

**CITY OF RICHLAND DEVELOPMENT SERVICES DIVISION
STAFF REPORT TO THE HEARING EXAMINER**

GENERAL INFORMATION:

PROPOSAL NAME:	Peach Tree Estates Rezone
LOCATION:	1251 Bermuda Road
APPLICANT:	Alex Rietmann applicant on behalf of MD&D Investments, LLC
PROPERTY OWNER:	MD&D Investments, LLC
FILE NO.:	Z2022-106
DESCRIPTION:	Request to rezone a portion of Parcel 134982000005006 from Agriculture (AG) to R-2S.
PROJECT TYPE:	Type IIIA Site-Specific Rezone
HEARING DATE:	March 23, 2023
REPORT BY:	Matthew Howie, Senior Planner
RECOMMENDED ACTION:	Approval

Vicinity Map

Item: Peach Tree Estates
Applicant: Alex Rietmann
File #: S2022-105 & Z2022-106

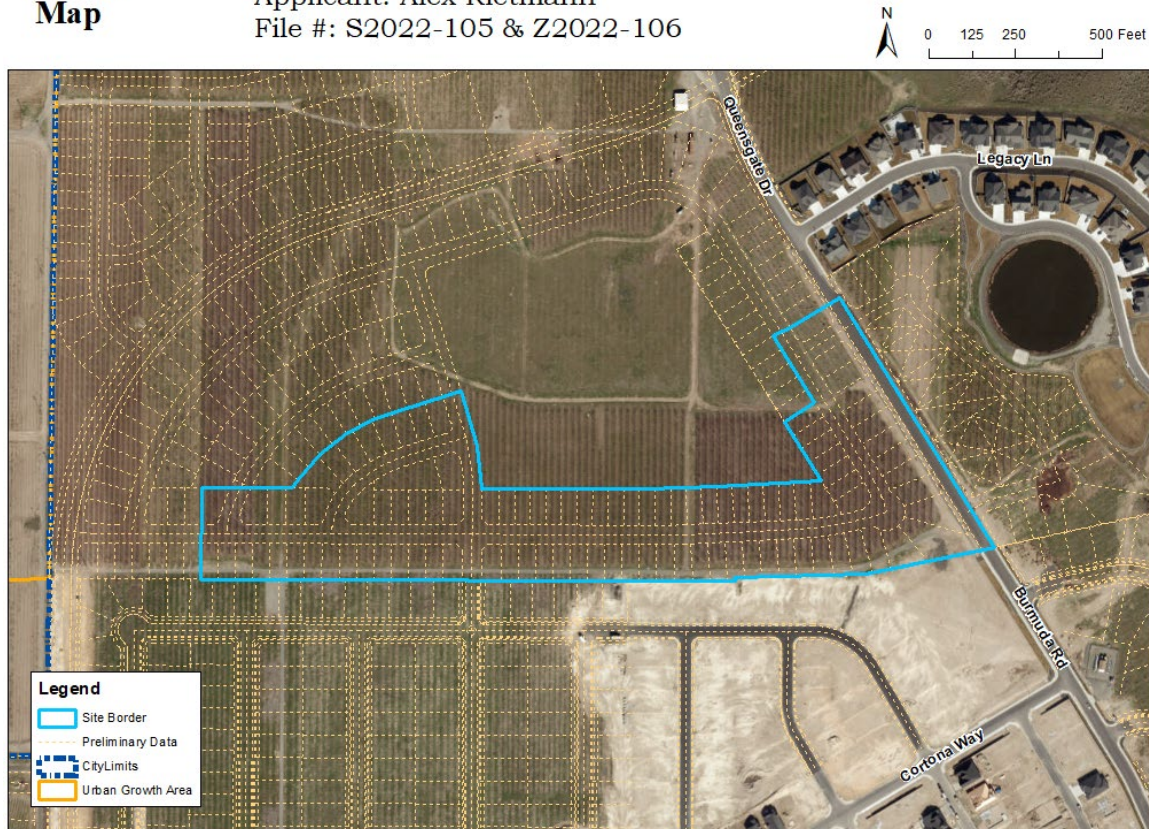


Figure 1 - Vicinity Map

DESCRIPTION OF PROPOSAL

Parallel to a Preliminary Plat Application for the development of an approximately 19.47-acre site, with one-hundred and one (101) residential townhome buildings, Alex Rietmann has submitted a Zoning Map Amendment Application on behalf of MD&D Investments, LLC (owner), petitioning to rezone a portion of one parcel from the Agriculture (AG) zoning designation to the medium density residential, small lot, (R-2S) designation. The purpose of this change is to enable residential development to proceed in agreement with the overlaying Badger Mountain South Subarea Plan Medium Density Residential (MDR) land use classification. Figure 1 (above) shows the site within its larger context.

REASON FOR REQUEST

Richland Municipal Code (RMC) Chapter 19.20.010(D)(1) 19.20.030, and 19.25.010 requires a site-specific rezone review to take place by the Hearing Examiner. See additional RMC guidance for the Hearing Examiner, below:

19.20.010 Procedures for processing development permits.

For the purpose of project permit processing, all development permit applications shall be classified as one of the following: Type I, Type II, Type III, or Type IIIA.

D. Type IIIA permits include the following types of permit applications:

1. Site-specific rezones;

19.60.060 Burden of proof.

Except for Type IV actions, the burden of proof is on the proponent. The project permit application must be supported by proof that it conforms to the applicable elements of the city's development regulations, comprehensive plan and that any significant adverse environmental impacts have been adequately addressed.

23.70.210(A) Public hearing and recommendation to council.

Reclassification. The hearing examiner shall conduct an open record public hearing as required by RMC Title 19 for a Type IIIA permit application. The recommendation shall include written findings of fact and the reasons for the hearing examiner's action; and shall refer expressly to the maps, description and other matters intended by the hearing examiner to constitute the reclassification.

Additional Considerations.

Washington Courts apply three basic rules when reviewing appeals of rezone applications: (1) there is no presumption favoring the rezone request; (2) the proponent must demonstrate that there has been a change of circumstances since the original zoning provided if a proposed rezone implements the policies of the comprehensive plan, a showing of changed circumstances is usually not required; and (3) the rezone must have a substantial relationship to the public health, safety, morals or general welfare.

For the purposes of this rezone request, the central questions presented are:

1. Whether the requested rezone implements policies of the City's Comprehensive Plan, and /or whether there has been a change of circumstances since the original C-1 (Neighborhood Retail) zoning was adopted for the site?
2. Does the rezone bear a substantial relationship to the public health, safety, morals, or general welfare?

REVIEW AUTHORITY

Richland Municipal Code (RMC) Chapter 19.20.010(D)(1) 19.20.030, and 19.25.010 requires a site-specific rezone review to take place by the Hearing Examiner.

SITE DESCRIPTION & ADJACENT LAND USES

Peach Tree Estates is comprised of one parcel totaling approximately 19.47-acres to the west of Bermuda Road and immediately southeast of Badger Mountain. The parcel is roughly in the shape of the numeral "7" with approximately 825-feet of frontage along Bermuda Road and 2,700 feet fronting the Siena Hills, Phase 3 Plat, to the south.

The site slopes down eighteen (18) feet from north to south. The area will be accessed from a primary connection to Bermuda Road to the east and secondary connection to the Siena Hills development to the south.

The northeastern boundary is approximately 220-feet from the intersection of Legacy Lane and Bermuda Road. The western boundary is roughly 2,700-feet from its closest approach to Bermuda Road. The southern boundary of the site is immediately adjacent to Siena Hills, Phase 3. The eastern boundary is immediately adjacent to Bermuda Road.

CURRENT LAND USE DESIGNATION AND USES :

North: BMS MDR (Medium Density Residential) and Civic, former orchard

East: BMS MDR (Medium Density Residential), former orchard

South: BMS MDR (Medium Density Residential), developing residential properties

West: RL-5 Farm, Benton County, Badger Mountain-proximate agriculture

BMS Land Use Map Item: Peach Tree Estates
Applicant: Alex Rietmann
File #: S2022-105 & Z2022-106

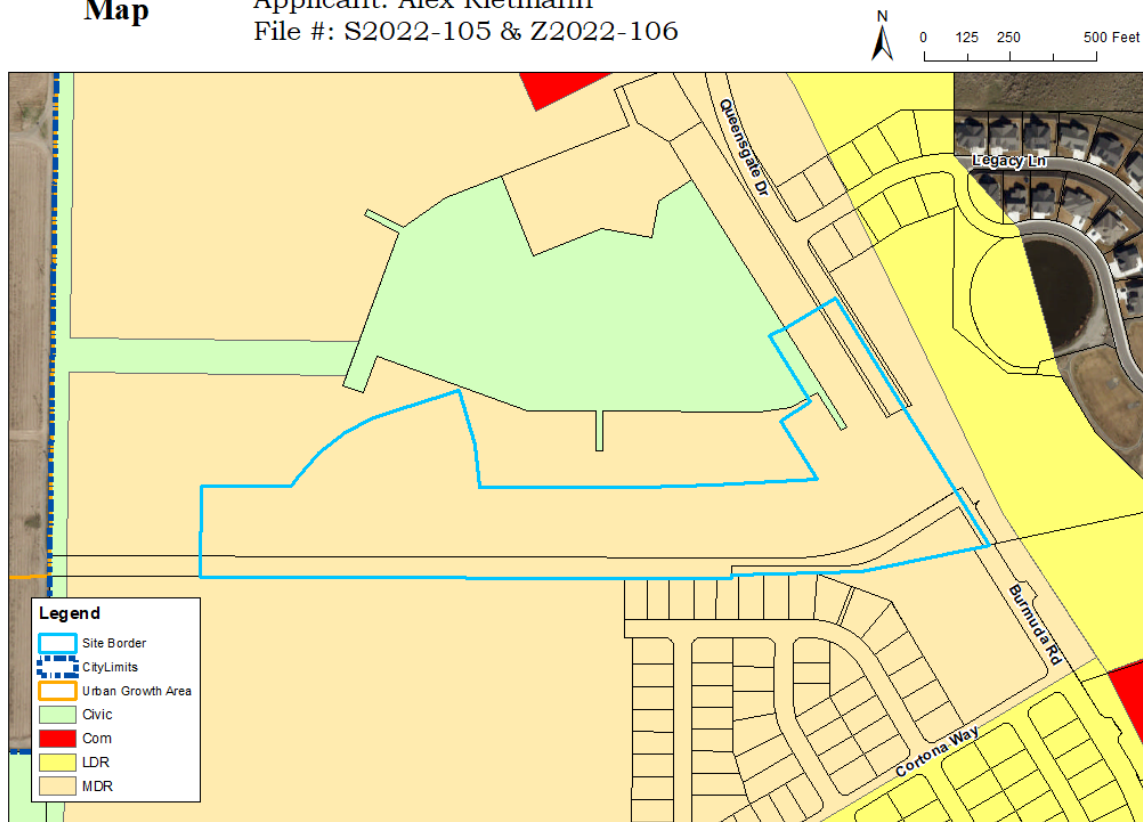


Figure 2 – Comprehensive Plan Land Use Map

COMPREHENSIVE PLAN
BADGER MOUNTAIN SOUTH SUBAREA PLAN

As illustrated in Figure 2 (above), the Comprehensive Plan Land Use designation (as established by the Badger Mountain Subarea Plan) largely designates the site for medium-density residential development. Typical City [RMC] zoning designations apply underneath BMS Subarea Plan land use designations. As illustrated in Figure 2 (above), BMS Land Use largely designates the site for medium-density residential

as a part of the Badger Mountain South MDR land use designation. Some of the area is also denoted as Civic. This Civic designation is in place for a future, proposed Richland School District elementary school location. A recent land action (BLA2022-110) has modified the original boundaries of the District's holdings to bring it in line with current development proposals (See *Exhibit 4*). *Note*, this change is not yet reflected in City land use maps. Likewise, ownership and the applicant team on this proposal have been informed by Planning staff that additional rezones and/or land actions will be required to resolve predevelopment BMS Civic and residential geometries. (See BMS Land Use Map – *Exhibit 3*.)

Applicable Goals & Policies

Provided below is a set of Comprehensive Plan goals & policies which are particularly applicable to the subject residential subdivision.

Land Use Goal 1: Plan for growth within the urban growth area and promote compatible land use.

Policy 2: Facilitate planned growth and infill developments within the City.

Land Use Goal 2: Establish land uses that are sustainable and create a livable and vibrant community.

Policy 3: Ensure that the intent of the land use and districts are maintained.

Land Use Goal 3: Maintain a broad range of residential land use designations to accommodate a variety of lifestyles and housing opportunities.

Policy 1: Distribute residential uses and densities throughout the urban growth area consistent with the City's vision.

Provided below is a set of Badger Mountain South Subarea Plan goals & policies which are particularly applicable to the subject residential subdivision.

Comprehensive Plan Land Use Goal 5. The City will encourage efficient use and location of municipal and public facilities such as transportation centers, utility facilities, schools, parks and other public uses.

BMLU Policy 5.3 – Locate school facilities using sound urban design principles and work with the school districts to identify future school sites that are walkable.

Comprehensive Plan Urban Design Goal 1. The City will create a well-planned community with an aesthetically pleasing environment.

BMUD Policy 1.3 – Support the development of the Badger Mountain South area by encouraging a development pattern that resembles traditional neighborhood design.

CURRENT ZONING

The subject site is zoned AG, Agricultural use district. Surrounding parcels are zoned as follows:

North: AG, Agricultural use district

East: AG, Agricultural use district

South: R-2, medium-density residential

West: RL-5 Farm, Benton County

Zoning Map

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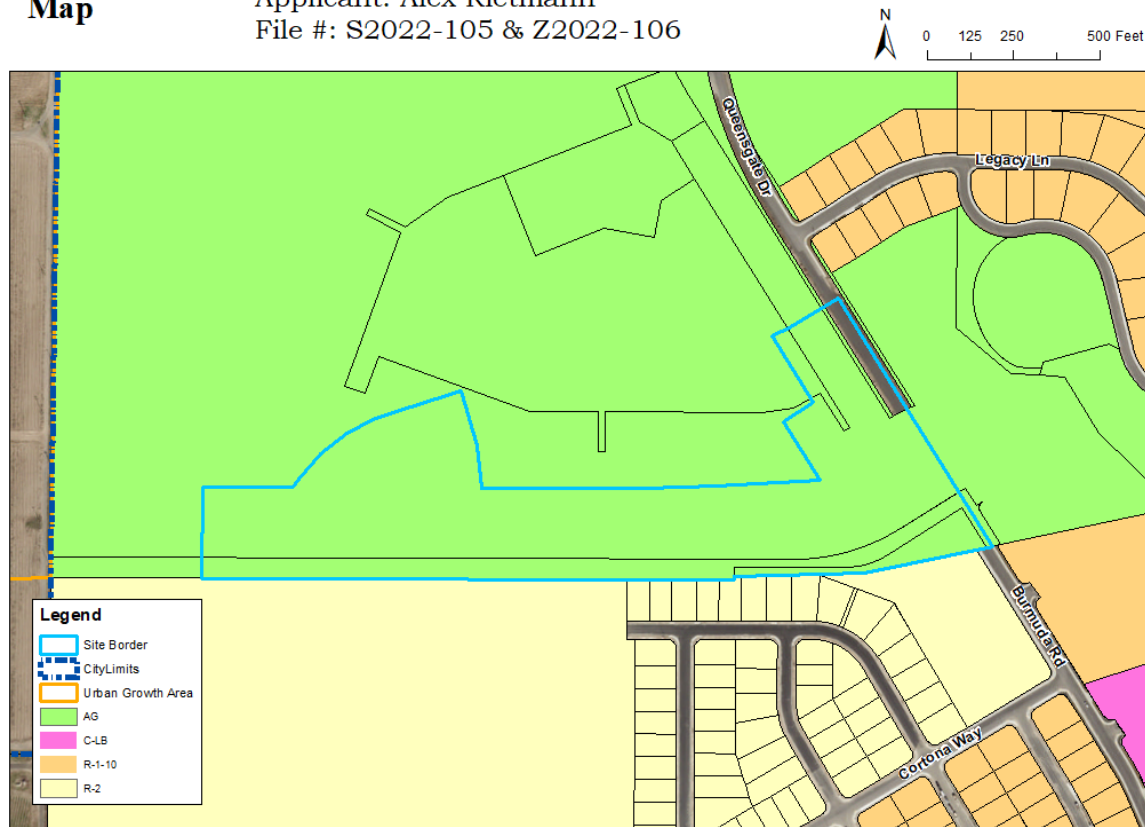


Figure 3 – Zoning Map

The Agricultural use district (AG) is a primary zone classification permitting essentially open land uses such as grazing lands or pasture, agriculture, and development of part-time small tract farming and other compatible uses of an open nature such as a cemetery, park, and recreational or similar uses on land which has favorable combinations of slope, climate, availability of water, or soil conditions. This zoning classification is intended to be applied to some portions of the city that are designated as agriculture or as urban reserve under the city of Richland comprehensive plan (RMC 23.14.010(A)).

REQUESTED ZONING

Following the applicant's request, City staff is presenting this staff report and associated application materials for a site-specific rezone of 19.47 acres.

The medium-density residential small lot (R-2S) is a residential zone classification permitting a higher density of population, encouraging small lot development conducive to energy conservation and to other factors contributing to the production of affordable housing, and including the establishment of duplex dwellings and providing for these one- and two-family residences a high degree of protection from hazards, objectionable influences, building congestion and lack of light, air and privacy. Certain essential and compatible public service facilities and institutions are

permitted in this district. This zoning classification is intended to be applied to some portions of the city that are designated medium-density residential (5.1 to 10 dwellings per acre) under the city of Richland comprehensive plan. (RMC 23.18.010(D)).

Along with R-2, R-2S is the only residential zoning suitable to effectuate the site's Medium Density Residential (MDR) BMS Land Use designation. Note, the Siena Hills plat immediately south of this site is likewise MDR and zoned R-2.

Note: RMC 23.18.020(A) refers to R-2S as a "High-Density Residential Small Lot", which is incorrect. R-2S is a medium-density residential land use designation and is described (correctly) as such in RMC 23.18.010(D). Staff acknowledges the error and will seek to amend the heading in a future Code update.

UTILITY AVAILABILITY

There are existing domestic water, sewer, storm, irrigation, natural gas, and electrical power line connections in place, available within existing rights-of-way near the site with adequate capacity to supply the proposed project.

Utilities Map

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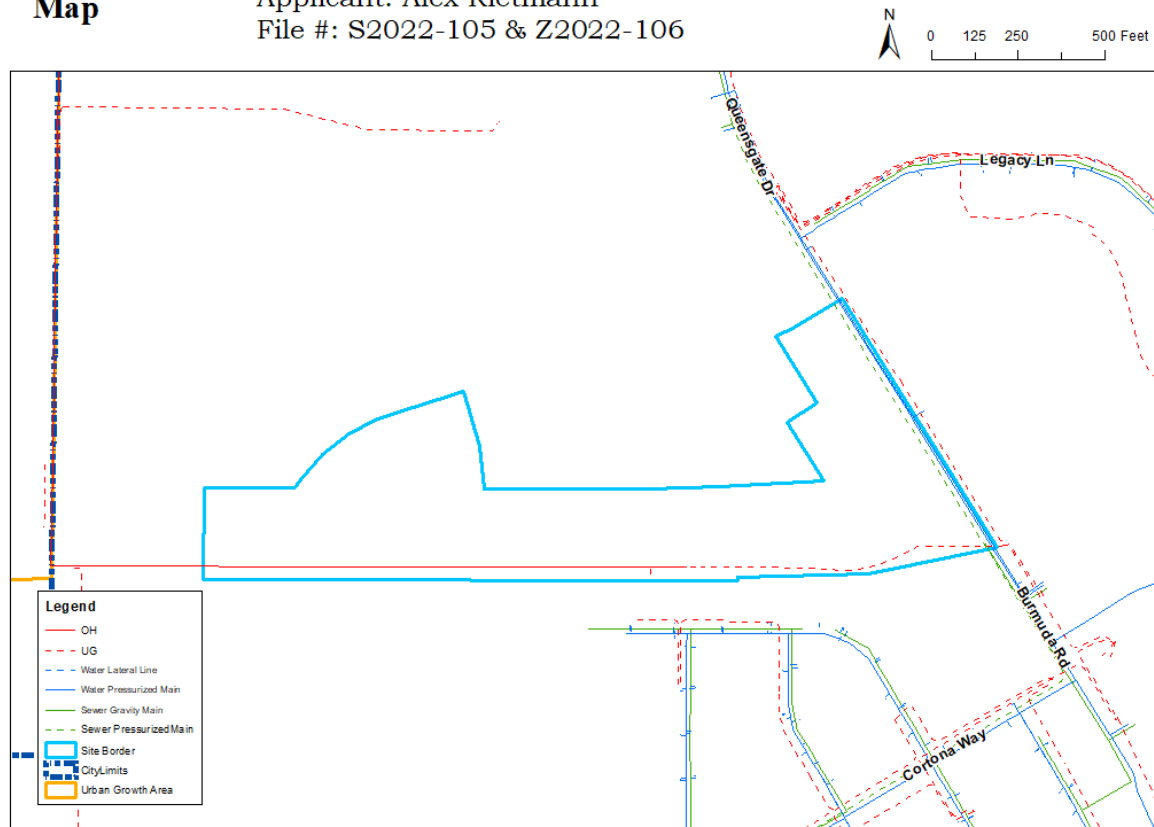


Figure 4 – Utilities Map

Sewer

There is an existing 4-inch pressurized main in the Bermuda Road right-of-way, switching to an 8-inch gravity main north of the current development initiative. Another 8-inch gravity main starts immediately to the east (within the Bermuda Road right-of-way) of the proposed site's southern border. Future connection under the secondary access to Siena Hills (to the south) will join an 8-inch gravity main within that development. This development will be a part of the basin area associated with a pump station sited in Siena Hills.

Water

There are two distribution mains within the Bermuda Road right-of-way (10-inches and 12-inches in diameter). Secondary connections will be made to the ongoing Siena Hills development to the south where an 8-inch distribution main will eventually be in place running west to east.

Power

The site has an existing overhead primary conductor running east-to-west along the southern boundary of the proposed site.

Stormwater

The City does have an existing 18-inch stormwater gravity main in the Bermuda Road right-of-way that currently terminates immediately adjacent to the southeastern corner of the proposed site, and could potentially be available for extension to the north.

Irrigation

There is an existing 26-inch distribution main (with easement) operated by the Badger Mountain Irrigation District running roughly northwest to southeast across the proposed site. A portion of the easement will be vacated during development.

TRANSPORTATION & ACCESS

Primary access into the site will come from Bermuda Road, classified by the City as a "Major Collector". Secondary access will come from a local road connection to the Siena Hills neighborhood to the south.

This area is largely characterized as single-family housing in transition from undeveloped and agricultural uses. As such, there are no significant nodes of employment or shopping amenities via suburban scale commercial, office or industrial development within close proximity. That said, the City does have a pocket of anticipated neighborhood commercial some 800-feet to the north on Bermuda Road. This area already has a Badger Mountain South Land Use designation of Commercial.

Sidewalks will be installed on local roads and along Bermuda Road. Existing trails and on-street bicycle lanes are also designated by the City. Likewise, there are ongoing efforts to improve the active transportation portfolio of the area. There are no nearby, current (nor proposed) Ben Franklin Transit bus routes.

Transportation Map

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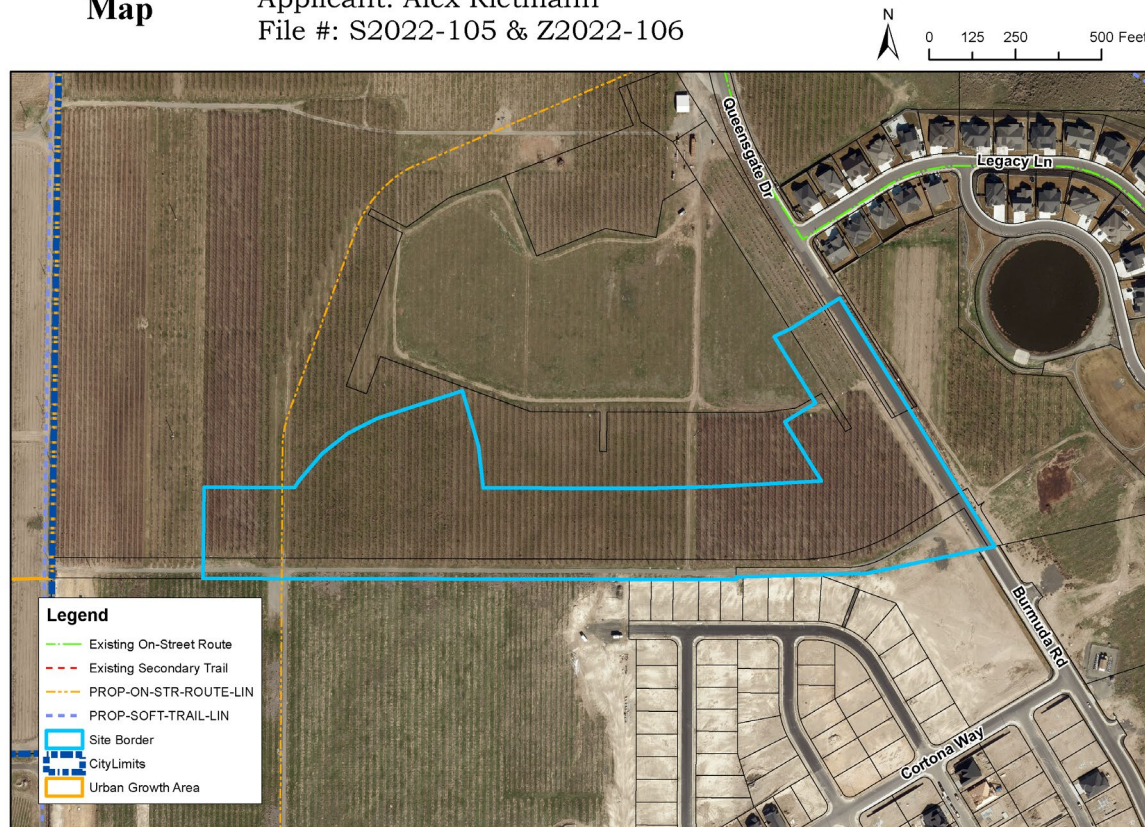


Figure 5 – Transportation Map

EASEMENTS

For a full reference of all easements encumbering the property in question review recent Boundary Line Adjustment, BLA2022-110 (*Exhibit 4*).

FIRE SAFETY

The City of Richland Fire Department will provide fire protection services to the subject property and resulting development. Currently, there are no hydrants immediately adjacent to the proposed site. One hydrant is at the southeast corner of Bermuda Road and Legacy Lane, approximately 250-feet to the north of the proposed future primary access for this development. Two hydrants are in place within Siena Hills' Lazio Way.

SCHOOLS

The plat falls within the boundaries of the Richland School District. The school district anticipates the siting of a future elementary school immediately north of this proposed phase. Recent land actions have contemporized the School District's land holdings in preparation for this and future phases of this development. Secondary education is not in the immediate vicinity of this proposed development.

SEPA

The proposal is not subject to State environmental review under the State Environmental Policy Act. Pursuant to WAC 197-11-800(6)(c) the rezone application qualifies as a categorically exempt action.

Critical Areas

The subject site does not lie within any existing, recognized Critical Area. Critical Area requirements are not applicable with this proposal.

Shoreline Master Program

The subject site lies outside of the jurisdiction of the Shoreline Master Program. This project will have no effect on shorelines of statewide significance. Shoreline permitting requirements are not applicable with this proposal.

AGENCY COMMENTS

A variety of public agencies and City departments were given an opportunity to comment on the proposal. While comments were received regarding the parallel preliminary plat proposal, no comments were received regarding this zoning action.

PUBLIC COMMENTS

Owners of all properties within 300-feet of the plat site were directly notified of the project by way of USPS mailing. As of the date of this report, city staff have received no public comments regarding this proposed zoning action.

PUBLIC NOTICE

Notice of Hearing Mailed:	February 24, 2023
Notice of Hearing Posted:	February 27, 2023
Notice of Hearing Published:	March 6, 2023
Public Hearing:	March 23, 2023

Notice of application and notice of hearing was provided through posting of the property, mailing of notice to property owners within 300 feet of the site and publication in the *Tri-City Herald* newspaper. Copies of the notices and affidavits are included in *Exhibit 5*.

ANALYSIS

Over the past twenty (20) or so years the City of Richland (with support from Benton County) has placed a high priority on development within the Badger Mountain Subarea for residential growth, alongside more limited neighborhood commercial and office space improvements. The Badger Mountain Subarea Plan (April 2010, with subsequent updates) formalized these efforts placing the 19.47 acres at question in this review under its Medium Density Residential (MDR) designation (5.1 to 10 dwellings per acre).

Along the area's eastern reaches near Bermuda Road, single-family residential development has proceeded south to north, first with the Siena Hills neighborhood and now extending to this proposal. However, before the existing MDR designation can be effectuated, the Agricultural (AG) zoning must be contemporized to match residential zoning allowed with MDR designation, either R-2 or R-2S. The Applicant

is seeking an R-2S zoning designation for the site in question. Being as this would be in agreement with the preexisting BMS Land Use demarcation, staff concurs that R-2S is appropriate for this site, in agreement with the goals and policies arrived at after the public Comprehensive and Subarea planning efforts, and by extension, bears a substantial relationship to the public health, safety, morals, or general welfare.

As stated previously, staff acknowledges (and applicant is fully aware) that additional land actions, rezones, and land use map updates will be required for development to proceed, perhaps none more immediate than updates following boundary line adjustments around the future Richland school site immediately north of this petition (*Exhibit 4* for updated boundary lines).

This requested rezone does not approve any development activity on the site. As with all development proposals, City development regulations will apply to any specific projects that may eventually be proposed on the site. Following public notices and reviews conducted in accord with City practices for all other private or public rezone applications, there is no evidence in this record that would provide a basis in fact or law to deny the pending rezone request.

Staff also want to address questions posed to Hearing Examiner under “Reason for Request”:

1. Whether the requested rezone implements policies of the City’s Comprehensive Plan, and /or whether there has been a change of circumstances since the original zoning was adopted for the site?

The site is already designated for medium-density residential [MDR] uses by the City’s Comprehensive Plan through the Badger Mountain South Subarea Plan, and the rezone request would serve to effectuate those plans. The subject property remains undeveloped. The site has been left unattended and while it is not overgrown with weeds and noxious vegetation, leaving it in a distressed/undeveloped condition is not in the public interest. The requested rezone is meant to facilitate the applicant’s plans to develop the site in a manner fully authorized by the appropriate residential zoning regulations.

2. Does the rezone bear a substantial relationship to the public health, safety, morals, or general welfare?

It appears that the proposed rezone is consistent with this criterion because the rezone is consistent with the City’s Comprehensive Plan, and any future, project-specific proposal will have to meet city development regulations, including SEPA, possible subdivision codes, traffic impact reviews, public infrastructure concurrency reviews, and payment of any impact fees in effect at the time of an application.

The Planning Department is recommending approval of this proposed zoning map amendment.

SUGGESTED FINDINGS AND CONCLUSIONS

Staff has completed its review of the request for a change in zoning (Z2021-102) and recommends approval of the request based on the following:

1. The property owner and applicant in this matter is MD&D Investments, LLC, with Alex Rietmann acting on behalf of, and, as lead contact.
2. BLA2022-110, recorded with Benton County October 14, 2022, has established the current property configuration of this proposed site (See *Exhibit 4*).
3. The application is to rezone a portion of one parcel: Benton County Assessor's Tax Parcel Number 134982000005006.
4. The lot is zoned as an Agricultural use district (AG).
5. The requested zone change is to change portions of the parcel to R-2S.
6. The subject sites and have been previously disturbed as an orchard.
7. The site is gently sloped from north to south, with elevations ten (10) to twenty (20) feet higher along northern reaches of this proposal.
8. The surrounding area is transitioning from agricultural uses to single-family residential.
9. The Badger Mountain South Subarea Plan designates this parcel as Medium Density Residential [MDR] (5.1 -10 dwellings per acre).
10. The current Agricultural (AG) zone does not implement the BMS MDR land use designation.
11. Per RMC 23.18.010, the R-2S medium density residential small lot zoning is intended to be applied to land that is designated MDR (5.1-10 dwellings per acre) under the City's Comprehensive Plan, such as BMS MDR.
12. No portion of this proposed rezone is in the Shoreline Management Program's jurisdiction.
13. No portion of this proposed rezone is in a Critical Aquifer Recharge Area (CARA). No other critical areas have been identified.
14. The proposed site is encumbered by existing easements, some to be relocated, some to be relinquished, some to stay in place.
15. Recent, recorded land action via Boundary Line Adjustment (BLA2022-101, *Exhibit 4*) has recently altered property lines surrounding a future Richland School District site. This is not yet reflected on City maps.
16. The application is exempt from the provisions of the State Environmental Policy Act (SEPA), as identified in WAC 197-11-800(6)(c).
17. Notice requirements of RMC 19.30.040 have been met:
 - a. Notice of Hearing Mailed: February 24, 2023
 - b. Notice of Hearing Posted: February 27, 2023
 - c. Notice of Hearing Published: March 6, 2023
18. Based on the above findings and conclusions, approval of the zone change request would be in the best interest of the community of Richland.

EXHIBIT LIST

1. Application Materials
2. Zone Map
3. BMS Land Use Map
4. BLA2022-110, Recorded
5. Public Notices & Affidavits