



Snohomish County Council

Public Hearings

Meeting Minutes

Megan Dunn, Council Chair
Jared Mead, Council Vice-Chair
Councilmembers: Sam Low, Nate Nehring, Strom Peterson

Wednesday, October 5, 2022

1:30 PM

Jackson Board Room
& Remote

CLOSED RECORD APPEAL HEARING - Cathcart Crossing

PRESENT:

Council Chair Dunn
Council Vice-Chair Mead
Councilmember Low
Councilmember Nehring
Councilmember Peterson
Deb Bell, Council Staff
Laura Kisielius, Prosecutor's Office
Richard Aramburu, Attorney for the Appellant
Duana Kolouskova, Attorney for the Applicant
Lisa Campfield, Asst. Clerk of the Council
Elena Lao, Asst. Clerk of the Council
**See names below for parties-of-record who provided oral argument*

CALL TO ORDER

Council Chair Dunn called the closed record appeal hearing to order at 1:30 p.m.

ROLL CALL

The clerk called the roll and stated that all five members were present.

ACTION ITEM

Council considers an appeal of the Snohomish County Hearing Examiner's July 7, 2022 Decision and August 8, 2022, Amended Decision in the case of Cathcart Crossing, File No. 21-107654 SPA/BSP located at Southwest Corner of State Route 9 and Cathcart Way, Snohomish, Washington 98296, approving the Planned Community Business Preliminary Site Plan, Binding Site Plan, and Urban Residential Development Standards Administrative Site Plan for two commercial lots and one tract of

[2022-0832](#)

286 townhouses

The clerk read the formal title of the appeal into the record.

Chair Dunn asked for any statements or disclosures from councilmembers. She said she is not aware of any campaign contributions, gifts, or gratuities, but said if she had received any, it would not affect her ability to be neutral in this matter. She also stated that she directed her staff to respond to any e-mails addressed to her related to this appeal notifying the sender that councilmembers were prohibited from ex parte communications and receiving information related to the appeal that is not already in the administrative record or arguments presented as part of the appeal hearing. She said she has not read or considered any such e-mails and she has not had any ex parte communications related to this appeal.

Councilmember Low disclosed that he has received campaign contributions. He also disclosed that he received an e-mail from a party-of-record but did not open said e-mail. Vice-Chair Mead made a similar disclosure regarding campaign contributions and the same e-mail. He stated he did not open the e-mail. Councilmember Nehring made the same disclosure as Vice-Chair Mead. Councilmember Peterson disclosed he had received the same e-mail and did not open it. He said he has not received any campaign contributions.

Neither party expressed any objections to the councilmembers hearing this closed record appeal.

Chair Dunn addressed the following procedural issue:

Council passed Motion 22-365, which dismissed Appellant issues 5.5 and 5.6, so the parties should not present argument on those issues. By oral motion on September 28 Council reserved its decision on the Applicant's request for summary dismissal on issues 5.1 and 5.4, so the Council will hear argument on those issues from the parties. By oral motion on September 28 Council agreed to consider exhibits 1-8 presented by Deborah Wetzel to the Hearing Examiner, but only for the purpose of determining whether the Examiner properly denied her motion for reconsideration and the request to re-open the record. By oral motion on September 28 Council stated it would not consider exhibits 1-8 and exhibit 10 submitted by Linda Gray to the Council on September 12, so the parties should not discuss those exhibits. Ms. Wetzel sent all Councilmembers additional correspondence on Friday, September 30; the Clerk informed Ms. Wetzel on Monday that Councilmembers will not consider that correspondence, so the parties should not discuss that correspondence.

Deb Bell, Sr. Legislative Analyst, provided a detailed staff report.

Chair Dunn provided instructions for oral argument and instructions for parties-of-record wishing to provide argument for both in-person and remote via Zoom. She then opened the oral argument portion of the hearing.

Richard Aramburu, Attorney for the Appellants, Katrina Stewart and Deborah Wetzel, provided oral argument. Mr. Aramburu requested that decisions of the Hearing Examiner be vacated and the Council order a new hearing to be held, that the new hearing consider all of the aspects of this project. He requested that Council order a combined hearing on the Cathcart Crossing residential mini-storage proposal together with the Park-n-Ride, require a revised environmental review, provide full notice to all parties-of-interest, and that the Hearing Examiner specifically consider the County's requirements and responsibilities under its own Comprehensive Plan. He also requested that those proceedings be held in front of an independent pro-tem hearing examiner.

Kristina Stewart wished to provide oral argument. Chair Dunn noted that Ms. Stewart is a party-of-record and also an appellant in this appeal and said that her attorney has already spoken on her behalf.

Laura Kisielius, Prosecutor's Office, explained to the Council that if parties-of-record are represented by attorneys and spoke on their behalf then they would not typically be allowed to speak again. She said if Council chose to allow Ms. Stewart to speak, then she advised Council to extend that amount of time to the applicant.

Ms. Stewart chose not to speak.

The following parties-of-record provided oral argument:

1. Mickie Gundersen
2. Linda Gray
3. Mary Lou Burns

Duana Kolouskova, Attorney for the Applicant, provided oral argument on behalf of her client DR Horton, and requested Council to deny the appeal in full.

[At 2:20 p.m., Chair Dunn recessed the Council for three minutes, at the request of the appellant. At 2:24 p.m., Chair Dunn called the Council back to order.]

Mr. Aramburu provided rebuttal.

There being no further argument, Chair Dunn closed the oral argument portion of the hearing calling for a motion or discussion of the Council.

EXECUTIVE SESSION
Quasi-Judicial Matter
Pursuant to RCW 42.30.140(2)

Pursuant to RCW 42.30.140(2) at 2:30 p.m. Chair Dunn recessed the Council into an Executive Session to discuss a quasi-judicial matter for approximately 20 minutes with extensions, if necessary, and with potential action to follow.

PRESENT:

Council Chair Dunn
Council Vice-Chair Mead
Councilmember Low
Councilmember Nehring
Councilmember Peterson
Deb Bell, Council Staff
Laura Kisielius, Prosecutor's Office
Brian Dorsey, Prosecutor's Office

The Executive Session began at 2:30 p.m. for an initial 20 minutes to 2:50 p.m.
At 2:50 p.m., an extension was announced for five minutes to 2:55 p.m.
At 2:55 p.m., an extension was announced for two minutes to 2:57 p.m.
At 2:57 p.m., an extension was announced for five minutes to 3:02 p.m.

The Executive Session ended at 3:02 p.m.

Chair Dunn reconvened the Council at 3:04 p.m.

Vice-Chair Mead said that the Council received argument that the purchase and sale agreement was not available to the public prior to the hearing before the Hearing Examiner. He asked staff to inquire with the public records officer if the purchase and sale agreement would have been released if a member of the public had asked for it. Ms. Bell confirmed that was a request by Council for new evidence and said she would make that request.

ACTION: Vice-Chair Mead made a motion to continue the hearing to Wednesday, October 12th at 10:30 a.m. immediately following the public hearingd [*calendar*]. Councilmember Nehring seconded the motion and it carried unanimously.

Chair Dunn stated there shall be no ex parte communication and no new testimony.

ADJOURN

There being no further business, Chair Dunn adjourned the Council for the day at 3:05 p.m.