



NOTICE OF DECISION

PURSUANT TO RICHLAND MUNICIPAL CODE SECTIONS 19.60.080 & 23.46.050, NOTICE IS HEREBY GIVEN THAT THE RICHLAND HEARING EXAMINER HELD A PUBLIC HEARING ON JULY 21, 2022, TO CONSIDER AN APPLICATION SUBMITTED BY BLUE FERN MANAGEMENT, LLC ON BEHALF OF INNOVATION CENTER TCRD, LLC FOR A SPECIAL USE PERMIT TO CONSTRUCT 144 APARTMENTS WITHIN 7 BUILDINGS ALONG WITH ASSOCIATED PARKING, CLUBHOUSE, POOL AND RELATED AMENITIES. THE PROJECT SITE IS LOCATED AT THE NORTHEAST PORTION OF ASSESSOR'S PARCEL NUMBER 123083013487001. ON SEPTEMBER 12, 2022 THE EXAMINER ISSUED A WRITTEN DECISION TO APPROVE SPECIAL USE PERMIT # 2022-102.

REQUEST: Special Use Permit to construct 144 apartments within 7 buildings along with associated parking, clubhouse, pool and related amenities.

LOCATION: Northeast Portion of Assessor's Parcel Number 123083013487001

DESCRIPTION OF ACTION: Request approved subject to the conditions as listed in the Hearing Examiner's written decision.

SEPA REVIEW: The above referenced action was reviewed in compliance with the requirements of the State Environmental Policy Act (RCW 43.21c). A SEPA Threshold Determination of Non-Significance was issued by the City of Richland on July 19, 2022 after utilizing the Optional DNS Method.

APPEAL PROCEDURES: Pursuant to RMC 19.70.060, the City's final decision may be appealed by a party of record with standing in Benton County Superior Court. Such petition shall be filed within 21 days of issuance of the decision as provided in Chapter 36.70C RCW.

Mike Stevens
Planning Manager

September 13, 2022
Date

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

Regarding an Application for a Special
Use Permit to Develop a 144-unit/7-
Building Apartment Project on a
property in the City's Business Research
Park (B-RP) Zone, submitted by

BLUE FERN MANAGEMENT, LLC,
Applicant,

*(The site is currently a vacant, 5.25-acre parcel fronting
Innovation Boulevard on the east, and 3rd Street on the south,
in a portion of northeast Richland designated as Business
Research Park).*

File No. SUP 2022-102

**FINDINGS OF FACT,
CONDITIONS OF APPROVAL AND
DECISION**

I. SUMMARY OF DECISION.

The applicant met his burden of proof to demonstrate that his Special Use Permit application merits approval.

II. BACKGROUND and APPLICABLE LAW.

In this matter, the Hearing Examiner has jurisdiction to conduct an open record public hearing and issue a Decision regarding the pending application for a Special Use Permit (SUP) to develop a residential apartment project with three or more units in the City's Business Research Park (B-RP) Zone. *(See RMC 23.28.030, SUP requirement for apartment projects of a certain size in B-RP Zone; RMC 23.46.025(A)(2), Hearing Examiner designated to consider SUP applications for residential project in the B-RP Zone; RMC 23.46.040, special use permit process and Examiner's authority to impose conditions; and RMC 23.46.060, approval of a special use permit application by the Hearing Examiner shall*

**FINDINGS OF FACT, CONDITIONS OF
APPROVAL AND DECISION APPROVING
BLUE FERN MANAGEMENT, LLC APPLICATION
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RESIDENTIAL APARTMENT PROJECT IN THE
CITY'S BUSINESS RESEARCH PARK (B-RP) ZONE
– FILE NO. SUP 2022-102**

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HEARING EXAMINER FOR THE CITY OF RICHLAND**

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1 *authorize the administrative official to issue a special use permit).*

2 A Special Use Permit is reviewed under the City's Type II process, which requires an
3 open record public hearing by the Hearing Examiner, who is given authority to approve such
4 permits, provided any Decision is subject to a closed-record appeal before the City Council.
5 *See RMC 23.46.070, 19.20.010(B)(9) and RMC 19.20.030.*

6 The applicant bears the burden of proof to show that his application conforms to the
7 relevant elements of the city's development regulations and comprehensive plan, and that
8 any significant adverse environmental impacts have been adequately addressed. *RMC*
9 *19.60.060.*

10 RMC 23.46.040 specifies the hearing process and criteria that must be satisfied by an
11 applicant to obtain a Special Use Permit, and reads as follows:

12 **23.46.040 Hearings – Findings – Conditions.**

13 The hearing body shall conduct an open record public hearing on an application for special
14 use permit as required by RMC Title 19 for a Type III permit application.

15 A. Any person may appear at the public hearing in person, or by agent or attorney.

16 B. The hearing body shall make a finding that it is empowered under the section of this code
17 described in the application to consider the application for the special use permit.

18 C. The hearing body shall approve, approve with conditions or deny an application for a
19 special use permit based on findings of fact with respect to the following criteria:

20 1. The size and dimensions of the site provide adequate area for the proposed use;

21 2. The physical conditions of the site, including size, shape, topography, and
22 drainage, are suitable for the proposed development;

23 3. All required public facilities necessary to serve the project have adequate
24 capacity to serve the proposed project;

25 4. The applicable requirements of this zoning regulation (RMC Title 23), the city
26 comprehensive plan, the city sensitive area regulations (RMC Title 20), the city
shoreline management regulations (RMC Title 26) and the city sign regulations
(RMC Title 27) have been met; and

5. Identified impacts on adjacent properties, surrounding uses and public facilities
have been adequately mitigated.

D. The hearing body may impose conditions on the approval of a special use permit in

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1 addition to or above and beyond those required elsewhere in this title, which are found
2 necessary to ensure the use is compatible with the public interest. These conditions may
3 include, but are not limited to, the following:

- 4 1. Limiting the hours, days, place and/or manner of operation;
- 5 2. Requiring design features which minimize environmental impacts such as noise,
6 vibration, air pollution, glare, odor and/or dust;
- 7 3. Requiring additional setback areas, lot area and/or lot depth or width;
- 8 4. Limiting the building height, size or lot coverage, and/or location on the site;
- 9 5. Designating the size, number, location and/or design or vehicle access points;
- 10 6. Requiring street right-of-way dedication and/or street improvement;
- 11 7. Requiring additional landscaping, berms and/or screening of the proposed use
12 and/or its parking or loading areas and designating the required size, height, type
13 and/or location of fencing and landscaping materials;
- 14 8. Limiting the number, size, location, height and/or lighting of signs.

15 E. Violation of any conditions, requirements, and safeguards, when made a part of the terms
16 under which the special use permit is granted, shall be deemed a violation of this code and
17 punishable under RMC 23.70.270.

18 F. The hearing body may prescribe a time limit within which the action for which the special
19 use permit is required shall be begun and/or completed. Failure to begin and/or complete such
20 action within the time limit set shall void the special use permit. The time limits may be
21 extended by the hearing body for good cause shown. In the event that no specific time limit
22 to begin or complete a special use permit is identified, then the special use permit shall remain
23 valid for a period of two years from the date that the permit was issued. The hearing body
24 may authorize issuance of a special use permit for a specified probationary period of time, at
25 the termination of which the applicant must resubmit a new application in accordance with
26 the provisions of RMC 23.46.020. [Ord. 28-05 § 1.02].

18 III. QUESTION PRESENTED.

19 Whether the application for a Special Use Permit satisfies the approval criteria set
20 forth in applicable city codes and regulations, particularly RMC 23.46.040(C)(SUP approval
21 criteria) and RMC 23.28.020(B)(performance standards for residential development in the B-
22 RP zone)?

23 Short Answer: Yes.

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IV. RECORD AND EXHIBITS.

Exhibits entered into evidence as part of the record, and an audio recording of the public hearing, are maintained by the City of Richland, and may be examined or reviewed by contacting the City Clerk's Office.

Hearing Testimony: The following individuals presented testimony under oath at the duly noticed public hearing for the underlying application, held on July 21, 2022:

1. Mike Stevens, Planning Manager for the City of Richland. Mr. Stevens summarized the Staff Report, the site location, applicable codes, suggested conditions, lack of public comments, and his recommendation of approval; and
2. Holli Heavrin, the applicant's project engineer and authorized agent, accepted the Staff Report and recommended conditions with clarification regarding "Camp Hanford" cultural resource issue, presented slide show added into the record as *Ex. 6*.

Exhibits: The Staff Report, including a recommendation of approval, was provided to the Examiner in the week before the hearing. The Staff Report, and the following Exhibits, were all accepted into the Record in their entirety without modification:

1. Application materials;
2. Site Plans;
3. Public Notices, confirmation materials;
4. SEPA Checklist, and DNS as threshold determination for this proposal;
5. Agency comments;
6. Applicant's slide show presentation from public hearing.

The Examiner visited the project site, as well as the road network and vicinity of the proposed Special Use Permit before and after the public hearing, and is fully advised on matters at issue herein, including without limitation applicable law, application materials, and relevant codes.

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V. FINDINGS OF FACT.

Based upon the record, the undersigned Examiner issues the following Findings of Fact.

Jurisdiction

1. As required by RMC 23.46.040(B), the Examiner expressly finds that he is empowered by RMC 23.46.025(A)(2), RMC 23.46.060, and RMC 19.20.030 to consider this application for a special use permit to develop a residential apartment project with more than three units in the city's B-RP zoning district.

Application, Public Notice, and Review

2. On or about May 13, 2022, Blue Fern Management, LLC on behalf of Innovation Center TCRD, LLC, submitted its application for a Special Use Permit ("SUP") needed to develop a residential apartment project with more than three units in the City's B-RP Zone. (*Exhibit 1, application materials*). Staff deemed the application materials complete for purposes of vesting and public review on or about May 19, 2022. (*Staff Report, page 11*). In the following weeks, City staff complied with all applicable public notice requirements for the SUP application and the public hearing held for the matter. (*Exhibit 3, copies of public notices mailed, posted, and published in late June an early July of 2022, with confirmation materials*).

3. The applicant proposes construct up to 144 residential apartments within 7 buildings along with associated parking, clubhouse, pool and related amenities. The application materials indicate that the project intent is to create an "apartment community" containing seven (7) separate apartment buildings totaling 144 units with a clubhouse amenity featuring a pool, spa, mail room and workout space. Parking will be provided at a minimum rate of 1.5 stalls per unit. The residential units will be a mixture of studio, one-bedroom and two-bedroom units. Interconnecting walkways will be placed throughout the project so that pedestrians can access the entire site, the clubhouse and external multi-modal infrastructure. (*Staff Report, page 2*).

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4. Staff reviewed the SEPA Checklist completed by the project applicant and issued a SEPA Determination of Non-Significance (DNS) on or about July 19, 2022, after using the Optional DNS process for review and public notices. (*Ex. 4, SEPA Checklist, DNS materials; Staff Report, SEPA discussion on page 11*).

5. The site is currently a vacant, 5.25-acre rectangular-shaped property in the northeast portion of Benton County Assessor's Parcel No. 123083013487001. The project site fronts Innovation Boulevard on the east, and 3rd Street on the south, in a portion of northeast Richland designated as Business Research Park. (*Staff Report, project map*).

6. All properties surrounding the project site are also zoned B-RP, with existing residential apartment complexes to the south and southeast, and commercial/industrial buildings to the south, southeast, and northeast. (*Staff Report, page 3; Site visits; Aerial maps of the project site and surrounding area*).

7. An aerial photo of the project site and surrounding area is provided in the Staff Report, as Figure 1 on page 2, and is republished below for the reader's convenience:

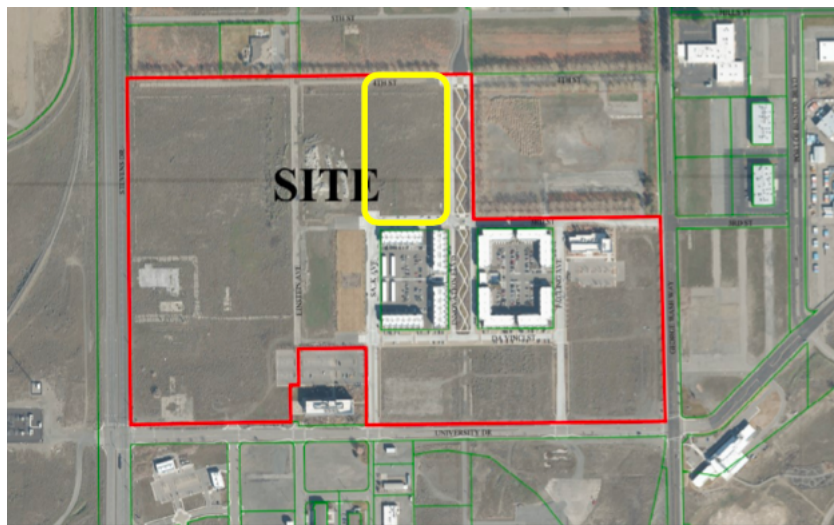


Figure 1 - Vicinity Map (*Apartment site highlighted in yellow*)

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8. Subject to compliance with the specific performance standards for residential development in the City's B-RP zone, it does not appear that the applicant's proposal would be inconsistent with or detrimental to any existing uses in the surrounding area. The record demonstrates general conformance with the City's comprehensive plan, zoning and development regulations. The applicant's proposed development appears to be planned and designed with due consideration and respect for surrounding uses.

9. Based on the application materials, site visits, the proposed site plan, and the Staff Report's thorough analysis and proposed conditions, there is no reasonable basis to deny the requested permit in the location where it is proposed. No one submitted any written comments questioning or opposing the pending application, and no one appeared at the public hearing to offer sworn testimony questioning or opposing the application. Agency comments included in the record focused upon applicable development regulations and are addressed in conditions of approval, where appropriate.

Application satisfies approval criteria

10. The record includes a preponderance of unchallenged evidence which establishes that the proposed residential apartment project has been designed, or can be conditioned, to comply with the specific performance standards for residential development projects in the B-RP zone, found in RMC 23.28.020(B). *(See discussion and analysis on pages 5-9 on the Staff Report).*

11. The record includes a preponderance of unchallenged evidence which establishes that the proposed residential apartment project has been designed, or can be conditioned, to comply with all 5 approval criteria for the requested Special Use Permit found in RMC 23.46.040(C)(1-5), as explained in the analysis provided on pages 12-13 of the Staff Report.

12. As conditioned in this Decision, potential impacts on adjacent properties, surrounding uses and public facilities have been adequately mitigated.

13. Any factual matters set forth in the foregoing or following sections of this Decision are hereby adopted by the Hearing Examiner as findings of fact and incorporated into this section as such.

14. All statements of fact and findings included in the unchallenged Staff Report are adopted herein as findings of fact by the Examiner, supporting approval of the requested Special Use Permit.

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15. Based on the record, the applicant demonstrated its special use permit application merits approval, meeting its burden of proof imposed by RMC 19.60.060.

16. Approval of this special use permit will not and does not constitute, nor does it imply any expectation of, approval of any administrative permit or subsequent reviews that may be required for construction, increased intensity of uses, or other activities on the site of the special use permit.

VI. CONDITIONS OF APPROVAL.

Based on the record and authority specifically granted under applicable city codes, including without limitation RMC 23.46.040, the Examiner hereby imposes the following conditions on the approval for the pending special use permit in addition to or above and beyond those required elsewhere in the city's municipal code, specifically finding that such conditions are necessary to ensure the proposed use is compatible with the public interest:

1. The project shall be developed in substantial conformance with the site plans submitted as part of this application, provided the Planning Manager shall have full discretion and authority to require submittal of revised plans for city review and approval that will conform to these conditions of approval, and/or otherwise applicable city development standards, including without limitation setbacks for various structures, activities or facilities on the project site.

2. The applicant shall comply with all permitting, construction, or development conditions imposed by the Washington Department of Archaeology and Historic Preservation, which may include preparation of and compliance with an Inadvertent Discovery Plan during all ground disturbance work on the project site. The Planning Manager shall confer with applicant and DAHP representatives to ensure this condition is satisfied prior to issuance of any permits that could include ground disturbance work.

3. Separate sign permit(s) shall be obtained from the City prior to installation of any signage associated with this project.

4. Landscaping of the site shall conform with RMC 23.54.140.

5. The development of the site shall comply with all performance standards applicable to the B-RP zone, including without limitation those found in RMC 23.28.020.

6. Consistent with RMC 23.46.090, the validity of this special use permit shall be contingent upon exercise of the special use, as granted, and the special use permit shall run

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1 with the property regardless of a change in ownership of the property. This Decision granting
2 the underlying special use permit shall be recorded with the Benton County auditor's office
3 as a special covenant, which shall run with the property regardless of a change in ownership
4 of the property. Such recording shall be the responsibility of the permit-holder/applicant, and
5 a conformed copy of the recorded instrument reflecting a valid recording number shall be
6 filed with the city prior to occupancy of any residential building on the property. Any change
7 in the special use for which the original permit is issued, which is determined to be substantial
8 by the administrative official, shall void the original permit and necessitate the submission of
9 a new application.

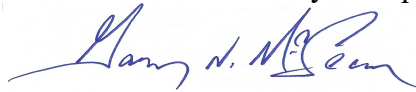
10 7. The maximum height of any structure shall be no more than 55-feet.

11 8. An Emergency Plan shall be prepared by the applicant in coordination with Benton
12 County Emergency Services. The Emergency Response Plan shall be implemented prior to
13 or simultaneously with the issuance of a certificate of occupancy for a project. Installation
14 of radios, signaling devices, signage, alarms, or other emergency notification/alert equipment
15 may be required as part of building permits for aspects of the project.

16 VII. DECISION.

17 Based upon the preceding Findings and Conditions of Approval, this Special Use
18 Permit application to develop up to 144 residential apartments within seven buildings, with
19 associated improvements and amenities described in the application materials, in the City of
20 Richland's B-RP Business Research Park zoning district is hereby APPROVED, as
21 conditioned herein. Consistent with RMC 23.46.060, this Decision authorizes the City's
22 administrative official to issue a special use permit, subject to the applicant's compliance
23 with the above-referenced Conditions of Approval.

24 ISSUED this 12th Day of September, 2022



25 Gary N. McLean
26 Hearing Examiner

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Opportunity to Appeal

As provided in RMC 23.46.070, this Decision shall be final unless written notice of appeal to the city council, together with such fees as are required by RMC 19.80.020 is filed with the city clerk within 10 days from the date of this Decision. Such appeal shall be consistent with the requirements set forth in Chapter 19.70 RMC for appeal of decisions on Type II permit applications. The city council shall review the official record of the special use permit application, including the notice of appeal, and shall consider testimony pertinent to the official record. If new evidence is received that is not part of the official record, the city council shall not use the new evidence as a basis of reversing a decision, but instead shall remand the application to the hearing body for reconsideration. The city council may, so long as such action is in conformity with the terms of this code, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as the city council deems appropriate.

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