Utility Engineer

Phone: 425-556-2844

Email: zlu@redmond.gov

- a. Water service will require a developer extension of the City of Redmond water system as follows:

Assisted Living Building

A new 3-inch water service and a 6-inch fire line shall be connected to the existing 12-inch City water main on 176th Circle NE. The first fire hydrant shall be connected to the existing 8-inch City water main on NE 110th Way. The second fire hydrant shall be connected to the existing 8-inch water main on 176th Avenue NE. All water services, hydrants, and fire lines shall be designed in accordance with City of Redmond Design Requirements, Water and Wastewater Extensions. A 1-inch exempt irrigation water service shall be extended from the 4-inch water service.

Independent Living Building

Two 2-inch water services, one for each building; a new fire hydrant; and a 6-inch fire line shall be connected to the existing 12-inch water main on 176th Circle NE. A fire department connection from the building shall be installed close to the fire hydrant at northeast corner of the building. A 1-inch exempt irrigation water service shall be extended from one of the 2-inch water services.

(Code Authority: RZC 21.74.020(D), RZC 21.17.010)

- b. Sewer service. Sewer service will require a developer extension of the City of Redmond sewer system as follows:

Assisted Living Building

There will be two side sewers from the Assisted Living building. One side sewer from a 1500-gallon grease interceptor shall connect to the existing City 8-inch sewer main on 176th Circle NE; the other side sewer will connect to the existing City 8-inch sewer main on NE 110th Way. All side sewers and manholes shall be designed in accordance with City of Redmond Design Requirements, Water and Wastewater Extensions.

Independent Living Building

Approximately 206 liner feet of new 8-inch sewer main from the existing sewer main on the campus entrance road in north to the new building shall be constructed, including installation of three new manholes. About 120 liner feet of the existing side sewer shall be abandoned. An internal grease interceptor will be required if there will be food processing related activities.

Off-site Manhole Replacement

A sewer system capacity study was conducted in 2010. The report concluded that the downstream sewer collection system has adequate capacity to receive additional flows anticipated to result from future development. However, the report also recognized that City maintenance crews had challenges historically associated with reverse flow surcharge and grease problems at existing manhole 4D1SMH282. Additional flow generated from the proposed Emerald Heights facilities will impact the existing back-flow problem. Therefore, the City has required that the Applicant replace the existing manhole with a new larger manhole.

(Code Authority: RZC 21.74.020(D), RZC 21.17.010)

- c. Easements. Easements shall be provided for all water and sewer improvements as required in the Design Requirements for Water and Sewer System Extensions. Public easements for the water and sewer mains shall be provided for City of Redmond review at the time of construction drawing approval. Off-site easements must be recorded prior to construction drawing approval. Water and sewer improvements shall be shown on the face of the final short subdivision and granted through the final short subdivision document.

A skybridge between the ALB and the existing main building will be part of new development that will impact the existing City water and sewer easements. The developer shall write an easement amendment and get the City's approval during CCR review and before construction starts.

(Code Authority: RZC 21.74.020(C), RZC Appendix 3k)

- d. Permit Applications. Water meter and side sewer applications shall be submitted for approval to the Development Engineering Utility Division. Permits and meters will not be issued until all improvements are constructed and approved for use and administrative requirements are completed. In certain limited circumstances, as determined solely by the City of Redmond, water meter and/or side sewer permits may be issued prior to completion of improvements and administrative requirements. In such cases, various additional guarantees or requirements may be imposed as determined by the Development Engineering Division.

(Code Authority: RMC 13.08)

3. Development Engineering - Stormwater/Clearing and Grading

Reviewer: Jeff Dendy, PE Senior Engineer

Phone: 425-556-2890

Email: jdendy@redmond.gov

- a. Water Quantity Control.
 - i. Stormwater discharges shall match the developed discharge duration to the predeveloped duration for the range of predeveloped discharge rates from 50% of the 2-year peak flow up to the full 50-year flow. Detention shall be provided in three privately maintained vaults.
 - ii. Provide for overflow routes through the site for the 100-year storm.

(Code Authority: RMC 15.24.080)(2)(d)

- b. Water Quality Control.
 - i. Water quality treatment is not required for this project due to the small area of added pollution-generating impervious area.

(Code Authority: RMC 15.24.080)(2)(c))

- c. Easements. Easements will be required for any public stormwater conveyance systems on private property. No public storm easements are anticipated for this project.

(Code Authority: RMC 15.24.080)(2)(i))

- d. Private Stormwater Easements. Private stormwater easements will be required where drainage systems are located across adjacent properties and will remain under private ownership. No private easements are anticipated for this project.

(Code Authority: RZC 21.54.010(D), 21.74.020(C), 21.54.010(E))

- e. Clearing and Grading. The proposed discharge from the ALB storm vault to the municipal storm system in 176th Avenue NE shall occur at a catch basin set in the existing gutter line. New catch basins set within the travel way are not approved. The project shall perform pot-hole investigations to determine all buried utility conflicts prior to final design of the connection to the 176th Avenue NE storm pipes.

(Code Authority: RMC 15.24.080)

- f. Temporary Erosion and Sediment Control (TESC).
 - i. Rainy season work is permitted October 1st through April 30th with an approved Wet Weather Plan.

(Code Authority: RMC 15.24.080)

- g. Floodplain Management. Project does not lie within a FEMA designated flood hazard zone.

(Code Authority: RZC 21.64.010 and 21.64.040)

- h. Landscaping. No site-specific requirements for Storm/Grading.

(Code Authority: RZC 21.32)

- i. Department of Ecology Notice of Intent Construction Stormwater General Permit. Notice of Intent (NIO) must be submitted to the Department of Ecology (DOE) at least 60 days prior to construction on a site that disturbs an area of one acre or larger. Additional information is available at: www.ecy.wa.gov/pubs/0710044.pdf.

(Code Authority: Department of Ecology Rule)

4. Fire Department

Reviewer: Jim Hill, Deputy Fire Marshall

Phone: 425-556-2265

Email: jhill@redmond.gov

The current submittal is generally adequate for Conditional Use and Site Plan Entitlement Approval, but does not fully represent compliance with all requirements. The following conditions are integral to the approval and shall be complied with in Civil Drawings, Building Permit Submittals, Fire Code Permit submittal, and/or other applicable processes.

- a. Site Plan Condition.
The Site Plan and Landscaping Plan shall be updated during the Coordinated Civil Review process to show approved Fire Lane marking type and locations per RFD Standard 2.0.
- b. Fire Protection Plan.
The Fire Protection Plan shall be updated during the Coordinated Civil Review process to show approved Fire Lane marking type and locations per RFD Standard 2.0.
- c. Change or Modification.
Any obstruction to the Fire Lane between the East and West Independent Living buildings shall be approved during the Coordinated Civil Review process.
- d. Deferred submittals for Fire Department Permits shall include but not be limited to:
 - Fire Alarm
 - Fire Sprinkler
 - Emergency Responder Radio System
 - Places of Assembly (where applicable)
 - Fixed Suppression (where applicable)
 - Flammable Liquid Storage

(Code Authority: RMC 15.06; RZC Appendix 3, RFD Standards, RFDD&CG)

5. Planning Department

Reviewer: Ben Sticka, Planner

Phone: 425-556-2470

Email: bsticka@redmond.gov

- a. Street Trees. The following street trees are required to be installed in accordance with RZC Section 21.32.090. The minimum size at installation is two and one-half inch caliper.

(Code Authority: RZC 21.32.090)

- b. Tree Preservation Plan. A Tree Preservation Plan depicting all significant and landmark trees required to be preserved as part of the site development must be provided with the civil construction drawings. A plan showing the location of preserved trees and containing protection language approved by the City shall be shown on the face of the deed or similar document and shall be recorded with the King County Department of Records and Elections.

(Code Authority: RZC 21.72.060 (D) (2))

- c. Tree Exception Request. A Tree Exception request (DEVREQ-2018-01239) is hereby granted by the Technical Committee to allow the removal of one (1) landmark tree on the subject site.

(Code Authority: RZC 21.72)

- d. Transportation Management Plan. A Transportation Plan shall be submitted and approved by the City's Transportation Demand Management Division prior to civil construction drawing approval.

(Code Authority: RZC 21.52.020)

- e. Cooperative Parking Agreement. A Cooperative Parking Agreement must be submitted and approved prior issuance of any building permits for this project.

(Code Authority: RZC 21.40.010(F))

- f. Design Review Board Approval. Revised elevations or plans that reflect the conditions of approval issued by the Design Review Board must be submitted with the building permit application or civil drawings. All plans must be prepared by a licensed architect or licensed engineer. The Design Review Board's conditions of approval are:

- i. Where inconsistencies between the floor plans and elevations are found after the Design Review Board has approved this project, the elevations approved by the Design Review Board at this meeting will prevail.

(Code Authority: RZC 21.76.020(3))

- ii. If, after this Design Review Board approval, there are any inconsistencies found in the information provided for the elevations, floor plans, landscape plans, lighting plans, materials, and color between the presentation boards and the 11" x 17" submitted drawings, the Design Review Board and Redmond Planning Staff will review and determine which design version will be followed for Site Plan Entitlement and Building Permits.

(Code Authority: RZC 21.76.020(3))

- g. Impact Fees. For the Purpose of Impacts, the use(s) assigned for this project have been determined as the following: 14 new Assisted Living units and 42 Independent Living units are classified as multi-family residence. If the proposed development is eligible for any additional credits including right-of-way dedication and system improvements, these additional credits will be assessed and provided after construction, dedication, or implementation is completed and accepted by the City.

- h. Cultural Resources. An Inadvertent Discovery Plan shall be required. The IDP shall include a laminated copy of the City of Redmond Inadvertent Discovery Plan and shall be maintained at the project location at all items during respective construction. All project proponents and contractors will be made aware of the plan's location, purpose, and relevance consistent with Federal and State laws regarding protection, preservation, and response to cultural resources.

[Code Authority: RZC 21.30.070(D)]

B. Compliance with City of Redmond Codes and Standards:

This approval is subject to all applicable City of Redmond codes and standards, including the following:

Transportation and Engineering

RMC 6.36:	Noise Standards
RZC 21.52:	Transportation Standards
RZC 21.40.010(E):	Design Requirements for Parking Facilities
RZC 21.54:	Utility Standards
RMC 12.08:	Street Repairs, Improvements & Alterations
RMC 12.12:	Required Improvements for Buildings and Development
RMC 12.16:	Highway Access Management
RZC 21.76.100(F)(9)(c):	Nonconforming Landscaping and Pedestrian System Area
RZC 21.76.020(G):	Site Construction Drawing Review
RZC 21.76.020(H)(6):	Preconstruction Conference
RZC 21.76.020(H)(7):	Performance Assurance
RZC Appendix 3:	Construction Specification and Design Standards for Streets and Access
City of Redmond:	Record Drawing Requirements, July 2015
City of Redmond:	Standard Specifications and Details (current edition)

Water and Sewer

RMC 13.04:	Sewage and Drainage
RMC 13.08:	Installing and Connecting Water Service
RMC 13.10:	Cross-Connection and Backflow Prevention
RZC 21.17.010:	Adequate Public Facilities and Services Required
RZC Appendix 4:	Design Requirements for Water and Wastewater System Extensions
City of Redmond:	Standard Specifications and Details (current edition)
City of Redmond:	Design Requirements: Water and Wastewater System Extensions - January 2012

Stormwater/Clearing and Grading

RMC 15.24:	Clearing, Grading, and Storm Water Management
RZC21.64.060 (C):	Planting Standards
RZC 21.64.010:	Critical Areas
RZC 21.64.040:	Frequently Flooded Areas
RZC 21.64.050:	Critical Aquifer Recharge Areas
RZC 21.64.060:	Geologically Hazardous Areas
City of Redmond:	Standard Specifications and Details (current edition)
City of Redmond:	Stormwater Technical Notebook, 2012
Department of Ecology:	Stormwater Management Manual for Western Washington (revised 2005)

Fire

RMC 15.06:	Fire Code
RZC Appendix 3:	Construction Specification and Design Standards for Streets and Access
City of Redmond:	Fire Department Design and Construction Guide 5/6/97
City of Redmond:	Fire Department Standards

Planning

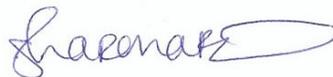
RZC 21.58-21.62:	Design Standards
RMC 3.10:	Impact Fees
RZC 21.32, 21.72:	Landscaping and Tree Protection
RZC 21.34:	Exterior Lighting Standards
RMC 6.36:	Noise Standards
RZC 21.38:	Outdoor Storage and Service Areas
RZC 21.40:	Parking Standards
RCZ 21.64:	Critical Areas
RZC 21.44:	Signs

Building

2012 International Building Codes (IBCs)
2012 Uniform Plumbing Code
2012 International Residential Code (IRC)

Decided April 1, 2019

By:



Sharon A. Rice
City of Redmond Hearing Examiner

Note: Pursuant to RZC 21.70.190.E and RZC 21.76.050.J, the Decisions of the Hearing Examiner in this consolidated Type III permit process are appealable to the King County Superior Court.

Appendix A:

Persons who provided verbal public comment during the CUP/SPE Hearing

(O denotes opposition, S denotes support)

January 7, 2019

Neil Barnett - O
Howard Harrison - O
Indraneel Deb Sikdar - O
Jacqueline Riddell - O
David Schach - O
Jack Jacobson - O
Kirsten Elliott - O
Grant Johnson - O
Allyn Higashi - O
Michael Kammer - O
Ralph Dines - S
Carlos Caguiat - S
David Clancy - S
Forest Juntti - O
Bruce Juntti - O
Martha Carlson - S
Ryan Ender - O
Paul Stolarczuk - O
Anthony Fischer - O

January 14, 2019

Colleen Broughton - O
L'oyose DeButts - S
Zhen Zhang - O
Susan Robertson - O
Mark Finocchio - O
Wendy Engquist - O
Wilbur Wong - O
Manaji Suzuki - O
Julianna Yu - O
Charles Moore - O
David Bierman - O
Nancy Clancy - S
Keith Gilbert - S
Don Bowman - S
Trudy Vering - S
Michael Cahn - S
Stacy Hatch - O
Linda Van Hoff - O
David Carson - O
Jason Klinke - O
Kaiyu Zhao - O
Yue Huang - O
Jeri Johnson - O
Margret Backman - S
Scott McKean - O

January 28, 2019

Sherry Stilin - O
John Stilin - O
Claudia Newman - O
Binlong Li - O
Glenn Rimbey - S
Mark Brody - S
Jill Hayes - O

APPENDIX B: EXHIBIT C102**Public Comment in response to Assisted Living Building Notice of Application***#s 1 – 105 - all in opposition**#s 106 - 153 - 106-114 in opposition, 115 -153 support*

1. Aakanksha Patwa email, June 1, 2017
2. Aaron Halabe email, June 13, 2017
3. Adina Trufinescu email, May 30, 2017
4. Aditya Kulkarni email, June 14, 2017
5. Alla Tikhonova email, May 29, 2017
6. Alvin Wong email, May 30, 2017
7. Anh Luty comment form, May 31, 2017 and email, June 15, 2017
8. Annie Kurz email, June 13, 2017
9. Anthony Fischer emails, May 16, 2017 and June 12, 2017 with June 11th comment letter
10. Barbara Harrison emails, May 29, 2017 and June 15, 2017
11. Bill Bilodeau email, June 14, 2017 with June 13th comment letter
12. Claudia Newman, Bricklin & Newman, LLP on behalf of Abbey Road Homeowners Association letter, June 15, 2017
13. Bruce and Carolyn Barnes email, May 18, 2017
14. Bruce Juntti emails, May 30, 2017 and June 15, 2017
15. Bruce M. Reynolds email, May 31, 2017
16. Caren Brown email, June 1, 2017
17. Carey Fujii email, May 31, 2017
18. Carolyn Barnes email, May 26, 2017
19. Charles Moore email, May 29, 2017
20. Charlie Dougherty emails, May 16 through June 15, 2017
21. Chris Robison emails, May 24, 2017 and June 14, 2017 (Julie Lawton letter 5/25/17)
22. Claudia and David Schach emails, May 24 and May 30, 2017
23. Colleen Broughton email, June 13, 2017
24. Dan Song email, May 30, 2017
25. David Ginsberg email, May 30, 2017
26. Debaprajna Bhattacharyya email, June 15, 2017
27. Dion Yahoudy email, May 30, 2017 and June 13, 2017
28. Dmitri Leonov email, May 30, 2017
29. Ed Stemple email, May 30, 2017
30. Elena Kuznetsova emails, May 30, 2017
31. Ella Belenko email, May 30, 2017
32. F. Camara email, May 31, 2017
33. Gary Schare emails, May 30, 2017 and June 14, 2017
34. Georgette Kammer email, May 30, 2017 and June 14, 2017
35. Grant Johnson email, May 31, 2017
36. Gretchen Amen email, May 30, 2017
37. Howard Harrison email, May 29, 2017
38. Indraneel D. Sikdar and Debaprajna Bhattacharyya emails, May 29 and June 15, 2017
39. Ingrid Rohdin email, June 18, 2017

*Redmond Hearing Examiner**Findings, Conclusions, and Decisions**Abbey Road HOA et all Appeal of Emerald Heights DNS (SEPA-2018-00640)**page 91 of 104*

40. Jacqueline Riddell email, June 7, 2017
41. Jim Suhr email, May 24, 2017
42. Faisal Jamil email, May 31, 2018
43. Jan Stemple email, May 30, 2017
44. Jason Klinke email, May 29, 2017
45. Jeff Egberg email, May 31, 2017
46. Jennifer Huang email, June 15, 2017
47. Jerry Creek public comment form, undated
48. Jim Ball email, May 30, 2017
49. Joan Glass email, May 30, 2017
50. Joe Hatch emails, May 29, 2017 and June 15, 2017
51. Josephine Fujii email, May 31, 2017
52. Julianna Yu emails, May 17, 2017 and June 14, 2017
53. Julie Schare emails, May 30, 2017 and June 14, 2017
54. Kaiyu Zhao emails, May 19, 2017 and June 14, 2017
55. Karen Figurelle email, June 15, 2017
56. Karoly Somogyvari email, May 26, 2017
57. Kathryn Huey email, May 25, 2017
58. Kathleen Moore email, June 13, 2017
59. Kathy Guo emails, May 19, 2017 and June 14, 2017
60. Kelly Sheffield email, May 22, 2017 and June 13, 2017
61. Kerwin and Allyn Higashi emails, May 31, 2017 and June 14, 2017
62. Keven D. Smith email, May 30, 2017
63. Kim Zhang and Wilbur Wong emails, May 18 and June 14, 2017
64. Kirsten Elliott emails, May 19 and June 13, 2017
65. Kirsten Moreno emails, May 18, 2017 and June 13, 2017
66. Kristina Bonadies email, May 25, 2017
67. Lance Hood email, May 29, 2017
68. Laura Drover email, May 20, 2017
69. Lauren Moynihan email, May 29, 2017
70. Lisa Sheffield emails, May 30, 2017 and June 13, 2017
71. Manaji Suzuki emails, May 19, 2017 and June 14, 2017
72. Manish Rawat email, May 31, 2017
73. Marcus Huey emails, May 31, 2017 and June 15, 2017
74. Maria Levochkina email, May 30, 2017
75. Mark and Liz Finocchio emails, May 29, 2017 and June 13, 2017
76. Martha O'Keefe public comment form, undated
77. Martha Barron email, May 19, 2017
78. Mary Dougherty emails, May 31, 2017 and June 15, 2017
79. Mathew George email, May 30, 2017
80. Michael Elliott emails, May 26, 2017 and June 14, 2017
81. Michael Kammer emails, May 30, 2017 and June 13, 2017
82. Minjie Pan email, May 29, 2017
83. Nancy Irwin emails, May 18, 2017 and June 13, 2017
84. Neil Barnett emails, May 19, 2017 and June 14, 2017

85. Niklas Gustafsson and Ingegard Rohdin emails, May 18, 2017 and June 14, 2017
86. Nirav Shah emails, May 30, 2017 and June 14, 2017
87. Nishita Mohan email, June 15, 2017
88. Oleg Tikhonov email, May 29, 2017
89. Olga and Eugene Zak email, May 29, 2017
90. Phil Brown email, June 1, 2017
91. Priti Amin email, May 31, 2017
92. Ralph Kliem email, June 15, 2017
93. Robert and Joan Cameron, email October 26, 2017
94. Robin Reynolds-Haertle email, May 31, 2017
95. Ronald Powell email, May 29, 2017
96. Russ Surridge email, May 28, 2017
97. Shawna Hilton email, October 14, 2017
98. Sherry Stilin emails, May 31, 2017 and June 13, 2017
99. Sonia Turschmid comment, May 30, 2017
100. Stacy Hatch emails, May 26, 2017 and June 15, 2017
101. Stuart Goodwin email, May 30, 2017
102. Sujal Parikh email, May 29, 2017
103. Susan Robertson emails, May 17, 2017 and June 13, 2017
104. Ted Bell email, May 21, 2017
105. Tudor Trufinescu email, May 30, 2017
106. Tyler Monynihan email, May 29, 2017
107. Wane Li email, May 31, 2017
108. Wei Jiang email, May 29, 2017
109. Wendy Engquist public comment form, letters, & emails May 30, June 15, and August 22, 2017
110. Wilbur Wong email, May 30, 2017
111. Xiaohan Wang email, May 31, 2017
112. Yamini Shah email, June 13, 2017
113. Yevgeniy "Eugene" Zak email, May 30, 2017
114. Yue Hang emails, May 18, 2017 and June 14, 2017
115. Dottie Billington, email April 23, 2018
116. Doreen and Dennis Broadbent letter, April 16, 2018
117. Mark and Karen Brody letter, April 24, 2018
118. Hilda and Michael Cahn letters, April 5 and 19, 2018
119. Dawn Clark email, April 16, 2018
120. John Clark email, April 15, 2018
121. Gail and Michael Coie email, April 3, 2018
122. L 'Louise De Butts letter, February 20, 2018
123. Alton Keith Gilbert letter, April 5, 2018
124. Karen and Harold Gilmour email, April 14, 2018
125. Paul and J'Ana Gregory email, April 5, 2018
126. Margery Hansen letter, April 21, 2018
127. Diane Hicks email, April 14, 2018
128. Sue Hill email, February 19, 2018

129. Barbara Hughes email, April 14, 2018
130. Jani James email, September 20, 2017
131. Anthea Kjerulff email, April 5, 2018
132. Lily Kwee email, May 24, 2018
133. R. J. Copin letter, March 20, 2018
134. Carolyn M. Elbon letter, March 20, 2018
135. Marvin Elbon letter, March 20, 2018
136. Gordon Lindblom emails April 16, 2018 and April 30, 2018
137. Michael Cahn email, June 27, 2017
138. David and Mary Jo Nelson email, April 26, 2018
139. Keith and Doris Pierce email, April 4, 2018
140. J. Richard and Evelyn Pizzo, letter April 16, 2018
141. Judy Richardson email, April 5, 2018
142. Isabel F. Rostykus email, April 29, 2018
143. Irene Schmidt letter, April 24, 2018
144. Henry J. Sommer email, April 11, 2018
145. James K. Suhr, April 3, 2018
146. Duane and Christine Thorson letter, April 17, 2018
147. Leah J. Turner letter, May 15, 2018
148. Camille Tutino letter, April 18, 2018
149. John and Carrie Vasko, Jr. letter, April 16, 2018
150. Jackie and Herb Vernon letter, April 18, 2018
151. Sheila Wagner email, May 9, 2018
152. Kay Wilson email, April 16, 2018
153. Tom and Billie Ylvisaker letter, April 20, 2018

APPENDIX C: EXHIBIT C103

Public Comment in response to Independent Living Building Notice of Application

#s 1-42 oppose, #s 43-84 support

1. Vitaly Akulov email, April 30, 2018
2. Marsha Allgeier email, March 2, 2018
3. Gretchen Amen email, February 27, 2018
4. Neil Barnett email, April 30, 2018
5. Kristina and Brett Bonadies email, February 28, 2018
6. F. Camara email, May 1, 2018
7. Charlie Dougherty email, March 2, 2018
8. Elliott Kirsten email, February 26, 2018
9. Wendy Engquist emails, March 5 and April 30, 2018
10. Mark Finocchio email, March 2, 2018
11. Anthony Fischer email, May 1, 2018
12. Dolores Griffith public comment form, undated
13. Yu Guo email, April 30, 2018

14. Niklas Gustafsson and Ingrid Rohdin emails, February 25, 2018 and May 6, 2018
15. Aaron Halabe email, April 30, 2018
16. Kerwin and Allyn Higashi email, March 2, 2018
17. Sue Hill email, February 19, 2018
18. Yue Huang email, April 30, 2018
19. Grant Johnson email, May 1, 2018
20. Bruce Juntti emails, March 2, 2018 and April 30, 2018
21. Michael Kammer email, April 30, 2018
22. Jason Klinke email, April 30, 2018
23. Andrey and Snezhana Kudryashov email, April 30, 2018
24. Annie Kurz email, May 1, 2018
25. Elena Kuznetsova email, April 30, 2018
26. Kathleen Moore email, April 30, 2018
27. Ronald Powell and Susan Gatz-Powell email, April 30, 2018
28. Chris Robison email, May 1, 2018
29. Claudia Schah emails, February 27, 2018 and April 30, 2018
30. Lisa Sheffield email, February 24, 2018
31. Kelly Sheffield email, May 1, 2018
32. Kevin Smith email, April 30, 2018
33. Claudia M. Newman, Bricklin & Newman, LLP on behalf of Abbey Road Homeowner's Association letter, April 23, 2018
34. Abbey Road Neighborhood Preservation Committee and Abbey Road Homeowners Association Board letter, April 23, 2018
35. Karoly and Erika Somogyvari email, February 28, 2018
36. John Stilin email, February 28, 2018 and John and Sherry Stilin letter, April 27, 2018
37. Manaji Suzuki emails, February 25, 2018 and April 30, 2018
38. Alla Tikhonova email, April 30, 2018
39. Oleg Tikhonova email, April 30, 2018
40. Julianna Yu email, May 1, 2018
41. Olga and Yevgeniy Zak email, May 8, 2018
42. Kaiyu Zhao email, April 30, 2018
43. Inez D. Allan email, February 28, 2018
44. John G. Bailey Sr. and Donna M. Bailey email, March 2, 2018
45. Carlos J. Caguiat email, March 1, 2018
46. Michael and Hilda Cahn email, March 5, 2018
47. Paul R Calderon email, March 1, 2018
48. Sandra B. Chivers email, March 1, 2018
49. Leonard Chun email, March 5, 2018
50. Dave Clancy email, March 1, 2018
51. Janet Clark email, March 7, 2018
52. Pat and John Curtis email, March 2, 2018
53. L' Louise De Butts letter, February 20, 2018
54. Rodney and Carol Dubois email, March 2, 2018
55. Anne Foltz email, March 1, 2018
56. Bill and Carol Garing email, March 5, 2018

57. Fremont and Charlene Gault email, March 7, 2018
58. Alexander and Sheila Hargis email, March 7, 2018
59. Dean and Ruthie Haugen email, March 1, 2018
60. Robert and Katherine Heeren email, March 8, 2018
61. Barbara Horrell email, March 6, 2018
62. James Horrell email, March 6, 2018
63. Jeffrey Jones email, March 5, 2018
64. Donna Kristaponis email, February 28, 2018
65. Dana and Kai Lee email, March 5, 2018
66. Douglas and Karen Macduff email, March 2, 2018
67. John L. Meisel email, March 1, 2018
68. Sue V. Meyers email, March 6, 2018
69. Dewey Millar email, March 7, 2018
70. David Nelson email, March 2, 2018
71. Mary Jo Nelson email, March 6, 2018
72. Richard D. O'Keefe email, March 8, 2018
73. Steve and Pat Pennak email, March 5, 2018
74. Shelley and Michael Perkins email, March 7, 2018
75. Sarinna and Alfred Ping email, March 6, 2018
76. Glenn Rimbey email, February 28, 2018
77. Dottie and Bob Roth email, March 5, 2018
78. Herman and Myra Schliesing email, March 5, 2018
79. Jack Stahlheber letter, February 14, 2018
80. James K. and Mary S. Suhr email, March 1, 2018
81. Linda Sullam email, March 7, 2018
82. Matthew Thomson email, March 5, 2018
83. Noorali Velji email, March 8, 2018
84. Charles E. Watts, email, March 2, 2018

APPENDIX D: EXHIBIT C104

Public Comment in response to Conditional Use Permit Notice of Application

#s 1-45 opposition, 46-181 support, except as noted

1. Gretchen Amen email, July 13, 2018
2. Neil Barnett email, July 12, 2018
3. Charlie Dougherty email, July 13, 2018
4. Logan Dougherty email, July 13, 2018
5. Mary Dougherty email, July 13, 2018
6. Elliott Kirsten email, July 9, 2018
7. Wendy Engquist letter, July 13, 2018
8. Karen Figurelle email, July 13, 2018
9. Mark Finnochio email, July 12, 2018
10. Anthony Fischer email, July 9, 2018

11. Yu Guo email, July 12, 2018
12. Niklas Gustafsson email, July 13, 2018
13. Aaron Halabe email, July 7, 2018
14. Yue Huang email, July 12, 2018
15. Jani James email, July 26, 2018 *(supports)
16. Grant Johnson email, July 27, 2018
17. Bruce Juntti email, July 12, 2018
18. Forest Juntti email, July 7, 2018
19. Michael and Georgette Kammer email, July 12, 2018
20. Annie Kurz email, July 13, 2018
21. Binlong Li email, July 13, 2018
22. Keith and Mary Macdonald public comment form, July 9, 2018
23. Sandra Merhej email, July 9, 2018
24. Kathleen Moore email, July 10, 2018
25. Martha Foster O'Keefe email, July 13, 2018 *(supports)
26. Minje Pan email, July 13, 2018
27. Susan Robertson email, July 25, 2018
28. Chris Robison email, July 15, 2018
29. Claudia Schach email, July 11, 2018
30. Gary and Julie Schare email, July 9, 2018
31. Erika Somogyvari email, July 13, 2018
32. Karoly Somogyvari email, July 13, 2018
33. Dana and Brandon Jiang email, July 12, 2018
34. Jan Stemple email, July 12, 2018
35. John Stilin email, July 3, 2018
36. Abbey Road Neighborhood Preservation Committee and Abbey Road Homeowners Association Board Executives letter (with attachments), July 13, 2018
37. Sherry Stilin email, July 13, 2018
38. Manaji Suzuki email, July 12, 2018
39. Manaji Suzuki and Neil Barnett letter, September 15, 2018
40. Chris and Olesya Thayer email, July 8, 2018
41. Oleg Tikhonov email, July 12, 2018
42. Alla Tikhonova email, July 13, 2018
43. Alvin Wong email, July 13, 2018
44. Wilbur Wong email, July 13, 2018
45. Kaiyu Zhao email, July 12, 2018
46. Pamela Allen public comment form, September 6, 2018
47. Don and Eathel Allyn email, July 9, 2018
48. Margret Backman email, July 10, 2018
49. Marilyn Baier email, September 5, 2018
50. John G. Bailey Sr. and Donna M. Bailey, email July 6, 2018
51. Dan and Molly Baker, email July 7, 2018
52. Dorothy Billington email, July 9, 2018
53. Bob and Charlene Blaisdell email, July 9, 2018
54. J. Donald Bowman email, July 10, 2018

55. Doreen Broadbent email, July 9, 2018
56. Dennis and Doreen Broadbent email, July 4, 2018
57. Mark and Karen Brody email, July 7, 2018
58. Beverly and Bill Browne email, July 10, 2018
59. Norma Bush email, July 6, 2018
60. Carlos J. Caguiat emails, July 7, 2018 and September 6, 2018
61. Hilda and Michael Cahn emails, July 3, 2018 and September 5, 2018
62. Genevieve M. Cahoon email, July 8, 2018
63. Paul R. Calderon and Mary Crawford email, July 8, 2018
64. Martha Carlson email, July 11, 2018
65. Lorraine Clacy letter, July 7, 2018
66. Nancy Clancy email, July 8, 2018
67. Dawn Clark email, July 4, 2018
68. John H. Clark email, July 4, 2018
69. Michael and Gail Coie emails, July 5, 2018 and September 4, 2018
70. Raymond J. Copin email, July 11, 2018
71. James A. Crim email, July 9, 2018
72. Nancy Crim email, July 9, 2018
73. Bruce F. Cullen email, July 5, 2018
74. Patricia and John Curtis email, July 8, 2018
75. Pauline R. Cushing emails, July 9, 2018 and July 10, 2018
76. Juliette A. Dahl email, September 5, 2018
77. Maylie Donaldson letter, undated
78. Marvin Elbon email, July 8, 2018
79. Dave Ellis email, July 8, 2018
80. Lois Farris email, July 11, 2018
81. Craig and Linda Fetters email, July 11, 2018
82. Keith and Kathy Gilbert emails, July 5, 2018 and September 6, 2018
83. Karen P. Gilmour email, September 5, 2018
84. Dolores Griffith public comment form, undated
85. Jim and Karlee Guthrie email, July 11, 2018
86. Sheila Hargis email, July 8, 2018
87. Dean P. Haugen and Ruth M. Haugen email, July 7, 2018
88. Jim and Jo Hawn email, August 15, 2018
89. David and Sandy Hertz email, July 11, 2018
90. Diane Hicks email, July 10, 2018
91. Ann Hillier email, July 5, 2018
92. Frederick S. Hillier email, July 7, 2018
93. Sue Hill email, July 11, 2018
94. Margery Jane Hjellming letter, July 8, 2018
95. Richard P. Hoover letter, July 11, 2018
96. Walter Howe email, July 10, 2018
97. Barbara Hughes email, July 9, 2018
98. Rainy Husband email, July 10, 2018
99. Gretchen and Robert Ilgenfritz letter, July 11, 2018

100. Jani James letter, July 26, 2018
101. Jeffrey Jones email, July 11, 2018
102. Virginia Kapinos email, July 9, 2018
103. Anthea Kjerulff email, July 8, 2018
104. Myrt and Hugh Knapp letter, undated
105. Grace Koopmans email, July 8, 2018
106. Donna Kristaponis email, July 11, 2018
107. Kai and Dana Lee email, July 10, 2018
108. Robert B. Levin email, July 9, 2018
109. Gordon Lindblom emails, July 2, 4, 6, 8, 10, and 11, 2018
110. Ellie and Gordon Lindblom email, September 4, 2018
111. Ellie Lindblom email, July 8, 2018
112. Wally and Alice Logan email, July 10, 2018
113. Keith and Mary Macdonald public comment form, undated
114. Douglas Macduff email, July 5, 2018
115. Alan Marks emails, July 9, 2018
116. Shirley Marshall email, July 12, 2018
117. Adele T. Martz public comment form, undated
118. Violet Mar letter, July 10, 2018
119. Dieter and Rosemarie Matthes email, July 8, 2018
120. Lilia McCannel email, September 5, 2018
121. Michael McCannel email, September 5, 2018
122. Elizabeth McCullough public comment form, undated
123. Irene McEwen emails, July 4, 2018 and July 7, 2018
124. Marie McEwen emails, July 4, 5, 6, 9, and 10, 2018 and September 5, 2018
125. John L. Meisel email, July 9, 2018
126. Jean and Hal Mills email, September 5, 2018
127. Margaret Mingus letter, July 7, 2018
128. Charles G. Moore email, July 11, 2018 *(oppose)
129. Gale and Dave Mowrer email, July 11, 2018
130. Kathleen Muir email, September 5, 2018
131. Kathy Murray email, July 10, 2018
132. Beverly Nelson email, September 5, 2018
133. David Nelson email, August 23, 2018
134. Dean Nelson email, September 5, 2018
135. David and Mary Jo Nelson, email July 10, 2018
136. Dean and Beverly Nelson email, July 9, 2018
137. Suzanne Nicholson email, July 9, 2018
138. Frank Nomiyama email, July 7, 2018
139. Marie K. O'Connell email, July 9, 2018
140. F. Olsen letter, undated
141. Helen Oppenheim email, July 7, 2018
142. Steve and Pat Pennak email, July 8, 2018
143. Sarinna and Alfred Ping email, July 9, 2018
144. Larry L. Pinnt and Ellen Joyce Pinnt letter, July 9, 2018

145. James R. and Evelyn Pizzo email, July 10, 2018
146. Doug and Ruth Postlewait email, July 7, 2018
147. Robert Quick email, July 8, 2018
148. Carol and Sunder Rangaram emails, July 9, 2018 and September 4, 2018
149. Lila Jean Rayl and Chris Rayl emails, July 5 and 10, 2018 and September 6, 2018
150. Judy Richardson emails, July 5, 2018 and September 4, 2018
151. Glenn Rimbey emails July 4 - 11, 2018, August 15, 2018 and September 5, 2018
152. Dwight Roof email, July 9, 2018
153. Isabel Rostykus email, July 7, 2018
154. Richard G. and Geraldine M. Ruhland email, July 10, 2018
155. Martha L. Sampson email, July 9, 2018
156. Irene Schmidt email, July 9, 2018
157. Jean Scott public comment form, received July 10, 2018
158. Robert G. Sheehan letter, July 9, 2018
159. H.B. Simpson letter, July 8, 2018
160. Karl M. Snepp email, July 10, 2018
161. Jack Stahlheber public comment form, undated
162. Jan and Tom Stoebe email, July 11, 2018
163. James Suhr emails, July 5, 2018 and September 6, 2018
164. Phyllis Swick letter, July 8, 2018
165. Barbara and Thomas Terranova letter, July 9, 2018
166. Dale Thompson email, July 9, 2018
167. Matt Thompson email, July 4, 2018
168. Duane and Christine Thorson letter, April 17, 2018
169. Frank M. Trunkey email, July 8, 2018
170. Lawrence Turnbull letter, July 8, 2018
171. Robert and Marie Turner email, July 10, 2018
172. Camille Tutino emails, July 9, 2018 and September 5, 2018
173. Dr. and Mrs. John Vasko email, July 9, 2018
174. Liz Vermillion email, July 9, 2018
175. Sheila Wagner email, September 5, 2018
176. Kay J. Wilson emails, July 9, 2018 and September 5, 2018
177. Julene Wright and The Rev. Brian Wright letter, July 5, 2018
178. Bob Wright letter, July 10, 2018
179. Julene Wright letter, July 8, 2018
180. Billie and Tom Ylvisaker emails, July 3, 2018 and September 4, 2018
181. Dorothy Zimmerman email, July 8, 2018

<p>APPENDIX E: EXHIBIT C105</p>
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<p>Neighborhood meeting participant card, July 26, 2018 (as able to be identified)</p>

1. Corbin (age 9) comment
2. Comment with no name
3. Kay Wilson comment

4. Jeffrey F. Jones
5. Kathleen Moore comment
6. Comment with no name
7. Isabel Rostykes (name but no comment)
8. Carrie Vasko (name but no comment)
9. Comment with no name
10. Anthea Kjerulff comment
11. Neil Barnett comment
12. Robert Blaskill comment
13. Paul Calderon comment
14. Robert Ilgenfritz comment
15. Hugh Knapp comment
16. Corbin Elliott comment
17. Bonnie Butler (name but no comment)
18. Forest Juntti (name but no comment)
19. Neil Barnett (name but no comment)
20. Robert Levin (name but no comment)
21. Barbara Hughes (name but no comment)
22. Comment with no name
23. Marie O'Connell comment
24. Charles Moore comment
25. Jay Juntti comment
26. Grant Johnson comment
27. Comment with no name
28. Maggie Backman comment
29. Comment with no name
30. Comment with no name
31. Comment with no name
32. Comment with no name
33. John Bailey Sr. comment
34. Donna Kristaponis comment
35. Comment with no name
36. Comment with no name
37. Comment with no name
38. Jing Ding comment
39. Carlos Caquiat comment
40. Comment with no name
41. Rei Barnett comment
42. Charles Moore comment
43. Barbara Horrell comment
44. Manati Suzuki comment
45. Rei (age 9) comment
46. Sujal Parikh comment
47. Comment with no name
48. Kaiyo Zhao comment

49. Comment with no name
50. James Horrell comment
51. Comment with no name
52. Charles Moore comment
53. Comment with no name
54. Comment with no name
55. Nell Barnett comment
56. Comment with no name
57. Bruce Juntti comment
58. Comment with no name
59. Comment with no name
60. David Nelson comment
61. Myrt Knapp comment
62. Comment with no name
63. Kei Barnett comment
64. Kenzo Barnett comment
65. Michael Kammer comment
66. Robert Sheehan comment
67. Comment with no name
68. Trudy Vering (name but no comment)
69. Noorali Velji (name but no comment)
70. Shirin Velji (name but no comment)

APPENDIX F: EXHIBIT C106

Public comments from Design Review Board Meeting, September 6, 2018

1. Forest Juntti email, August 22, 2018
2. Wendy Engquist letter, undated
3. Comment with no name or date
4. John Stilin comment, August 16, 2018
5. Forest Juntti comment, August 16, 2018
6. Glenn Rimbey comment, August 19, 2018
7. James H. Husband comment, August 17, 2018
8. Yue Huang comment, August 22, 2018
9. Alvin Wong comment, August 16, 2018
10. John Stilin comment, September 6, 2018

Appendix G: Exhibit C119
Written public comments submitted at hearing

- A. Public Comments submitted by individuals who did not speak at hearing
1. Email from Adina Trufinescu, January 8, 2019 (oppose)
 2. Letter from Annie Kurz, January 14, 2019 (oppose)
 3. Memo, anonymous, undated (oppose)
 4. Letter from Charles Dougherty, January 28, 2019 (oppose)
 5. Letter from Dan and Julia Schroeder, January 7, 2019 (oppose)
 6. Email from Danko and Liliana Panic, January 28, 2019 (oppose)
 7. Email from Debbie Skoglund with attachment, January 24, 2019
 8. Letter from Franc Camara, January 2, 2019 (oppose)
 9. Letter from Grant Johnson, undated (oppose)
 10. Letter from Jerry and Kim Smith, undated (oppose)
 11. Email from Jim Palmquist, January 26, 2019 (oppose)
 12. Email from Judy Richardson, January 7, 2019 (support)
 13. Letter from Kelly Sheffield, January 7, 2019 (oppose)
 14. Email from Kirsten M. Moreno, January 26, 2019 (oppose)
 15. Letter from Lisa Sheffield, January 7, 2019 (oppose)
 16. Letter from Marie McEwan with attachments (11 pages), January 14, 2019 (oppose)
 17. Email from Marie McEwen, January 7, 2019 (support)
 18. Email from Melanie A. Golovin, January 11, 2019 (oppose)
 19. Email from Natalie Delano, January 7, 2019 (oppose)
 20. Letter from Niklas Gustafsson, January 7, 2019 (oppose)
 21. Email from Richard Mancino, January 27, 2019 (oppose)
 22. Letter from Ronald O. Powell, January 6, 2019 (oppose)
 23. Letter from Russell Surridge, January 7, 2019 (oppose)
 24. Email from Satin Brennan, January 28, 2019 (oppose)
- B. Public Comments submitted at hearing, January 7, 2019
1. Petition in opposition containing 322 signatures (60 pages), undated (oppose)
 2. Letter from Anthony Fischer with attachments (12 pages), undated (oppose)
 3. Letter from Bruce Juntti with attachments (30 pages), January 7, 2019 (oppose)
 4. Letter from Howard Harrison with attachments (326 pages), January 7, 2019 (oppose)
 5. Email from Kirsten Elliott, January 7, 2019 (oppose)
- C. Public Comments submitted by persons who spoke at hearing, January 14, 2019
1. Letter from Alvin Wong, January 14, 2019 (oppose)
 2. Email from David J. Bierman with attachments (29 pages), January 20, 2019 (oppose)
 3. Email from David Carson, January 16, 2019 (oppose)
 4. Letter from James Donald Bowman, undated (support)
 5. Letter from Jason Klinke, January 7, 2019 (oppose)
 6. Letter from Jeri Johnson, undated (oppose)
 7. Letter from Julianna Yu with attachments, January 14, 2019 (oppose)
 8. Comments from Kaiyu Zhao with attachments, undated (oppose)

9. Letter from Linda Van Hoff, January 14, 2019 (oppose)
10. Email from Manaji Suzuki (18 pages), January 26, 2019 (oppose)
11. Email from Mark Finocchio with attachments (20 pages), January 17, 2019 (oppose)
12. Letter from Michael Cahn, January 14, 2019 (support)
13. Letter from Nancy Clancy, undated (support)
14. Comments from Scott McKean with attachments (85 pages), January 27, 2019 (oppose)
15. Letter from Stacy Hatch with attachments (11 pages), undated (oppose)
16. Letter from Susan Robertson, January 13, 2019 (oppose)
17. Letter from Yue Huang with attachments (15 pages), undated (oppose)

D. Public Comments submitted by persons who spoke at hearing, January 28, 2019

1. Letter from Binlong Li, undated (oppose)
2. Memo from Claudia Newman with attachments (590 pages), January 28, 2019 (oppose)
3. Letter from Glenn Rimbey, undated (support)
4. Email from John C. Stilin with attachments (42 pages), January 27, 2019 (oppose)
5. Email from John C. Stilin with attachments, January 22, 2019 (oppose)
6. Email from John C. Stilin with attachments (147 pages), January 27, 2019 (oppose)
7. Letter from John C. Stilin with attachments (98 pages), January 28, 2019 (oppose)
8. MP4 video file submitted by John C. Stilin
9. MP4 video file submitted by John C. Stilin
10. Letter from Sherry Stilin (7 pages), with attachments, (2,997 pages), January 28, 2019 (oppose)