

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

In the Matter of the Application of)
Dean Maldonado)
)
For Preliminary Plat Approval)
_____)

**FILE NO: PP 18-02/PLN-2018-
00146**
FINDINGS, CONCLUSIONS
and DECISION

SUMMARY OF DECISION

Preliminary plat approval is granted to subdivide the Grant Street Development, Preliminary Plat on on 2 parcels that total approximately 2.29 acres in size. The approved plat to be developed with 14 lots for single family home is located at west of N. Grant Street and south of W. Umatilla Avenue at 1507 N. Grant Street and 5529 W. Umatilla Avenue, Kennewick Washington. The approval is subject to conditions as set forth in the Decision section of this document.

SUMMARY OF RECORD

Request

Dean Maldonado, on behalf of property owners, Gerald and Kathryn Erwin, requested approval of a preliminary plat for a 14-lot subdivision on 2.29 acres at West of N. Grant Street and south of W. Umatilla Avenue at 1507 N. Grant Street and 5529 W. Umatilla Avenue, Kennewick Washington.¹

Hearing Date:

The Hearing Examiner of the City of Kennewick held an open record hearing on the application on March 12, 2018.

Testimony:

At the open record hearing the following individuals presented testimony under oath:

- Wes Romine -City of Kennewick
- Joe Seet-City of Kennewick

¹ The legal description of the property to be subdivided is:

1-3399-201-1560-009
SHORT PLAT #1560, LOT 5, LESS THAT PORTION DESCRIBED AS FOLLOWS: BEGINNNING AT THE NORTHEAST CORNER OF SAID LOT 5 THENCE NORTH 89 DEGREES 44 MINUTES 45 SECONDS WEST 502.60 FEET: THENCE SOUTH 17 DEGREES 42 MINUTES 35 SECONDS WEST 136.28 FEET: THENCE SOUTH 89 DEGREES 44 MINUTES 45 SECONDS EAST 543.07 FEET PLUS OR MINUS TO THE EAST LINE OF SAID LOT 5: THENCE NORTH 00 DEGREES 26 MINUTES 00 SECONDS EAST TO THE POINT OF BEGINNING. (PER WD #97-15678, 7/1/97)

1-3399-201-1560-008
THAT PORTION OF LOT 5, SHORT PLAT NO. 1560, DESCRIBED AS FOLLOWS: BEGINNNING AT THE NORTHEAST CORNER OF SAID LOT 5 THENCE NORTH 89 DEGREES 44 MINUTES 45 SECONDS WEST 502.60 FEET: THENCE SOUTH 17 DEGREES 42 MINUTES 35 SECONDS WEST 136.28 FEET: THENCE SOUTH 89 DEGREES 44 MINUTES 45 SECONDS EAST 543.07 FEET PLUS OR MINUS TO THE EAST LINE OF SAID LOT 5: THENCE NORTH 00 DEGREES 26 MINUTES 00 SECONDS EAST TO THE POINT OF BEGINNING. (PER WD #97-15678, 7/1/97)

All in Benton County, Washington

Jason Mattox-Applicant's representative
Mr. Ben Woodard-KID representative

Exhibits admitted for the public record:

At the open record hearing the following exhibits were admitted:

- 1 Staff Report
- 2 Application
- 3 Notice of Application/Mailing List
- 4 Vicinity Map
- 5 Preliminary Plat Plans
- 6 Conceptual Grading Plan
- 7 City Department Comments
- 8 Outside Agency Comments
9. Power Point hard copy

Upon consideration of the testimony and exhibits submitted at the open record hearing, the Hearing Examiner enters the following Findings and Conclusions:

FINDINGS OF FACT

1. The Applicant requested approval of a preliminary plat on 2.2-acres west of N. Grant Street and south of W. Umatilla Avenue at 1507 N. Grant Street and 5529 W. Umatilla Avenue, Kennewick Washington. The development will include 14 single-family lots with roads and utility development. The lots range in size from 6,721 square feet to 11,439 square feet and an average lot size of the plat will be 7,602 square feet. *Exhibit 1, pgs. 1 and 3; Exhibit 2; Exhibit 5; Testimony of Mr. Romine; Testimony of Mr. Mattox.*
2. In April 1986 the property was zoned Residential Low Density (RL) (Ordinance 2995). In May 1992 the zoning designation was changed to Residential Medium-6000 (RM-6000) (Ordinance 3393). The Comprehensive Plan designation of the property Low Density Residential. *Testimony of Mr. Romine; Exhibit 1, pg. 3*, The plat is subject to the residential development standards set forth in KMC 18.12.010(A.2) and the Single-Family Residential Design Standards of Kennewick. *Testimony of Mr. Romine; Exhibit 1, pg. 3*
3. The properties to the east and north are in the City's Urban Growth Area but are not in the City. They are under the jurisdiction of Benton County and are developed with single-family homes. The property to the southwest of the subject property is vacant and zoned Commercial Office (CO). To the west of the site the property is zoned Residential High Density-Limited (RH-L) and developed with a multi-family retirement home. *Exhibit 1, pg. 5*
4. Based on City of Kennewick Critical Area maps, no critical areas are located on the subject site. *Exhibit 1, pg. 4*

5. A retirement home that is adjacent to the subject property has signage and landscaping that encroach on lot 1 of the proposed subdivision. These items have been located on proposed the lot for many years and, according to the Applicant, there is no need or hurry to remove them. The Applicant proposed a landscape easement on lot as part pf the development of the lot. A representative of the Applicant submitted that the lot is large enough to satisfy development standards even with the retention of the signage and landscaping. The City Planning staff recommended a condition of approval include a maintenance agreement if the landscape and signage remain with a landscape easement placed on the lot. *Exhibit 1, pg. 5; Testimony of Mr. Mattox; Testimony of Mr. Romine.*
6. While the Kennewick Table of Residential Development Standards (KMC 18.12.010 A.2) does not require an RM zoning district property to have a minimum density requirement, there is a maximum density requirement for the property of 13 units per acre. The density of the proposed plat is 6.11 units per acre. The minimum lot size in an RM zone is 4,000 square feet; the smallest lot is proposed is 6,721 square feet. *Exhibit 1, pg. 2; Testimony of Mr. Romine; Exhibit 5*
7. The plat will front N. Grant Street and W. Umatilla Avenue and access to the lots of the subdivision will be provided from both of these streets. Both N. Grant Street and W. Umatilla Avenue must be developed with half street improvements that include a minimum 24-foot wide pavement for 2 travel lanes. Half street improvements are to be constructed with new sidewalks on both N. Grant Street and W. Umatilla Avenue as they front the entire parcel. Residential Design Standards allow curb tight sidewalks as an option to separated sidewalks; however, the sidewalk at driveway curb cuts must meet ADA standards. *Exhibit 1, pgs. 3 and 4; Exhibit 7, pgs.4-9; KMC 5.56.270- Kennewick Standard Detail 2-1, sheet 2 of 4; Testimony of Mr. Seet*
8. Traffic mitigation fees of approximately \$938 per dwelling unit are required pursuant to the City of Kennewick's traffic mitigation ordinance (Ord. 5596). The \$938 per dwelling unit Traffic Impact Fee may also include a cost of living increase adjustment in 2018. Traffic mitigation fees may be paid at the time of building permit issuance or deferred until occupancy with a recorded covenant of payment obligation form. *Exhibit 1, pg. 4; Testimony of Mr. Seet*
9. An existing 8-inch waterline, located at the southern portion of N. Grant Street, must be extended to serve all lots and homes in the subdivision. The Applicant, or his successors, must loop the water mains in order to avoid buildup of stagnant water and minimize bacteria regrowth. An existing 8-inch sanitary sewer line, located at N. Edison/W. Umatilla and N. Harrison Street/W. Umatilla Avenue, must be extended to provide sewer service to each lot. The Applicant, or his successors, is required for said extension. *Testimony of Mr. Romine; Exhibit 1, pg. 4; Exhibit 7, pgs. 1 and 2*
10. City storm water standards for residential subdivisions require designs to retain and dispose of the calculated difference between a 25-year, 24-hour event for the developed

state and the 24-hour event for the natural pre-developed state. Detention ponds (control outlet) may be used only if it can be clearly demonstrated that infiltration, or retention, are not feasible per City of Kennewick Standard Specifications. Prior to Final Plat approval, the Applicant must submit to the City's Public Works Department detailed civil engineering drawings for review and approval. The submittal must include a storm water plan that satisfies City standards. *Testimony of Mr. Romine: Exhibit 1, pg. 4*

11. The proposed development is subject to the provisions of KMC Chapter 3.90² that establishes park impact fees (KMC3.90.010). The proposed development is in Service Area 2 and the following fees apply: \$760 per Single-Family Unit, \$450 per Multi-Family Unit and \$550 per Mobile Home Unit. Park impact fees are due prior to issuance of a Certificate of Occupancy of the structure on the lot being developed. The exact fee calculations will be provided to the building permit applicant. *Testimony of Mr. Romine*
12. The Kennewick School District has the capacity to add students at all levels and at the three schools that will serve the subdivision. The schools are: Vista Elementary School, Chinook Middle School and Kamiakin High School. Students living in the proposed subdivision are in a walking zone for Kamiakin High School. Vista Elementary School and Chinook Middle School are in bussing zones. All new streets for the subdivision are required to have 5-foot wide sidewalks. With the exception of a small section of N. Grant Street with low volumes of traffic, sidewalks will connect to Canal Drive and N. Edison Street to allow a safe walking route for students attending Kamiakin High School. *Exhibit 1, staff report-pgs. 4 and 5*
13. The proposal was reviewed by the Bonneville Power Administration (BPA). In a January 29, 2018 letter to the Kennewick Planning Department, the BPA stated they had no objection to the proposed plat. *Exhibit 8, pg. 9*
14. On February 6, 2018 the Kennewick Fire Department submitted that fire hydrants must be installed at all intersections, and that there be an average 500 foot spacing along the streets. The Department also submitted that the fire main shall be looped and capable of providing a minimum fire flow of 1000 gpm at 20 psi. The Applicant will be required to satisfy all fire code regulations. *Exhibit 7, pg. 10*
15. The Benton-Franklin Health District submitted in a January 29, 2018 letter to the Kennewick Planning Department that the District reviewed the proposal and had no objections to the proposal provided that municipal services, including sewer and water are available to the lots of the plat. *Exhibit 8, pg. 8*
16. The Kennewick Irrigation District (KID) reviewed the proposal, and in a letter to the City Planning dated February 12, 2018 submitted comments regarding the project. *Exhibit 8 pgs. 1-6*. In said letter KID provided comments and proposed conditions for the proposal. At the hearing, a representative of KID and the Applicant testified that they had been meeting and negotiating the development of the project and it appeared that the two parties would be able to agree on issues. *Testimony of Mr. Mattox and Mr. Woodard*

² KMC chapter 3.09 was enacted in 2017.

17. The proposed plat is consistent with the Kennewick Comprehensive Plan, RESIDENTIAL GOALS 4 and 5: *The residential development will occur in an urban area where services can be provided.* City water and sewer are available. Water and sewer services are available at N. Grant Street and/or W. Umatilla Avenue. The proposed plat will provide provisions for parks, schools, drainage, transit, water, sanitation, infrastructure, pedestrian, and aesthetic considerations in new residential developments. Half street improvements are required for the subdivision. *Exhibit 1, pgs. 2-7; Testimony of Mr. Romine; Exhibit 7; Exhibit 8*
18. The proposed plat is consistent with the Kennewick Comprehensive Plan City RESIDENTIAL GOAL 3: *Promote a variety of residential densities with a minimum target of 3 units per acre as averaged throughout the urban area.* The density for the proposed development area is 6.11 units per acre. *Testimony of Mr. Romine; Exhibit 5,*
19. The proposed plat is consistent with the Kennewick Comprehensive Plan City RESIDENTIAL GOAL 1; *Provide for attractive, walkable, and well-designed residential neighborhoods, with differing densities and compatible with neighboring areas.* The proposed preliminary plat is consistent with the Comprehensive Plan Land Use. The property is zoned similar to most of the surrounding property and proposed plat complies with development standards for RM zoning. *Exhibit 1, pgs. 2-7; Testimony of Mr. Romine; Exhibit 7; Exhibit 8*
20. Pursuant to the review of the plat application and supporting material, the Kennewick Planning Staff representative submitted that appropriate provisions have been made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, public sidewalks, utility easements and other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation areas, playgrounds, schools and school grounds, and the proposed subdivision has considered all other relevant facts and other planning features that assure safe walking, and aesthetic considerations in new residential developments. *Exhibit 1; Exhibit 7; Exhibit 8; Testimony of Mr. Romine*

CONCLUSIONS

Jurisdiction:

The Kennewick Hearing Examiner is granted jurisdiction to hear and decide preliminary plat applications pursuant to KMC 4.02.080 (1)(b) ii.

Criteria for Review:

The Hearing Examiner may approve an application for a preliminary plat only if the requirements of KMC Chapter 17.10 are satisfied. Included in these requirements is KMC 17.10.080: Provisions for Public Health, Safety, and Welfare which are:

- (1) The Hearing Examiner will inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. All plats will be reviewed to determine their conformance with the Comprehensive Plan, comprehensive water plan, utilities plan, and Comprehensive Park and Recreation Plan, and anything else necessary to assist in determining if the plat should be approved. Appropriate provisions must be made for, but not limited to, the public

health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, public sidewalks, utility easements and other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation areas, playgrounds, schools and school grounds, and shall consider all other relevant facts and other planning features that assure safe walking conditions for students who only walk to and from school. All relevant facts will be considered to determine whether the public interest will be served by the subdivision and dedication. If it is determined that the proposed plat makes such appropriate provisions, then the Hearing Examiner must approve the proposed plat. Dedication of land to any public body may be required as a condition of subdivision approval. The Hearing Examiner will not, as a condition to the approval of any plat, require a release from damages to be procured from other property owners.

RCW 58.17.033

Proposed division of land—Consideration of application for preliminary plat or short plat approval—Requirements defined by local ordinance.

(1) A proposed division of land, as defined in RCW 58.17.020, shall be considered under the subdivision or short subdivision ordinance, and zoning or other land use control ordinances, in effect on the land at the time a fully completed application for preliminary plat approval of the subdivision, or short plat approval of the short subdivision, has been submitted to the appropriate county, city, or town official.

(2) The requirements for a fully completed application shall be defined by local ordinance

(3) The limitations imposed by this section shall not restrict conditions imposed under Chapter 43.21C RCW.

Conclusions based on Findings

1. The Applicant requested approval of a preliminary plat on 2.2-acres west of N. Grant Street and south of W. Umatilla Avenue at 1507 N. Grant Street and 5529 W. Umatilla Avenue, Kennewick Washington. The development will include 14 single-family lots with roads and utility development. The lots range in size from 6,721 square feet to 11,439 square feet and an average lot size of the plat will be 7,602 square feet. In April 1986 the property was zoned Residential Low Density (RL) (Ordinance 2995). In May 1992 the zoning designation was changed to Residential Medium-6000 (RM-6000) (Ordinance 3393). The Comprehensive Plan designation of the property Low Density Residential. *Testimony of Mr. Romine; Exhibit 1, pg. 3*, The plat is subject to the residential development standards set forth in KMC 18.12.010(A.2) and the Single-Family Residential Design Standards of Kennewick. *Testimony of Mr. Romine; Exhibit 1, pg. 3. Findings of Fact Nos. 1 and 2*
2. The proposed plat has been reviewed by the City and other agencies and has been determined to be in conformance with the City of Kennewick Comprehensive Plan *Findings of Fact Nos. 17-20*; water requirements of the City of Kennewick *Finding of Fact NO. 9*; sanitary sewer service requirements. *Finding of Fact No. 9*; storm sewer

service requirements *Finding of Fact No. 10*; Comprehensive Park and Recreation Plan *Finding of Fact No. 11*; and all relevant requirements to the approval of the plat.

3. Appropriate provisions have been made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, public sidewalks, utility easements and other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation areas, playgrounds, schools and school grounds, and the proposed subdivision has considered all other relevant facts and other planning features that assure safe walking conditions for students who walk to and from school. *Findings of Fact Nos. 4-16 and 20*
4. Various state and local agencies submitted comments and recommendations. The recommendations addressed impacts that could be created with the development of the plat. The recommended conditions are specific to the development and would mitigate the impacts. *Findings of Fact Nos. 12-16*
5. No wetlands are present on the site. *Finding No.4*
6. The proposed plat includes required improvements for infrastructure and open space. Adequate provisions have been determined for park fees to offset the impacts for recreational impacts. Schools in the area can handle the increase in students generated by the development. Utilities, including drainage, water and sewer are available to the site. Pedestrian and aesthetic considerations in the new development are called out on the plat map submitted for approval. The proposed plat provides provisions for parks, schools, drainage, transit, water, sanitation, infrastructure, pedestrian, and aesthetic considerations in new residential development. *Findings of Fact 4-16*

DECISION

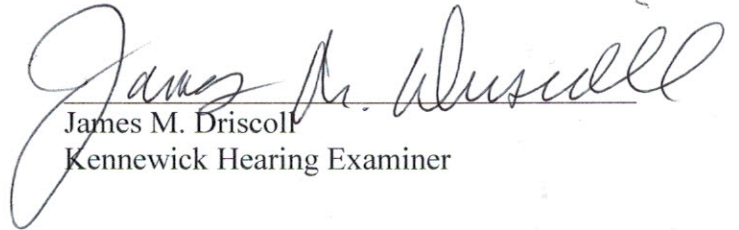
Based on the administrative record developed at the public hearing approval and the Findings of Facts and Conclusions as set forth above preliminary plat approval to subdivide the Grant Street Development Preliminary Plat on approximately 2.29 acres. The approved plat to be developed with 14 lots for single family home is located at west of N. Grant Street and south of W. Umatilla Avenue at 1507 N. Grant Street and 5529 W. Umatilla Avenue, Kennewick Washington. The approval is subject to conditions as set forth in the Decision section of this document. The approval is subject to conditions as set forth in the Decision section of this document. The term "Applicant" shall also refer to the Applicants successors.

1. The Applicant shall comply with all City of Kennewick regulatory controls, policies and codes, including the Single-family Residential Design Standards and Residential Low Density RL zoning designation.
2. All fees required by the City shall be paid prior to the approval of the final plat.
3. Construct residential streets per City of Kennewick Standard Detail 2-1, sheet 2 of 4. The Single-Family Residential Design Standards allow an option for curb tight sidewalks which may be used

4. All development of the plat shall be in conformance with the plat drawings submitted as Exhibit 3 at the public hearing.
5. Applicant shall comply with all requirement and comments as set forth in the February 9, 2018 Traffic Engineering Division memorandum comment. (Exhibit 7).
6. As part of the civil plans signing, striping and street lighting plan sheets must be included. The Applicant and its agents shall work with the City's Public Works Department in the striping of streets and any other safety issues resulting from the development of the plat.
7. The Applicant shall comply with all requirement and comments of Public Works Department as set forth in the February 6, 2018 (Exhibit 7).
8. In lieu of dedication of park land, park fees are required for impacts to Park Planning Zone 6W-Southridge. Park fees will be calculated and collected prior to signing the final plat mylar.
9. The Applicant shall coordinate and negotiate with Kennewick Irrigation District. The parties shall use a letter dated February 12, 2018 and admitted as Exhibit 8 as the basis of the agreement.
10. Geo-Tec reports are required for each lot at the time of building permit submittal. With prior approval a blanket geological report may be accepted as long as all applicable codes are met regarding soil bearing capacity.
11. The Applicant shall provide dust control method(s) such as hydroseeding for all areas of the site that are disturbed. Re-hydroseeding may be required.
12. Residential street trees are required to be installed prior to issuance of the Certificate of Occupancy for each new home. Prior to planting the Applicant shall provide to the City for approval a list of street trees.
13. There is existing landscape and signage that encumbers lot 1. If the landscape and signage is to remain, an easement must be recorded with Benton County against lot 1.
14. Prior to final plat approval the Applicant and the City must enter into an agreement that requires a Homeowner's Association, or other defined entity responsible for maintenance of said landscape and signage on lot 1. The agreement shall include procedures that allow the City to make arrangements for maintenance of the landscape areas should the Homeowner's Association or defined entity responsible for maintenance fail or refuse to maintain this area. The agreement is subject to the satisfaction of the City Attorney.
15. The Applicant shall execute a written agreement to the satisfaction of the City Attorney which will allow the City to make arrangements for maintenance of any common areas, open spaces, private roads, and common landscape areas should the Homeowner's Association fail or refuse to maintain these areas.

16. The Preliminary Plat (PP 18-02) expires 5 years from the approval date. The City may grant an extension, but any extension application must be applied for before the approved preliminary plat expires.

DATED this 19th day of March, 2018


James M. Driscoll
Kennewick Hearing Examiner