From:	Tom Ehrlichman
To:	Andrew Reeves; xCori Russell - x
Cc:	Lynn, Bill; Schutz, Reuben; Jason D`Avignon; Kyle Loring
Subject:	Re: PL22-0142 Concrete Nor"West SUP/SEPA Appeal
Date:	Saturday, September 3, 2022 9:41:39 AM
Attachments:	Filed Cougar Peak"s SUP Prehearing Brief July 1, 2022 copy.pdf Filed Cougar Peak"s SUP Prehearing Brief July 1, 2022.pdf Witnesses County List From Pros Atty Lists 06132022 County Exhibit and Witness List.pdf

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Dear Examiner Reeves,

For Tuesday morning . . . Please forgive the informatily of an email rather than a letter, but in the interest of brevity, I offer the following.

By copy of this email to all parties, I'm hoping the following explanations help us save time during this proceeding on several key elements of our case about which you had questions. Cougar Peak's responses to three basic procedural questions you asked of me yesterday at hearing are as follows:

1. Does Cougar Peak Have a Right to Present a Case in a Special Use Permit Proceeding in Skagit County?

As you and the parties recognized from the outset of this case, a represented party to a Special Use Permit hearing in Skagit County has a right to call witnesses and cross examine other witnesses. Mindful of your need to organize the hearing efficiently, at the end of June we worked with the other parties to suggest an order of presentation for your review and possible approval.

Our place in the Special Use Permit hearing process is as outlined in a presentation-sequence agreed to by all parties. That agreement is shown in the email sent to you from Jason D'Avignon, below, and approved by you at our prehearing conference on July 1.

2. What is the Argument Cougar Peak is Hoping to Make by Questioning County Witnesses (and previously other witnesses)?

While not required, Cougar Peak filed a prehearing brief (supplemented). While we understand you have already reviewed this, in light of your questions about our argument, it may be helpful to glance at it again. It presents a skeletal outline of our argument. Nothing here exceeds the criteria and matters of law and fact over which you have jurisdiction under the Skagit County Code.

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We are not bringing in constitutional, equitable, or any other arguments in this case beyond the scope outlined in the pre-hearing filing.

3. What Witnesses does Cougar Peak Intend to Call During its Presentation?

As discussed at the prehearing conference and during the hearing procedural discussions with you and the represented parties, we intend to call witnesses during our portion of the presentation as follows:

a. Wallace Grado, Grip Road neighbor (approx. 15 minutes); and

b. County staff listed as witnesses by the County that the County does not end up calling during the County presentation.

The County's witness list is attached. If they do not appear in the County presentation, we intend to call Brandon Black, Planning Manager, and Forrest Jones, Public Works Section Manager.

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Thank you for the opportunity to clarify our answers to your procedural questions.

Best wishes to all for a restful holiday weekend.

Tom

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On Jul 1, 2022, at 12:43 PM, Jason D`Avignon <jasond@co.skagit.wa.us> wrote:

Mr. Hearing Examiner,

Counsel for the parties met yesterday to confer in preparation of the hearing in this matter. There are couple things we wish to raise at the pre-hearing conference today. First, is whether or not it is necessary for the attorneys, witnesses, or even yourself, to be present to appear in person at the hearing? Second, in order to not duplicate testimony and light of the applicant and the appellant having competing burdens we reached a consensus on the following order of presentation:

1. HE opening remarks
2. County's summary of the project
3. Applicant's summary/opening statement
4. Appellant's summary/opening statement
5. Cougar Peak's opening statement limited to Special Use Permit/traffic
6. Public Comment
7. Applicant presentation of witnesses
8. Appellant presentation of witnesses
9. County presentation of witnesses
10. Cougar Peak's presentation of Special Use Permit/traffic witnesses (if not covered in cross)
11. Applicant & Appellant rebuttal evidence
12. SEPA appeal legal argument in order set out in the pre-hearing order

<image001.png>

Jason D'Avignon
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