



# CITY OF REDMOND HEARING EXAMINER MINUTES

March 3, 2010

Redmond City Council Chambers  
15670 NE 85<sup>th</sup> Street, Redmond  
7 p.m.

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## Hearing Examiner

Sharon Rice

## Staff

Judd Black, Planning Manager  
David Almond, Engineering Manager  
Thara Johnson, Associate Planner  
Kelsey Larsen, Assistant Planner  
Elizabeth Adkisson, Deputy City Clerk

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Convened: 7 p.m.

Adjourned: 9:09 p.m.

## **I. CALL TO ORDER**

Hearing Examiner Sharon Rice convened the hearing at 7 p.m.

## **II. DESCRIPTION OF HEARING SEQUENCE AND PROCEDURES**

Ms. Rice introduced the matter under consideration, reviewed the sequence of the hearing for the evening, and explained the proceedings. Ms. Rice noted that she will issue a written recommendation in the matter of the T-Mobile South Kern Essential Public Facilities (EPF) Application, and a Decision and Recommendation on the Cryder Preliminary Plat (PPL) and Planned Residential Development (PRD) Application, within 14 days of the closing of the record.

Ms. Rice stated that for each matter, she will gather testimony from the City's Representative first, followed by the Applicant, and then open the floor up for public comment.

### III. PUBLIC HEARING

#### A. T-MOBILE SOUTH KERN – Essential Public Facilities Permit<sup>1</sup>

L090455 Essential Public Facilities Permit  
L090457 SEPA

Request: Type IV, Essential Public Facility Permit, to replace an existing PSE utility pole with a 120' glu-lam pole with antennas. Install a 150 sqft concrete pad with outdoor equipment cabinets behind a fence

Location: 16610 NE 111<sup>th</sup> Street, Redmond, Washington

Ms. Rice administered the swearing in of all those in attendance testifying on this matter, reminded the attendees that the proceedings were being recorded, and asked them to identify themselves for the record. The following persons were in attendance:

Judd Black, Planning Manager  
Thara Johnson, Associate Planner  
Michael Cady, Applicant  
Kevin Gurney, Applicant Expert Witness

Ms. Rice introduced the matter and assigned the Technical Committee Report as Exhibit 1, identifying the following submitted attachments:

#### Attachments

1. Vicinity Map
2. Zoning Map
3. General Application Forms
4. SEPA Application Form
5. Notice of Application and Certificate of Publishing
6. Notice of Application Public Comment Letters
7. Neighborhood Meeting Notice
8. SEPA DNS and Certificate of Publishing
9. Environmental Checklist
10. Notice of Public Hearing and Certificates of Posting
11. Site Plans (including Landscaping and Tree Retention Plans)
12. Special Exceptions Narrative

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<sup>1</sup>**Clerk's Note:** *The Planning Department has requested that the agenda be amended, and the advertised permit title "Essential Public Facilities Permit" be changed to "Conditional Use Permit following the Essential Public Facilities Permit Process" for the purposes of this hearing.*

13. Special Exceptions Review from Third Party Consultant
14. Community Involvement Plan
15. Correspondence between citizen and T-Mobile
16. Wetland and Stream Assessment for the Puget Sound Energy Property
17. Stealthing Evaluation
18. Comprehensive Planning Policies
19. Federal Telecommunications Act of 1996
20. Email from Puget Sound Energy

**STAFF PRESENTATION:**

Ms. Thara Johnson, Associate Planner, submitted the following additional exhibits to the record:

- Public Comment emails from Armen Stein, Cameron Cummings, and Doug and Janet Warden, received February 22, 2010; entered into the record as Exhibit 2.
- Staff PowerPoint Presentation - 03/03/10 hearing; entered as Exhibit 3.
- Public Comment email from Laurie McKenzie; entered as Exhibit 4.

Ms. Rice noted the submittal of a signed Certification of Public Notice by the City Clerk, on February 23, 2010; entered into the record as Exhibit 5.

Ms. Johnson reported on the T-Mobile South Kern Essential Public Facilities (EPF) application:

T-Mobile South Kern Telecommunication Facility – Conditional Use Permit following the Essential Public Facilities Process, L090455 & SEPA L090457:

- Vicinity Map (project site);
- Aerial view – PSE Trail site;
- Project Description:
  - Request for a 120'-tall Glulam wireless facility;
  - 150-sqft concrete pad for equipment;
  - Located on a 6.63 acre existing PSE trail site;
  - Equipment cabinet to be surrounded by Type I screening;
  - RCDG 20D.170.45 – Telecommunication Facilities requires a conditional Use Permit (Type IV) for Broadcast and Relay Towers in Residential zones;
  - RCDG 20D.170.45-080(4)(a)(i) – Broadcast and Relay towers – Special Exceptions requires that applicants follow Essential Public Facilities Process when exceeding height requirements; and
  - Recommendation on Conditional Use Permit following the Essential Public Facilities process
- Property Description:
  - Property zoned R-4;
  - North Redmond Neighborhood;

- Critical Areas:
    - one Category IV Wetland (50' buffer); and
    - one Class IV stream (25' buffer);
- Site Plan;
- Tree Preservation Plan
  - No trees proposed for removal; and
  - Trees surveyed only within 15' of the project construction limits;
- Critical Areas;
- Photosimulations – Glulam Pole;
- Photosimulations – Equipment Shelter;
- Procedural Summary:
  - Completeness:
    - 10/27/2009 – letter of completeness issued and vested date;
  - Notice of Application:
    - 11/09/2009 – comment period began;
    - 11/30/2009 – comment period ended;
  - SEPA:
    - 12/01/2009 – DNS issued;
    - 12/14/2009 – comment period ended;
    - 12/30/2009 – appeal period ended;
  - Notice of Public Hearing:
    - 02/10/2010 – issued;
- Telecommunications Facilities – Special Exception Criteria:
  - Special Exception request justified by demonstrating that the obstruction or inability to receive a communication signal is the result of factors beyond the... applicant's control, taking into consideration potential permitted development on adjacent and neighboring lots with regard to future reception window obstruction
    - T-Mobile's feasibility analysis included an evaluation of alternative locations and multiple locations at varying heights;
    - Feasibility analysis was evaluated by a city-selected third-party consultant – agreed with conclusions in the report;
  - Demonstrate that the proposed materials, shape, and color of the antenna(s) will minimize negative visual impacts on adjacent or nearby residential uses to the greatest extent possible. The use of certain materials, shapes and colors may be required in order to minimize visual impacts
    - City staff evaluated different alternatives proposed in the “stealth evaluation” submitted by T-Mobile and found that Glulam pole was the most compatible alternative;
- Essential Public Facilities – Decision Criteria:
  - An applicant may have one or more alternative sites considered at the same time during this process

- T-Mobile's feasibility analysis included an evaluation of different sites and different height locations. Conclusion that the alternative sites would not provide T-Mobile with the required coverage.
- The Director has the authority to require the consideration of sites outside the City of Redmond. Alternative sites shall cover the services area of the proposed essential facility;
  - The Director did not request an evaluation of sites outside the City of Redmond's city limits.
- An amplified public involvement process shall be required which meets the following criteria:
  - (a) The Applicant shall propose an acceptable public involvement process to be reviewed and approved by the Director;
  - (b) public involvement activities shall be conducted by and paid for by the Applicant;
  - (c) the public involvement process shall be initiated by the Applicant as early as feasibly possible;
    - Submittal of a community involvement plan for approval to the Planning Director. The Applicant also scheduled a neighborhood meeting on March 25, 2009; followed by a second meeting with concerned citizens. Results of the Community Involvement Plan were also submitted.
- The Director may require a multi-jurisdictional review process if the facility serves a regional, countywide, statewide, or national need. If this process is required, the Applicant shall design an acceptable process to be reviewed and approved by the Director. Applicants shall be required to pay for this process.
  - Telecommunications facility is aimed at serving the citizens of Redmond and improves cellular coverage in the North Redmond area. The Director did not require a multi-jurisdictional review process.
- An analysis of the facility's impact on City finances shall be undertaken. Mitigation of adverse financial impacts shall be required.
  - No associated fiscal impact and no mitigation required.
- The following criteria shall be used to make a determination on the application:
  - (a) Whether there is a public need for the facility;
    - Feasibility analysis provided evidence that there is a coverage gap in the North Redmond area. The analysis indicates that the proposed site is part of the infrastructure needed to support a reliable network. The City's third-party review conducted on this analysis concurs with T-Mobile's evaluation.
  - (b) & (c) the impact of the facility on the surrounding uses and environment, the city and the region; whether the design of the facility or the operation of the facility can be conditioned, or the impacts

otherwise mitigated, to make the facility compatible with the affected area and the environment.

- Evaluated different “stealth” technologies available to mitigate the visual impact of the facility. Some of the options included a wood pole, a Glulam pole, a monopine and a metal pole. City staff was in favor of a monopine; however, PSE indicated that they would not permit a monopine, as it caused significant issues with maintenance. Therefore, a glulam pole was chosen with a canister mounted on top of the pole which would completely enclose all antennas on the pole. Additionally, the equipment shelter is to be screened with Type I planting.
- (d) Whether a package of incentives can be developed that would make siting the facility within the community more acceptable;
  - City staff has worked with the Applicant to design the facility with adequate buffering and landscaping, and the facility is to be located on PSE property which has existing transmission lines.
- (e) Whether the factors that make the facility difficult to site can be modified to increase the range of available sites or to minimize impacts on affected areas and the environment;
  - Alternatives included a number of wireless facilities that were not as tall as the proposed facility- requirement for a Conditional Use Permit or a Special Use Permit rather than the Essential Public Facilities process; however, the feasibility analysis clearly indicated that this alternative would not have provided T-Mobile with the required coverage.
- (f) Whether the proposed essential public facility is consistent with the Redmond Comprehensive plan;
  - The proposal is in compliance with all applicable Comprehensive Plan policies as reflected in Attachment 18.
- (g) If a variance is requested, the proposal shall also comply with the variance criteria;
  - Not applicable – a variance was not requested.
- (h) Essential public facilities shall comply with any applicable State siting and permitting requirements;
  - Addressed through a condition of approval.
- Neighborhood Concerns
  - Applicant held an initial neighborhood meeting on March 25, 2009; however, no residents attended this meeting;
  - Initial neighborhood concern by four citizens when the City sent out the Notice of Application;
  - Staff recommended that the Applicant schedule a second neighborhood meeting with the concerned citizens; only 1 property owner attended;
  - Staff received letters of significant concern from other property owners (entered into the record as exhibits);

- Staff clarified some of the issues brought up by adjacent property residents; and two of the neighbors submitted letters in writing indicating withdrawal of their concern;
- Another property owner has requested that the proposed landscaping species for low shrubs be changed to “Sarcococca” around the equipment shelter; also, the shelter be screened with a wood fence; and
- Staff received an additional letter of concern (entered into the record at the time of the hearing);
- Recommendation:
  - Staff recommends approval of a Conditional Use Permit which complies with the Essential Public Facilities process; subject to conditions of approval in the Technical Committee Report; and
  - Revised language for landscaping, as requested by an adjacent property owner, to include Sarcococca as low shrub species around the equipment shelter and a wood fence to screen the equipment shelter.

Ms. Rice questioned if there were any noticing requirement differences or additional public comment period required for a Conditional Use Permit process compared to the Essential Public Facilities (EPF) process. Ms. Johnson confirmed they are the same (both Type IV permit processes); and stated that the EPF criteria is more stringent; the only difference is the title – no difference in process.

Ms. Rice questioned what sort of review is required on the facility every five years. Ms. Johnson stated the telecommunications code requires an administrative, not public, review.

Ms. Rice questioned why the requested height is for 120 feet, when the third-party review indicated that coverage is the same from a 100-foot pole to a 120-foot pole; and whether this is only for the collocation option. Ms. Johnson affirmed, the 120-foot pole is recommended for the collocation factor; and will allow for one additional co-locator on the pole.

#### APPLICANT TESTIMONY:

Mr. Michael Cady offered the following testimony to the record:

- T-Mobile concurs with the City’s presentation and recommendation;
- T-Mobile has a significant coverage gap in the North Redmond area - wants to improve;
- there is an increased demand for wireless coverage in residential areas;
- T-Mobile has expended much effort to find the best location for the pole, minimizing visual impact and providing the best coverage;
- T-Mobile has modified their choices due to comments received;
- the antennas will be fully enclosed in a canister;

- the ground coverage will comply with landscaping criteria and public comment received;
- the 120-foot height is best for coverage, due to the large amount of tall trees in the area; and
- also, the 120-foot height offers the co-locator opportunity, thus reducing the amount of future poles to the area.

**PUBLIC TESTIMONY:**

Ms. Rice opened the floor to any people wishing to submit comments to the record; there were no public present wishing to testify.

Ms. Rice questioned whether the addition of a co-locator would go through a public process. Ms. Johnson stated that it would not, that the addition of a co-locator would be an administrative review process.

Ms. Rice queried whether the 150 feet of ground equipment for this project would also cover a co-locator. Mr. Cady stated that it would not; a co-locator would require additional equipment and more space.

Ms. Rice advised the record is closed on the T-Mobile South Kern Conditional Use Permit application, and a decision will be issued within 14 days.

*(The hearing recessed at 7:39 p.m. and reconvened at 7:45 p.m.)*

**B. CRYDER – Planned Residential Development and Preliminary Plat**

L070523	Planned Residential Development (PRD)
L070524	Preliminary Plat (PPL)
L070525	SEPA

Request: Subdivision of 3.97 acres with 28 detached and attached single family residences

Location: 15671/15805 NE 116<sup>th</sup> Street, Redmond, Washington

Ms. Rice introduced the matter and assigned the Technical Committee Report as Exhibit 1, identifying the following submitted attachments:

**Attachments**

1. General Conditions of Approval
2. Fees and Bonds

3. Vicinity Map
4. Zoning Map
5. General Application Form
6. Notice of Application and Certificate of Publishing
7. Notice of Application Public Comment Letters
8. Neighborhood Meeting Notice
9. Neighborhood Meeting Public Comment Letters
10. SEPA Application Form
11. SEPA Determination of Non-Significance & Environmental Checklist
12. SEPA Public Comment Letters
13. Notice of Public Hearing and Certificates of Posting
14. Preliminary Plat/Planned Residential Development (PRD) Plan set ( Hearing Examiner Only)
15. Architectural Elevations ( Hearing Examiner Only)
16. Arborist Report
17. Tree Dripline and Setback Encroachment Report
18. Landmark Tree Removal Exception Request Letter
19. Landmark Tree Removal Exception Approval Letter
20. Wildlife Report
21. Preliminary Storm Drainage Report
22. Ground Water Recharge Review
23. Area Well Research Results
24. Design Review Board (DRB) Approved Minutes
25. Perrigo Heights Density Transfer Letter
26. North Redmond Regulations Compliance Worksheet
27. Comprehensive Planning Policies
28. Planned Residential Development Ordinance 1901
29. Administrative Interpretation – Multiplex Housing
30. Repealed Residential Development Ordinance 2447
31. Planned Residential Development Worksheet

Ms. Rice administered the swearing in of all those in attendance testifying on this matter, reminded the attendees that the proceedings were being recorded, and asked them to identify themselves for the record. The following persons were in attendance:

Judd Black, Planning Manager  
David Almond, Engineering Manager  
Kelsey Larson, Assistant Planner  
Aaron Hollingbery, Applicant  
Marsha Martin, Applicant Representative

Ms. Larson submitted the following additional exhibits to the record:

- Staff PowerPoint Presentation - 03/03/10 hearing; entered as Exhibit 2.

- Public Comment email from Feng Gao, received March 3, 2010; entered into the record as Exhibit 3.
- Memo from Kelsey Larson to the hearing Examiner, dated March 3, 2010; entered as Exhibit 4.
- Memo from Kelsey Larson to the Hearing Examiner, dated February 26, 2010; entered as Exhibit 5.

STAFF PRESENTATION:

Ms. Larson reported on the Cryder Preliminary Plat (PPL) and Planned Residential Development (PRD) application:

- Vicinity Map:
  - property zoned R-4
  - North Redmond Neighborhood
  - relatively flat and is comprised of meadow habitat type. No critical areas are located onsite.
  - indicates the Kensington and First Mark Add 7 developments
- Project Description:
  - Request for a PRD to vary development standards
  - 28-lot subdivision on 3.97 acres
  - Single-family residential – 10 detached and 18 attached units
  - Density (exceeding minimum through):
    - Transfer of density bonus from Perrigo Heights Development Agreement – 8 units
    - PRD bonus – 2 bonus units
    - Affordable housing bonus – 2 bonus units
  - Open Space – 1.26 acres (32 percent)
- Site Plan (Map)
- Tree Preservation Plan (Map)
  - Landmark Trees
    - 1 removed, 1 retained
  - Significant Trees
    - 28 removed, 29 retained
  - total trees onsite: 59
  - total retained: 30 = 50 percent
- Procedural Summary
  - Completeness
    - 11/13/2007 – letter of completeness issued and vested date
  - Notice of Application
    - 11/28/2007 – comment period begins
    - 12/12/2007 – comment period ends
  - SEPA
    - 08/06/2008 – DNS issued
    - 08/20/2008 – comment period ends

- 09/04/2008 – appeal period ends
  - Notice of Public Hearing
    - 02/10/2010 – issued
- Vesting
  - Project submitted on 11/13/2007
  - Project vested on 11/13/2007
  - Cryder PRD required to comply with PRD regulations; effective on 07/29/1996 – Ordinance No. 1901
  - Cryder PRD also required to comply with North Redmond Neighborhood Regulations; effective on 11/18/2006 – Ordinance No. 2308
- PRD – Decision Criteria:
  - High quality architectural design, placement, relationship or orientation of structures;
    - Architectural elevations meet this criteria through the use of:
      - a variety of rooflines, exterior material and colors
      - façade modulation
      - recessed garages and side loaded garages
      - front porches
  - Achieving allowable densities for the subject property;
    - buildable area is 3.97 acres, no critical areas present on property
    - allowed base density is 16 dwelling units
    - utilize bonus incentives – PRD bonus, affordable housing bonus and density transfer from Perrigo Heights development
  - Providing housing types that effectively serve the affordable housing needs of the community;
    - Project meets the criteria; 10 percent, or two affordable units, are provided. The number of affordable housing units is based on the proposed dwelling units on the site excluding density or other bonuses.
  - Improving circulation patterns or the screening of parking facilities;
    - Access to the project is from NE 116<sup>th</sup> Street.
    - Frontage improvements along NE 116<sup>th</sup> Street meet the City’s requirements.
  - Minimizing the use of impervious surface materials;
    - Base zoning allows 60 percent impervious coverage and PRD allows 70 percent impervious coverage.
    - Project proposes 46 percent.
  - Increasing open space or recreational facilities on the site;
    - Minimum open space required for PRD is 20 percent.
    - Project includes 32 percent open space.
    - Provision of recreation amenities – picnic tables, park benches, and play equipment within the open space tracts.
  - Landscaping, buffering or screening in or around the proposed PRD;

- A landscape buffer is proposed along the south, west, and east boundaries – adjacent to neighboring development.
  - 31 replacement trees and 30 retained trees on-site.
  - Preservation of 50.8 percent of native vegetation.
- Providing public facilities;
  - New local street extending south of NE 116<sup>th</sup> Street and frontage improvements along NE 116<sup>th</sup> Street.
  - Water and sewer connections provided through connections in NE 116<sup>th</sup> Street.
  - Stormwater runoff collected, treated and detained in Tract A (located in the northwest corner of the project).
- Preserving, enhancing, or rehabilitating natural features of the subject property such as significant woodlands, wildlife habitats or streams;
  - 50.8 percent of all existing significant and landmark trees are to be retained.
- Incorporating energy-efficient site design or building features;
  - Houses will be required to meet energy code requirements during building permit review.
- Providing for an efficient use of infrastructure;
  - 28 lots proposed with 10 detached and 18 attached single-family units.
  - Lots are accessed using a combination of common public streets and alleys.
- Public facilities. The PRD shall be served by adequate public facilities including streets, bicycle and pedestrian facilities, fire protection, water, stormwater control, sanitary sewer, and parks and recreation facilities;
  - Adequate public facilities – streets, fire protection, utilities, and pedestrian access.
  - New stormwater detention facility proposed.
  - Informal recreational opportunities are available throughout the site.
- Perimeter design. The perimeter of the PRD shall be appropriate in design, character, and appearance with the existing or intended character of development adjacent to the subject property and with the physical characteristics of the subject property;
  - Cryder is located directly across from the Kensington development and is consistent with their design, character, and appearance.
- Open space and recreation. Open space and recreation facilities shall be provided and effectively integrated into the overall development of a PRD and surrounding uses; and
  - Project includes open space recreational amenities through individual lots, open space tracts, and tree retention.
- Streets and sidewalks. Existing and proposed streets and sidewalks within a PRD shall be suitable and adequate to carry anticipated traffic within the proposed project and in the vicinity of the subject property;

- Five-foot sidewalks to be provided along the new local street.
  - Sidewalks to connect to NE 116<sup>th</sup> street.
- North Redmond Neighborhood Regulations (RMC 20C.70.30):
  - The project is in compliance with the following requirements: multiplex housing, show setbacks on subdivision layout, variety in building design, variety in site design, arterial setback requirements, garage placement, garage doors, transition area, alleys, maximum lot coverage, building height, modulation and articulation, consideration of site conditions, building separation, building encroachments, open space, stormwater and infiltration, landscaping, fences, streets, and pathways.
- Conditions of Approval:
  - Revised language in Technical Committee Report in Section C – *Conditions to be Reflected on the Final Plat Mylar*;
    - the exhibit includes Staff’s recommendation to modify the language by removing the words “replacement trees” from the condition;
    - Staff and the Applicant have agreed on this modification
  - Conditions of approval that Staff and the Applicant are not in agreement with will be presented by the Applicant;
    - conditions relate to:
      - safe walking route; and
      - roadway pavement section.

Ms. Rice questioned whether the alleys mentioned are private streets, and how they will be maintained. Ms. Larson stated they are private, and Mr. Hollingbery added they will be privately maintained. Ms. Rice questioned whether this will be done by private owners or a homeowners association (HOA). Mr. Hollingbery stated that a HOA and its CC and RS (covenants, conditions, and restrictions) have yet to be established.

Ms. Rice questioned who is responsible for the maintenance of the stormwater facilities in Tract A; whether this is private or public. Mr. Hollingbery and Mr. David Almond, Engineering Manager, confirmed this will be publicly maintained.

Ms. Rice queried which schools service this area, and whether there are any schools impacts. Ms. Larson stated that Norman Rockwell Elementary School services this area, she does not have information on middle and high schools, and that the Applicant will be required to pay school impact fees at the time of building permit issuance.

Ms. Rice queried whether this development will be serviced by a municipal sewer, and regarding water capacity. Mr. Almond confirmed the municipal sewer, and adequate capacity to serve this area.

## APPLICANT PRESENTATION:

Mr. Hollingbery questioned whether the memo submitted by Kelsey Larson to the Hearing Examiner on February 16, 2010, had been received. Ms. Rice affirmed and entered this into the record as Exhibit 6.

In addition, Mr. Hollingbery submitted the following exhibits to the record:

- Administrative Interpretation; entered as Exhibit 7.
- Memo from Thompson/Kroger to the Applicant re Low Impact Development Options, dated June 24, 2008; entered as Exhibit 8.
- Email from Jeff Dendy to the Applicant, dated June 22, 2009; entered as Exhibit 9.
- Memo from Shultz to the Applicant, dated July 9, 2007; entered as Exhibit 10.

Mr. Hollingbery reported on the Cryder PPL and PRD Application:

- Cryder PRD – vicinity map;
- Cryder PRD – proposed site plan;
- Open Space (plan);
- Central Recreation Space (plan/photos);
- Architecture (photos);
- Site Plan;
- Pedestrian Courtyards (plan);
- Triplex Design (photos);
- Proposed Off-Site Walkway Improvements and Proposed Frontage Walkway Improvements Map; and
- Sidewalk Map (including existing sidewalks, Cryder PRD proposed frontage sidewalks, Cryder PRD proposed off-site sidewalks, and City requested off-site sidewalks).

The Applicant's PowerPoint presentation was entered into the record as Exhibit 11.

Mr. Hollingbery reported on the safe walking route condition of approval:

- Condition VIII.B.1.e of the Technical Committee Report;
- would like to propose new language; Proposed Condition Revision of the Safe Walking Route and Letters from Applicant to Kelsey Larson, dated October 23, 2009 and December 22, 2009, entered into the record as Exhibit 12;
- referenced the sidewalk map and the Applicant- versus City-proposed sidewalks in order to provide a safe walking route to Norman Rockwell Elementary;
- it is the Applicant's opinion that they should only have to provide sidewalks on the frontage of the Cryder PRD, but are willing to also provide sidewalks eastward along NE 116<sup>th</sup> Street to the southwest corner if the intersection of NE 116<sup>th</sup> Street and 159<sup>th</sup> Ave NE;
- the City is asking the Applicant to provide sidewalks eastward along NE 116<sup>th</sup> Street to the southwest corner if the intersection of NE 116<sup>th</sup> Street and 162<sup>nd</sup> Ave NE; and

- the Applicant does not agree with the City's proposal, and asks the Hearing Examiner to grant the Proposed Condition Revision of the Safe Walking Route (Exhibit 12).

Ms. Rice questioned whether 159<sup>th</sup> Ave NE is a public or private road, and whether sidewalk easement is public or private. Neither the Applicant nor the City could offer evidence in this regard. Ms. Marsha Martin requested additional time to address this issue.

Ms. Martin submitted the following document into the record: Hearing Examiner Findings of Fact, Conclusions of Law, and Decision on the Application of Critchlow Homes, Inc. for Approval of a PPL for The Crossings, dated July 27, 2005; entered into the record as Exhibit 13. Ms. Martin offered testimony in regards to the safe walking route condition:

- it is the responsibility of the other plats to improve the frontage of their property, not the responsibility of the Applicant;
- objection to the untimeliness of this condition;
- the City has not provided any analysis related to this issue;
- in the Cooper PRD/PPL application (2009) the City of Redmond Hearing Examiner did not support the Applicant providing frontage improvements to additional properties;
- the proposed plan meets all city requirements;
- the City's requested condition is in violation with codes of nexus and proportionality;
- there is no evidence/analysis done by the City on pedestrian traffic impacts; and
- requests the Hearing Examiner grant the Applicant's Proposed Condition revision of the Safe Walking Route, or allow more time for the Applicant and City to negotiate the terms of this condition.

Ms. Rice asked for the City's response to the Safe Walking Route Condition at issue, and the Applicant's proposal. Mr. Almond provided the following information:

- Memo to the Hearing Examiner, dated March 3, 2010; entered into the record as Exhibit 14;
- A safe walking route needs to be provided by the Applicant to serve pedestrian traffic from the Cryder PRD to Norman Rockwell Elementary;
- 159<sup>th</sup> Ave NE is a private drive with no outlet; it does have sidewalks; and
- Would have to check to see if public access could be granted on these sidewalks and whether this route could be classified as a safe walking route to the elementary.

Ms. Rice questioned why The Crossings would not need to pay for the frontage improvement on their property. Mr. Almond stated The Crossings has an alternative safe walking route though the plat which did not require the frontage in question to be developed.

## PUBLIC TESTIMONY:

Ms. Rice opened the floor to any people wishing to submit comments to the record.

Mr. Feng Gao shared concerns regarding: number of units proposed, density in the R-4 zoning, and the location of a plat driveway to his land.

Ms. Rice asked for City or Applicant responses to the concerns of Mr. Gao. Mr. Hollingbery stated that the original design was for all duplex/multiplex units; the design was revised to be a mix of single-family homes and multiplexes, which increased the number of units from 27 to 28.

Ms. Rice asked for clarification on the density allowed for this plat. Ms. Larson reviewed the specifications for the property size and zoning, and taking into account the PRD, affordable housing, and Perrigo Heights transfer agreement bonuses.

Ms. Rice asked for more information on the Perrigo Heights transfer agreement. Mr. Judd Black reported:

- the agreement is between the City of Redmond and Camwest;
- Camwest was credited a certain number of units to be transferred from one development to another on Education Hill;
- eight units were transferred to the Cryder PRD/PPL; and
- this transfer is allowed in excess of density, by code.

Ms. Rice questioned the setback requirement for the driveways on the Cryder PRD. Mr. Hollingbery stated that the driveways are in compliance with the required 10-foot setback, and fencing and additional landscaping will be added in order to block vehicle light and sound.

Ms. Rice called for any further comments. Hearing none, Ms. Rice stated that the record would be held open in accordance with the following terms (detailed in a Post Hearing Order issued Wednesday, March 3, 2010):

- 1) **On or before March 10, 2010**, City Staff shall provide to the Office of the Hearing Examiner a memorandum addressing: 1) the possibility of public access to 159th Street (near to subject property); 2) the adequacy of the existing walkway along 159th, 114th Ct, and the "dogleg" pathway that connects to public streets at 161st; and 3) the City's response, based on the new information, to the Applicant's proposed alternative condition of approval regarding the project's obligations regarding safe walkways. This third portion of the memorandum may contain additional legal or policy-based argument. The Office of the Hearing Examiner will distribute the memorandum to the Applicant and the Examiner.

- 2) **On or before March 17, 2010**, the Applicant shall submit a memorandum written in response to the City's memorandum addressing: 1) its position on public access via the proposed alternative route; 2) its position on the adequacy of the proposed alternate route with regard to the various safe walking requirements argued by the City; and 3) proposed final language for the condition. The third portion can either reflect an agreement reached between the City and the Applicant, or it may reflect the Applicant's continued objection to the City's safe walking requirements, and it may contain further legal and policy-based argument. The Office of the Hearing Examiner will distribute the Applicant's memorandum to the City and the Examiner, although no further comment is provided for the City.
- 3) **On or before March 17, 2010**, both parties shall submit copies of the photographs presented related to their arguments on the safe walking route to the Office of the Hearing Examiner for inclusion in the record and forwarding to the Examiner. The Applicant's photographs were marked as Exhibit 15 on the record. The City's photos shall be presented with Staff's PowerPoint presentation on the same, and together they will be admitted as Exhibit 16.
- 4) The two memoranda shall be Exhibits 17 and 18. The record will close on March 17, 2010.

#### **IV. ADJOURNMENT**

The public hearing closed at 9:09 p.m., and the meeting adjourned.