



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

**FINDINGS, CONCLUSIONS AND
RECOMMENDATION OF APPROVAL
“THE TERRACES AT QUEENSGATE SOUTH”
PRELIMINARY PLANNED UNIT DEVELOPMENT (PUD)**

FILE NUMBER: PUD2022-101

APPLICANT: AQTERA ENGINEERING, ON BEHALF OF
COLUMBIA VALLEY PROPERTY HOLDINGS, LLC

APPLICATION: PLANNED UNIT DEVELOPMENT (PUD) ON A 20.67-ACRE SITE, WITH 19 SINGLE FAMILY RESIDENTIAL LOTS, 89 LOTS FOR RESIDENTIAL TOWNHOMES, FIVE OPEN SPACE TRACTS, CONNECTIONS TO AND EXTENSIONS OF EXISTING PUBLIC STREETS, NEW INTERNAL STREETS, AND ASSOCIATED IMPROVEMENTS.

LOCATION: IMMEDIATELY EAST OF THE COUNTRY RIDGE NEIGHBORHOOD, GENERALLY LOCATED ON PROPERTY LYING WITHIN WHAT WOULD BE THE SOUTHWEST CORNER OF THE CURRENT QUEENSGATE AND KEENE ROAD INTERSECTION ALIGNMENT, SOUTH OF AND ABUTTING KEENE ROAD, NORTH OF AND ADJACENT TO SHOCKLEY ROAD.

PARCEL NUMBER: REVISED LOT 4 OF RECORD SURVEY NO. 5735, RECORDED ON NOVEMBER 15, 2022 WITH THE BENTON COUNTY AUDITOR’S OFFICE, PARCEL NO. 122983000003003* [NOTE: STAFF EXPLAINED THAT THE COUNTY ASSESSOR’S MAPS MAY NOT BE CURRENT, DUE TO BACKLOG IN UPDATING PARCEL BOUNDARIES TO REFLECT CHANGES MADE IN RECORDED INSTRUMENTS FILED IN THE LAST SEVERAL MONTHS]

REVIEW PROCESS: TYPE IIIA, PRELIMINARY PLANNED UNIT DEVELOPMENT,
HEARING EXAMINER RECOMMENDATION TO CITY COUNCIL

SUMMARY OF RECOMMENDATION: *APPROVE*, SUBJECT TO CONDITIONS

DATE OF RECOMMENDATION: FEBRUARY 14, 2022

I. CONTENTS OF RECORD.

All exhibits entered into evidence as part of the record, and an audio recording of the public hearing, are maintained by the Department, and may be examined or reviewed by contacting the City's public records officer.

Exhibits: Staff Report. City of Richland Development Services Division Staff Report and recommendation of approval to the Hearing Examiner regarding "The Terraces at Queensgate South" – Planned Unit Development, File No. PUD2022-101, dated January 9, 2022 (.pdf pages 1-28);

***NOTE:** *Staff assembled the Staff Report and all exhibits included as part of the initial Staff Report (numbered Exhibits 1-11) into a single .pdf file, with 306 pages. Additional written materials and records were submitted after the Staff Report was issued and the public hearing concluded, as authorized by the Hearing Examiner to address issues raised during the hearing. These later records are also included in the record but are not part of the same .pdf file. Exhibits 12-16 are in a second .pdf file, with just 10 pages.*

1. PUD Application Materials (.pdf pages 29-97);
2. Proposed PUD, with proposed plat maps (.pdf pages 98-102);
3. Contract No. 92-10 (.pdf pages 103-115);
4. Ordinance No. 2022-103 (.pdf pages 116-126);
5. Geotechnical Report & Soils Report (.pdf pages 127-201);
6. Landscaping Plan (.pdf pages 202-209);
7. Project Renderings (.pdf pages 210-212);
8. Traffic Impact Analysis (.pdf pages 213-247);
9. Public Notices & Affidavits (.pdf pages 248-256);
10. SEPA DNS & SEPA Checklist (.pdf pages 257-274);
11. Agency & Public Comments (.pdf pages 275-306);
12. Public Works Department memo dated Jan. 9, 2022, addressing traffic conditions and mitigation requirements;
13. Preliminary Plat site plan, sheet PP01, isolated showing only current PUD application and not other concepts for other projects that may be developed by same owner/applicant via future applications not included as part of this matter;
14. Applicant/Country Ridge HOA letter dated Jan. 9, 2022, proposing list of 4 'voluntary conditions' accepted and proposed by the applicant in return for HOA support of this pending PUD application;
15. Applicant's list of requested changes to Staff's proposed conditions of approval;

16. Staff Memo, dated Jan. 17, 2022, addressing issues raised during the public hearing and responding to the applicant's list of requested changes to proposed conditions of approval included in the Staff Report.

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

1. Mike Stevens, Planning Manager, for the City of Richland;
2. Caleb Stromstad, P.E., Applicant's project engineer and primary representative through review process;
3. Rick Simon, Applicant's land use consultant;
4. Mark Fickes, Applicant's attorney, did not provide factual testimony, but offered legal arguments and citations to relevant legal authority regarding the pending application;
5. Mike Froelich, local resident, lives in the adjacent Country Ridge neighborhood;
6. Nader Samaan, local resident, lives in the adjacent County Ridge Neighborhood on Appaloosa Way, also submitted detailed written comments included as part of Ex. 11, on .pdf pages 303-306.
7. Daniel Tissell, Assistant Engineering Manager for Kennewick Irrigation District, directed attention to KID written comments included as part of Ex. 11 on .pdf pages 285-291, requested specific easement and irrigation-related requirements as part of any PUD approval by the City.

II. APPLICABLE LAW.

Review Process. Under applicable provisions of the Richland Municipal Code (RMC), a preliminary planned unit development (PUD) application is subject to review as a Type IIIA procedure, where the Hearing Examiner is responsible for conducting an open record public hearing followed by a recommendation to the City Council. (*RMC 19.20.010(D)(2)*).

Approval Criteria for PUD. After considering Staff's recommendation and all information included in the record from the open record hearing process, the Hearing Examiner is authorized to recommend to the city council that the Preliminary PUD application be granted (with or without additional conditions) or denied. Such recommendation shall be based on the hearing examiner's determination of whether:

1. The PUD district development will be compatible with nearby developments and uses;
2. Peripheral treatment ensures proper transition between PUD uses and nearby external uses and developments;
3. The development will be consistent with the comprehensive plan and with the purpose of the PUD district; and

4. The development can be completed within a reasonable period of time. (See RMC 23.50.040(B)).

Subdivision Regulations. RMC 24.04.030, captioned “Application of regulations,” a part of the City’s subdivision code found in Title 24 RMC, expressly provides that:

The regulations contained in this title shall apply to the subdivision of any lot, parcel, or tract of land into two or more lots or tracts, or other division of land for the purpose of sale or building development, whether immediate or future, including the resubdivision or replatting of land or lots. The regulations shall apply in every situation where there is a dedication of streets, alleys, easements, or land for public use. (*emphasis added*).

Accordingly, a preliminary PUD that would divide land for the purpose of sale or building development, and/or includes a dedication of streets and other land for public use – as is the case in this PUD application – must comply with City subdivision regulations.

Preliminary PUD approval effective for one year. Following a recommendation from the Hearing Examiner, any preliminary planned unit development approval by the City Council shall be effective for one year from date of the second reading of the ordinance conditionally approving the preliminary planned unit development plan. The ordinance authorizing the planned unit development shall only confer development rights upon the applicant or his successor in interest upon submission and approval of a final development plan which shall be in substantial conformity with the preliminary planned unit development plan and must be submitted within one year of passage of the ordinance granting preliminary planned unit development. The petitioner shall submit to the administrative official for review within the provided time limit its final development plan as provided in the final approval section. The administrative official shall thereupon approve or disapprove the final development plan; provided, that such final plan shall only be disapproved if it fails to conform substantially to the plan approved by the city council, or if the final plan conflicts with RMC 23.50.070 (Changes and modifications). In the event such proposed plan is disapproved, the petitioner may, at his election, resubmit a modified final plan to the administrative official or stand upon his proposed final plan and appeal such ruling to the hearing examiner. If the hearing examiner disapproves the final development plan, that decision shall be final. (RMC 23.50.040(D)).

Burden of Proof. The burden of proof rests with the applicant, and the application must be supported by a preponderance of evidence demonstrating 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; HEx Rules of Procedure, Sec. 3.08 Re: Burden of Proof).

III. ISSUE PRESENTED.

Whether a preponderance of evidence in the record demonstrates that the applicant has met its burden to show that the pending application satisfies, or can be conditioned to satisfy, the City’s

criteria for Preliminary PUD approval, including applicable provisions found in the City's Subdivision regulations?

Short Answer: Yes.

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 Recommendation to approve the Preliminary PUD as set forth below.

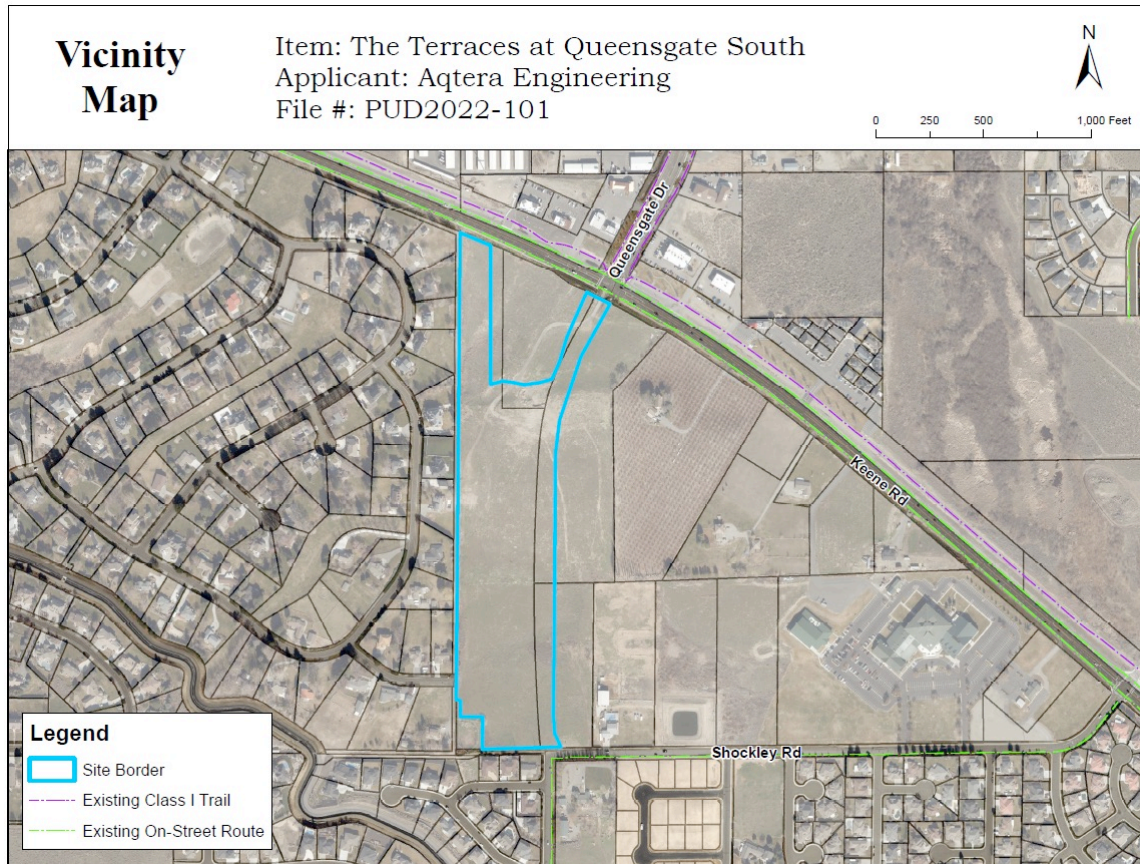
IV. FINDINGS OF FACT.

1. Any statements in previous or following sections of this document that are deemed findings are hereby adopted as such, including without limitation the project description and summary of proceedings.
2. The Staff Report and recommendation of approval includes a number of specific findings and conditions that establish how the underlying PUD application, 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.

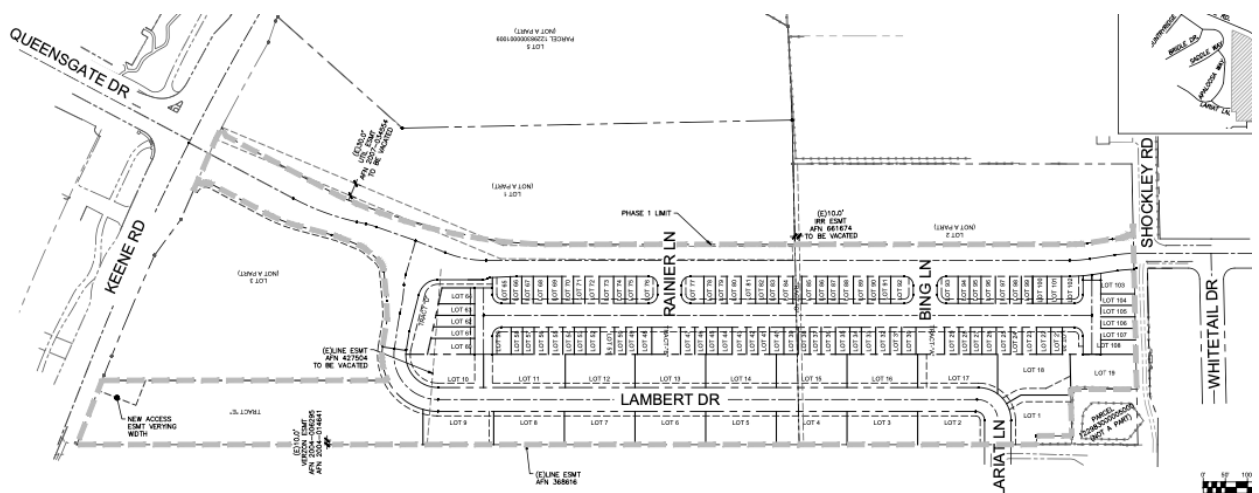
Background and Project Description.

3. As explained in the application materials, at some point in 2010, a group of property owners approached the City to amend certain Comprehensive Plan provisions that apply to the property addressed in this current matter, as well as adjacent properties not involved in this application. Objections to the previous property owners' proposal from the adjacent landowners in the Country Ridge neighborhood resulted in the City entering into a development agreement with the landowners, identified as Richland Contract No. 92-10. (Ex. 3). Over time, ownership of the property changed. Columbia Valley Property Holdings, LLC is the current owner and applicant in this matter.
4. Last year, the applicant/owner asked the City to amend several provisions in the 2010 Development Agreement known as Contract 92-10, with the support of the Country Ridge Homeowner's Association. (Ex. 4; Staff Report, page 9). The City Council approved amendments to Contract 92-10 through passage of Ordinance No. 2022-03. (Ex. 4).
5. There is no dispute that the terms of the Development Agreement, as amended by Ord. No. 2022-03, control how property covered by such agreement can be developed.
6. The amended Development Agreement provisions that cover the property addressed in this application generally allow for low density residential uses along the west, where the property abuts the Country Ridge neighborhood, and medium density residential uses moving east, further away from Country Ridge.

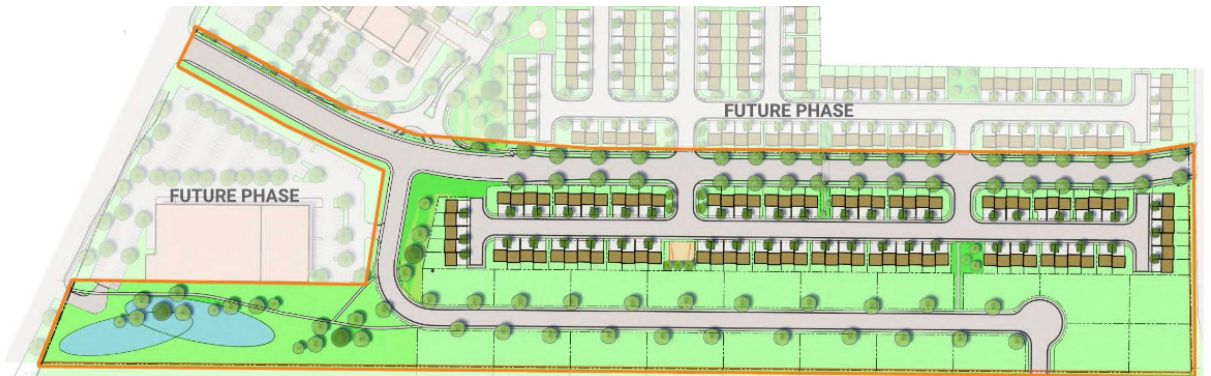
7. In mid-December of last year, Aqtera Engineering, on behalf of the current property owner (Columbia Valley Property Holdings, LLC), submitted the application addressed in this Recommendation, seeking approval of a Planned Unit Development (PUD)/Preliminary Plat known as The Terraces at Queensgate South. (*Ex. 1, application materials; Staff Report, page 6*).
8. The applicant's proposed PUD is situated on a 20.67-acre site, designed to include 19 single family residential lots on portions of the property closest to Country Ridge, 89 lots for residential townhomes located downhill and further east, five open space tracts, connections to and extensions of existing public streets, new internal streets, and associated improvements. (*Ex. 1, application materials; Ex. 2, proposed PUD/Plat site plans*).
9. The project site is immediately east of the Country Ridge neighborhood, generally located on property lying within what would be the southwest corner of the current Queensgate and Keene Road intersection alignment, south of and abutting Keene Road, north of and adjacent to Shockley Road. The PUD is located in Revised Lot 4 of a recent Boundary Line Adjustment, Record Survey No. 5735, recorded on November 15, 2022 with the Benton County Auditor's Office, Parcel No. 122983000003003. [*NOTE: Staff explained that the County Assessor's maps may not be current, due to backlog in updating parcel boundaries to reflect changes made in recorded instruments filed in the last several months*].
10. The property covered by the pending PUD application is outlined in blue on the following aerial photo provided on page 2 of the Staff Report:



11. The configuration of lots proposed for the PUD/Preliminary Plat are shown in the following screen shot from a part of *Exhibit 13*:



12. A screenshot from a portion of the Landscape Plan included as part of the application materials, on .pdf page 203, is provided below:



13. This application and Recommendation **does not include** any portions of property discussed in the application materials or drawings as “Future Phases”. Much of the written public comment materials address future commercial development that may occur on other property owned by the same applicant, but this application and Recommendation are expressly limited to the residential PUD application at hand.
14. The application materials include a detailed narrative credibly explaining how the project has been designed to comply with applicable provisions of the City’s Comprehensive Plan; the amended Development Agreement that applies to the property; PUD approval criteria found in RMC 23.50.030(B); required findings for a Preliminary Plat found in RMC 24.12.053; design standards found in RMC 24.16; and other findings required for applications of this type. (*Ex. 1, application materials, section captioned “Narrative Response”, with discussion on how The Terraces at Queensgate South project meets applicable review criteria, on .pdf pages 58-76*).
15. Staff issued public notices in accord with City practices, inviting comments from relevant agencies, surrounding property owners, and interested members of the general public. (*Exhibit 9, Notices and confirmation materials; Staff Report, pages 6 and 7*).
16. The City received 10 written comments from the general public and government agencies before the Staff Report was issued. (*Staff Report, page 7; Ex. 11, copies of all written comments*).

Public Hearing testimony, discussion of main comments.

17. The open-record public hearing for the application occurred on January 9, 2023, where the undersigned Examiner presided, and all persons wishing to provide comments were heard, providing testimony under oath. City staff, Applicant representatives and interested citizens appeared at the hearing or submitted written comments regarding the proposed PUD. The Examiner visited the site of the proposed project, and public roads leading to and from the vicinity of the proposed plat, multiple times over recent years in connection with other

development applications in the area and conducted a follow-up site visit after the hearing to evaluate specific comments from neighboring residents.

18. At the hearing, Mr. Stevens summarized his Staff Report and recommendation of approval for the proposed PUD.
19. The applicant's project engineer, Mr. Stromstad, submitted a new Exhibit, numbered 14, at the hearing, which is a letter-agreement between the applicant and the Country Ridge Homeowners' Association, listing 4 (four) "Voluntary Conditions" intended to address concerns raised by some Country Ridge homeowners. Those conditions would require a 6-foot masonry wall one foot east of the staked boundary line on the project's west side, where it abuts homes in the Country Ridge neighborhood; limit homes built on the western boundary of the project site to one-story ramblers; require the developer to stub a sewer line near the Lambert/Lariat connection, and if natural gas service will be part of the project, then the developer will stub a natural gas line at the same general location; and require the developer to maintain landscaping and fencing, and properly maintain the stormwater pond in Tract E. (*See Ex. 14*).
20. The applicant's land use consultant, Mr. Simon, accepted most all of the analysis and recommended conditions provided in the Staff Report, noting a few requested changes addressed elsewhere in this Recommendation. Mr. Simon also summarized the basis for the applicant's request to modify setbacks to allow for narrower but wider single-family lots along the western part of the project site, so fewer lots would touch Country Ridge properties, with 9 or 10 lots instead of up to 16 lots that might result if standard R-1-12 setbacks were applied. (*Ex. 1, application materials, discussion of reasons for modified setbacks proposed in the PUD on .pdf pages 72-73*). The applicant's counsel, Mr. Fickes, requested that several recommended conditions of approval should be deleted, and some others should be amended. The Examiner held the record open to allow the applicant to propose specific language they would prefer in conditions of approval, with additional time for Staff to share their thoughts on any changes requested or proposed by the applicant. Those materials were transmitted to the Examiner in the week following the public hearing, with the applicant's requested changes now included in the record as *Exhibit 15*, and the Staff response to such requests included as *Exhibit 16*.
21. Two Country Ridge residents spoke during the public hearing, Mr. Froelich and Mr. Samaan, noting their concerns about a possible reduction in the size of any "buffer" between the Country Ridge neighborhood and future commercial uses on a portion of property that is NOT included as part of this project. Mr. Samaan also reiterated several points made in his written comments, included as part of Ex. 11, including without limitation the need for the project to meet applicable standards, concerns about seeing garages and cars from his property uphill from the project, general concerns that commercial development (NOT included as part of this PUD) might change the character of the area, and concerns about the height of the proposed townhomes.

22. Finally, a staff member from the Kennewick Irrigation District (KID), Mr. Tissell, spoke at the hearing, and directed attention to irrigation-related conditions of approval requested by KID, detailed in a letter included as part of Exhibit 11. Those conditions were not included in the recommended conditions provided in the Staff Report but have been added (in modified form) by the Hearing Examiner to ensure that the applicant and future property owners are aware of their obligations and requirements associated with the irrigation district.
23. The irrigation district's letter included as part of Ex. 11 appears to exceed authority granted under state law, where they imply that formal subdivision approval is required by the district. (See Ex. 11, KID letter, on pages 288-89, proposed conditions 12-16). The Examiner notes that RCW 58.17.310(2) only requires approval by an irrigation district with jurisdiction over the matter when the proposed subdivision lies "*within an irrigation district of two hundred thousand acres or more.*" The Examiner takes official notice of the Kennewick Irrigation District's online website, where it includes a page link captioned "Your District", where a dropdown option to click on "About KID" includes that following information: "*The District serves over 20,200 acres of land within a 55,000 acre boundary.*" In any event, and consistent with RCW 58.17.310(1), the proposed plat will be conditioned and designed to properly address: "*conditions for approval that the irrigation district deems to be necessary regarding the proposed division's effect upon the structural integrity, including lateral support, of the irrigation district facilities, other risk exposures, and the safety of the public and irrigation district.*" The Record does not include any reference to city codes, statutory authority, or the existence of any Interlocal Agreement or similar legal instrument that vests authority with the irrigation district to formally approve subdivisions located within the City of Richland. The District is free to impose lawful conditions on customers and private parties through contracts or agreements, but preliminary plats should not be conditioned so as to require formal District approval. The District's requested conditions 12-16 should not be included as part of the City's approval for this PUD/preliminary plat and are not included in the conditions attached to this Recommendation.
24. In the end, no one offered a preponderance of evidence through the review and public hearing process – either in writing or in testimony – that would serve as a basis to deny the requested PUD. Instead, the application materials, the Staff Report, testimony from City Staff and applicant representatives, and professional consultant reports prepared to address traffic, soils, potential cultural resources, and other aspects of the project, all provide far more than a preponderance of evidence demonstrating how the requested PUD has been designed and can be conditioned to satisfy all applicable approval criteria. With four additional conditions detailed in Exhibit 14, it appears as though the PUD will not be opposed by the Country Ridge HOA.

PUD expressly allowed for project site.

25. As explained in the Staff Report, the project site lies on land addressed by a development agreement, Contract 92-10 as amended by Ord. No. 2022-103, which envisions an eventual rezone for the site (which can be accomplished via a PUD application like the one at hand), where low density residential uses are placed along the western side, and medium density

residential is placed further east, near the center of the applicant's property. (*Exhibits 3 and 4, the original Development Agreement and the ordinance amending the agreement, where the two conditions of the agreement addressing the residential uses allowed on the property [See Sec. 10(a) and (b) of Contract 92-10] remain unchanged, re: low density residential on the west adjacent to Country Ridge, and Medium Density Residential allowed in other areas up to an average density of 10 units per acre*).

Development Standards, Modifications requested.

26. The City's R-1-12 zone is typically assigned to areas designated for Low Density Residential uses in the Comprehensive Plan, with R-2 zoning typically assigned to areas designated for Medium Density Residential uses. (*See RMC 23.18.010(A) and (C)*).
27. Without modifications, the otherwise applicable development standards for residential zones are those found in the chart provided at RMC 23.18.040.
28. The application materials and the Staff Report explain that this PUD would modify several otherwise applicable development standards to make the project more compatible with adjacent uses, to make the best use of the existing topography, and to fulfill requirements and conditions of the amended Development Agreement. (*Staff Report, discussion of development standard modifications proposed in this project on pages 4-5*).
29. For instance, the application materials include the following detailed narrative, addressing the project design in the low-density part of the project, using shallow, wider single-family residential lots in the two tiers of lots abutting the Country Ridge neighborhood:

Net density for this portion of the site is 2.6 lots/acre, falling well below the 3 unit/acre standard contained in the development agreement. Two tiers of lots, separated by Lambert Drive adhere to the two tiers of lots requirement of the agreement. Rear yards of the lots abutting the Country Ridge property boundary satisfy the required conditions. Lots meet all R-1-12 zoning standards, except for proposed front and rear front yard setbacks.

The rationale for utilizing different setbacks is based on the shallow, wide lots that form this buffer area. With lots 75 feet in depth, standard setbacks would provide for a building envelope that is only 30 feet deep. Enlarging the building envelope by reducing both the front and rear setbacks gives home builders a 45 foot deep building envelope and affords much greater flexibility to build attractive homes. (Note: the proposed setbacks are 15 foot rear yard and 15 foot front yard for living areas. Garages would still need to meet a 20 foot setback standard to allow parking in the driveway.) A reduction of 10 feet in the rear yard setback would hardly be noticeable to the adjacent Country Ridge homeowners, particularly since there is a pedestrian/equestrian easement that runs between Country Ridge and the project site. Further, a six foot tall masonry wall will be built along the entirety of the western property boundary.

The net effect is that wide and shallow lots proposed for the project mean that there are fewer lots abutting the Country Ridge neighborhood. The proposal calls for nine single family home lots along the Country Ridge border. If minimum width R-1-12 lots (minimum lot width of 90 feet) were constructed along the western property boundary,

there would be up to sixteen lots. The lesser rear yard setback is appropriately mitigated by the combination of fewer lots, the additional separation created by the pedestrian easement and the construction of a masonry wall. Finally, the larger building envelope afforded by the setback reduction will allow for greater size and flexibility in home design which would also benefit the Country Ridge neighborhood, as larger homes will ensure that homes of similar size and value can be constructed adjacent to Country Ridge. The design of the project meets the overall intent of the R-1-12 zoning and the conditions of the development agreement. *(Ex. 1, application materials, narrative explaining reasons for requesting modifications to development standards on .pdf pages 72-73).*

30. The Staff Report explains that the townhome portion of this proposed development is intended to follow the current R-2 zoning standards for one-family attached dwellings (townhomes) regarding minimum lot sizes and minimum lot width. The current R-2 minimum lot size for townhomes is N/A or no minimum square feet. The minimum lot width is also N/A; however, the applicants are proposing a minimum lot width of 25 feet. *(Staff Report, page 4).*

31. The applicants are requesting the following modifications from the following R-2 zoning standards found in the chart at RMC 23.18.040:

Front yard setback: The R-2 front yard setback for townhomes is 20 feet; however, the applicants are proposing a 12-foot setback for upper stories (while maintaining the required 20-foot setback for the garage level).

Side yard setback: The R-2 side yard setback for townhome buildings is 6 feet; however, the applicants are proposing a 5-foot setback.

Rear yard setback: The R-2 rear yard setback is 25 feet; however, the applicants are proposing a 15-foot rear yard setback.

Maximum lot coverage: The R-2 maximum lot coverage standard is 50%. The applicants are requesting a 65% lot coverage allowance.

Maximum building height: The R-2 maximum building height standard is 30 feet. The applicants are requesting a maximum building height allowance of 40 feet.

32. The requested modifications are supported by a preponderance of credible evidence, including the application project narrative, and overall project design – which reflect appropriate concern for and consideration of neighboring property owners, including additional conditions of approval developed through discussions with the Country Ridge Homeowners Association. *(See Exhibit 14).* The proposed Conditions of Approval have been revised to specifically include the modifications to regular development standards proposed as part of this PUD application, as well as those recommended by the Country Ridge HOA.

33. The Examiner finds and concludes that the proposed PUD is designed to comply with, and/or can be conditioned to satisfy, appropriate development standards for properties in the applicable zoning districts. The proposed development includes peripheral treatment

features that ensure a proper transition between the proposed PUD residential uses (single family homes and residential townhomes) and nearby external uses and developments, which, as noted elsewhere, already include residential developments somewhat similar to those proposed in this application. The townhomes are to be placed downhill and further away from the existing uphill homes in the Country Ridge subdivision, with a masonry wall constructed to reduce visual, noise, and other potential impacts. Design features and conditions of approval all comprise a preponderance of evidence that demonstrates how this proposal fulfills the second PUD approval criteria, found at RMC 23.50.040(B)(2), which reads: “Peripheral treatment ensures proper transition between PUD uses and nearby external uses and developments.”

34. The Staff Report and the applicant’s detailed project narrative included in the application materials credibly summarize design considerations and proposed conditions that will ensure the proposed PUD meets relevant city development regulations and will not result in probable significant adverse impacts on surrounding properties. After issuing public notices and inviting comments in accord with applicable law, the City’s SEPA Responsible Official issued a Determination of Non-Significance (DNS) for this application on or about January 4, 2023. (*See Ex. 10, SEPA DNS issued for this project; and Staff Report, at page 7*).
35. The post-hearing materials submitted by the applicant team and the response generated by City staff (included as *Exhibits 15 and 16*) focus on a difference of opinion as to what conditions of approval should be included on parking, general off-site improvements, and possible impact fee credits, among other things. Having analyzed applicable codes and legal authority, and the evidence submitted by the parties, the following portions of this Recommendation summarize key facts and legal authority that warrant Conditions of Approval as included in the Recommendation.

Potential for Impact Fee Credits.

36. Exhibits 12, 15, and 16 show discussions and professional differences of opinion between Staff and the applicant on the subject of which road improvement conditions imposed as Conditions of Approval might qualify to provide the applicant with a “credit” for transportation impact fees that will apply to this project, which is located in the City’s “Traffic Impact Zone 1.”
37. The City’s “Road Impact Fee” (aka Traffic or Transportation Impact Fee, all of which mean the same thing) program is addressed in Title 12.03 of the Richland Municipal Code. RMC 12.03.060 addresses “Credits” and reads as follows: “*A credit, not to exceed the impact fee otherwise payable, shall be provided for the fair market value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the financing plan.*”
38. RMC 12.03.190 provides the public and project applicants with a welcome example of clarity and transparency, in the form of a Project List that specifies projects that are identified in the financing plan used to assess and spend traffic impact fees. Among the improvements

included in the traffic impact fee program for Traffic Impact Zone 1, where this project is located, are: 1. Queensgate Drive (Phase 1) – Keene Road to Shockley; and 2. Queensgate Drive/Keene Road intersection improvements. (See RMC 12.03.190(A)(1) and (2)).

39. To resolve the differences of opinion reflected in the post-hearing exhibits from the applicant and Staff, the Examiner has modified the conditions of approval to make a specific reference to relevant City code provisions that resolve the issue. In short, regardless of proposed language in any recommended condition from either the applicant or Staff, the only projects that are eligible for impact fee credits are those listed in RMC 12.03.190, and all requests for impact fee credits must be reviewed and applied based on language found in RMC 12.03.060.

On street parking should be required.

40. At the hearing, and in their post-hearing materials, the applicant asked that proposed condition no. 30 (generally requiring on-street parking) should be removed, because they designed their project to provide off-street parking spaces on proposed lots. Staff opposed such request, noting that streets are intended to provide on-street parking for residents and/or guests, and that similar on-street parking requirements are included for similar projects, like the recent Fairhaven Townhome Estates project. (See Ex. 16, post-hearing Staff memo, on page 2).
41. The Examiner agrees with Staff and finds that without adequate on-street parking incorporated as part of this project, the possibility exists that visitors or residents may park off-site in parts of the Country Ridge neighborhood street system, on holidays, Superbowl party days, or other days when future residents host get-togethers at their homes, and parking is in high demand within the new development. The Examiner respectfully declines the applicant's request to remove the on-street parking condition, so proposed Condition 30 should remain unchanged.

Conditions regarding Commercial development should be deleted.

42. Proposed conditions 50 and 51 address requirements that might apply if commercial uses were proposed as part of this project. Because there are no commercial aspects included as part of this pending application, the applicant's request, as agreed by Staff, is that conditions 50 and 51 should be deleted. Accordingly, the Examiner has marked through language in conditions 50 and 51, because they are not relevant to this application.

Cultural Resources considerations.

43. The applicant should be commended for engaging the services of qualified professionals to perform a complete onsite survey, literature review, and subsurface testing, to generate a Cultural Resources Report with its application materials. The full report was not included as a separate exhibit, based on state codes that exempt such reports from public disclosure in order to protect cultural resources and knowledge about their whereabouts from possible theft or vandalism, and the like. Staff shared relevant portions of the Report with the

Examiner to verify the results (no protected resources located on site, based on survey), and to obtain a copy of any attached Inadvertent Discovery Plan.

44. The state Department of Archaeology and Historic Preservation reviewed the report and concurred with the results – that there were no archeological resources found on the site during the survey. *(See Ex. 11, DAHP letter on .pdf page 294).*
45. DAHP explained: *“We concur with the results and recommendations made in the survey report. Specifically, as no archaeological resources were found during the survey, we do not recommend further archaeological supervision of the project. However, we ask that an Inadvertent Discovery Plan (IDP) be included as part of the construction permit.” (Ex. 11, DAHP letter on .pdf page 294).*
46. The Cultural Resources Report included an Inadvertent Discovery Plan, as Appendix B. Based on DAHP’s request, the Examiner has included the Inadvertent Discovery Plan as a new condition of approval for this project. *(See new Condition of Approval No. 80).*

SEPA Determination of Non-Significance was not rebutted.

47. Some testimony and written comments expressed concerns that views down into the development site will change, and somehow negatively impact mostly open vistas now enjoyed by adjacent property owners and residents. None of these concerns, regarding views or other potential environmental impacts, were supported by a preponderance of evidence or legal authority to show that the project will result in probable, significant environmental impacts. Thus, the DNS stands un rebutted for purposes of issuing this recommendation.
48. While the city’s code does not provide for appeals of SEPA threshold determinations to the City’s Hearing Examiner, as is the case in many Washington jurisdictions, the standards for how and when a Washington court would overturn a SEPA threshold determination, such as the DNS issued for this proposal, are worthy of consideration. To successfully overturn a SEPA DNS, a challenger must present actual evidence of probable significant adverse impacts of the Project. *Boehm v. City of Vancouver*, 111 Wn.App. 711, 718-719, 47 P.3d 137 (2002). A "clearly erroneous" standard applies when reviewing SEPA threshold determinations made by local and state governmental entities, such as the DNS issued for this project. *King Cty. v. Washington State Boundary Review Bd. for King Cty.*, 122 Wn. 2d 648, 661, 860 P.2d 1024 (1993). A challenged DNS may be reversed if, although there is evidence to support it, the reviewing authority is left with the definite and firm conviction that a mistake has been committed. *See Norway Hill Pres. & Prot. Ass 'n v. King County Council*, 87 Wn.2d 267, 274, 552 P.2d 674 (1976). In reviewing a SEPA threshold determination, a reviewing authority must first determine whether "environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA." *Sisley v. San Juan County*, 89 Wn.2d 78, 84, 569 P.2d 712 (1977) (quoting *Juanita Bay Valley Com. v. Kirkland*, 9 Wn. App. 59, 73, 510 P.2d 1140 (1973)).

49. Procedural determinations by the City's SEPA responsible official, like the SEPA DNS threshold determination made for this proposal, shall be entitled to substantial weight in any subsequent proceedings. Such deference is mandated by Washington caselaw, including *Anderson v. Pierce County*, 86 Wn. App. 290 (1997) (holding that substantial weight is accorded to agency threshold determinations), and is required by *WAC 197-11-680(3)(a)(viii)* ("Agencies shall provide that procedural determinations made by the responsible official shall be entitled to substantial weight."), which provision is adopted by reference as part of the City's municipal code. (RMC 22.09.200).

Views across a neighboring property are not protected by city codes or Washington caselaw.

50. As noted above, several local residents raised general view loss concerns, like views across the mostly vacant project site being altered by the presence of new townhomes, new garages, driveways to access such homes, and general feelings about a loss of adjacent open space. These concerns do not serve as a basis to reject the proposal. In fact, evidence in the record firmly demonstrates how alleged aesthetic and view impacts were considered and included as part of the design for the project. A masonry wall will be constructed along the portion of the project site that touches upon existing single-family lots. An attractive landscaping plan will be implemented. These features will provide an additional level of privacy and separation from the new PUD. While some neighbors will be able to see changes in their views, none will be significant, largely because the entire project has been designed to comply with applicable bulk and scale standards found in city codes, with limited modifications to make the project more compatible with adjacent properties and site-specific topographic conditions. The project opponents cannot dispute that Richland city codes do not provide protection for general views from one property onto another. Comments opposing the project or seeking major modifications based on personal view considerations were not sufficiently supported and should be rejected.
51. In Washington, a person has no property right in the view across their neighbor's land. A constitutionally protected property interest exists when a plaintiff demonstrates that he or she possesses a "legitimate claim of entitlement" under the law. *Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 577, 92 S. Ct. 2701, 33 L. Ed. 2d 548 (1972). Here, the Richland Municipal Code does not grant adjoining property owners a claim of entitlement in the protection of their views; the code does not require the city to deny a permit or other project application that might impair private views of lands beyond a landowner's property boundaries. Thus, any potential constitutional due process claims alleging view loss should fail.
52. Washington case law is very clear that there is no view protection in common law; nor are general views from a neighbor's property onto an adjoining property protected in City Codes at issue in this matter. See *Asche v. Bloomquist*, 132 Wn. App. 784, 133 P.3d 475, 2006 Wash. App. LEXIS 434 (Div. II, 2006). Simply put, project opponents do not have a common law right in a view across their neighbor's property. Any arguments based on assertions to this effect must be rejected.

53. Some comments and hearing testimony generally asserted that the new structures may be too tall or too close to their property, that new garages might be situated in a manner that can be seen from uphill backyard areas, and that the new development will somehow interfere with their preferred aesthetic and previous views out into a mostly vacant and undeveloped site. While not a perfect comparison, the Washington Supreme Court decision in *Durland v. San Juan County*, 182 Wn.2d 55, 340 P.3d 191 (2014), is persuasive authority on some issues raised in this application process. Durland argued that county building codes about the height and size of a proposed garage on a neighboring property created a property interest because they were intended to protect neighbors' views of the water. The Supreme Court rejected Durland's arguments, because the local codes did not contain mandatory language requiring the jurisdiction to consider neighbors' views of the water before issuing building permits for garage construction on nearby properties. Similarly, the neighbors in this matter directed attention to no city code provisions that would essentially serve as a basis to consider their preferred aesthetic for structures or developments that can be viewed from their house.
54. The Staff Report, testimony at the public hearing, and written materials included in the Record, all establish that the proposed application, as conditioned, satisfies all applicable PUD approval criteria.
55. Denial of the pending application – as conditioned below – would run counter to the Development Agreement provisions that apply to this project site in effect at the time a complete application for the proposed PUD was submitted. Zoning, density, environmental, transportation concurrency, utility availability, and other requirements needed for approval have all been satisfied as discussed herein and as detailed in the Staff Report.

Compliance with city development regulations achieves consistency with the Comprehensive Plan

56. RMC 23.04.020 explains that: “*The general purpose of this title [Title 23, the City’s Zoning Regulations, including PUD provisions found in RMC 23.50] is to protect and promote public health, safety, morals, and general welfare through a well considered plan for the use of land*” and that “*It implements the comprehensive plan for the city of Richland adopted by Ordinance 26-97, passed October 6, 1997. It classifies land within the city into various land use zones each with appropriate zone designations and within each zone this title limits the use of land and limits the height, size, use and location of buildings and structures, and requires space for off-street parking. The economic stability of land use areas and conservation of building values are promoted and protected thereby.*” Further, “*Its provisions are designed to provide adequate light, air and access, to secure safety from fire and other dangers and to avoid excessive concentration of population in order to lessen traffic congestion, and to facilitate adequate provisions for transportation, water, sewerage, schools, parks and other public requirements.*” (emphasis added).
57. 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 zoning regulations, which include PUD provisions, found in Title 23 of the Richland

Municipal Code – and terms of the Development Agreement that apply to this project. In this matter, substantial evidence in the record establishes compliance by the proposed PUD (as conditioned herein) with the city’s development regulations that are applicable to this project, thus implementing and complying with the City’s Comprehensive Plan. (*See Staff Report, all Findings; Development Agreement, as amended; Ex. 1, application materials, narrative discussion on .pdf pages 58-76*).

58. No one presented any credible, preponderance of evidence to rebut City staff’s determination explained in the Staff Report that the proposed PUD, with appropriate conditions, meets all applicable approval criteria.
59. The applicant’s submittals and the Staff Report establish that some aspects of the new PUD will provide a public benefit, including without limitation, new housing inventory and options fulfilling the city’s goals and policies set forth in the Comprehensive Plan, construction of new roads, peripheral treatment features including a masonry fence and attractive landscaping, and other features that will serve to promote health benefits of a walkable, appropriately connected development that enhances the general appearance and viability of the surrounding community.
60. Except as modified in this Recommendation, all Findings, and statements of fact contained in the Staff Report, are incorporated herein by reference as Findings of the undersigned-hearing examiner.¹

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

61. Based on previous findings and evidence included in the record, the Examiner finds and concludes that the applicant met its burden to produce a preponderance of evidence demonstrating that, as conditioned, the proposed PUD: 1) will be compatible with nearby developments and uses; 2) includes sufficient and appropriate peripheral treatment features, including substantial landscaping, fencing (a masonry wall, for example), and an overall project layout, that ensures proper transition between the PUD with its residential uses and nearby external uses and developments, that are mostly residential; 3) the proposal will be consistent with the applicable Development Agreement, the City’s Comprehensive Plan, and with the purpose of the PUD district; and 4) the development can be completed within a reasonable period of time (in fact, almost no one disputed this fact), thus satisfying all four approval criteria for a PUD found in RMC 23.50.040(B). (*See Staff Report, analysis and findings on pages 11-16; Ex. 1, application materials, narrative explanation of how project satisfies applicable approval criteria, .pdf pages 58-76*).

¹ For purposes of brevity, only certain Findings from the Department’s Recommendation are highlighted for discussion in this Recommendation, 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.

A preponderance of evidence demonstrates the proposed project, as conditioned, satisfies City subdivision requirements, including all approval criteria for a preliminary plat.

62. 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. *(See all Findings above; Staff Report, analysis and findings; Ex. 1, application materials, narrative explaining how project satisfies applicable approval criteria, including City subdivision regulations found in Ch. 24.12 RMC, on .pdf pages 58-76).*

V. CONCLUSIONS OF LAW.

1. Based on the Findings as summarized above, the undersigned examiner concludes that the proposed PUD, 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 PUD meets the standards necessary to obtain approval by the City Council.
2. Far more than a preponderance of un rebutted evidence in this record establishes that this Preliminary PUD has been designed, or can be conditioned, to satisfy all applicable City Subdivision Regulations found in Title 24 RMC, including all approval criteria for a preliminary plat found in RMC Chapter 24.12.
3. The proposed conditions of approval as set forth in the Staff Report and modified herein are reasonable, supported by the evidence, and capable of accomplishment.
4. Any Finding or other statements in previous or following sections of this document that are deemed Conclusions are hereby adopted as such.

VI. RECOMMENDATION.

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 site visits to the area, **the undersigned Examiner recommends that the City Council APPROVE the "The Terraces at Queensgate South" Preliminary Planned Unit Development (PUD)** application (File No. PUD2022-101) and preliminary plat, subject to the attached Conditions of Approval, which are adopted herein by reference.

Recommendation issued: February 14, 2023.



Gary N. McLean

Hearing Examiner for the City of Richland

**CONDITIONS OF APPROVAL
FOR
“THE TERRACES AT QUEENSGATE SOUTH”
PRELIMINARY PLANNED UNIT DEVELOPMENT (PUD)/PLAT
FILE No. PUD2022-101**

In accord with authority granted in the Richland Municipal Code, the hearing examiner recommends approval of the above-referenced preliminary PUD/plat application subject to conditions, modifications and restrictions set forth below, all found necessary to make the application compatible with the environment, and carry out applicable state laws and regulations, and the regulations, policies, objectives and goals of the city’s comprehensive plan, zoning code, subdivision code, the applicable Development Agreement for the project site, and other ordinances, policies and objectives of the city.

General Conditions:

- A. Development of the PUD/plat shall be substantially consistent with drawings provided in the Preliminary PUD/Plat maps included as part of the application materials (*Ex. 1*), and *Ex. 13* (Sheet PP01), subject to modifications necessary to comply with these conditions of approval.
- B. No construction or site development activities related to the PUD/plat may be undertaken until required city approvals become effective, and the City and other regulatory authorities with jurisdiction issue applicable permits.
- C. The applicant shall comply with all professional report conclusions and recommendations submitted in connection with the preliminary PUD/plat and engineering reviews, as approved and/or amended by the City.
- D. 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 PUD/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.
- E. The final engineering plans and submittals necessary to obtain final approval for the PUD/plat, shall conform to all applicable provisions of the Richland Municipal Code and the Conditions of Approval herein.
- G. **Approval of this PUD will not and does not constitute, nor does it imply any expectation of, approval of any administrative, quasi-judicial, or other permit or subsequent reviews that may be required for construction or other activities on any portion of this PUD – or for any future development proposals on adjacent properties owned by the same applicant.**
- H. The PUD/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 PUD/plat plans, in the staff report or in this Recommendation. The burden is on the applicant to show compliance with applicable provisions of the RMC at every stage of development.
- I. Preliminary PUD/Plat approval shall be null and void if any condition enumerated herein is not satisfied.

Pre-Plat Specific Conditions

1. ~~The limits (boundary) of this phase are not clearly depicted on the pre-plat map and need to be. Please provide a clear border of Phase 1.~~ Accurate boundaries for this PUD/Preliminary Plat must be depicted on final plat maps, subject to review and approval by the Planning Manager.
2. ~~The preliminary plat is not showing any phase lines. Phasing is not required but if the project is to be phased during construction, phasing lines need to be shown on the pre-plat map.~~ The project will not be developed in phases.
3. If the existing city-owned storm pond at the Southwest corner of this project phase 1 is relocated and the intent is to purchase and develop that parcel, utilities and access should be extended to its border as part of the ~~phase 1~~ improvements required for this PUD/plat.

General Conditions:

4. 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 and 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 plat.
5. 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 (e.g.: Benton County, any appropriate irrigation districts, other utilities, etc.) 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.
6. 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. Please visit the Public Works Private Development page on the City's webpage to find the current per-sheet fee. 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.
7. 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.

8. 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.
9. All plan sheets involving construction of public infrastructure shall have the stamp of a current Washington State licensed professional engineer.
10. 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:

11. 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.
 - D. The minimum centerline finish grade shall be no less than 0.30% and the maximum centerline finish grade shall be no more than 10.0% for local streets. 12% can be allowed for local streets for short distances.
 - E. The minimum centerline radius for local streets shall be 100-feet.
 - F. 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.
 - G. All public improvements shall comply with the State of Washington and City of Richland requirements, standards and codes.
 - H. 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.
12. If the project will be built in phases the applicant shall submit a comprehensive master plan for the sanitary sewer, domestic water, storm drainage, electrical, street lighting and irrigation system for the entire project prior to submitting plans for the first phase to assure constructability of the entire project. This includes the location and size of any storm retention ponds that may be required to handle runoff.
13. If the City Fire Marshal requires a secondary emergency vehicle access (SEVA), it shall be included in the construction plan set and be designed to the following standards:
 - A. 2-inches compacted gravel, minimum (temp. SEVAs only).
 - B. Permanent SEVA's shall be paved with 2-inches of asphalt, minimum.
 - C. 2% cross-slope, maximum.
 - D. 5% slope, maximum. Any access road steeper than 5% shall be paved or be approved by the Fire Marshal.

- E. Be 20-feet in width.
- F. Have radii that are accommodating with those needed for City Fire apparatus.

Secondary emergency vehicles accesses (SEVA's) shall be 20-feet wide, as noted. Longer secondary accesses can be built to 12-feet wide with the approval of the City of Richland Fire Marshal, however turn-outs are required at a spacing acceptable to the Fire Dept.

14. **SURVEY MONUMENT DESTRUCTION:**

All permanent survey monuments existing on the project site shall be protected. If any monuments are destroyed by the proposed construction the applicant shall retain a professional land surveyor to replace the monuments and file a copy of the record survey with the City.

- A. No survey monument shall be removed or destroyed (*the physical disturbance or covering of a monument such that the survey point is no longer visible or readily accessible*) before a permit is obtained from the Department of Natural Resources (DNR). (WAC 332-120-030(2) and RCW 58.09.130).
- B. Any person, corporation, association, department, or subdivision of the state, county or municipality responsible for an activity that may cause a survey monument to be removed or destroyed shall be responsible for ensuring that the original survey point is perpetuated. (WAC 332-120-030(2)).
- C. Survey monuments are those monuments marking local control points, geodetic control points, and land boundary survey corners. (WAC 332-120-030(3)).

When a monument must be removed during an activity that might disturb or destroy it, a licensed Engineer or Land Surveyor must complete, sign, seal, and then file a permit with the DNR. It shall be the responsibility of the designing Engineer to identify the affected monuments on the project plans and include a construction note directing them to the DNR permit.

Traffic & Streets:

15. A. The "Terraces at Queensgate South" preliminary PUD/plat is subject to the City's traffic impact fee program (RMC 12.03). Since this property is included within the traffic impact fee program, and since staff analysis indicates the project will create no unusual or unanticipated traffic impacts, it is exempt from the SEPA-related traffic study requirement (TIA). Payment of traffic impact fees assures that transportation concurrency requirements found in the Growth Management Act are satisfied. (See RMC 12.03.180).

B. Consistent with RMC 12.03.060, captioned "Credits", "A credit, not to exceed the impact fee otherwise payable, shall be provided for the fair market value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the financing plan."

C. The developer is entitled to receive impact fee "credits" for the value of land, improvements, or construction provided by the developer for projects listed in RMC 12.03.190, not to exceed the impact fee otherwise payable. RMC 12.03.190 specifically lists "1. Queensgate Drive (Phase 1) – Keene Road to Shockley; and 2. Queensgate Drive/Keene Road intersection improvements" on the "Project List" used to assess and spend traffic impact fees in Traffic Impact Zone 1, where this project is located. ~~the developer of this proposed project shall receive "credits" for construction of~~

~~Queensgate Drive and improvements to the Queensgate/Keene intersection as allowed under RMC 12.03.~~

16. Queensgate Drive adjacent to this ~~phase 1~~ PUD/plat boundary shall be completed to City standards at the time of development. A complete road section (including curb & gutter, street lighting & storm drainage on both sides, and sidewalk on the west side) shall be built concurrent with phase 1 from Shockley Road to the southern limits of the future roundabout at the intersection with “Lambert Drive”. As a minimum requirement Queensgate Drive shall be constructed to the City’s rural section standard from that point North to Keene Road. Queensgate Drive shall be widened to 3-lanes at the intersection with Keene Road. Alternatively, the developer may, with the approval of the Public Works Director, improve Queensgate Drive and the Keene Road / Queensgate Drive intersection to include some or all of its final design features.
17. The developer and their engineer shall ensure that appropriate right-of-way width is provided for a future roundabout on Queensgate Drive at “Lambert Drive”, and also for the street width required for the future Queensgate build-out between “Lambert Drive” and Keene Road. The final design of Queensgate Drive and the roundabout may require additional right-of-way beyond what is proposed on the preliminary plat.
18. Improvements to the traffic signal at Queensgate Drive and Keene Road shall be completed with the extension of Queensgate Drive south of Keene Road prior to final plat of phase 1. These improvements shall include necessary signal adjustments, lane configurations, and pedestrian facilities as required by the City Traffic Engineer.
19. The Queensgate Drive improvements shall be extended across the 30-foot-wide Shockley utility corridor south of this parcel boundary and be contiguous with the existing Queensgate curb & gutter. New sidewalk shall also be extended from the end of the existing sidewalk to this parcel. A driveway shall be provided to allow for access to the utility corridor that lies west of Queensgate.
20. ~~Widening of existing Queensgate Drive south of Shockley Road, as directed by the Public Works Director, shall be completed to ensure appropriate vehicle and bike lane widths and alignment of the drive lanes at the Queensgate and Shockley intersection. This may involve installation of turn lanes as required by the Public Works Director. To achieve proper lane alignment through the Queensgate Drive and Shockley Road intersection, additional widening south of Shockley Road shall be completed. Design lane alignment and taper lengths for the northbound and southbound vehicle and bicycle lanes shall be as required by the Public Works Director. Such improvements shall not exceed a distance of 500-feet south of the Shockley Road centerline.~~
21. “Lambert Drive” (an extension of Lariat Lane) shall be constructed as a city standard full-width local street from the western plat boundary to the western limits of the future roundabout at Queensgate Drive. It shall be constructed from that point as a rural section roadway to intersect with Queensgate Drive.
22. The “Lambert Drive” right-of-way can be narrowed to 54-feet and does not have to be 60-feet wide as shown on sheet PP05.
23. Per city standard details, a 5-foot-wide separated asphalt pedestrian pathway shall be provided adjacent to all rural section roadways.

24. A note will be shown on the face of the final plat stating that Queensgate Drive is classified as a “Major Collector” street. Subsequently, no driveways accessing single family lots will be allowed directly onto it.
25. The intersections with Queensgate Drive proposed for phase 1 are acceptable as shown, but any future changes will be subject to approval by the City Engineer.
26. The centerline radius of “Lambert” Drive is depicted as 47-feet (Sheet PP05 of the pre-plat). This needs correction as per Richland Municipal Code the minimum centerline radius for a local street is 100-feet. Alternatively, the applicant can construct a city standard “Local Street Right Angle Intersection” at this curve.
27. The proposed 40-foot-wide secondary emergency access (SEVA) easement between Lots 10 and 11 could be an extension of the roadway from the hammerhead turnaround to “Lambert” Drive. If the intent is for it to only be a SEVA, it can be reduced to 20-feet wide. Either way it shall be paved as it is a permanent feature.
28. Any roadways narrower than 32-feet shall have parking restricted on one side, and any roads narrower than 27-feet shall have parking restricted on both sides. Street 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 construction plans and the final plat.
29. The 40-foot road corridor width shown on the preliminary plat at both ends of “Chelan Drive” implies a single-frontage street standard. If this is to be the case then parking shall only be allowed on the side of the street opposite from the home frontage.
30. City standard local streets are intended to support on-street parking. This development will create a demand for parking off of the developed lots, which could be alleviated if adequate parking is provided for on the City streets. Because of the density of the housing units and the number of proposed driveways there is a need to design available spaces for on-street parking. Driveway spacing and widths shall be designed to allow for a minimum of one on-street vehicle parking space per every two dwelling units.
31. The developer and their engineer shall demonstrate on the construction plans that all future driveway entrances, sidewalks and pedestrian ramps will meet City and ADA requirements, and also provide adequate separation between driveways and/or pedestrian ramp transitions; provided that the Public Works Director shall have discretion and authority to adopt and implement an updated design standard, authorizing curb modifications or combining depressed driveway access points for adjacent lots without a transition up to normal sidewalk in between so as to facilitate a final design that provides an adequate number of on-street parking spaces.
32. Adequate right-of-way shall be provided at street corners to allow for at least 1-foot of ROW behind the pedestrian ramp landings. Crosswalks between pedestrian ramps shall be designed to City standards. Crosswalks at stop-controlled intersections shall have cross-slopes less than 2%. Crosswalks crossing thru-streets shall have cross-slopes less than 5%. The road profiles shall be designed to accommodate this.
33. All roads shall be constructed to provide for adequate fire truck & solid waste collection truck access & turnaround movements. The “hammerheads” at either end of “Chelan Drive” shall be constructed

to International Fire Code (IFC) requirements. This may require additional ROW or access easement to be dedicated.

34. Concrete sidewalks shall be installed around the entire perimeter of both hammerhead turnarounds.
35. Street names are not reviewed or vested until construction plans are submitted for review. The street names included on the pre-plat may not be approved or available during the construction plan review process.
36. Sidewalks & pedestrian pathways shall be installed along all public right-of-way frontages that building lots do not front on during construction of those phases (e.g., storm drainage ponds, parks, HOA tracts, etc.).
37. Show vision-clearance triangles on all corner lots on both the construction plans and 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.
38. If the project is to be constructed in phases, all dead-end streets longer than 150-feet that will be continued later need to have temporary turnarounds built at the end of them. If the temporary turnaround is not located within the final plat an easement with a 50-foot radius will be required.

Domestic Water:

39. The proposed preliminary plat is located within both the Tapteal 1 and 2 water pressure zones. The closest Tapteal 1 watermain is located in Keene Road to the North, and the closest Tapteal 2 main lies in Shockley Road to the South and Lariat Lane to the West. It shall be the responsibility of the developer to extend both water mains to and through this property to adequately serve domestic water to the correct pressure zones at the time of project construction. These water mains shall be sized to adequately supply domestic water and fire flows to the proposed developments.
40. The extension of both water pressure zones into this project will require looping. Looping of the water system provides redundancy, increases flow and helps to eliminate stagnant water.
41. In accordance with municipal code, domestic water mains shall be extended to the adjoining properties adjacent to the preliminary plat, provided they are in the correct pressure zone.
42. The developer will be required to demonstrate that all phases are capable of delivering adequate fire flows prior to construction plans being accepted for review. This may require looping of the watermain from off-site locations or oversizing of the main where needed.
43. A 10-foot-wide exclusive water easement shall be provided for any water main that is outside of the public Right-of-Way.
44. The fire hydrant layout shall be approved by the City Fire Marshal.
45. In accordance with Richland Municipal Code Chapter 18.16.080, an irrigation source and distribution system, entirely separate from the City's domestic water system, shall be provided for the residential portion of this development. Construction plans will not be accepted for review until adequate and viable proof of an irrigation source is made available by the developer. The designing Engineer shall

submit plans for the proposed irrigation system to the Irrigation District with jurisdiction over the property at the same time that they are submitted to the City for construction review. Plans shall be reviewed and accepted by said irrigation district prior to issuance of a Right-of-Way permit by the City. Easements shall be provided on the final plat for this system where needed.

Sanitary Sewer:

46. The closest sanitary sewer available for this development is located at in Keene Road to the North. It shall be the responsibility of the developer to extend a sewer main to and through this property to serve sanitary sewer to all parcels at the time of plat construction.
47. A 10-foot-wide exclusive sanitary sewer easement shall be provided for any sewer main that is outside of the public Right-of-Way. Wider easements are required for mains that are buried deeper than 10-feet. If any manholes are located outside of the public Right-of-Way, maintenance truck access to said structure may be required.
48. Sanitary sewer shall be extended to the adjoining properties adjacent to the preliminary plat.

Storm Water:

49. All construction projects that don't meet the exemption requirements outlined in Richland Municipal Code, Section 16.06 shall comply with the requirements of the Washington State Department of Ecology issued Eastern Washington NPDES Phase II Municipal Stormwater Permit. The Developer shall be responsible for compliance with the permit conditions. All construction activities subject to this title shall be required to comply with the standards and requirements set forth in the Stormwater Management Manual for Eastern Washington (SWMMEW) and prepare a Stormwater Site Plan. In addition, a Stormwater Pollution Prevention Plan (SWPPP) or submission of a completed erosivity waiver certification is required at the time of plan submittal. The City has adopted revised standards affecting the construction of new stormwater facilities in order to comply with conditions of its NPDES General Stormwater Permit program. This project, and each phase thereof, shall comply with the requirements of the City's stormwater program in place at the time each phase is engineered. The project will require detailed erosion control plans.
- ~~50. The proposed storm drainage and grading of all commercially zoned 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 commercial property that generated it). Stormwater shall not be flowed onto adjacent properties, or to the public Right of Way, without first obtaining written permission. [Deleted, because this project does not include Commercial development].~~
- ~~51. For commercially zoned properties; the on-site storm drainage systems 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. [Deleted, because this project does not include Commercial development].~~

52. All public storm drainage collection systems shall have their flow rate and storage capacity designed by a professional engineer 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". The storm water calculations shall be stamped by a professional engineer and shall include a profile of the storm system showing the hydraulic grade line. The calculations should include an accurate delineation of the contributing drainage area to accurately size the stormwater facilities. Passing the storm water downhill to an existing storm system will require an analysis of the downstream storm system to determine its capability of accepting the storm water without being overwhelmed. The applicant's design shall provide runoff protection to downstream property owners.
53. If any existing storm drainage or ground water seepage drains onto the proposed site, said storm drainage shall be considered an existing condition, and it shall be the responsibility of the property developer to design a system to contain or treat and release the off-site storm drainage.
54. If there are any natural drainage ways across the proposed pre-plat, the engineered construction plans shall address it in accordance with Richland Municipal code 24.16.170 ("Easements-watercourses").
55. Any proposed storm drainage retention facilities within the boundary of the proposed preliminary plat shall not adversely affect neighboring properties.
56. Prior to or concurrent with the submittal of the first phase the developer shall provide a Geotechnical report including the percolation rate of the soils in the area of any storm retention ponds. If the project constructs a storm retention pond, then the engineer will need to demonstrate that the pond will drain itself within 72 hours after the end of a storm event, and not have standing water in it longer than that. Engineering solutions are available for retention ponds that do not percolate within 72 hours.
57. The amount of post-development storm runoff from the proposed site shall be in compliance with RMC Chapter 16.06.
58. Stormwater collection pipes shall be extended to the adjoining properties adjacent to the plat.
59. The parcel occupied by the stormwater basin shall be identified as a separate parcel or tract on the final plat and shall be dedicated to the City stormwater utility. The design of the basin shall include access features meeting the city's needs for maintenance.
60. The developer shall consider the long-term appearance of the storm basin, particularly if it will occupy a prominent location in the development. The City's typical storm pond maintenance practices consist of semi-annual vegetation trimming and silt and debris removal. If the pond location is deemed by City staff as being in a prominent location the developer shall design and install fencing and/or landscaping to mitigate the pond's visible character for the surrounding properties. If the City requires this type of treatment to the pond site, the developer may propose landscaping treatments consistent with the development and establish maintenance responsibilities to remain with the development. These maintenance responsibilities shall be noted on the final plat. Basins designed as detention and evaporative basins need to include plantings that will

tolerate or thrive in standing water. Planting designs for areas not routinely exposed to water shall include plants that will thrive without irrigation unless the developer intends to maintain an irrigated pond site. At a minimum the landscaping plan should be consistent with the City's intended maintenance standard as described above.

61. The developer shall be responsible for landscaping the storm pond and for its maintenance and the plantings through the one-year infrastructure warranty period. At 11 months after the final acceptance date the developer shall clean the storm system and basin of all accumulated oil, sediment, and debris. After this maintenance is completed and inspected the City will begin routine maintenance of the system and basin. The developer shall replace any plantings that have failed to survive the warranty period. The developer shall also perform trimmings required to control weeds in excess of 18-inches in height for the 12-months following the date of final plat acceptance.

Final Platting Requirements:

62. 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.
63. 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 a certificate of occupancy. 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 rights-of-way 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.
64. 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.
65. Ten-foot-wide public utility easements will be required on the final plat along both sides of all rights-of-way within the proposed plat. They will also be required where the plat is adjacent to an existing right-of-way.
66. 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. This information may need to be designed by the engineer of record and supplied to the surveyor of record for inclusion into the final plat document.
67. The final plat shall include notes identifying all common areas including any private streets and tracts and acknowledging the ownership and maintenance responsibility by the homeowner's 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 owners. The City of Richland accepts no maintenance responsibility for private roads*".

68. A note shall be added to the face of the plat that states: “*The private drives within this plat are fire lanes and parking is restricted. The required no-parking signs shall be installed by the developer where applicable.*”
69. All landscaped areas within the plat that are in the public Right of Way shall be the responsibility of the homeowners to maintain.
70. A one-foot “No access / screening easement” will be required along the Queensgate Drive Right of Way.
71. The intended use and ownership of all tracts within the plat shall be noted on the final plat.
72. Property with an unpaid L.I.D. assessment towards it must be paid in full or segregated per Richland Municipal Code 3.12.095.

Planning requirements:

73. Future development phases 2 and 3 shall be removed from the phasing plan and shall be considered stand-alone projects requiring additional review and permitting from the City.

Additional Conditions added based on post-hearing submittals from the applicant and Staff (Exhibits 15 and 16):

74. Homes built within the Planned Unit Development shall meet the following minimum standards, modifying otherwise applicable development standards found in RMC 23.18.040. Except as modified in this Condition, all other development standards found in City codes for the R-1-12 (Low Density Residential) Zone shall apply to portions of the project with single-family lots, and those for the R-2 (Medium Density Residential) Zone shall apply to portions of the project with townhomes.

A. Detached single family lots:

- i) Front yard setbacks shall be 15 feet for living areas and 20 feet for the garage;
- ii) Side yard setbacks shall be 10 feet;
- iii) Rear yard setbacks shall be 15 feet;
- iv) Building setbacks from private access easements shall be 6 feet;
- v) Maximum lot coverage shall be 40%;
- vii) Maximum building height shall be 30 feet;
- viii) Maximum accessory building height shall be 16 feet;
- ix) Residences along the western boundary of the site, adjoining the Country Ridge subdivision shall be limited to one-story ramblers. (Story is defined in RMC 23.06.875. No basements, lofts or second floors of any kind including bonus rooms over the garage shall be permitted.)

B. Townhomes:

- i) Front yard setbacks shall be 20 feet at garage level and 12 feet for upper stories;
- ii) Side yard setbacks shall be 0 feet for interior units and 5 feet for end units;
- iii) Rear yard setbacks shall be 15 feet;
- iv) Maximum lot coverage shall be 65%;
- v) Maximum building height shall be 40 feet.

75. Columbia Valley Property Holdings, LLC, (hereinafter “The Developer,”) shall construct a six-foot masonry wall consistent with the Development Agreement (as Amended, see Exhibits 3 and 4 of the Staff Report), one foot east of the staked boundary line. The staked boundary line refers to the stakes placed by The Developer’s surveyor along the western boundary of the project site on September 6, 2022. Installation of said six-foot masonry wall shall be completed prior to building the residential structures along the western boundary of the PUD.

76. The Developer agrees that the single-family residences along the western boundary of the project site will be one-story ramblers. As used herein, ‘story’ is defined in RMC 23.06.875, and there shall be no basements, lofts, or second floors of any kind including over the garage bonus rooms.

77. The Developer shall stub a sewer line in the general area of the planned Lambert Dr./Lariat Ln. connection. If natural gas will be included as a part of the Project, then the Developer shall stub a natural gas line in the general area of the planned Lambert Dr./Lariat Ln. connection.

78. The Developer shall maintain the required landscaping and fencing in good condition within the PUD while the Developer owns any lots within the project site, and the stormwater pond Tract E shall be maintained in accordance with approval conditions 60 and 61 above.

Irrigation system conditions, based on those requested by the Kennewick Irrigation District.

79. A. Nothing in these Conditions grants the irrigation district any authority it does not hold in relevant statutes, including without limitation RCW 58.17.310(2) (includes language that excludes smaller irrigation districts, like KID, from those with authority to formally approve subdivisions).

B. The following irrigation system conditions shall apply to the Plat, as requested by KID (*See KID letter, included as part of Ex. 11, .pdf pages 285-291, for copy of items referenced below*):

- 1) The plat shall include the following irrigation easements consistent with KID requirements:
 - a. Dedicate to KID an irrigation easement 10 feet in width via a recorded deed to match irrigation system components, centered on an irrigation pipeline.
 - b. On all lots within the plat, dedicate to KID an irrigation easement 10 feet in width, or five (5) feet in width if adjacent to a utility easement, located along the road frontage of each lot. An irrigation easement may be included within the 'sidewalk and utility' easement if one is proposed, denoting the easement as a "Sidewalk, Utility, and Irrigation Easement."
- 2) The Applicant is required to install an irrigation system that conforms to the most recent edition of the KID Standard Specifications pursuant to Resolution 86-15-A. This includes providing distribution pipelines adequate to provide individual pressurized irrigation services to each lot within the preliminary plat. This system will be dedicated to KID upon completion, at the time of final plat.
 - a. KID Standard Specifications require a storage pond facility be constructed and sized appropriately for this plat application. Please dedicate this storage facility as a tract of land deeded to the KID. In addition, the KID Standard Specifications require a pump station facility be constructed and sized appropriately for this plat application.
 - i. The KID point of connection or irrigation water source for this development will be at the Badger East Canal, milepost 11.5 or 11.8. Please refer to the attached **Exhibit 'A'**.
 - b. **As an alternative** to a pond, pump station, and other "on-site" construction requirements per KID Standards Specifications, the Applicant and KID may mutually agree that it is in each of their best interests that other "off-site" improvements may be made to allow for the delivery of pressurized irrigation water to the plat. The other improvements would be proportionate and equal to the "on-site" requirements and may include:
 - i. Contributions made towards a regional pump facility.
 - ii. The installation of pipelines off site.
 - iii. Entering into a Voluntary Mitigation Agreement with KID.
- 3) Design of the required irrigation system must be approved by KID prior to installation. The Applicant is required to submit an irrigation plan designed by a professional engineer for review and approval by KID. The plan may be hand drawn or computer drafted. The plan shall be accurate and to a scale not to exceed one (1) inch = 50 feet. This is a vital step of the approval process. In addition to compliance with condition 2 above, the plan must ensure all reasonable measures are taken to protect any easements, rights-of-way, and facilities. Please contact Daniel Tissell at 586-6012 for more information regarding this irrigation plan.

- 4) Completion of all the facilities, consistent with an irrigation plan approved by KID, is required prior to KID signature on the final plat.
 - a. In the event any KID facilities are damaged during construction, the damage must be fully repaired to KID's then-existing standards.
 - b. For each phase of the plat, KID review and approval of construction and grading plans is required to allow KID to assure all reasonable measures to protect any easements and rights-of-way. Such review and approval will be coordinated as part of City review and the final plat approval process.
 - c. KID must inspect any new irrigation system installations or modifications. The Applicant shall contact KID to schedule an inspection at least two business days in advance of the desired inspection date.
 - d. As an alternative to immediate construction prior to approval of the final plat, the Applicant may choose to delay installation of the irrigation system by entering into a facilities installation agreement with KID. The Applicant must still provide KID with an irrigation system design that conforms to the most recent addition of the KID standard specifications. This irrigation system may be bonded and delayed up to five years. The facility installation agreement charge is \$350.00. The Applicant must establish an approved bonding mechanism with KID in an amount approved by KID.
- 5) Prior to approval of each phase, the current year's assessment must be paid. If the final plat is submitted for review after May 31st of a given year or submitted for review prior to May 31st but not submitted for final approval prior to June 15th, the next year's estimated assessment (125% of the current year's assessment) must be paid prior to plat approval.
- 6) Prior to approval of the first phase, the USBR construction loan for **all parcels** owned by the property owner within the boundaries of the KID must be paid. According to KID records, the subject property is the only property owned by the property owner at this time within KID boundaries.
 - a. The current construction loan payoff rates provided by the USBR is \$13.20/acre. The total construction loan payoff amount for this project is **\$477.18**.
- 7) The review and inspection fees in place at the time of each review request must be paid. At the time of application the review fees are as follows:
 - a. A Preliminary Plat review fee of **\$825.00** which must be paid prior to scheduling for final plat approval at a KID Board meeting for the first phase.
 - b. For each phase an inspection fee of **\$350** for the first 20 lots/tracts plus \$25 per lot/tract after 20 lots/tracts.
 - c. Final plat review fee for each phase of **\$225.00**.

- 8) Per KID Policy 4.17, "Irrigable Land Recalibration Principles," as land within the plat is subdivided or developed, KID will remove the irrigation water allocation from the impermeable surfaces, such as streets, from the plats.
- 9) In order to receive KID irrigation water delivery, a water master (or point of contact) for the subdivision must be appointed. This water master can be appointed by the Homeowners Association (or similar organization) officers or must be elected from among the property owners within the boundary of this proposed subdivision. If no HOA (or similar organization) is organized, then an election method similar to the attached document is required.
- 10) Prior to approval of each phase, an electronic file (AutoCAD 2018 format or later) and hard copy (6-mil mylar, sealed by a professional engineer) of construction as-builts must be provided to KID.
- 11) Please include the following irrigation title block on future final plats related to the proposed preliminary plat:
 - a. I HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN IS LOCATED WITHIN THE BOUNDARIES OF THE KENNEWICK IRRIGATION DISTRICT, AND THAT THE IRRIGATION EASEMENTS SHOWN ON THIS FINAL PLAT ARE ADEQUATE TO SERVE ALL LOTS SHOWN HEREON. I FURTHER CERTIFY THAT THOSE LOTS WHICH ARE ENTITLED TO IRRIGATION WATER UNDER THE OPERATING RULES AND REGULATIONS OF THE DISTRICT HAVE SATISFIED THE REQUIREMENTS OF RCW 58.17.310, AND THAT ALL ASSESSMENTS HAVE BEEN PAID THROUGH THE YEAR 20____ A.D.

Inadvertent Discovery Plan, condition requested by DAHP.

80. To ensure compliance with state laws protecting archaeological resources that might be discovered during ground disturbance work, the Developer shall comply with provisions of the Inadvertent Discovery Plan (IDP) included as Appendix B to the Cultural Resources Report prepared for this property, and adjacent property owned by the applicant, a copy of which is republished below on the following pages:

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Queensgate Mixed-Use Development Inadvertent Discovery Plan

October 22, 2021

Project Location

USGS Quadrangle: Richland, Washington 7.5'
Township: 9 N, Range: 28 E
Section: 22

Project Description

The project includes the construction of a mixed-use commercial facility on approximately 19.59 hectares (48.42 acres) of land located at the intersection of Keene Road and Queensgate Drive in Richland, Washington. Project activities including excavation and grading, as well as other general construction activities, will take place throughout the project area. The anticipated maximum depth of excavation for this project is approximately 3 meters (10 feet).

The project area is located in Benton County, Section 12 of Township 9N, Range 28E and is uniquely identified as Benton County tax lots #122983000001009, #122983000002001, #122983000002002, #122983000003002, and #122983000004000 (Figures 1 and 2).

Project Area

The Project area contains approximately 19.4 hectares (48 acres) located in Benton County, in Township 9 North, Range 28 East in Section 22 of the Richland, WA 7.5' USGS Quadrangle.

Inadvertent Discovery Plan

This inadvertent discovery plan (IDP) was prepared to support project activities described above. This plan was prepared to provide field personnel a process for the Inadvertent discovery of cultural resources and/or human remains identified during fieldwork for the project.

Recognizing Cultural Resources

A cultural resource discovery could be prehistoric or historic. Examples include the following:

- An accumulation of shell, burned rocks, or other food-related materials
- Bones or small pieces of bone
- An area of charcoal or very dark-stained soil with artifacts
- Stone tools or waste flakes (i.e. an arrowhead, or stone chips)
- Clusters of tin cans or bottles, logging or agricultural equipment that appears to be older than 50 years
- Buried railroad tracks, decking, or other industrial materials

When in doubt, assume the material is a cultural resource.

Onsite Responsibilities

STEP 1: Stop Work

If any employee, contractor, or subcontractor believes that he or she has uncovered a cultural resource at any point in the project, all work must stop immediately in the vicinity of the find. Notify the appropriate party(ies) as outlined in steps 2 through 4. The area surrounding the find must be secured using pin flags, stanchions and rope, or other appropriate delineation to provide for the security and protection of the discovery.

STEP 2: Notify the Archaeological Monitor

If there is an archaeological monitor for the project, notify that person. If there is a monitoring plan in place, the monitor will follow the procedure as described.

STEP 3: Notify the Project Manager

Notify the identified project manager of this project or other applicable contacts:

Project Manager

Caleb Stromstad, PE
Aqtera Engineering
Phone: (509) 845-0208
Email: caleb@aqtera.com

Alternate Project Contact

TBD

Project manager responsibilities include the following:

- **Protect the Find:** The project manager is responsible for ensuring that the project takes appropriate steps to protect the discovery site while all necessary assessments and notifications are completed. As stated in steps 1 and 2, all work will stop immediately in the surrounding area, and the area will be secured to protect the integrity of the resource. Vehicles, equipment, and unauthorized personnel will not be permitted to enter the area of the discovery. See the section of this plan titled "Resuming Work" for further instruction on how and when work may resume.
- **Direct Project Activities Elsewhere Onsite:** The project manager may direct project activities to continue in areas away from cultural resources for working in other areas prior to contacting the concerned parties.
- **Contact the Project Archaeologist:** If the assigned project archaeologist has not yet been contacted, the project manager must do so.

STEP 5: Notify the Professional Archaeologist

Notify the identified professional archaeologist serving as the archaeologist for this project (if a monitor is not present)

Professional Archaeologist(s)

Molly Swords, Professional Archaeologist, GRAM Northwest, LLC
1201 Jadwin Ave., Richland, WA 99352
Phone: (703) 283-5175
Email: molly.swords@gramnorthwest.com

Stacie Sexton, Professional Archaeologist, GRAM Northwest, LLC
1201 Jadwin Ave., Richland, WA 99352
Phone: (509) 713-6806
Email: stacie.sexton@gramnorthwest.com

The professional archaeologist's responsibilities include the following:

- **Identify Find:** The professional archaeologist will examine the area to determine if there is an archaeological find.
 - If it is determined not to be a cultural resource/archaeological find or human remains, work may proceed with no further delay.
 - If it is determined to be a cultural resource/archaeological find or human remains, the professional archaeologist will continue with all notifications.
- If the find may be human remains or funerary objects, the Project Archaeologist will ensure that a qualified physical anthropologist examines the find. **If the find is determined to be human remains, the procedure described in the section of this plan titled "DISCOVERY OF HUMAN REMAINS" will be followed.**
- **Notify Appropriate Parties:** If the find is determined to be a cultural resource, the professional archaeologist will notify the appropriate parties. Notifications may include the following:
 - **Agency Contact:** The professional archaeologist will contact the designated point of contact for the City of Richland.
 - **Washington Department of Archaeology (DAHP):** The professional archaeologist will contact DAHP.
 - **Tribes:** If the discovery may be of interest to Native American Tribes, the professional archaeologist, the Agency point of contact, and the DAHP will coordinate with the interested and/or affected Tribes.
- **Record the Find:** The project archaeologist will work with DAHP and the consulting parties as appropriate to determine how to record the find. Methods for recording will likely require completion of a Washington State Archaeological Site or Isolate Form.

Resuming Work

Work outside of the discovery location may continue while documentation and assessment of the cultural resources proceed. The professional archaeologist must determine the final boundaries of the discovery location.

Work may continue at the discovery location only after the process outlined in this plan is followed and the project manager, DAHP, and any affected Tribes (if applicable) determine that appropriate documentation has been completed.

Discovery of Human Remains

The inadvertent discovery of human skeletal remains on non-federal and non-Tribal land in the state of Washington is implemented under RCW 68.50.645, 27.44.055, and 68.60.055. The information below in

italics for the inadvertent discovery of human remains was obtained from the Washington State Department of Archaeology and Historic Preservation web page (<http://www.dahp.wa.gov/programs/human-remains-program/idp-language>).

In the event that human remains are encountered during field-related project activities, the following steps will be implemented.

Step 1: Stop Work Immediately

If ground disturbing activities encounter human skeletal remains during the course of data collection or construction, then all activity will cease that may cause further disturbance to those remains. The area of the find will be secured and protected from further disturbance.

(<http://www.dahp.wa.gov/programs/human-remains-program/idp-language>)

In order to secure the discovery, a temporary fencing system such as posts and rope or similar protection measures will be placed around the discovery. Work in the immediate area of the discovery will be discontinued, however; work outside the discovery area may continue.

When an inadvertent discovery is encountered, staff will take measures to avoid further disturbance of the area. Any human skeletal remains, regardless of antiquity or ethnic origin, will at all times be treated with dignity and respect. Cultural materials shall not be moved from the location of the discovery. Photographs shall not be taken of bones unless photographs are needed to assist in the determination of the remains to be human or animal.

Step 2: Notification Process

The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible. The remains will not be touched, moved, or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or nonforensic.

(<http://www.dahp.wa.gov/programs/human-remains-program/idp-language>)

In the event of the discovery of human remains, the following individuals will be contacted:

Benton County Coroner
William Leach, Coroner
7110 West Okanogan Pl. Building A, Kennewick WA 99336
Phone: (509) 736-2720
Email: william.leach@co.benton.wa.us

Benton County Sheriff
Address: 7122 West Okanogan Pl. Building B, Kennewick, WA 99336
Phone: (509) 735-6555

City of Richland Point of Contact
TBD

Step 3: Jurisdictional Authority

If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take

jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.

(<http://www.dahp.wa.gov/programs/human-remains-program/ldplanguage>)

DAHP Contact

Guy Tasa, State Physical Anthropologist

Phone: (360) 586-3534

Email: Guy.Tasa@dahp.wa.gov