



NOTICE OF DECISION

PURSUANT TO RICHLAND MUNICIPAL CODE SECTION 19.60.080 NOTICE IS HEREBY GIVEN THAT ON NOVEMBER 28, 2022 THE CITY OF RICHLAND HEARING EXAMINER ISSUED A DECISION APPROVING THE PRELIMINARY PLAT OF WELLHOUSE HEIGHTS II (CITY FILE NO. S2022-104):

**DESCRIPTION
OF ACTION:**

Approval of the preliminary plat of "Wellhouse Heights II" proposing to subdivide 0.43-acres into five (5) lots for five (5) residential townhomes.

SEPA REVIEW:

The above referenced action was reviewed in compliance with the requirements of the State Environmental Policy Act (RCW 43.21c) and the City issued a Determination of Non-Significance (EA2022-128) dated October 13, 2022.

APPROVED:

The subdivision application has been approved with conditions.

PROJECT LOCATION:

The project site is located at property formerly known as 400/404 Thayer Avenue (at the NE corner of intersection of Thayer Drive and Duportail Street) and is zoned R-3 (multiple-family residential use district).

APPEALS:

Appeals to the above described action may be made to the Benton County Superior Court by any Party of Record. Any appeal must be filed by December 19, 2022, which is 21 days from the issuance of this notice.

Matthew Howie,
Senior Planner

November 28, 2022

Date



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

**FINDINGS, CONCLUSIONS AND
DECISION APPROVING
PRELIMINARY PLAT OF WELLHOUSE HEIGHTS II**

FILE NUMBER: S2022-104; EA202-128

APPLICANT: KNUTZEN ENGINEERING (PAUL KNUTZEN)

OWNER: BUSH TRUSTEES, TIMOTHY & KATHRYN BUSH

APPLICATION: TO SUBDIVIDE APPROXIMATELY .43-ACRES INTO 5 SINGLE FAMILY RESIDENTIAL LOTS DESIGNED FOR ATTACHED TOWNHOME CONSTRUCTION.

LOCATION: 404 THAYER DRIVE, IN THE NORTHEAST CORNER OF THAYER DRIVE AND DUPORTAIL STREET.

PARCEL NUMBER: BENTON COUNTY ASSESSOR PARCEL NO. 115981013704001

REVIEW PROCESS: TYPE III, PRELIMINARY PLAT,
HEARING EXAMINER DECISION

SUMMARY OF DECISION: *APPROVE*, SUBJECT TO CONDITIONS

DATE OF DECISION: NOVEMBER 28, 2022

I. CONTENTS OF RECORD.

Exhibits: Staff Report. City of Richland Development Services Division Staff Report and recommendation of approval to the Hearing Examiner regarding “Wellhouse Heights II” Preliminary Plat, File No. S2022-104, dated October 20, 2022 (20 pages);

1. Application materials;
2. Plat Map, proposed, only showing lot line configuration, minimal other details;
3. SEPA Checklist.
4. Public Notice and Affidavits
5. Agency Comments
6. SEPA Determination of Non-Significance
7. Post-Hearing exhibit provided by Applicant’s representative, Mr. Knutson, as requested during hearing, copy of an updated proposed site plan overview, referenced as a “Preliminary Lot Layout” with additional drawn detail presumably showing concrete sidewalks (as ‘E Conc’?), applicant’s proposed driveway access points (not approved herein), and the like, along public roadway frontage of proposed plat.

Testimony/Comments: The following persons were sworn and provided testimony under oath at the open-record hearing:

1. Matthew Howie, Senior Planner, for the City of Richland; and
2. Paul Knutzen, Applicant, and Engineer of record for the project, summarized merits of application, responded to questions.

No one submitted any written comments or appeared during the public hearing to oppose the pending plat application.

II. APPLICABLE LAW.

This application for preliminary plat approval was filed and vested under City of Richland development regulations in effect in late September of 2022, when the application materials were deemed complete and public notices were issued. (*Staff Report, page 8; Ex. 4, public notice materials*). Under applicable provisions of the Richland Municipal Code (RMC), this preliminary plat¹ application is first subject to review and approval by city staff with respect to the engineering

¹ In this Decision and exhibits included in the Record, preliminary plat and preliminary subdivision mean the same thing, and use of one term should be read to apply to the other to the extent anyone views the terms to have distinct meanings, which for the purposes of this Decision, they do not.

elements of said plat, then the Hearing Examiner is responsible for conducting an open record public hearing followed by a final written Decision. A preliminary plat application is a Type III procedure. RMC 19.20.010(C)(1).

As explained in RMC 24.12.050(A), the hearing examiner shall consider any preliminary plat application and shall conduct an open record public hearing in accordance with Chapter 19.60 RMC. After the public hearing and review of materials in the record, the hearing examiner shall determine whether the preliminary plat is in accordance with the comprehensive plan and other applicable code requirements and shall either make a decision of approval or disapproval. The same provision of the city's code (RMC 24.12.050(A)) provides that any approval of the preliminary plat shall not be given by the hearing examiner without the prior review and approval of the city manager or her designee with respect to the engineering elements of said plat including the following:

1. Adequacy of proposed street, alley, right-of-way, easement, lighting, fire protection, drainage, and utility provisions;
2. Adequacy and accuracy of land survey data;
3. The submittal by the applicant of a plan for the construction of a system of street lights within the area proposed for platting, including a timetable for installation; provided, that in no event shall such a plan be approved that provides for the dedication of such a system of lighting to the city later than the occupancy of any of the dwellings within the subdivision.

The City's decision criteria for preliminary plat approval are substantially similar to state subdivision mandates found in RCW 58.17.110(2)² and reads as follows:

Richland Municipal Code 24.12.053 Preliminary plat – Required findings.

The hearing examiner shall not approve any preliminary plat application, unless the approval is accompanied by written findings that:

A. The preliminary plat conforms to the requirements of this title;

B. Appropriate provisions are made for the public health, safety and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school;

C. The public use and interest will be served by the platting of such subdivision and dedication; and

D. The application is consistent with the requirements of RMC 19.60.095 (addresses transportation concurrency considerations).

² "A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that: (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) the public use and interest will be served by the platting of such subdivision and dedication. If it finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the legislative body shall approve the proposed subdivision and dedication. []" RCW 58.17.110(2).

And RMC 19.60.095 mandates the following additional findings:

19.60.095 Required findings.

No development application for a Type II or Type III permit shall be approved by the city of Richland unless the decision to approve the permit application is supported by the following findings and conclusions:

A. The development application is consistent with the adopted comprehensive plan and meets the requirements and intent of the Richland Municipal Code.

B. Impacts of the development have been appropriately identified and mitigated under Chapter 22.09 RMC.

C. The development application is beneficial to the public health, safety and welfare and is in the public interest.

D. The development does not lower the level of service of transportation facilities below the level of service D, as identified in the comprehensive plan; provided, that if a development application is projected to decrease the level of service lower than level of service D, the development may still be approved if improvements or strategies to raise the level of service above the minimum level of service are made concurrent with development. For the purposes of this section, "concurrent with development" means that required improvements or strategies are in place at the time of occupancy of the project, or a financial commitment is in place to complete the required improvements within six years of approval of the development.

E. Any conditions attached to a project approval are as a direct result of the impacts of the development proposal and are reasonably needed to mitigate the impacts of the development proposal.

The burden of proof rests with the applicant, and any decision to approve or deny a preliminary plat must be supported by a preponderance of evidence. *RMC 19.60.060 and Hearing Examiner Rules of Procedure, Sec. 3.08.* The application must be supported by proof that it conforms to the applicable elements of the city's development regulations, comprehensive plan and that any significant adverse environmental impacts have been adequately addressed. RMC 19.60.060.

The hearing examiner's decision regarding this preliminary plat application shall be final, subject to judicial appeal in the time and manner as provided in RMC 19.70.060 and Ch. 36.70C RCW (*The city's final decision on land use application may be appealed by a party of record with standing to file a land use petition in Benton County Superior Court. Such petition must be filed within 21 days of issuance of the decision*). See RMC 24.12.050(B).

III. ISSUE PRESENTED.

Whether a preponderance of evidence demonstrates that the applicant has met its burden of proof to satisfy the criteria for preliminary plat approval?

Short Answer: Yes, subject to conditions.

Based on all the evidence, testimony, codes, policies, regulations, environmental documentation, and other information contained in the Record, the Examiner issues the following findings, conclusions and Decision approving the Wellhouse Heights II Preliminary Plat, as set forth below.

IV. FINDINGS OF FACT.

1. Any statements in previous or following sections of this document that are deemed findings are hereby adopted as such.
2. The Examiner has visited the road network and vicinity of the proposed plat on multiple occasions over the past few years in connection with other applications and re-visited the site on the day of the public hearing, so the undersigned decision maker is fully advised on matters at issue herein, including without limitation adjacent developments and land uses, applicable law, application materials, and relevant comprehensive plan provisions.
3. The Staff Report and recommendation of approval includes a number of specific findings and conditions that establish how the underlying plat application, if developed as conditioned, satisfies provisions of applicable law, is consistent with the city's Comprehensive Plan, and is designed or conditioned to comply with applicable development standards and guidelines.

Project Description.

4. The applicant, Knutzen Engineering (Paul Knutzen), seeks approval to divide a 0.43-acre site into 5 (five) residential lots. The property owners are the Bush Trustees, identified as Timothy and Kathryn Bush. (*Ex. 1, Preliminary Plat Application materials; Staff Report*).
5. Staff deemed the application materials complete for purposes of vesting on or about September 28, 2022, when they issued the first of several notices informing the public of the pending application and public hearing. (*Staff Report, page 8; Ex. 4, public hearing notices and confirmation materials*).
6. The proposed subdivision would divide the .43-acre site into 5 total lots for residential townhome buildings, to be known as the Wellhouse Heights II Preliminary Plat. (*Staff Report, page 2; Ex. 2, proposed plat showing lot lines, minimal other details*).
7. The project site is addressed as 404 Thayer Drive, in the northeast corner of Thayer Drive and Duportail Street, all on a single tax parcel, numbered 115981013704001. (*Ex. 1, Application Materials*).
8. The applicant's bare minimum of a submittal as a "Preliminary Plat" map is included in the record as *Exhibit 2*, and is republished below:



Access.

11. The Staff Report explains that access into the site will come from Thayer Drive, which is classified as a “Major Collector.” (*Staff Report, page 10*). The access roadway into the site from Thayer Drive will be a private street. (*Staff Report, page 13*).
12. The Public Works Department recommend specific Conditions of Approval addressing access for the proposed plat, including Conditions 9 and 10, which read as follows:
 9. *The existing access point off of Thayer Drive is not acceptable for this project. It shall be relocated north to provide for adequate left turn movements.*
 10. *A note will be shown on the face of the final plat stating that Duportail Street is classified as a “Minor Arterial” street. Subsequently, no driveways will be allowed directly onto it. (Staff Report, on page 17).*
13. During the public hearing, the applicant, Mr. Knutzen, explained that he would be providing more details about the project design, that the mailbox-cluster located on the Wellhouse I plat [to the east] would be used for this plat as well, and that he has concerns about the access options along Thayer Drive, where electric utility equipment is now generally located to the northwest corner of the project site along Thayer. Mr. Knutzen followed-up after the

hearing, and provided a more detailed drawing, showing the existence of sidewalks (that are already in place just after the Duportail Street system project was completed by the City), and some proposed driveway access points along Duportail and Thayer that are contrary to the Public Works Department's recommended Conditions. (*Ex. 7*).

14. The Examiner finds and concludes that the illustration provided in *Ex. 7* is not a true and correct depiction of the preliminary plat approved in this Decision. Instead, *Ex. 2*, showing little more than proposed lot lines, is the plat illustration subject to approval in this Decision, as modified by appropriate Conditions of Approval.
15. On the subject of access, the Fire Marshall observed: "We are little confused on visualizing the access..." (*Fire Marshall written comment in Ex. 5*).
16. The recommended Conditions of Approval reflect determinations made by the City's professional engineering and public works staff. The applicant did not offer a preponderance of evidence or legal authority to support modifications to the proposed access conditions for the proposed plat. The potential for additional costs associated with relocating existing utility equipment is not a valid basis to set aside sound engineering judgment and traffic safety considerations.
17. The Examiner notes that the applicant has been spared some develop costs that would have likely been incurred to construct sidewalks along the property frontage (on two sides as this is a corner lot), because sidewalks were already constructed as part of the larger Duportail corridor improvements undertaken by the City over the last few years.
18. Policy 1 of Transportation Element Goal 2 of the City's Comprehensive Plan provides that the City shall: "implement appropriate access control for arterial collectors and arterial streets" (like the segment of Duportail abutting the applicant's project) to improve safety, connectivity and operating efficiency of the transportation system.
19. Public Works staff implements this Policy through RMC 12.04.070 – captioned "Location of driveways" – which reads as follows (with emphasis added to particularly relevant provisions):

No driveway shall be so located as to create a hazard to pedestrians or motorists, or invite or compel illegal or unsafe traffic movements. Unless otherwise approved by the public works director for good cause, all driveways including any radius returns shall be confined within lines perpendicular to the curb line and passing through the property corners.

No driveway shall be located closer to the intersection of two streets than 25 feet, measured from the nearer boundary of the right-of-way of the street which intersects with the street the driveway enters to the start of the radius of the curb on the street side for the driveway.

If a driveway would impede the flow of traffic at an intersection, the public works director may restrict the direction of traffic movement to and from the driveway.

There shall be not more than two driveways on one street for any one ownership except as provided in RMC 12.04.130. [*but minimum spacing of any additional driveways must be 300 feet]. The public works director may require common access points for separate ownership if, in the opinion of the public

works director, separate access for each ownership onto the street will jeopardize motorists and pedestrians or impede the flow of traffic on the street.

20. The applicant did not provide sufficient evidence or legal authority to rebut the Public Works Department determination that access onto Duportail should be prohibited, and that the proposed Thayer access point should be relocated north to provide for adequate left turn movements. Accordingly, the recommended Conditions regarding access to the applicant's project are accepted by the Examiner and implemented as Conditions of Approval for this preliminary plat.

New residential streets must include curbs, gutters and sidewalks.

21. The same applicant team was involved in the first Wellhouse Heights plat application process in 2021, which resulted in approval. That project is now under different ownership, just to the east of this Wellhouse II proposal. (*Testimony of Mr. Knutzen*). The first project involved similar circumstances, where sidewalks and other required improvements were not clearly depicted on proposed plat drawings, so language from the first Wellhouse Heights Decision is applicable to this smaller project as well and is repeated in the following findings.
22. RMC 12.10.035, captioned "Sidewalks for new or improved streets", provides as follows: "*Whenever any street is constructed or improved in any area of the city zoned residential or commercial, whether such construction be by local improvement or otherwise, as a part of such construction or improvement there shall be included therein, on both sides of any such street that may abut on previously developed property, sidewalks, curbs, and gutters constructed in conformity with requirements of this chapter*" [...]. The pending application is for a property located in a residential zone. It does not involve any site challenges or other compelling reason that would justify a deviation from such requirements.
23. Consistent with other plats approved in the City of Richland, without a formal Deviation request, neither staff or the Examiner has authority to approve any plat that does not comply with otherwise applicable development regulations for proposed new subdivisions, including without limitation those found in RMC 12.10. (*See for example, City Council Resolutions 47-16 and 11-18, with accompanying Recommendations by the Hearing Examiner, approving Preliminary Plat applications for the Rancho del Rey 9 and Cobb Hill projects, both subject to modifications expressly recognizing sidewalk requirements on roadways serving residential developments*).
24. Further, the Examiner takes official notice of previous sworn testimony in connection with other plat applications in the city by the City's Public Works Director regarding the increased demand for pedestrian facilities presented by new residential developments, similar to the pending plat application. He explained that professional engineering studies show how pedestrians are typically willing to walk up to a 1/2 mile.
25. The Examiner notes that Washington's subdivision statute expressly mandates "*sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school...*" RCW 58.17.110(2). And, the Richland Municipal Code includes

language consistent with the state statute, at RMC 24.12.053, where it explains, among other things, that: *“The hearing examiner shall not approve any preliminary plat application, unless the approval is accompanied by written findings that: A. The preliminary plat conforms to the requirements of this title; and B. Appropriate provisions are made for the public health, safety and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school.”*

26. As the Public Works Director explained under oath at a public hearing for another plat application, the absence of sidewalks does not provide for the same degree of pedestrian safety as a route that does provide sidewalks. Even with anticipated low traffic volumes in the new plat, the Examiner finds that sidewalks are even more critical in the proposed subdivision, which is located less than a half-mile from Carmichael Middle School, and less than a mile from Richland High School, making the new homes highly desirable to families with children who might attend these schools and walk to and from the schools and surrounding ball fields and recreation spaces. In this instance, the internal roadway design is not included as part of the preliminary plat application before the Examiner. Accordingly, the final internal road (though private) must satisfy state subdivision statutes and the Public Works Director’s pedestrian safety requirements before final plat approval.
27. Unless some other adopted development standard unknown to the Examiner at the time of this Decision and not addressed in the Staff Report or application materials applies to obviate the need for sidewalks along the new internal roadway, or unless a final plat design and townhouse layout is proposed so that existing sidewalks appropriately serve and provide sufficient safety for school children and other pedestrians coming and going from the new townhomes in this proposed plat, all of the same considerations from the first Wellhouse Heights preliminary plat fully support the need for sidewalks along the proposed private roadway that will provide access in and out of the proposed Wellhouse Heights II residential development onto Thayer Drive. This will need to be confirmed at the time of final plat approval.

Zoning and development standards.

28. The Staff Report explains that the entire project site has been zoned R-3 (Multiple Family Residential), which is consistent with the high-density residential development designation assigned in the City’s Comprehensive Plan. (*Staff Report, pages 5-6*). The plat of Wellhouse Heights II proposes a net residential density of 10 dwelling units/acre, which will be sufficient to comply with applicable codes because of R-3 minimum lot size requirements (3,000 sq.ft. minimum). (*Staff Report, pages 2 and 9*).
29. The Staff Report credibly explains how the new plat is designed for development of attached single-family residences, also known as townhomes; that the entire property is zoned R-3 (Multiple-Family Residential), which allows for the project proposed herein; and that the

proposal complies with density, setback, lot size and other dimensional standards that apply to the application. (*Staff Report, page 8*).

30. *Exhibit 3* is the Environmental Checklist submitted by the applicant for project and *Exhibit 6* is the City's SEPA Determination of Non-Significance (DNS) issued on October 15, 2022. Several public agencies and city departments submitted written comments regarding the application, all of which were considered and addressed by Staff, but no one questioned or challenged the SEPA DNS issued for this project. (*Agency comments, included as part of Ex. 5*). (*See WAC 197-11-545, re: failure to provide timely comment is construed as lack of objection to environmental analysis*). With such documentation and process, the pending application satisfied applicable SEPA review requirements, and stands unchallenged for purposes of this Decision.
31. The Staff Report credibly summarizes the critical areas issues considered and reviewed as part of this application, specifically the project location completely within a Critical Aquifer Recharge Area (CARA), and notes that the application materials fulfill reporting requirements found in RMC 22.10.370. (*Staff Report, page 14*).
32. RMC 19.60.095(D) requires that new development proposals such as this shall not lower the level of service standard for transportation facilities below a level of service "D". The Staff Report implies that this standard will not be violated because the project will only add 5 new single-family lots that will be accessed from a private street off of Thayer Drive. (*Staff Report, page 13*).
33. The open-record public hearing for the application occurred on October 20, 2022, wherein the undersigned Examiner presided, and all persons wishing to provide comments were heard, providing testimony under oath. City staff and the Applicant appeared at the hearing held in Council Chambers at City Hall, with no one from the general public asking to speak, either in person or via the online hearing platform accessible as described in public notices. No one opposed this application in writing or during the public hearing. The Examiner is familiar with the site conditions and those of the surrounding area, having visited the site of the proposed project, and public roads leading to and from the vicinity of the proposed plat.

How the application, with conditions, satisfies applicable city codes and policies.

34. The Staff Report explains that City utility services, like potable water, sanitary sewer, and electricity, are readily accessible and available to serve the proposed new plat. (*Staff Report, pages 8, 9*).
35. The Staff Report, testimony at the public hearing, and written materials included in the Record, all establish that the proposed application, as conditioned, makes appropriate provisions for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe

walking conditions for students who only walk to and from school, as required in state and City subdivision codes. (See Ch. 58.17 RCW and RMC 24.12.053).

36. The Examiner notes that impact fees associated with this project are not subject to vesting, so the developer will be subject to payment of any impact fees (including without limitation impact fees for parks, transportation, schools, or other infrastructure needs authorized by state law) that may be adopted by the City after this preliminary plat approval but before building permit applications are submitted or other triggering events defined by City codes occur. (See *New Castle Invs. v. City of LaCenter*, 98 Wn. App. 224, 237-238, 989 P.2d 569 (1999)).

Compliance with city development regulations achieves consistency with the Comprehensive Plan

37. RMC 24.04.020 explains that the purpose of the City's platting and subdivision codes is "*in furtherance of the comprehensive plan of the city*" and that such regulations contained in the city's platting and subdivision codes "*are necessary for the protection and preservation of the public health, safety, morals and the general welfare, and are designed, among other things, to encourage the most appropriate use of land throughout the municipality; to lessen traffic congestion and accidents; to secure safety from fire; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to promote the coordinated development of unbuilt areas; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve and restore natural beauty and other natural resources; and to facilitate the adequate provision of transportation, water, sewerage and other public uses and requirements.*" The effect of this provision boils down to this: compliance with the City's Comprehensive Plan can be established, or at least partially established, through compliance with the city's platting and subdivision regulations found in Title 24 of the Richland Municipal Code. In this matter, substantial evidence in the record establishes compliance by the proposed plat (as conditioned herein) with the city's land platting regulations that are applicable to this project, thus implementing and complying with the City's Comprehensive Plan. (See *Staff Report, all Findings*).
38. The applicant's proposed plat, as modified by conditions of approval, merits approval.

Proposed plat will provide public benefits

39. The applicant's submittals and the Staff Report establish that some aspects of the new subdivision will provide a public benefit, including without limitation, new housing inventory to accommodate a variety of lifestyles and housing opportunities, fulfilling some of the city's goals and policies set forth in the Comprehensive Plan. (*Staff Report, pages 5-6*).

40. Except as modified in this Decision all Findings, and statements of fact contained in the Staff Report, are incorporated herein by reference as Findings of the undersigned-hearing examiner.³

A preponderance of evidence demonstrates the proposed project, as conditioned, satisfies approval criteria.

41. The record contains substantial evidence to demonstrate that, as conditioned, the proposed plat makes appropriate provisions for:
- A. The public health, safety, and general welfare: *See Staff Report, including without limitation the Analysis provided on pages 11-13, and proposed findings on pages 14-15.*
 - B. Open Spaces: *See Staff Report, pages 11-12, noting parks and open space within a mile of the project site, and discussion in item H below.*
 - C. Drainage Ways: *the project will be consistent with all applicable standards for stormwater system design, including without limitation the Department of Ecology Stormwater Management Manual for Eastern Washington. The new plat must be designed to provide on-site stormwater management and detention. Consistent with City development standards, the plat will be connected to the City's sanitary sewer system, which has capacity to serve the project. See Staff Report, page 12; Storm Water conditions of approval 20-22; Sanitary Sewer condition 19.*
 - D. Streets or roads, alleys, other public ways: *the proposed plat has been reviewed by the City for compliance with applicable street system design requirements, and, subject to compliance with specific conditions of approval, can be consistent with all applicable city standards for city roads, streets, driveways, access, circulation, payment of impact fees, transportation concurrency and the like. Staff Report, proposed findings regarding transportation issues; Conditions of approval.*
 - E. Transit stops: *To the extent transit stops are or may be located nearby to serve residents of the proposed plat, or Richland residents generally, the subdivision design, access and internal circulation patterns, as conditioned, are appropriate to allow for pedestrians and vehicles to access arterials and other routes that could direct users to existing or future transit stops and facilities. The proposed plat is within the Ben Franklin Transit service area, which provides service along Duportail Street to the south and Thayer Drive just west of the project site. Staff Report, page 12.*
 - F. Potable water supplies: *The new subdivision will receive its domestic water supply from the City of Richland. Staff confirms that adequate capacity is available within*

³ For purposes of brevity, only certain Findings from the Department's Recommendation are highlighted for discussion in this Decision, and others are summarized, but any mention or omission of particular findings should not be viewed to diminish their full meaning and effect, except as modified herein.

the city's water supply system to provide domestic water service to the new plat, with extensions into the new plat used to provide service. (Staff Report, pages 9, 12).

- G. Sanitary systems: *The City's sewer system has capacity and existing facilities adjacent to the project capable of serving the proposed plat with appropriate connections. Staff Report, at pages 9, 12; Sanitary Sewer condition 19.*
- H. Parks and recreation, playgrounds, schools: *The Staff Report explains that there are several city parks and other recreational opportunities within about one mile of the project site. See Staff Report, page 11. The plat is located in the Richland School District. The School District did not provide any comments after receiving city notice regarding the project. Staff Report, page 11.*
- I. Planning features to assure safe walking conditions for students: *See existing sidewalks fronting project site, and findings addressing internal private street design and clarifying that sidewalks are normally required for any new private roadway within the new plat.*

32. Based on all evidence, exhibits and testimony in the record, the undersigned Examiner specifically finds that the proposed plat, as conditioned below, makes appropriate provisions for the considerations detailed in applicable law, including without limitation RMC 24.12.050, .053, and 19.60.095, and that the public use and interest will be served by the proposed plat and associated dedications and improvements.

V. CONCLUSIONS OF LAW.

- 1. Based on the Findings as summarized above, the undersigned examiner concludes that the proposed plat, as conditioned below, conforms to all applicable zoning and land use requirements and appropriately mitigates adverse environmental impacts. Upon reaching such findings and conclusions as noted above, the preliminary plat meets the standards necessary to obtain approval by the City.
- 2. The conditions of approval imposed as part of this Decision are reasonable, supported by the evidence, and capable of accomplishment.
- 3. Any Finding or other statements in previous or following sections of this document that are deemed Conclusions are hereby adopted as such.

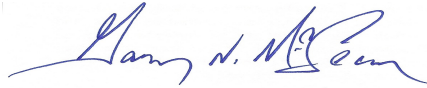
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VI. DECISION.

Based upon the preceding Findings of Fact and Conclusions of Law, evidence presented through the course of the open record hearing, all materials contained in the contents of the record, and the Examiner's previous site visits to the area, **the undersigned Examiner APPROVES the "Wellhouse Heights II" Preliminary Plat** application, subject to the following Conditions of Approval.

Decision issued: November 28, 2022.

A handwritten signature in blue ink, appearing to read "Gary N. McLean", is written over a horizontal line.

Gary N. McLean
Hearing Examiner for the City of Richland

**CONDITIONS OF APPROVAL
FOR THE
PRELIMINARY PLAT OF WELLHOUSE HEIGHTS II
FILE NO. S2022-104, EA202-128**

Conditions Added by the Hearing Examiner:

- A. Development of the plat shall be substantially consistent with drawings provided in the Preliminary Plat Survey map included as part of the application materials (*Ex. 2*), subject to modifications necessary to comply with these conditions of approval.
- B. Preliminary Plat approval shall be null and void if any condition enumerated herein is not satisfied.
- C. No construction or site development activities related to the plat may be undertaken until required city approvals become effective, and the City and other regulatory authorities with jurisdiction issue applicable permits.
- D. The applicant shall comply with all professional report conclusions and recommendations submitted in connection with the preliminary plat and engineering reviews, as approved and/or amended by the City.
- E. Applicant shall be responsible for consulting with state and federal agencies, and tribal entities with jurisdiction (if any) for applicable permit or other regulatory requirements. Approval of a preliminary plat does not limit the applicant's responsibility to obtain any required permit, license or approval from a state, federal, or other regulatory body. Any conditions of regulatory agency permits, licenses, or approvals shall be considered conditions for this project.
- F. The final engineering plans and submittals necessary to obtain final approvals for the plat shall conform to all applicable provisions of the Richland Municipal Code and the Conditions of Approval herein.
- G. The preliminary plat shall comply with all applicable provisions of the Richland Municipal Code, whether or not such provisions are enumerated or referenced in the approved preliminary plat plans, in the staff report or in this Decision. The burden is on the applicant to show compliance with applicable provisions of the City's code and these conditions at every stage of development.
- H. Because the application did not identify or request approval as a phased-project, any language addressing potential phases for this preliminary plat are moot and of no effect, whether specifically noted as such or not in any proposed condition of approval adopted as final conditions herein, as set forth below.
- I. ***Condition clarifying and confirming sidewalk requirements along new street serving this new residential plat:*** RMC 12.10.035, captioned "Sidewalks for new or improved streets," mandates construction of 'sidewalks, curbs, and gutters' on all new streets built in a residential zone. Accordingly, these conditions of approval expressly recognize and require full compliance with such mandate, and final plat illustrations must depict and provide for sidewalks and associated improvements along the new private roadway serving the new plat, subject to approval of the Public Works Director.

- J. **Impact Fees** – As summarized in the Staff Report issued for this application and explained in findings above, this project may be subject to payment of impact/mitigation fees for transportation, parks, schools, or other infrastructure needs, all in the amount, time, and manner as specified in applicable city codes and resolutions addressing such fees in effect at the time of building permit issuance.

Public Works:

General Conditions

1. All final, approved plans for public improvements shall be submitted prior to pre-con on a 24" x 36" hardcopy format and also electronically. Addendums are not allowed; all information shall be supplied in full size (and electronic) format. When construction of the public infrastructure has been substantially completed, the applicant shall provide paper and electronic record drawings in accordance with the City's "Record Drawing Requirements". The electronic record drawings shall be submitted in an AutoCAD format compatible with the City's CAD software. The final record drawings shall be submitted and approved by the City before the final punchlist inspection will be performed. All final punchlist items shall be completed or financially guaranteed prior to final platting.
2. A copy of the construction drawings shall be submitted for review to the appropriate jurisdictions by the developer and his engineer. All required comments / conditions from all appropriate reviewing jurisdictions shall be incorporated into one comprehensive set of drawings and resubmitted (if necessary) for final permit review and issuance. Any and all necessary permits that may be required by jurisdictional entities outside of the City of Richland shall be the responsibility of the developer to obtain.
3. Any work within the public right-of-way or easements or involving public infrastructure will require the applicant to obtain a right-of-way construction permit prior to beginning work, per RMC Chapter 12.08. The applicant shall pay a plan review fee based on a cost-per-sheet of engineering infrastructure plans. This public infrastructure plan review fee shall apply each time a project is submitted for review. A permit fee in the amount equal to 3% of the construction costs of the work within the right-of-way or easement will be collected at the time the construction permit is issued.
4. Public utility infrastructure located on private property will require recording of a City standard form easement prior to final acceptance of the infrastructure. The City requires preparation of the easement legal description by the developer two weeks prior to the scheduled date of final occupancy. Once received, the City will prepare the easement document and provide it to the developer. The developer shall record the easement at the Benton County Assessor and return a recorded original document to the City.
5. A pre-construction conference will be required prior to the start of any work within the public right-of-way or easement. Contact the Public Works Engineering Division at 942-7500 to schedule a pre-construction conference.
6. All plan sheets involving construction of public infrastructure shall have the stamp of a current Washington State licensed professional engineer.
7. A copy of the preliminary plat shall be supplied to the Post Office and all locations of future mailbox clusters approved prior to final platting.

Design Standards

8. Public improvement design shall follow the following general format:

- a. All materials and workmanship shall be in conformance with the latest revision of the City of Richland Standard Specifications and Details, Public Infrastructure Design Guidelines and the current edition of the State of Washington Standard Specifications for Road, Bridge, and Municipal Construction. Please confirm that you have the latest set of standard specs and details by visiting the City's web page.
- b. Fire hydrant location shall be reviewed and approved by the City Fire Marshal.
- c. All utilities shall be extended to the adjacent property (properties) at the time of construction, if necessary.
- d. Final design of the public improvements shall be approved at the time of the City's issuance of a Right-of-way Construction Permit for the proposed construction.
- e. All public improvements shall comply with the State of Washington and City of Richland requirements, standards and codes.
- f. The contractor shall be responsible for any and all public infrastructure construction deficiencies for a period of one year from the date of the letter of acceptance by the City of Richland.

Traffic and Streets

- 9. The existing access point off of Thayer Drive is not acceptable for this project. It shall be relocated further north to provide for adequate left-turn movements.
- 10. A note will be shown on the face of the final plat stating that Duportail Street is classified as a "Minor Arterial" street. Subsequently, no driveways will be allowed directly onto it.
- 11. Item 14f of the SEPA Report (Pg. 106): Reference Land Use Code 220 of the latest version of the ITE Trip Generation Manual to answer the question. As for the PM Peak traffic generation, the estimated trips are approximately 23 trips for the development. Even with the updated information, no TIA or Trip Generation Distribution Letter will be required.
- 12. Street names are not reviewed or vested until construction plans are submitted for review.
- 13. All pedestrian ramps, driveway entrances and sidewalks shall be designed to current City standard details and A.D.A. standards.
- 14. The vision-clearance triangle needs to be shown on all corner lots on both the construction plans and the final plat document, in accordance with RMC Chapter 12.11.020.
- 15. If the proposed private roadway is narrower than 34-feet it shall have parking restricted on one side, and narrower than 27-feet shall have parking restricted on both sides. Signs indicating restricted parking shall be installed prior to final platting at the developer's expense. The restricted parking areas shall be indicated on the final plat.
- 16. All roads shall be constructed to provide for adequate fire truck access & turnaround movements.

Domestic Water

17. A 10-foot-wide exclusive domestic water easement shall be provided for any water main that is outside of the public Right-of-Way.

18. The fire hydrant locations shall be approved by the City Fire Marshal.

Sanitary Sewer

19. A 10-foot-wide exclusive sanitary sewer easement shall be provided for any sewer main that is outside of the public Right-of-Way. If any manholes are located outside of the public Right-of-Way, maintenance truck access to said structure may be required.

Storm Water

20. The proposed storm drainage and grading of all areas within the proposed development shall be shown on the plans (most grading and drainage plans must be prepared by a licensed civil engineer). If site contains at least 1,000 sq.ft. of new asphalt, and/or contains 30% or more impervious surfaces, storm drainage calculations from a licensed civil engineer are required. Stormwater shall be kept on-site (on the developing property that generated it). Stormwater shall not be flowed onto adjacent properties, or to the public Right-of-Way, without first obtaining written permission.

21. The private on-site storm drainage system shall be designed following the core elements defined in the latest editions of the Stormwater Management Manual for Eastern Washington, the current Richland municipal codes, the Phase II Municipal Stormwater Permit, and the City's "Public Infrastructure Construction Plan Requirements and Design Guidelines". Calculations shall be stamped by a registered professional Civil Engineer. The applicant's design shall provide runoff protection to downstream property owners.

22. The amount of post-development storm runoff from the proposed site shall be in compliance with RMC Chapter 16.06.

Solid Waste

23. Due to limited turnaround space, these homes may need to transport their garbage cans to a location acceptable for solid waste pick-up.

Final Platting / Project Acceptance Requirements

24. When the construction is substantially complete a paper set of "record drawings" shall be prepared by a licensed surveyor and include all changes and deviations. Please reference the Public Works document "RECORD DRAWING REQUIREMENTS & PROCEDURES" for a complete description of the record drawing process. All final punchlist items shall be completed or financially guaranteed prior to recording of the final plat.

25. Public utility infrastructure located on private property will require recording of a City standard form easement prior to acceptance of the infrastructure and release of the final plat. The City requires preparation of the easement legal description by the developer two weeks prior to the scheduled date of final acceptance. Off-site ("third party") easements or right-of-ways for City infrastructure are the responsibility of the developer to obtain. Once received, the City will prepare the easement document and provide it to the developer. The

developer shall record the easement at the Benton County Assessor and return a recorded original document to the City prior to application for final occupancy.

26. Any off-site easements or permits necessary for this project shall be obtained and secured by the applicant and supplied to the City at the time of plat construction and prior to final plat acceptance by the City.

27. Ten-foot-wide public utility easements along the Duportail and Thayer right-of- ways are required on the final plat.

28. The vision-clearance triangle needs to be shown on all corner lots on the final plat document, in accordance with RMC Chapter 12.11.020. If the intersection is in a curve, it will have to be evaluated per AASHTO guidelines.

29. The final plat shall include notes identifying all common areas including the private streets and tracts and acknowledging the ownership and maintenance responsibility by the homeowners association. A note shall be added to the face of the final plat that states: "The private roads are for the use and benefit of the homeowners that abut said roads and are to be maintained by the benefitting owners. The City of Richland accepts no maintenance responsibility for these private roads".

30. A note shall be added to the face of the plat that states: "The private road within this plat is a fire lane and parking is restricted. The required no-parking signs shall be installed by the developer where applicable." Any restricted parking areas shall be indicated on the final plat.

31. All landscaped areas within the plat that are in the public Right of Way shall be the responsibility of the property owners to maintain.

32. A one-foot "No access easement" will be required along the Duportail Street Right of Way.

Buildings

33. Applicant shall provide Geotechnical Investigation Report for Wellhouse Heights II prior to the approval of the Final Plat.

Benton County Assessor's Office

34. Owners shall be listed as trustees on the plat map.

Addressing

35. Street names will be reviewed when construction drawings are submitted to the Public Works Department. When construction drawings are submitted, please include two (2) street name options for the access easement and the City will review to determine acceptable street names.

36. Addressing brackets [] are needed on all lots and tracts.

Benton Clean Air Agency

37. Benton Clean Air Agency (BCAA) requires the applicant submit a Proof of Contact: Soil Destabilization Notification for this project prior to any excavation/construction taking place. This will ensure that the proponent has the ability and resources to control fugitive dust emissions that may be created as a result of construction activities. This will also inform them of the regulations and requirements of the BCAA. Additionally, a written

dust control plan must be developed and maintained for all soil destabilization projects and must be readily available upon request by the BCAA. Part of this plan is submitting the name of at least one person for the project so that the BCAA has a point of contact should we receive any dust complaints from the project.

*** End of Conditions ***

NOTE – In the event of a need for clarification regarding the application or interpretation of any term or condition of approval set forth above, either the applicant or the city can invoke the jurisdiction of the Hearing Examiner to issue a written clarification of a particular term or condition, through a written request detailing the matter, and the basis for such request. Such request shall be made as a Request for Reconsideration, submitted within seven (7) calendar days of the date this Decision is issued.

Notice of Rights to Request Reconsideration or Appeal This Decision

Reconsideration –

Sec. 2.22(a) of the Richland Hearing Examiner Rules of Procedure reads as follows:

(a) The Hearing Examiner may reconsider a decision or recommendation on an application, if it is filed in writing within 7 calendar days of the date of issuance. Only parties of record have standing to seek reconsideration. Any request for reconsideration shall be served on all parties of record and to any party's designated representative or legal counsel on the same day as the request is delivered to the Hearing Examiner. The Examiner will seek to accept or reject any request for reconsideration within 3 business days of receipt. If the Examiner decides to reconsider a decision, the appeal period will be tolled (placed on hold) until the reconsideration process is complete and a new decision is issued. If the Examiner decides to reconsider a recommendation made to the City Council, the transmittal to the City Council shall be withheld until the reconsideration process is complete and a new recommendation is issued. If the Examiner decides to reconsider a decision or recommendation, all parties of record shall be notified. The Examiner shall set a schedule for other parties to respond in writing to the reconsideration request and shall issue a decision no later than 10 business days following the submittal of written responses. A new appeal period shall run from the date of the Hearing Examiner's Order on Reconsideration.

Appeal –

The hearing examiner's decision regarding this preliminary plat application shall be final, subject to judicial appeal in the time and manner as provided in RMC 19.70.060 and Ch. 36.70C RCW (*The city's final decision on land use application may be appealed by a party of record with standing to file a land use petition in Benton County Superior Court. Such petition must be filed within 21 days of issuance of the decision*). See RMC 24.12.050(B).

NOTE: The Notice provided on this page is only a short summary, and is not a complete explanation of fees, deadlines, and other filing requirements applicable reconsideration or appeals. Individuals should confer with advisors of their choosing and review all relevant codes, including without limitation the city code provisions referenced above and the Land Use Petition Act (Chapter 36.70C RCW) for additional information and details that may apply.