

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

In the Matter of the Appeal of)	NO. L110182, DEV110016
)	SEPA L110183
)	
Harold Zeitz, et al)	
)	Redmond Bike Park Site Plan Entitlement
)	
of a June 8, 2011 approval of)	
a Site Plan Entitlement and a)	
June 8, 2011 SEPA)	DECISION ON REQUEST FOR
Determination of Non-Significance)	RECONSIDERATION
_____)	

Decision

The request for reconsideration is denied, for reasons explained below.

Request

On December 5, 2011, the Redmond Hearing Examiner issued a decision denying the above-captioned appeals of the June 8, 2011 Site Plan Entitlement and the June 8, 2011 SEPA DNS for the Redmond Bike Park.

In both the SEPA and the Site Plan Entitlement appeals, Appellants argued that parking for the users of the proposed park was insufficiently reviewed and would have adverse impacts on the surrounding neighborhood inadequately mitigated by the project design.

On December 19, 2011, Appellants submitted a timely request for reconsideration. Attached to the request was a letter which Appellants received in a public records request disclosure from the City on December 9, 2011. The letter, dated October 17, 2011, pertains to off-site parking availability in the neighborhood, and Appellants seek to admit the letter in evidence.

In the Request for Reconsideration, the Appellants contend as follows:

1. That the letter was available to the City as of the first day of hearing, should have been disclosed by the City, and should be admitted;
2. That the City presented evidence in direct and cross examination that was contrary to the information in the letter;
3. That based on the letter, the Examiner should "reconsider... findings for both SEPA and the (site plan entitlement appeal)";
4. That the letter "calls into question the conclusions about the adequacy of parking in the vicinity"; and

5. That the City's failure to disclose this letter during the hearing is evidence "that the City has been and continues to be willing to understate the impacts of the proposal... and to mislead the public... to suit its purposes." *Request for Reconsideration Letter, page 2.*

Jurisdiction

Pursuant to RZC 21.76.060.I.5: Request for Reconsideration, any party to the appeal who participated in the hearing may file a written request with the Hearing Examiner for reconsideration within 14 calendar days of the date of the Hearing Examiner's decision. The request shall explicitly set forth alleged errors of procedure or fact. The Hearing Examiner shall act within 14 days after the filing of the request for reconsideration by either denying the request or issuing a revised decision.

Pursuant to 21.76.060.M.2.C: Time to Appeal, a written appeal of the Examiner's decision in a Type II appeal and the appeal fee must be received by the Redmond Development Services Center no later than 5:00 p.m. on the fourteenth day following the expiration of the Hearing Examiner's reconsideration period.

Discussion

1. The October 17, 2011 letter is written by Gordon Tanner, the official spokesperson for the LDS Church on 172nd Avenue. At hearing there was testimony from both the Appellants and the City as to whether or not bike park users would be able to park at the Church. Had the letter been offered by either party at hearing, it would have been admitted as relevant to the discussion. The City chose not to offer it; the Appellants did not know of its existence until after the record had closed.
2. In the letter, the spokesman for the LDS Church states that he has concerns about adequacy of parking in the area, specifically recounting impacts from the events at the Hartman Park ball fields. The letter states that the LDS Church has not authorized any city park users to park on its property, noting it is LDS policy to allow only church-sponsored activities to park on-site. The letter acknowledges at least one conversation between Mr. Tanner and Ms. Hope, project manager for the bike park project. The letter concludes by stating that Mr. Tanner looks forward to continuing the existing positive relationship between the city and the LDS Church and welcomes further discussion on the subject of parking. *October 17, 2011 Gordon Tanner letter.*

Testimony by Ms. Hope acknowledges at least one conversation with LDS representatives. Ms. Hope indicated that no formal parking agreement was in effect allowing the bike park to use the LDS Church parking lots, and acknowledged that in the past there had been informal use of the church's parking by park users. Ms. Hope indicated she had contacted the church to discuss possible bike park use of the LDS parking but that no agreement had resulted. Ms. Hope testified that adequate parking existed at Hartman Park and on public streets to meet the projected bike park demand for parking.

A review of Ms. Hope's testimony does not reveal inconsistencies with the information in the October 17, 2011 letter from Gordon Tanner. *Record of hearing testimony; City's December 23, 2011 response.*

3. The December 5, 2011 Decision denying the appeals addresses projected parking demand in Finding 34, which reads:

34. The SEPA checklist states that the proposed park expansion would generate six additional daily PM peak hour trips to and from the site. In testimony, Parks Staff stated that this figure was based on the Institute of Traffic Engineers (ITE) Trip Generation Manual's estimated counts for city parks. The ITE manual estimates that city parks generate 1.59 trips per acre per day. Staff rounded the estimate up to six trips in order to be conservative. Staff testified that there was no information available that suggested bike parks generate more trips than other city parks. *Exhibit R-4, SEPA checklist; Hope Testimony.*

The Decision addresses available parking spaces in Finding 36, which reads:

36. There is no requirement in city code to provide parking for local public parks. Users of neighborhood parks often live nearby and walk or ride their bikes to parks. In order to address the parking demand generated by the enlarged park, there are 72 parking spaces available at adjacent Hartman Park, 32 of which are located 255 feet from the bike park. There is public parking for an additional 40 cars along 172nd Avenue NE, at the western boundary of Hartman Park. Although there is no standing agreement, in the past, the City has made temporary arrangements with the LDS Church to have overflow parking in their lot (with approximately 175 spaces), and such temporary arrangements could be made in the future either with the Church or with the schools in the vicinity, for large special events. *Hope Testimony; Exhibits R-1 and R-3.*

The language of Finding 36 states that future temporary parking agreements with the LDS Church or with area schools "could be made in the future" for large bike park special events. The information in the October 17, 2011 letter makes it less likely that a temporary parking agreement would be reached in the future that would allow bike park users to park on the LDS property. However, if the letter were admitted on reconsideration, its inclusion in the record would not render Finding 36 incorrect to the point of requiring amendment.

4. No conclusions in the site plan entitlement portion of the decision address adequacy of on-site parking or rely on parking at the LDS Church, because neither site plan entitlement criteria nor city code off-street parking provisions require off-street parking for city parks. In the SEPA appeal portion of the decision, adequacy of parking is addressed in Conclusion 1.E, which reads:

E. Regarding parking: The SEPA checklist disclosed that there is off-site parking available 255 feet away at Hartman Park. The record shows there is also on-street parking available on 172nd and 171st Avenues NE. Appellants' assertions that the parking will not be adequate and/or not be used by park patrons are not supported by substantial evidence. *Findings 36, 37, 53, 65, and 69.*

Conclusion 1.E does not rely on parking at the LDS Church to conclude that adequate parking is provided. If admitted, the October 17, 2011 letter would not substantively alter the conclusion on parking.

5. Neither the information in the October 17, 2011 letter, nor the fact that the City did not offer it in evidence, persuade the Examiner of any intent to misrepresent or actual misrepresentation on the part of City Staff involved in the bike park proposal.

Decision

The Request for Reconsideration is denied. Because testimony in evidence is not inconsistent with the information in the October 17, 2011 letter, and because consideration of the October 17, 2011 letter would not substantively alter any findings or conclusions, the Examiner declines to reopen the record to admit the October 17, 2011 letter. The letter will be made an attachment to the Decision on Reconsideration.

Decided January 3, 2012.

By:



Sharon A. Rice
City of Redmond Hearing Examiner

Attachments (documents considered in deciding the Request for Reconsideration)

1. December 5, 2011 Decision denying the Redmond Bike Park Appeals Nos. L110182/ DEV 110016/ L110183 [previously distributed]
2. December 19, 2011 Request for Reconsideration
3. October 17, 2011 Gordon Tanner letter
4. December 20, 2011 Order on Reconsideration
5. December 23, 2011 Response of the City to the Order on Reconsideration