

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

In the Matter of the Application of)	No.	PP 18-03/PLN-2018-02078
Edwin Contreras, Applicant)		
for Preliminary Plat Approval)		FINDINGS, CONCLUSIONS,
_____)		and DECISION

SUMMARY OF DECISION

Preliminary Plat approval is granted to Edwin Contreras for a 12-lot single family home subdivision on a 3.17-acre parcel of land south of E. 31st Court at 3130 S. Gum Street, Kennewick, Washington. The subdivision is to be developed in one phase. Preliminary approval of the plat for the subdivision is granted subject to the conditions as stated in the Decision of this document.

SUMMARY OF RECORD

Edwin Contreras requested approval of a 12-lot single-family home subdivision for single family home development on a parcel of land that is approximately 3.17 acres. The development is proposed to be developed in one phase. The property is located south of E. 31st Court at 3130 S. Gum Street.¹ The subject property on which the subdivision will be developed is located in the City of Kennewick; However, Gum Street, which fronts the site, is in Benton County and outside of the City of Kennewick’s Urban Growth Boundary and jurisdiction.

Hearing Date:

The Hearing Examiner of the City of Kennewick held an open record hearing on the application on December 10, 2018.

Testimony:

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

- Wes Romine—City of Kennewick Planning
- Joe Seet-City of Kennewick Department of Public Works
- Edwin Contreras---Applicant
- \ Kyle Brown

Exhibits:

At the open record hearing the following exhibits were admitted:

1. Staff Report
2. Application
3. Notice of Application/Mailing List

¹ The legal description of the property is: SHORT PLAT #310, LOT 1 SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD, according to the survey thereof recorded under auditor’s file no. 721458, Records of Benton County, Washington

4. Vicinity Map
5. Preliminary Plat Drawing
6. Conceptual Grading Plan
7. City Department Comments
8. Out-side Agency Comments
9. Hardcopy of power point presentation
10. Letter from Kennewick School District.

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

FINDINGS OF FACT²

1. Edwin Contreras requested approval of a 12-lot single-family home subdivision for single family home development on a parcel of land that is approximately 3.17 acres. The subdivision is proposed to be developed in one phase. The property is located south of E. 31st Court at 3130 S. Gum Street. The property on which the subdivision will be developed is in the City of Kennewick; However, Gum Street, on which the property fronts, is in Benton County and is outside of the City of Kennewick's Urban Growth Boundary. *Exhibit 1, Staff Report, pg. 1; Exhibit 2; Testimony of Mr. Romine*
2. The subject property is zoned Residential Low Density (RL). In a developed RL zoned plat, the allowed minimum lot size is 7,500 square feet. The proposed development is designed for the lots to range in size from 8,255 square feet to 9,619 square feet. The City of Kennewick's Single-Family Residential Design Standards apply to this project. *Exhibit 1, Staff Report, pgs. 1 and 2; Exhibit 5; Testimony of Mr. Romine.*
3. An existing single-family home will remain on proposed lot 1 and will be part of the completed subdivision. *Testimony of Mr. Romine; Exhibit 5.*
4. The surrounding property to the east, including S. Gum Street, is outside of the City's Urban Growth Area and is developed with large single-family lots. Properties to the north, south, and west are in the City and are zoned RL with lots approximately 17,000 – 18,000 square feet in size. To the southwest is a Columbia Irrigation Canal. Across the Canal is the Highland View Heights plat that is currently under construction with an average lot size of approximately 13,000 square feet. *Exhibit 1, Staff Report, pg. 3.* The proposed plat will be consistent with other development in the area. *Testimony of Mr. Romine.*
5. The property was annexed into the City of Kennewick in June 1975. At that time, it was designated as Residential Low Density (RL) zoning. (Ord. 5597). *Exhibit 1, Staff Report, pg. 3.*

² Throughout these Findings the source of the Finding as established in the administrative record will be italicized.

6. In the City of Kennewick Critical Area maps there are no critical areas or steep slopes identified on the subject site. *Exhibit 1, Staff Report, pgs. 4 and 5; Testimony of Mr. Romine.*
7. Pursuant to the Residential Development standards for RL zoned properties in Kennewick there are no minimum or maximum density requirements. *KMC 18.12.010 A.2- Table of Residential Development Standards*, but there is a minimum lot size standard of 7,500 square feet. The proposed development calls for density of 3.79 units per acre; the smallest proposed lot is 8,255 square feet. *Exhibit 1, Staff Report, pg. 3; Exhibit 5, Testimony of Mr. Romine.* The internal street of the subdivision shall be developed to City of Kennewick standards, including, but not limited to curbs, gutters and sidewalks. *Testimony of Mr. Seet; Testimony of Mr. Romine; Exhibit 1, pg. 3*
8. The land for development of the project is south of E. 31st Court at 3130 S. Gum Street, near the City's boundary. Access to the lots will be from S. Gum Street, which is outside the City boundary and in Benton County. The street will not be developed to the City of Kennewick street standards, but to the Benton County standards. The Benton County standards do not include requirements for curb, gutter and sidewalks. Another access will be a new proposed road (E. 32nd Court) that is required to be built to City of Kennewick street standards. In response to a comment (*Right of Way and Easement comment No. 2*) in a July 23rd, 2018 memorandum by the Kennewick Traffic Division, the Applicant has adequately provided information that the right-of way at the connecting point of the development's internal road onto S. Gum Street has sufficient right-of-way. *Testimony of Mr. Romine; Exhibit 1, Staff Report, pgs. 2 and 3; Exhibit 5; Exhibit 7, pg. 2; Testimony of Mr. Seet.*
9. The portion of Gum Street that fronts the subject property is outside the City of Kennewick and is under the jurisdiction of Benton County. The road standards for new development in Benton County differ from those in Kennewick. As a result, there is no requirement of the Applicant to bring Gum Street, at the point where it fronts the subject property, to City of Kennewick standards. *Testimony of Mr. Romine*
10. The City has adopted the Storm Management Manual of Eastern Washington. All designs, construction, and post construction management of storm drainage facilities must be in accordance with said Manual and with City of Kennewick standards. *Exhibit 7, pg.4, No. 12*
11. City of Kennewick stormwater standard for residential subdivisions must be designed for the system 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 where 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 is required to submit detailed civil engineering drawings, including a stormwater plan, that satisfy City standards for review. Approval is required by the City of Kennewick's Public Works Department.

12. An existing 12-inch waterline, located in S. Gum Street, must be extended to serve all homes in the subdivision. The existing residence on lot 1 of the proposed plat is serviced by the existing water line in Gum Street. The other lots of the plat will be serviced by the same water line in Gum Street with a line extended in the internal street of the plat that will allow service connections to the individual lots. *Testimony of Mr. Contreras*
13. The Applicant/Developer must loop the water mains as means of avoiding buildup of stagnant water and minimize bacteria regrowth that could occur if not addressed. *Exhibit 1, Staff Report, pg. 4; Exhibit 7, pgs. 3 and 4*. The complete water main system for the plat will include fire hydrants installed at every intersection and at 500-foot intervals. More details are set forth in a July 17th, 2018 memo from the City Development Services Supervisor. *Exhibit 7, pgs. 3 and 4*
14. Potable water is not available for irrigation purposes. *Exhibit 7, pg 3, Number 6*. The Columbia Irrigation District has jurisdiction over nearby irrigation resources. The Applicant is part of the Irrigation District and has access to its water for irrigation purposes. After preliminary plat approval by the City, the Applicant will meet with the Irrigation District to determine the details of irrigation use on site. *Testimony of Contreras*. The District submitted a list of items that must be completed for approval by the District. *Exhibit 8, pg. 1*
15. An existing 15-inch sanitary sewer line is located in S. Gum Street. *Exhibit 7, pg 2, Number 9*. The existing residence on lot 1 of the proposed plat is serviced by the existing sewer line in Gum Street. The other lots of the plat will be serviced by the same sewer line in Gum Street and the Applicant/Developer must extend sewer service to each lot to meet City standards. *Exhibit 1, Staff Report, pg. 4; Exhibit 7, pgs 3 and 4; Testimony of Mr. Contreras*
16. With payment of traffic mitigation fees by the Applicant, the City's traffic engineer determined that the development of the proposed plat will satisfy the City's requirements for concurrency with transportation. *Exhibit 7, pg. 1; Exhibit 1, pg. 3*. As part of the development of each lot a traffic mitigation fee of approximately \$982 per dwelling unit will be required.³ The \$982 per dwelling unit Traffic Impact Fee may have a cost of living increase adjustment in 2019. Traffic mitigation fees maybe paid at the time of building permit issuance or deferred until occupancy with a recorded covenant of payment obligation form. *Exhibit 1, Staff Report, pg. 3; Testimony of Mr. Romine*
17. Kennewick adopted a Park Impact Fee ordinance on December 5, 2017 that became effective January 1, 2018 (KMC Chapter 3.90). The proposed subdivision is located east of US 395, which is designated by the City as Service Area 2. Park Impact Fees per the rate for Service Area 2 are \$760 per single-family unit and are due at the time of Building

³ City of Kennewick traffic mitigation ordinance (KMC 13.16).

Permit application, or can be deferred until occupancy with a recorded covenant of payment obligation form. *Exhibit 1, Staff Report, pg. 4; Testimony of Mr. Romine.*

18. In a memo submitted from Brandon Potts of the Kennewick School District, the schools that will serve the proposed plat are identified as Washington Elementary School, Horse Heaven Hills Middle School, and Kennewick High School. As stated in the memo the Kennewick School District has the capacity to add students to all levels at the three schools. All three schools are in a bussing zone. All new streets for the subdivision within the jurisdiction of Kennewick will be required to have 5-foot wide sidewalks for student safety. The location of a school bus stop will be determined before final plat approval. *Testimony of Mr. Romine; Exhibit 1, Exhibit 1, Staff Report, pg. 4. Exhibit 10*
19. The Benton-Franklin Health District submitted comments that it had no objections to the plat “provided municipal services, such as sewer and water are provided for existing and all future development”. *Exhibit 8, pg. 4*
20. Benton Clean Air Agency’s (BCAA) comments dated October 24, 2018 were submitted at the hearing. BCAA stated in its comments that potential fugitive dust emissions will be disturbed on the property as a result of the required clearing. The Applicant/Developer is required to submit “...a Proof of Contact: Soil Destabilization Notification for this project prior to any excavation/construction taking place”. In addition, a written dust control plan must be developed and maintained for all soil destabilization projects. *Exhibit 8, pg. 2*
21. The proposed plat is consistent with the Kennewick Comprehensive Plan RESIDENTIAL GOAL 1: that requires the development of the plat “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, and is zoned similar to much of the surrounding property. It complies with development standards for Residential Low-density zoned properties. *Exhibit 1, Staff Report; Testimony of Mr. Romine*
22. The proposed plat is consistent with the Kennewick Comprehensive Plan RESIDENTIAL GOAL 2 that requires the development of the plat include a means to “Provide appropriate public facilities supporting residential areas.” City water and sewer services are available at Gum Street and must be extended to the lots of the proposed plat. Gum Street must be developed to Benton County standards. *Exhibit 1, Staff Report; Testimony of Mr. Romine.*
23. The proposed plat is consistent with the Kennewick Comprehensive Plan RESIDENTIAL GOAL 3 that promotes “...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 3.79 units per acre. *Exhibit 1, Staff Report; Testimony of Mr. Romine;*

24. The proposed plat is consistent with the Kennewick Comprehensive Plan CRITICAL AREAS AND SHORELINE GOAL 3. City of Kennewick critical area maps and a submitted wetland report indicate there are no critical areas on or near the proposed project. *Exhibit 1, Staff Report; Testimony of Mr. Romine*
25. Provisions for Public Health, Safety, and Welfare have been addressed in the proposal. The Staff, pursuant to review of appropriate law and submittals, determined that appropriate provisions have been 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 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. *Testimony of Mr. Romine; Exhibit 1, Staff Report pg. 5; City Departments Comments-Exhibit 7*
26. No testimony or exhibits of evidence were submitted by property owners and neighbors in the area.

CONCLUSIONS OF LAW

Jurisdiction:

The Kennewick Hearing Examiner is granted jurisdiction to hear and decide preliminary plat applications pursuant to KMC 4.02.080 (1)(b) ii. The Hearing Examiner is granted jurisdiction to hear and decide planned development permits applications pursuant to KMC 4.02.080 (1b) iv and KMC 18.45.060.

KMC 18.45.050: Development Standards:

Criteria for Preliminary Plat 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.

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

RCW 58.17.033

(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. Edwin Contreras requested approval of a 12-lot single-family home subdivision for single family home development on a parcel of land that is approximately 3.17 acres. The subdivision is proposed to be developed in one phase. The property is located south of E. 31st Court at 3130 S. Gum Street. The property on which the subdivision will be developed is in the City of Kennewick; However, Gum Street, on which the property fronts, is in Benton County and is outside of the City of Kennewick's Urban Growth Boundary and jurisdiction. *Finding of Fact No. 1*
2. The subject property is zoned Residential Low Density and the Comprehensive Plan's designation is Low Density Residential. The proposed plat has been designed to meet the requirements of both designations. *Finding of Fact No. 2*
3. 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. 21-25*; water requirements of the City of Kennewick, *Findings of Fact No. 12 and 13*; sanitary sewer service requirements, *Finding of Fact No 15*; storm sewer service requirements, *Findings of Fact Nos 10 and 11*; Comprehensive Park and Recreation Plan *Finding of Fact No. 17*; and all relevant requirements to the approval of the plat.

4. Provisions for Public Health, Safety, and Welfare have been addressed in the proposal. The Staff, pursuant to review of appropriate law and submittals, determined that appropriate provisions have been 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 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.
Finding of Fact No. 24
5. The minimum lot standard for RL property is 7500 square feet. The proposed density will be 3.79 units per acre with the smallest lot proposed to be 8,255 square feet. There will not be a sense of extreme density and the lots are large enough to create a sense of openness within the neighborhood. *Finding of Fact No. 2*
6. All relevant facts have been considered to determine whether the public interest will be served by the subdivision and dedication. *Findings No. 1-25*. The public interest is served with the development of the proposal.
7. Provisions for Public Health, Safety, and Welfare have been addressed in the proposal. The Staff, pursuant to review of appropriate law and submittals, determined that appropriate provisions have been 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 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 2-25

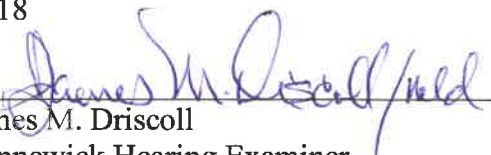
DECISION

Pursuant to the authority granted the City of Kennewick Hearing Examiner, a 12-lot subdivision for single family home developments on a parcel of land approximately 3.17 acres in size, and proposed to be developed in one phase. The property is located south of E. 31st Court at 3130 S. Gum Street. The approval is subject to the following conditions.

1. The Applicant/Developer shall comply with City of Kennewick regulatory controls, policies and codes, including all Single-family Residential Design Standards.
2. All fees required by the City shall be paid prior to the approval of the final plat.
3. The Applicant/Developer shall 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 and they may be used.
4. All development must be in conformance with the plat drawing that was submitted at the hearing as Exhibit 5.

5. The Applicant shall develop the internal road of the subdivision to City standards in effect at the time of the issuance of final plat approval. . Gum Street shall be developed to Benton County standards at the points where it fronts the subject property.
6. The Applicant/Developer must comply with memorandums from the Department of Public Works dated July 17, 2018, and October 23, 2018 that were submitted as part of Exhibit 7. The internal street of the plat, E. 32nd Court must be built to City of Kennewick street standards.
7. The Applicant/Developer must comply with the City of Kennewick Fire Department requirements set forth in a July 17, 2018 memorandum that was submitted as part of Exhibit 7.
8. The Applicant/Developer shall comply with Columbia Irrigation District requirements that were identified as part of a submittal in Exhibit 8.
9. The Applicant/Developer shall comply with Benton Clean Air Agency comments set forth in an October 24, 2018 memorandum and submitted as part of Exhibit 8.
10. The existing home on proposed lot 1 will be part of the subdivision. Proof of Lot 1 being connected to City of Kennewick water and sewer services shall be presented to the City Planning Department prior to final plat approval.
11. Geo-Tec reports are required for each lot at the time of building permit submittal. However, with prior approval from the City of Kennewick, a blanket geological report may be accepted if all applicable codes are met regarding soil bearing capacity.
12. The Applicant/Developer shall provide dust control method(s) such as hydroseeding for all areas of the site that are disturbed. Re-hydroseeding may be required if determined necessary by the City.
13. Residential street trees are required to be installed prior to issuance of a Certificate of Occupancy for each new home. Prior to planting, the Applicant/Developer shall provide a list of street trees to be used for approval.
14. The Preliminary Plat (PP 18-03) 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 DECEMBER, 2018

/s/ 
James M. Driscoll
Kennewick Hearing Examiner