



NOTICE OF DECISION

PURSUANT TO RICHLAND MUNICIPAL CODE SECTION 19.60.080 NOTICE IS HEREBY GIVEN THAT THE CITY OF RICHLAND HEARINGS EXAMINER, ON MAY 3, 2023 APPROVED THE PRELIMINARY PLAT OF PEACH TREE ESTATES, PHASE 1 (CITY FILE NO. S2022-104) SUBJECT TO CONDITIONS CONTAINED IN THE HEARING EXAMINER REPORT (ATTACHED):

**DESCRIPTION
OF ACTION:**

Preliminary plat of "Peach Tree Estates" subdividing 19.47-acres into 101 lots for single-family residential development.

SEPA REVIEW:

The above referenced action was reviewed in compliance with the requirements of the State Environmental Policy Act (RCW 43.21c) and the City issued a Determination of Non-Significance (EA2022-132) dated March 16, 2023.

APPROVED:

The subdivision approval is subject to conditions contained in the Hearing Examiner Decision.

PROJECT LOCATION:

The project site is located 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 2 & 3 Plats, to the south.

APPEALS:

Appeals to the above described action may be made to the Benton County Superior Court by any Party of Record. Appeals must be filed within 21 days of issuance of this notice, which is May 3, 2023.


Mike Stevens
Planning Manager

May 3, 2023
Date



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

**FINDINGS, CONCLUSIONS AND
DECISION APPROVING
PRELIMINARY PLAT OF PEACH TREE ESTATES**

FILE NUMBER: S2022-104; EA2022-132

OWNER: MD&D INVESTMENTS, LLC
(WITH MONSON DEVELOPMENT WASHINGTON, LLC, DAVID DOUGLAS, AND DONALD DOUGLAS LISTED AS GOVERNORS OF THE LLC ON SoS CORPORATIONS REGISTRATION SITE)

APPLICANT: ALEX RIETMANN, ON BEHALF OF MD&D INVESTMENTS, LLC

APPLICATION: TO SUBDIVIDE APPROXIMATELY 19.47 ACRES INTO ONE-HUNDRED AND ONE (101) RESIDENTIAL LOTS.

LOCATION: 1251 BERMUDA ROAD, ON THE WEST SIDE OF BERMUDA ROAD, IMMEDIATELY SOUTH OF THE TOP OF BADGER MOUNTAIN, NORTH OF THE NEWLY DEVELOPED SIENNA HILLS PLATS, PHASES 2 AND 3.

PARCEL NUMBER: BENTON COUNTY ASSESSOR PARCEL NO. 134982000005006, AS DEPICTED IN BLA2022-110

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

SUMMARY OF DECISION: *APPROVE*, SUBJECT TO CONDITIONS

DATE OF DECISION: MAY 3, 2023

I. CONTENTS OF RECORD.

Exhibits: Staff Report. City of Richland Development Services Division Staff Report and recommendation of approval to the Hearing Examiner regarding “Peach Tree Estates” Preliminary Plat, File No. S2022-105, dated March 23, 2023 (29 pages), and the following numbered items:

1. Application Materials
2. Plat Map
3. BMS Land Use Map
4. Boundary Line Adjustment regarding the project site, assigned Recording No. BLA2022-110
5. SEPA Checklist
6. Public Notice and Affidavits
7. Copies of Agency Comments
8. SEPA Determination of Non-Significance

9. *Post-Hearing Exhibit* submitted by Staff, reflecting additional written comment/proposed condition from City’s Building Official, inadvertently omitted from discussion during public hearing, with response from Applicant representatives; assembled by Mr. Howie as a single .pdf file of mostly email correspondence with 7 pages; added to the record by the Examiner.

Testimony/Comments: The following persons were sworn and provided testimony under oath at the open-record hearing held in-person at Richland City Hall on the evening of March 23, 2023:

1. Matthew Howie, Senior Planner, for the City of Richland, summarized Staff Report, recommendation of approval, connection with requested rezone application; and
2. Jason Mattox, PE, Applicant’s Project Engineer, Principal Civil Engineer/Survey Dept. Manager/Operations Manager with the PBS engineering firm, summarized merits of application, responded to questions.

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

The Examiner conducted an extended site visit to the property addressed in this application, the street network, public facilities, and recent residential development projects in the immediate vicinity.

II. APPLICABLE LAW, BACKGROUND.

This application for preliminary plat approval was filed in August of 2022, and vested under City of Richland development regulations in effect when the application materials were deemed complete, which occurred at some point on or before public notices were issued in late February and early March of this year. (*Staff Report, page 15; Ex. 6, public notice and confirmation materials*). Under applicable provisions of the Richland Municipal Code (RMC),

this preliminary plat¹ application is first subject to review and approval by city staff with respect to the engineering elements of said plat, then the Hearing Examiner is responsible for conducting an open record public hearing followed by a final written Decision. A preliminary plat application is a Type III procedure. RMC 19.20.010(C)(1).

There is no dispute that the applicant's property is currently zoned AG (Agriculture), so the pending application cannot be approved as designed until or unless the Richland City Council rezones the project site to a zoning designation that allows for the project as now proposed. This Decision is conditioned to require a rezone, or the pending preliminary plat is void and of no effect.

The site is now designated as suitable for Medium Density Residential land uses under applicable provisions of the City's Comprehensive Plan but, again, it is currently zoned AG (Agriculture), limiting development opportunities for the property and perpetuating a nonconformity between the City's Comprehensive Plan and Zoning map. The applicant is pursuing a concurrent application for a rezone under File No. Z2022-106, which would redesignate the project site to one of two available Medium Density Residential zoning districts found in current City codes, specifically, the R-2S zone, a medium density residential zone as described in RMC 23.18.010(D). The Hearing Examiner held a public hearing regarding the applicant's proposed rezone on the same evening as the hearing for this preliminary plat occurred. The Examiner issued a Recommendation of Approval for the rezone, which will come before the City Council to make a final decision at some point in the coming weeks or months.

Because applicant's only vest to zoning and development regulations in effect at the time of a complete application for a preliminary plat proposal, the applicant has assumed all risk associated with pursuing approval of this preliminary plat that is dependent on the Council's legislative discretion to approve or deny a requested rezone. This Decision approving a preliminary plat, subject to conditions, and the related Recommendation of approval for the requested rezone, should not be read to create any expectation or assumption on the applicant's part that applicable law mandates approval of their requested rezone or this preliminary plat. It does not. To the contrary, the Examiner could deny the pending plat application because it does not satisfy AG zone standards that apply to the site; and, the City Council holds full discretion and authority to reach its own decisions regarding site-specific rezones.

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

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

of the city manager or her designee with respect to the engineering elements of said plat including the following:

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

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

Richland Municipal Code 24.12.053 Preliminary plat – Required findings.

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

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

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

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

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

And RMC 19.60.095 mandates the following additional findings:

19.60.095 Required findings.

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

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

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

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

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

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

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

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

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

III. ISSUE PRESENTED.

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

Short Answer: Yes, subject to conditions, including without limitation a condition recognizing that this preliminary plat shall be deemed null and void if the City Council does not reclassify the property to the R-2S zone as requested in File No. Z2022-106.

Based on all the evidence, testimony, codes, policies, regulations, environmental documentation, and other information contained in the Record, the Examiner issues the following findings, conclusions and Decision approving the Peach Tree Estates Preliminary Plat, subject to conditions, as set forth below.

IV. FINDINGS OF FACT.

1. Any statements in previous or following sections of this document that are deemed findings are hereby adopted as such.
2. The Examiner has visited the road network and vicinity of the proposed plat on multiple occasions over the past few years in connection with other applications and re-visited the site on the day of the public hearing, so the undersigned decision maker is fully advised on matters at

issue herein, including without limitation adjacent developments and land uses, applicable law, application materials, and relevant comprehensive plan provisions.

3. The Staff Report and recommendation of approval includes a number of specific findings and conditions that establish how the underlying plat application, if developed as conditioned, can satisfy provisions of applicable law, is consistent with the city's Comprehensive Plan, and is designed or conditioned to comply with applicable development standards and guidelines.

Project Description.

4. The applicant, Alex Rietmann, as agent on behalf of the property owner, MD&D Investments, LLC (with Monson Development Washington, LLC, David Douglas, and Donald Douglas listed as Governors of the LLC on the Secretary of State's Corporations website), seeks approval to subdivide approximately 19.47 acres of mostly vacant land into one-hundred and one (101) residential lots.

5. The property at issue is addressed as 1251 Bermuda Road, on the west side of Bermuda Road, immediately south of the top of Badger Mountain, and just north of the newly developed Sienna Hills Plats, Phases 2 and 3. Following a Boundary Line Adjustment modifying property lines on and around the project site, the entire project site is now located on Benton County Parcel No. 134982000005006. (*See Ex. 4, Boundary Line Adjustment regarding the project site, assigned Recording No. BLA2022-110*).

6. The proposed plat, with less than 20-acres, is a small portion of the much larger Badger Mountain South Subarea, an almost 2,000-acre area located south and east of the Badger Mountain Centennial Preserve and north of Interstate 82. (*Badger Mountain Subarea Plan, Introduction on page 1*).

7. The proposed plat area was part of an almost 1,900-acre annexation into the City of Richland that took effect in 2010, through passage of Ordinance No. 41-10, which assigned the (AG) Agriculture zoning designation to the entire northeast portion of the annexation area where Peach Tree Estates, and its neighboring Sienna Hills site, are located. (*See Ord. No. 41-10, Sec. 6, and Ex. B thereto, labeled "Zoning Designations for Annexation Area"*).

8. The Comprehensive Plan Land Use Map for the area is found in the Badger Mountain South Subarea Plan. The Staff Report includes an image, marked Figure 2, enlarged to show site borders for the Peach Tree Estates property outlined in blue, a copy of which is republished below on the following page:

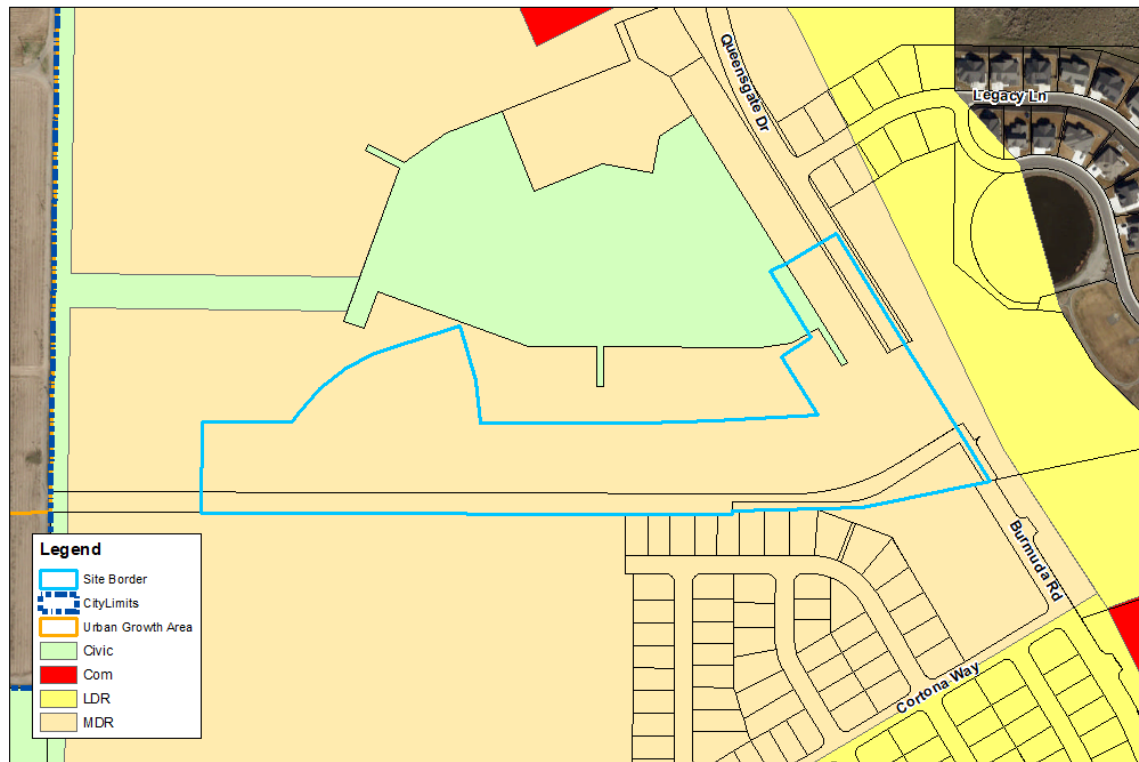
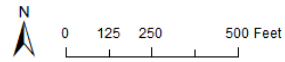
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BMS Land Use Map

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



9. The Peach Tree Estates parcel at issue in this matter is just west of Bermuda Road, immediately southeast of Badger Mountain. As shown above, the parcel has about 825-feet of frontage on its east side abutting Bermuda Road, with about 2,700 feet fronting the Siena Hills Phase 3 Plat, located immediate south. (*Staff Report, page 4*). The illustration provided above also shows property boundaries that do not align with those included in the City’s mapping system, and that is because the applicant recently recorded a boundary line adjustment (BLA) establishing the specific parcel boundaries used in this application, assigned recording number BLA2022-110, included in the record as *Ex. 4*. The applicant’s boundary line adjustment followed discussions and agreements reached with the Richland School District, which will someday develop a new school on land north of this rezone site. (*Testimony of Applicant’s engineer, Mr. Maddox*).

10. The Staff Report (and testimony from Mr. Howie) credibly established that the map shown above designates virtually all of the applicant’s newly-drawn parcel for “MDR” land uses, i.e. medium density residential uses, and that the applicant’s preferred R-2S zone is one of the two medium density residential zones available under City codes. Again, zoning on the site is currently AG, until or unless the City Council takes action to rezone the property. Until or unless the City Council chooses to rezone the project site as R-2S, this preliminary plat cannot be developed as proposed, and is void and of no legal effect.

11. The applicant fully acknowledges that future development plans for additional lands owned by the same entity will require Comprehensive Plan amendments and other possible land actions, in order to bring school property boundaries into alignment with those reflected in part of the recent boundary line adjustment. (*Testimony of Mr. Maddox*).

12. The Staff Report and this Recommendation puts the applicant/owner on notice that the BMS Land Use Map, shown above, reflects a “Civic” designation, which is in place for a future, proposed Richland School District elementary school location, just north of the proposed preliminary plat area, and that the applicant’s recently recorded boundary line modified the original boundaries of the School District’s holdings to bring it in line with the owner’s proposed preliminary plat request – but, such change is not yet reflected in City land use maps, so, additional rezones, comprehensive plan amendments, and/or other land actions may be required to bring the BMS Civic boundaries for this area into proper alignment with residential zoned areas. (*Staff Report, page 5*). Given these circumstances, additional land use or legislative actions, may be required before this preliminary plat can be recorded as a final plat.

13. Unlike the neighboring Sienna Hills project to the south of the Peach Tree Estates site, no adjoining property owners or local residents submitted comments or questions to challenge or oppose this project.

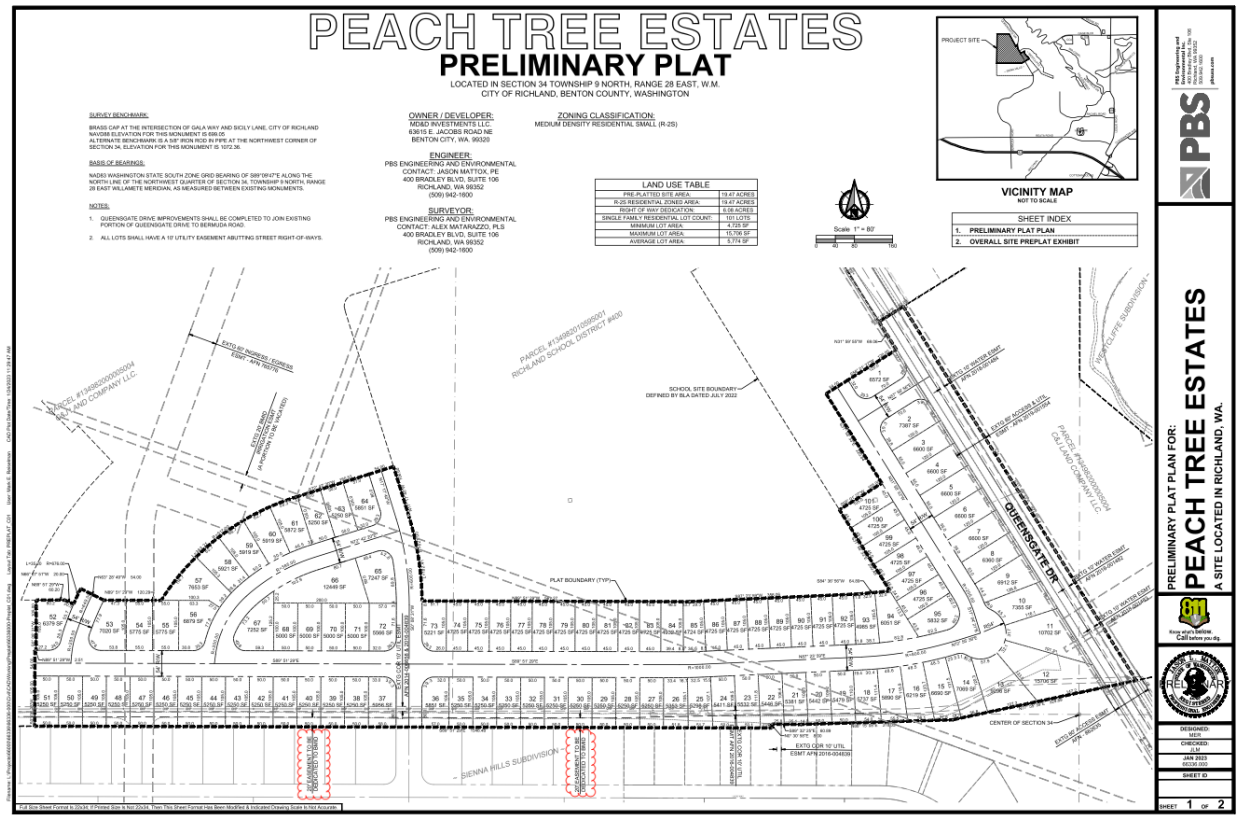
14. During the public hearing, no one asked to speak other than Staff and the applicant’s engineer. Both Mr. Howie and Mr. Maddox provided credible testimony, explaining project details, conditions, and answering questions from the Examiner.

15. The applicant’s proposed preliminary plat – which has been designed to satisfy R-2S zoning and development standards – is reflected on the following plan sheet, included in the record as part of *Exhibit 2*:

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Utilities.

16. There is no dispute that the proposed plat will be served by City utilities and other service providers, with connections nearby, in place, or readily available, and adequate capacity to serve the 101-lot project. (*Staff Report, pages 11-13*). The applicant's engineer described plans for sewer system design issues, which may include latecomers agreements for facilities built to serve more than one project. The recommended Conditions of Approval reflect determinations made by the City's professional engineering and public works staff to appropriately address utility-related issues.

Zoning and development standards.

17. The Staff Report explains that the project is designed to satisfy R-2S zoning standards, a medium-density residential land use designation as described in RMC 23.18.010(D), which is consistent with the medium-density residential development land use designation assigned in the City's Comprehensive Plan. (*Staff Report, pages 10 and 18*).

18. Richland's Comprehensive Plan (via the Badger Mountain South Subarea Plan) designates the plat site for medium-density residential development with an average allowable residential density of 5.1-to-10 dwellings per acre. With 101 residential lots on a 19.47-acre site, which will include new streets and other facilities deducted in "net-density" calculations, Staff determined

that the plat proposes a net residential density of 8 dwelling units/acre. *See Staff Report, on page 18, with density calculations on page 2, which provide the following information:*

PROJECT DATA

Gross Plat Area: 19.47 acres

Net Planning Area: 13.39 acres

Number of Lots: 101

Land for Streets/Other: 6.08 acres

Gross Density: 5 units/acre

Net Density: 8 units/acre

19. R-2S zoning regulations permit residential densities of up to 10 dwelling units per acre and a 4,000 sq.ft. minimum lot size for single-family detached structures. Proposed residential lot sizes range from 4,724 square feet to 15,706 square feet, with a 5,774 square foot average lot size. Again, the plat proposes a net residential density of 8 dwelling units/acre. (*Staff Report, pages 2 and 18*).

20. The Staff Report credibly explains how the new plat is designed to comply with density, setback, lot size and other dimensional standards that apply for R-2S zoned properties. (*Staff Report, pages 10, 11, 18*).

SEPA Review.

21. *Exhibit 5* is the Environmental Checklist submitted by the applicant for project and *Exhibit 8* is the City's SEPA Determination of Non-Significance (DNS) issued on or about March 16, 2003. Staff considered all comments regarding the application, but no one questioned or challenged the SEPA DNS issued for this project. (*Agency comments, included as part of Ex. 7*). (*See WAC 197-11-545, re: failure to provide timely comment is construed as lack of objection to environmental analysis*). With such documentation and process, the pending application satisfied applicable SEPA review requirements, and stands unchallenged for purposes of this Decision.

Issues left unresolved at public hearing.

22. Agency comments include a letter from the Washington Department of Archaeology and Historic Preservation (DAHP), March 9, 2023, expressly requesting a Cultural Resources Survey be conducted on the project site before ground disturbance work begins. (*See DAHP letter, dated March 9, 2023, included as part of Ex. 7*). The DAHP letter reads in relevant part as follows:

Our statewide predictive model indicates that there is a moderate to high probability of encountering cultural resources within the proposed project area. Further, the scale of the proposed ground disturbing actions would destroy any archaeological resources present. Identification during construction is not a recommended detection method because inadvertent discoveries often result in

costly construction delays and damage to the resource. Therefore, we recommend a professional archaeological survey of the project area be conducted and a report be produced prior to ground disturbing activities. This report should meet DAHP's Standards for Cultural Resource Reporting.

We also recommend that any historic buildings or structures (45 years in age or older) located within the project area are evaluated for eligibility for listing in the National Register of Historic Places on Historic Property Inventory (HPI) forms. We highly encourage the SEPA lead agency to ensure that these evaluations are written by a cultural resource professional meeting the SOI Professional Qualification Standards in Architectural History.

Please note that the recommendations provided in this letter reflect only the opinions of DAHP. Any interested Tribes may have different recommendations. We appreciate receiving any correspondence or comments from Tribes or other parties concerning cultural resource issues that you receive.

Thank you for the opportunity to comment on this project. Please ensure that the DAHP Project Tracking Number is shared with any hired cultural resource consultants and is attached to any communications or submitted reports. Please also ensure that any reports, site forms, and/or historic property inventory (HPI) forms are uploaded to WISAARD by the consultant(s).

23. The recommended conditions of approval included as part of the Staff Report noted the DAHP comments, without proposing specific requirements. At the public hearing, the Examiner informed the applicant that they should expect a specific condition to be in a final decision, requiring a Cultural Resources Survey of the project site, consistent with DAHP's comment letter. Condition "K", provided at the end of this Decision, addresses the Cultural Resources issue.

24. The only other unresolved issue between Staff and the applicant arises from a written comment submitted by the City's Building Official, addressing geotech/foundation issues. Regrettably, the Building Official's written comment was inadvertently omitted from discussion during the public hearing, so Mr. Howie brought the issue to the Examiner's attention. After sharing the item with the applicant team, Mr. Howie forwarded a collection of emails exchanged by Staff and applicant representatives, regarding the Building Official's written comment. Those materials have been added into the record as post-hearing Exhibit 9. Based on input from the applicant team and City staff, reflected in Ex. 9, the Examiner has added a specific condition of approval to clarify the issue, and require future development on the site to satisfy recommendations provided in the applicant's Geotech Report. *(See Geotechnical Engineering Report, prepared for the applicant team by Clint Nealey, P.E., with the PBS engineering firm, dated August 20, 2021, under PBS Project No. 66336.000, included as part of the application materials in Ex. 1, beginning on .pdf page 242 of 348 in the City's "Referral Packet" for this plat application).*

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

25. The Staff Report, testimony at the public hearing, and written materials included in the Record, all establish that the proposed application, as conditioned, makes appropriate provisions for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including

sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school, as required in state and City subdivision codes. (*See Ch. 58.17 RCW and RMC 24.12.053*).

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

Compliance with city development regulations achieves consistency with the Comprehensive Plan

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

28. The applicant's proposed plat, as modified by conditions of approval, merits approval.

Proposed plat will provide public benefits

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

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

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

31. The record contains substantial evidence to demonstrate that, as conditioned, the proposed plat makes appropriate provisions for:

- A. The public health, safety, and general welfare: *See Staff Report, including without limitation the analysis provided on pages 12-19, and proposed findings on pages 18-19.*
- B. Open Spaces: *See Staff Report, pages 15 and 16, noting parks and open space within a mile of the project site, and discussion in item H below.*
- C. Drainage Ways: *the project will be consistent with all applicable standards for stormwater system design, including without limitation the Department of Ecology Stormwater Management Manual for Eastern Washington. The new plat must be designed to provide on-site stormwater management and detention. Consistent with City development standards, the plat will be connected to the City's sanitary sewer system, which has capacity to serve the project. See Staff Report, pages 12-13; Storm Water conditions of approval; Sanitary Sewer conditions.*
- D. Streets or roads, alleys, other public ways: *the proposed plat has been reviewed by the City for compliance with applicable street system design requirements, and, subject to compliance with specific conditions of approval, can be consistent with all applicable city standards for city roads, streets, driveways, access, circulation, payment of impact fees, transportation concurrency and the like. Staff Report, proposed findings regarding transportation issues; Conditions of approval.*
- E. Transit stops: *To the extent transit stops are or may be located nearby to serve residents of the proposed plat, or Richland residents generally, the subdivision design, access and internal circulation patterns, as conditioned, are appropriate to allow for pedestrians and vehicles to access arterials and other routes that could direct users to existing or future transit stops and facilities. The proposed plat is within the Ben Franklin Transit service area, but there are no current or planned bus stops in the immediate vicinity of this plat.*
- F. Potable water supplies: *The new subdivision will receive its domestic water supply from the City of Richland. Staff confirms that adequate capacity is available within*

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

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

- G. Sanitary systems: *The City's sewer system has capacity and existing facilities adjacent to the project capable of serving the proposed plat with appropriate connections. Staff Report, at page 12; Sanitary Sewer conditions.*
- H. Parks and recreation, playgrounds, schools: *The Staff Report explains that there are several city parks and other recreational opportunities within about one mile of the project site. See Staff Report, page 15. The plat is located in the Richland School District. The School District did not provide any comments after receiving city notice regarding the project, but the Staff Report explains that the District anticipates siting an elementary school on property immediately north of this proposed plat. Staff Report, page 14.*
- I. Planning features to assure safe walking conditions for students: *See sidewalks and internal street system design on plat drawings.*

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

V. CONCLUSIONS OF LAW.

1. Based on the Findings as summarized above, the undersigned Examiner concludes that the proposed plat, as conditioned below can satisfy all applicable R-2S zoning and land use requirements and appropriately mitigates adverse environmental impacts. Upon reaching such findings and conclusions as noted above, the preliminary plat meets the standards necessary to obtain approval by the City. This preliminary plat shall be void and of no effect until or unless the Richland City Council exercises its legislative discretion to approve the applicant's requested rezone for the project site, addressed in File No. Z2022-106.

2. The conditions of approval imposed as part of this Decision are reasonable, supported by the evidence, and capable of accomplishment.

3. Any Finding or other statements in previous or following sections of this document that are deemed Conclusions are hereby adopted as such.

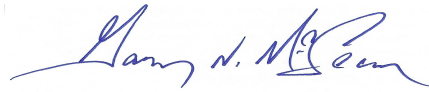
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VI. DECISION.

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

Decision issued: May 3, 2023.



Gary N. McLean
Hearing Examiner for the City of Richland

**CONDITIONS OF APPROVAL
FOR THE
PRELIMINARY PLAT OF PEACH TREE ESTATES
FILE NO. S2022-105**

In accord with authority granted in the Richland Municipal Code, the hearing examiner approves the above-referenced preliminary 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, and other ordinances, policies and objectives of the city.

Conditions Added by the Hearing Examiner:

- A. It is expressly understood that this preliminary plat has been designed to satisfy the City's R-2S zoning and development standards in effect at the time of this Decision. Accordingly, this preliminary plat is of no legal effect until or unless the Richland City Council exercises its legislative discretion to approve the applicant's pending rezone request in File No. Z2022-106. If the City Council denies the applicant's request to rezone the project site to R-2S, then this preliminary plat approval is entirely void and of no legal effect whatsoever. If the applicant's pending rezone request is approved by the City Council, then a signed copy of the Ordinance approving such rezone shall be attached to this Decision, for purposes of maintaining the file, and to provide a complete record if and when this preliminary plat is brought forward for Final Plat Approval.
- B. Development of the plat shall be substantially consistent with drawings provided in the Preliminary Plat Survey map included as part of the application materials (*Ex. 2*), subject to modifications necessary to comply with these conditions of approval.
- C. No construction or site development activities related to the plat may be undertaken until required city approvals – including the requested rezone in File No. Z2022-106 – become effective, and the City and other regulatory authorities with jurisdiction issue applicable permits.
- D. All development on the project site (including construction of foundations for future homes) shall comply with all professional report conclusions and recommendations submitted in connection with the preliminary plat and engineering reviews, as approved and/or amended by the City, including without limitation those found in the applicant's Geotech Report. (*See Geotechnical Engineering Report, prepared for the applicant team by Clint Nealey, P.E., with the PBS engineering firm, dated August 20, 2021, under PBS Project No. 66336.000, included as part of the application materials in Ex. 1, beginning on .pdf page 242 of 348 in the City's "Referral Packet" for this plat application, particularly Conclusions and Recommendations in the Geotech Report, including without limitation Sections 3.2.1, 3.2.3, 3.3, 3.62, and 3.63.*)
- E. Applicant shall be responsible for consulting with state and federal agencies, and tribal entities with jurisdiction (if any) for applicable permit or other regulatory requirements. Approval of a preliminary plat does not limit the applicant's responsibility to obtain any required permit, license or approval from a state, federal, or other regulatory body. Any conditions of regulatory agency permits, licenses, or approvals shall be considered conditions for this project.
- F. The final engineering plans and submittals necessary to obtain final approvals for the plat shall conform to all applicable provisions of the Richland Municipal Code and the Conditions of Approval herein.

- G. The preliminary plat shall comply with all applicable provisions of the Richland Municipal Code, whether or not such provisions are enumerated or referenced in the approved preliminary plat plans, in the staff report or in this Decision. The burden is on the applicant to show compliance with applicable provisions of the City's code and these conditions at every stage of development.
- H. Because the application did not identify or request approval as a phased-project, any language addressing potential phases for this preliminary plat are moot and of no effect, whether specifically noted as such or not in any proposed condition of approval adopted as final conditions herein, as set forth below.
- I. **Condition confirming sidewalk requirements:** RMC 12.10.035, captioned "Sidewalks for new or improved streets," mandates construction of '*sidewalks, curbs, and gutters*' on all new streets built in a residential zone. Accordingly, these conditions of approval expressly recognize and require full compliance with such mandate, and final plat illustrations must depict and provide for sidewalks and associated improvements, subject to approval of the Public Works Director.
- J. **Impact Fees** – This project may be subject to payment of impact/mitigation fees for transportation, parks, schools, or other infrastructure needs, all in the amount, time, and manner as specified in applicable city codes and resolutions addressing such fees in effect at the time of building permit issuance.
- K. **Cultural Resource Survey and Report.** Based on the comment letter from the Washington Department of Archaeology and Historic Preservation (DAHP) included as part of Exhibit 7 (Agency comments), an archaeological survey of the proposed plat site – and possibly other properties adjacent to the plat envisioned for future development, under ownership of the same applicant, as a possible cost-saving measure – shall be conducted by a qualified professional prior to any ground-disturbing activities. The report shall meet DAHP's Standards for Cultural Resource Reporting. The report shall be submitted to the City, DAHP, and tribal entities with jurisdiction, referencing the designated DAHP project tracking number, 2023-03-01547. Further, if any historic buildings or structures (45 years in age or older) are located within the project area, such structures shall be evaluated for eligibility for listing in the National Register of Historic Places on Historic Property Inventory (HPI) forms, with a report summarizing such evaluation written by a cultural resource professional meeting the U.S. Secretary of Interior's (SOI) Professional Qualification Standards in Architectural History. The Planning Manager shall mandate compliance with any recommended conditions included in such report(s) or as may be imposed by DAHP following review of such report(s). No ground disturbing activities will be authorized on the site until a cultural resources report is approved by the Planning Manager and all recommendations from such report are implemented. If the report includes a recommended Inadvertent Discovery Plan, such plan shall be posted and/or available for review on-site by contractors and applicant representatives during ground disturbing activities.
- L. Preliminary Plat approval shall be null and void if any condition enumerated herein is not satisfied.
- M. Consistent with RMC 24.12.055(C), this preliminary plat approval shall be operative for five years from the date of approval by the hearing examiner, during which time a final plat may be submitted in the manner required by applicable codes.

Conditions derived from the Staff Report.

Public Works

Pre-Plat Specific Conditions

1. ~~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. [Deleted by Examiner].~~
2. If the intent is to name future pre-plats “Peach Tree Estates”, it’s recommended that this pre-plat be named “Peach Tree Estates Phase 1”.
3. “Waterhill Avenue” should be labeled.

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, all information shall be supplied in full size (and electronic) format. When construction of the public infrastructure has been substantially completed, the applicant shall provide paper and electronic record drawings in accordance with the City’s “Record Drawing Requirements”. The electronic record drawings shall be submitted in an AutoCAD format compatible with the City’s CAD software. The final record drawings shall be submitted and approved by the City before the final punchlist inspection will be performed. All final punchlist items shall be completed or financially guaranteed prior to final platting.
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 published fee schedule 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 platting. 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. The contractor and developer 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.
10. All plan sheets involving construction of public infrastructure shall have the stamp of a current Washington State licensed professional engineer.
11. A copy of the preliminary plat shall be supplied to the Post Office and all locations of future mailbox clusters approved prior to installation or final platting.

Design Standards

12. 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.
13. ~~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~~ set of permits needed to begin work on the site, 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.
14. 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.

15. 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 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 and Streets

16. The “Peach Tree Estates” preliminary 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).
17. The Bermuda Road frontage (labeled as “Queensgate Drive” on the pre-plat) shall be completed to City standards at the time that the phase which constructs the lots adjacent to it is developed.
18. A note will be shown on the face of the final plat stating that Bermuda Road is classified as a “Major Collector street”. Subsequently, no driveways accessing single family lots will be allowed directly onto it.
19. Traffic calming measures shall be constructed due to the relatively straight uninterrupted road section proposed. Public Works staff’s preliminary evaluation suggests that traffic calming measures shall include a traffic circle at Waterhill Ave. and the Unnamed East-West Road.
20. Street names are not reviewed or vested until construction plans are submitted for review. At the time of construction plan submittal the developer shall propose two unique street names for each new street being constructed.
21. Sidewalks 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.).
22. All pedestrian ramps, driveway entrances and sidewalks shall be designed to current City standard details and A.D.A. standards. Adequate right-of-way shall be provided at corners to allow for at least 1-foot of ROW behind the ped. ramp landing. 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. 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.

23. 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.
24. All roads shall be constructed to provide for adequate fire truck & solid waste collection truck access & turnaround movements.
25. 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

26. The proposed preliminary plat is located within the Tapteal 4 water pressure zone. The closest Tapteal 4 watermain is located in Bermuda Road to the East and Waterhill Ave. to the South. It shall be the responsibility of the developer to extend a watermain to and through this property to provide domestic water at the time of plat construction. This water main shall be sized to adequately supply domestic water and fire flows to the proposed development.
27. Looping of the water system provides redundancy, increases flow and helps to eliminate stagnant water. The Tapteal 4 watermain shall be looped through this project.
28. 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.
29. 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.
30. The fire hydrant layout shall be approved by the City Fire Marshal.
31. 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 this development. 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

32. The closest sanitary sewer available for this development is located in Waterhill Avenue in the plat of Siena Hills. It shall be the responsibility of the developer to extend a sewer main to and through this property to serve sanitary sewer to all adjacent parcels at the time of plat construction.

33. This development will receive sanitary sewer service via a sewer pump station funded and built by the Siena Hills development to the south. The City anticipates developing and recording a sewer latecomer agreement to set the financial participation of this development in the Siena Hills pump station. Prior to approval of any final plat in this development, the developer shall satisfy in full its obligations under the sewer latecomer agreement.
34. 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.
35. Sanitary sewer shall be extended to the adjoining properties adjacent to the preliminary plat.

Storm Water

36. 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.
37. 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.
38. 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.
39. Any proposed storm drainage retention facilities within the boundary of the proposed preliminary plat shall not adversely affect neighboring properties.
40. 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.

41. As per RMC chapter 24.20.070 and the City of Richland's Comprehensive Stormwater Management Plan, the storm drainage system installed as part of this plat may need to be oversized in order to handle the additional flow from future developments in the vicinity. The storm drainage system for this development, both its conveyance and retention / infiltration components, shall be designed to effectively manage runoff from upstream properties that can be anticipated to convey stormwater onto this property because of a pre-development runoff condition, or as a result of flows discharged that are in excess of the design storm from the upstream property. Additionally, as this property is upslope of developed properties the stormwater system shall include provisions for possible discharge of runoff onto downslope properties from storms in excess of the design storm as described above. Those provisions may be required to include off-site downslope conveyance facilities and/or flowage easements allowing for the conveyance of stormwater to and across downslope properties.
42. The amount of post-development storm runoff from the proposed site shall be in compliance with RMC Chapter 16.06.
43. Stormwater collection pipes shall be extended to the adjoining properties adjacent to the plat.
44. 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.
45. 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.
46. 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 properly maintain the site.

Final Platting Requirements

47. 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.

48. 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 right-of-ways for City infrastructure are the responsibility of the developer to obtain. Once received, the City will prepare the easement document and provide it to the developer. The developer shall record the easement at the Benton County Assessor and return a recorded original document to the City prior to application for final occupancy.
49. 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.
50. Ten-foot wide public utility easements will be required on the final plat along both sides of all right-of-ways within the proposed plat. They will also be required where the plat is adjacent to an existing right-of-way.
51. 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.
52. 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 homeowners association.
53. All landscaped areas within the plat that are in the public Right of Way shall be the responsibility of the homeowners to maintain.
54. A one-foot “No access / screening easement” will be required along the Bermuda Road Right of Way.
55. The intended use and ownership of all tracts within the plat shall be noted on the final plat.
56. 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

57. At the time of Pre-Plat Construction Review, applicant shall supply to the Planning Manager for approval the following (as included in RMC 23.18.020(1):
 - a. A street landscaping plan showing the location and type of landscaping proposed.
 - b. Information showing the location, dimensions and character of recreational facilities and/or open space, including paths and trails.
58. At the time of building permit application, per RMC 23.18.020(A)(3) the applicant shall supply the Planning Manager information asserting compliance with the following: Combined front yard setback configurations and street-facing residential architectural elevations, that can be repeated continuously on no more than five lots before a different combination must be utilized. Also, regardless of the street facing architectural elevation, a front yard setback configuration may be repeated on no more than 10 lots before a different setback configuration must be utilized. The Planning Manager may approve variations to this requirement which, in their judgment, accomplish the intent of avoiding a monotonous interface of the residential buildings with streets, or, are necessary due to constraints or unique characteristics of the site.

Addressing

59. Street names will be reviewed when construction drawings are submitted to the Public Works Department. When construction drawings are submitted, please include two (2) street name options for each of the new street segments and the City will review to determine acceptable street names.
60. Addressing brackets [] are needed on all lots and tracts.

Kennewick Irrigation District

61. Due to the project's location in relation to the Badger East Lateral Canal, KID deems the following conditions to be necessary:
 - a. Stormwater systems for the project should be designed to retain, at minimum, a 100-year storm event above the Badger East Lateral Canal and minimize the introduction of water into the soils up-gradient from the canal; and
 - b. The developer shall provide KID with a sketch or map depicting the location of flows from any proposed retention basins to where the flows would exit the development.

WSDOT Aviation Land Use Inquiries and Application Submittals

62. The FAA requires notification for this development. Please use forms 7460-1 and 7460-2 which can be accessed and completed electronically here: <https://oeaaa.faa.gov/oeaaa/external/portal.jsp>

Benton Clean Air Agency

63. Benton Clean Air Agency (BCAA) requires the applicant submit a Proof of Contact: Soil Destabilization Notification for this project prior to any excavation/construction taking place. This will ensure that the proponent has the ability and resources to control fugitive dust emissions that may be created as a result of construction activities. This will also inform them of the regulations and requirements of the BCAA. Additionally, a written dust control plan must be developed and maintained for all soil destabilization projects and must be readily available upon request by the BCAA. Part of this plan is submitting the name of at least one person for the project so that the BCAA has a point of contact should they receive any dust complaints from the project.

*** End of Conditions ***

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

Notice of Rights to Request Reconsideration or Appeal This Decision

Reconsideration –

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

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

Appeal –

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

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