



**CITY OF REDMOND
HEARING EXAMINER
MINUTES**

August 1, 2012

Redmond City Council Chambers
15670 NE 85th Street, Redmond
1 p.m.

Hearing Examiner

Sharon Rice, Offices of Sharon Rice,
Hearing Examiner, PLLC

Staff

David Almond, Engineering Manager, Planning
Thara Johnson, Associate Planner
Shawn Fitzpatrick, Police Support Services
Supervisor
Nicole Rogers, Police Program Coordinator
Elizabeth Adkisson, CMC, Deputy City Clerk

Convened: 1 p.m.

Adjourned: 3:10 p.m.

I. CALL TO ORDER

Hearing Examiner Sharon Rice convened the hearing at 1 p.m.

II. DESCRIPTION OF HEARING SEQUENCE AND PROCEDURES

Ms. Rice introduced the matters under consideration, reviewed the sequence of the hearings for the afternoon, and explained the proceedings.

III. APPEAL HEARINGS

A. PUGET SOUND ENERGY (PSE) FALSE ALARM APPEAL

FA 12-02 Appeal

Ms. Rice introduced the matter and noted that she will issue a decision on the Puget Sound Energy (PSE) False Alarm Appeal within 10 business days of the closing of the record.

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

Shawn Fitzpatrick, Police Support Services Supervisor, City of Redmond
Nicole Rogers, Police Program Coordinator, City of Redmond
Mark L. Comer, Sr. Regulatory Compliance Analyst, Corporate Security,
Puget Sound Energy

Ms. Rice assigned the Police Department's Report as Exhibit 1.

STAFF PRESENTATION:

Ms. Shawn Fitzpatrick, Police Support Services Supervisor, and Ms. Nicole Rogers, Police Program Coordinator, reported on the Puget Sound Energy (PSE) False Alarm Appeal:

- False Alarm Program Ordinance No. 2024; review of suspension levels:
 - a. Level I – A 90-day service suspension for a site not currently on probation which has experienced six or more false alarms in a twelve-month period;
 - b. Level II – A 365-day service suspension for a site which has experienced three or more false alarms while on a Level I six-month probationary period; and
 - c. Level III – A permanent service suspension for a site which has experienced three or more false alarms during the six-month Level II probationary period;
- false alarm history at site; review of dates/fines, burglary reported in March;
- Level I suspension issued on 07/10/2012;
- False Alarm Fine balance of \$50.00 (\$100.000 paid 07/31/2012);
- the intention of the ordinance/program is to give violators ample time to fix problems associated with the registered alarm system; and
- Staff recommendation: uphold the Level I 90-day suspension.

Ms. Fitzpatrick and Ms. Nicole Rogers, Police Program Coordinator, provided the following information in response to Hearing Examiner query:

- some alarms waived based on timing of invoice, or waived if more than one alarm per day;
- information contained in staff's report regarding location observations at the time of the alarm is provided by dispatch, police officers, and alarm companies; and
- there have been no similar issues regarding energy substations in the past.

APPELLANT TESTIMONY:

Mark L. Comer, Sr. Regulatory Compliance Analyst, Corporate Security, Puget Sound Energy, provided testimony on the Puget Sound Energy (PSE) False Alarm Appeal:

- copper theft at substations is a nationwide issue;
- security at these locations varies; and can include fences, barb wire, and cameras;
- the substation location in this matter has been under construction; and utilized motion-activated cameras for monitoring (process: motion detected, camera records, sends feed to monitoring center, up to monitoring staff to determine issue/if Police assistance is necessary);
- in general, once substation construction is completed, a permanent security system is installed; this station has just been completed, and the permanent system is now in use; false alarms at this location should decrease;
- current location has history of arrests; and

- current fines have been paid; appellant requests revocation of one-year suspension, as the substation is a prime spot for crime.

Mr. Comer provided the following information in response to Hearing Examiner query:

- the permanent system utilizes new technologies to monitor and trigger cameras/alarm; to be monitored by a third-party company (different than company utilized for construction security monitoring);
- ramifications of one-year suspension include an increase/ongoing criminal activity at this location (highly-populated area, substation shielded); in event of suspension, PSE would consider hiring on-site security;
- result of copper theft at a substation may affect ground wire/neutral wire leading to an energized substation/safety hazard; the substation may need to be taken offline in order for workers to restore;
- in regards to false alarms at the location – could have been employees/contractors or criminals; K-9 response is requested to help track criminals, as this is a relatively quick crime to commit; and
- the station is, and will remain, unmanned.

ADDITIONAL TESTIMONY:

Ms. Fitzpatrick and Ms. Rogers provided the following information in response to further Hearing Examiner query:

- the Police Department has not been responding to calls at the site (currently on 90-day suspension), Staff is unsure whether the problem has been solved by the new, permanent security enacted at the substation;
- Staff has no data regarding how many calls have been received, and not responded to, at the site since suspension/the new system was enacted; this information could be provided post-hearing;
- thefts of this nature occur in many locations in the City, not just PSE locations;
- this location has had 14 alarms determined to be false/not valid; many resources have been utilized in the response to these false alarms;
- other locations in the City have not had this many issues; the Crime Prevention Division is currently working to educate business owners in this regard; and
- Staff would consider a delay regarding a one-year suspension, with the expiration of the 90 day probation/suspension currently in progress.

CONCLUSION:

Mr. Comer stated that the construction phase of this project was challenging; currently the full system is enacted, and much more stable results are expected. Mr. Comer requests the long-term suspension be revoked.

Ms. Rice called for any further comments. Hearing none, Ms. Rice stated that a Post Hearing Order would be issued regarding the schedule for submission of additional items to the record, per the following terms:

1) **At the earliest convenience**, RPD Staff shall forward to the Office of the Hearing Examiner written information concerning the number of false alarms from the PSE Ardmere Substation since the July 10, 2012 suspension went into effect. RPD's written comments should be sent electronically to the Office of the Hearing Examiner, Attention Ms. Liz. Adkisson, Deputy City Clerk, at emadkisson@redmond.gov. The Clerk's Office will forward the information to PSE's representative and the Hearing Examiner by email on the day of receipt.

2) **On or before Monday August 6th**, PSE **may** submit written comments responding to RPD's written information (item #1 above) addressing the number of false alarms since July 10, 2012. PSE's response should be sent by email to the Office of the Hearing Examiner, as above, and the Clerk's Office will forward to RPD Staff and the Hearing Examiner via email on the day of receipt.

3) **If PSE has no comment in response to item #1 above**, an email indicating they do not wish to comment will serve to close the record.

4) If PSE does submit written comments (item #2 above), **the RPD may respond in writing on or before Wednesday August 8th** by email to the Office of the Hearing Examiner, as above, and the Clerk's Office will forward to PSE's representative and the Hearing Examiner via email on the day of receipt.

5) The record will close on Wednesday, August 8, 2012, or on the date that all written comments identified above have been submitted. The Hearing Examiner will issue written findings, conclusions, and a decision on the appeal within ten business days of the close of the record.

6) Questions about this Order may be sent to the Office of the Hearing Examiner, Attention Ms. Liz. Adkisson, Deputy City Clerk, at emadkisson@redmond.gov.

B. AVONDALE CREST SHORT PLAT EXTENSION APPEAL

L120208 Appeal

Request: Appeal of Technical Committee decision to deny request for extension of short plat (L050169); a proposal to subdivide 2.85 acres of residentially zoned property into 9 lots; application including associated PRD.

Location: Northwest corner of Avondale Road NE and NE 104th Street, Redmond, WA, 98052;

Ms. Rice introduced the matter and noted that she will issue a decision on the Avondale Crest Short Plat Extension Appeal within 10 business days of the closing of the record.

Ms. Rice administered the swearing in of all those in attendance testifying on these matters, reminded the attendees that the proceedings were being recorded, and asked them to identify themselves for the record. The following staff and applicant representatives introduced themselves for the record:

Thara Johnson, Associate Planner, City of Redmond
Chuck Dodd, Prime Pacific Bank, Appellant
Larry Calvin, Appellant's Representative

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

Attachments

Exhibit A:	Site & Surrounding Zoning
Exhibit B:	Site Plan
Exhibit C:	Technical Committee Decision on Extension Request
Exhibit D:	Request for Extension
Exhibit E:	Notice of Decision
Exhibit F:	Appeal Application Form
Exhibit G:	Notice of Appeal Hearing
Exhibit H:	Correspondence between City staff and applicants
Exhibit I:	Approval Extension Requests since 2005

APPELLANT TESTIMONY:

Mr. Larry Calvin, Appellant's Representative, and Mr. Chuck Dodd, Prime Pacific Bank, Appellant, presented the following testimony regarding their appeal of the Technical Committee decision to deny request for extension of short plat (L050169):

- the City did not provide proper notice regarding expiration of the short plat; the City has set a precedence in the past regarding such notices; the City states notice is not provided for in code;
- the City did not provide any specifications regarding renewal requirements/extension provisions;
- history:
 - original short plat application submitted under a different owner;
 - Prime Pacific Bank took back property through foreclosure; the City was aware of this transfer;
 - the City provided notice of expiration of short plat and information regarding a one-year extension request in the past (short plat has been extended multiple times); the City has set a precedence that extensions would be granted; and
 - 2012 - notice of expiration was not received by the property owner; the property owner became aware of expiration and contacted the City to request extension; and the extension request was denied.

Mr. Calvin and Mr. Dodd provided information and testimony in response to Hearing Examiner query:

- the City sent an email regarding the status and expiration of the short plat to Mr. Calvin; which was never received;
- regarding the relationship of Larry Calvin to Prime Pacific Bank – Mr. Calvin assisted with the project through the submission of final construction drawings (2011) and had some contact with the City after that time; the City emailed Mr. Calvin asking if he was still the

contact, however, should have contacted the property owner instead (failed to notice correct contact);

- the City varied from their past procedures (by attempting contact via email as opposed to mail);
- the denial of the short plat extension request states that is due to untimely filing of request for extension; due to the above presented information, the appellant requests the short plat extension be granted;
- currently, the property owner has submitted a new application for a short plat on this property, resulting in: additional studies/engineering work needing to be done, additional expenses, loss of value on depreciation of property, loss of construction timeframe, and possible loss of potential buyer; and
- Prime Pacific Bank/Mr. Calvin did not contact the City to let them know that Mr. Calvin was no longer the project contact; the City should have contacted the property owner directly.

STAFF PRESENTATION:

Ms. Thara Johnson, Associate Planner, reported on the Avondale Crest Short Plat Extension Appeal:

- Aerial Map;
 - PRD and Short Plat approved in May 2007;
 - Education Hill NB Plan changed from R-3 to R-4 Zone after Council approval of PRD;
- Procedural Summary:
 - Completeness: 05/09/2005 – letter of completeness issued and vested date;
 - Notice of Application:
 - 05/06/2005 – comment period begins;
 - 05/30/2005 – comment period ends;
 - SEPA:
 - 12/05/2005 – SEPA comment period begins;
 - 12/19/2005 – SEPA comment period ends;
 - 12/20/2005 – SEPA appeal period begins;
 - 01/05/2006 – SEPA appeal period ends;
 - Notice of Decision: 10/17/2006;
 - Extensions granted: April 2008, 2009, 2010, and 2011;
 - Technical Committee Letter – Short plat Expiration: 05/10/2012;
 - Request for Extension Filed: 05/11/2012;
 - Technical Committee Response: 05/17/2012;
 - Appeal Filed: 05/31/2012;
 - Notice of Appeal Hearing: 07/13/2012;
- Site Plan;
- Appeal Issues: City of Redmond did not notify the applicant via written communication that the short plat was due to expire; and notified the applicant's representative electronically, using email, that the short plat was going to expire; which was not received by the applicant;
- Appellant's Request: short plat approval to be extended for an additional year;
- Recommendation: staff recommends the appeal be denied and expiration of short plat be upheld; no legal authority to extend a short plat once it has expired; and
- clarification on the Staff Report, Exhibit 1: access to the plat will be from NE 104th Street, not Avondale Road NE, as stated.

Ms. Johnson submitted the following exhibits to the record; Ms. Rice assigned them accordingly:

- 05/10/2012 Letter to C. Dodd from R. Odle/R. Grant, re: Expiration of Avondale Crest Short Plat; entered into the record as Exhibit 2; and
- staff's PowerPoint presentation; Exhibit 3.

City Staff members provided the following information in response to Hearing Examiner queries:

- the City was aware that Prime Pacific Bank was property owner; Larry Calvin was marked as primary contact for the project, and Staff had no direct contact with the Bank; no correspondence/notice was given regarding a new primary contact for the project;
- 04/17/2012 email regarding project status/expiration was sent to the primary contact of record (L. Calvin), no response was received; the City was contacted by a Real Estate Broker interested in the property regarding a project status update, and the 04/17/12 email was then forwarded to the broker; no contact/response was received from the applicant;
- in general, courtesy notices are auto-generated and sent through the City's permit tracking system; they are not required by code; and the City is not obligated to keep track of short/long plat development obligations;
- in this case, the extension request was received after the short plat expiration date; and the short plat cannot be extended once expired;
- the City did not send notice of the upcoming expiration deadline;
- the extension request should have been filed before the expiration deadline;
- the City sends notice regarding the expiration of the short plat after the deadline has been met;
- the plat expiration date doesn't alter based on distribution of notice regarding extension granted (in this case, extension granted in April of each year, notice regarding extension was sent afterwards);
- the general process for extension requests consists of forwarding the request electronically to the Technical Committee (Public Works and Planning Directors/Managers), correspondence between the committee via email regarding outcome and possible conditions to be included, the decision is drafted by the planner, forwarded for signature, and distributed to the requestor;
- the Shoreline permit is current, and a one-year extension can be requested if no construction on the site before expiration; and
- the project is vested under the Redmond Community Development Guide (RCDG); no substantive changes result from the conversion to the Redmond Zoning Code (RZC).

CLOSING STATEMENTS:

Ms. Johnson stated that the applicant has currently put forth a new application for the same project which is under review. The project will need to comply with updated code and standards (regarding landscaping/neighborhood standards, wellhead protection areas ordinance, etc.); and thus require the appropriate studies to be conducted/submitted. The City regrets any inconsistencies, and wasn't aware the primary contact had changed. The short plat cannot be extended at this point in time.

Mr. Dodd stated that multiple contacts were included on previous correspondence, however, not on the 04/17/12 email; and email is an unreliable source of contact. Mr. Calvin requested the Short Plat be reinstated, and the extension be granted.

CONCLUSION:

Ms. Rice called for any further comments. Hearing none, Ms. Rice stated that the record was closed on the Avondale Crest Short Plat Extension Appeal matter, and a written decision would be issued in no later than 10 business days.

IV. ADJOURNMENT

The public hearing closed at 3:10 p.m., and the meeting adjourned.