

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

In the Matter of the Application of	)	No.	<b>PP 16-03/PLN-2016-01360</b>
Don McIntosh (PRD Applicant)	)		<b>PRD 16-01/PLN-2016-00841</b>
Trendz Real Estate, Inc.	)		
Golden Pacific Lifestyles, LLC	)		FINDINGS, CONCLUSIONS,
<u>for Preliminary Plat Approval</u>	)		and DECISION

**SUMMARY OF DECISION**

Preliminary Plat 16-03 and Planned Residential Development Permit 16-01 are APPROVED subject to conditions listed.

**SUMMARY OF RECORD**

The properties that are the subject of the requests are located in the City of Kennewick south of Ridgeline Drive and at the east and west of the future extension to the south of S. Sherman Street. Parcel Nos. 1-1789-401-0857-011, 1-1789-400-0002-011, and 1-1789-400-0002. The initial development request was to develop 51.9 acres of the site with a Planned Residential Development (PRD) for a senior living community and single family lots. The 51.9 acres were proposed to be developed into 172 lots that would have included senior independent living, assisted living and rehab facilities. As part of the project the then applicants submitted a Preliminary Plat application to subdivide phases 1 – 4 to create 152 of the single single-family lots

Don McIntosh (PRD Applicant) requested approval of a Planned Residential Development Permit (PRD 16-01) to allow deviations from the Residential Medium Density development standards, including private gated streets and a building height increase for the Independent Living, Assisted Living and Rehab buildings. The PRD application included property that was under different ownership than that of the requested plat but the two applications were processed together because of their joint reliance on features of each of the parcels. The PRD was depicted to include 172 lots which included 153 single-family lots of the separate plat application; 16 cottage lots, an Independent Multi-Family Living facility, an Assisted Multi-Family Living facility, and a Rehab facility building. The site contains Erosion Hazard and Steep Slope critical areas with slopes over 15%. Pursuant to the Kennewick Municipal Code approval of the Planned Residential Development Permit is required prior to approval of the Preliminary Plat application since deviations from the City’s Codes are requested. The request for preliminary plat approval for PP 16-03 was filed about a month after PRD 16-01.

A public hearing on the requests was held on July 13, 2016. After a review of the administrative record, including all testimony presented at the public hearing and all exhibits of record, a Hearing Examiner of the City of Kennewick issued a remand of the request to the City Planning Department for further review consistent with the Findings and Conclusions of the Hearing Examiner’s Remand Order. In the Order the Hearing Examiner issued a list of items that were required to be considered by the City as part of the remand. They included:

1. A more clear description by the Applicants of the proposed uses and descriptions for the PRD 16-01 parcel and the PP 16-03 parcel and how the two parcels will be developed with each other.
2. A more clear description of what is being proposed as part of PRD 16-01. This should be done with a Site Plan submittal.
3. Complete Maps and landscape plans of the PRD that include all the properties included in the proposal.
4. Consistency with project names
5. What impacts, if any, would result to adjoining properties from the approval of PRD 16-01?
6. If lots 171 and 172 are not owned and included in PRD 16-01 would there be a need for PP 16-03 to be developed with PRD relief?
7. What would be the density of PP 16-03 if lots 171 and 172 of PRD 16-01 are not allowed for open space relief?
8. Any other information the City deems necessary in order to properly address the requirements for approval of plats and planned developments in Kennewick.

Subsequent to the Remand Order the Applicants, Scott Espedal of Golden Pacific Lifestyles and Matt Smith of William Smith Properties, Inc.<sup>1</sup> (PP Applicant) submitted additional information to the City for the approval of PP 16-03. They submitted that a 154 lot single-family subdivision that would be developed in 4 phases of development with the first phase of construction starting in the fall of 2016 and the timing of remaining phases to be based on market demand. The Preliminary Plat is projected to be a part of the larger Planned Residential Development located south of Ridgeline Drive and to the east and west of the future extension to the south of S. Sherman Street (PRD 16-01).

The City reviewed the additional submitted information and set a public hearing before the Hearing Examiner on September 22, 2016.

At the hearings of July 13, 2016 and September 22, 2016 the following presented testimony and evidence:

Mr. Wes Romine	City of Kennewick
Mr. Greg McCormick	City of Kennewick
Ms. Alicia Piper.	City of Kennewick
Mr. Jason Mattox	Applicants' representative
Mr. John Schultz	Public Witness
Mr. Arlo Pagel	Public Witness
Ms. Weinhammer	Public Witness
Mr. Kelly Robertson	Public Witness

At the remand hearing the entire record of the July 13, 2016 was admitted as part of the record as were the exhibits submitted at the September 22, 2016 hearing. The exhibits of the administrative hearings are:

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<sup>1</sup> identified in the caption of this decision

*Exhibits admitted at the July 13, 2016 hearing<sup>2</sup>*

- 1 Staff Report
- 2 PP & PDP Application
- 3 Notice of Application/Mailing List
- 4 Vicinity Map
- 5 Planned Residential Development Drawing
- 6 Preliminary Plat Drawings
- 7 Landscape Plan
- 8 Street Sections
- 9 SEPA Determination
- 10 Geotechnical Investigation Report/Geohazards Assessment
- 11 City Department Comments
- 12 Outside Agency Comments
- 13 Traffic Letter
- 14 Power Point Hardcopy
- 15 Addendum 2 to PRD – comments for DPA
- 16 Petition

*Exhibits admitted at the remand hearing on September 22, 2016*

- 17 Addendum to Staff Report
- 18 Property Posting Affidavit and Public Hearing Mailing
- 19 Remand Response from Applicant
- 20 Amended PRD Drawing
- 21 Amended PP Drawing
22. Traffic Engineer Memo dated September 15, 2016
- 23 Addendum to Staff Report dated September 19, 2016
- 24 Power Point Hardcopy for September 22, 2016 hearing

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 initial development request for the subject property, filed on March 28, 2016 by the PRD Applicant, was for a Planned Residential Development Permit (PRD 16-01). The original development of PRD 16-01 was projected to have 172 lots which included 153 single-family lots, 16 cottage lots, an Independent Multi-Family Living facility, an assisted multi-family living facility, and a rehab facility building. The requested PRD was for deviations from the Residential Medium Density (RM) zoning development standards. The request was for relief from certain requirements for private gated streets and a building height increase for independent Living, assisted

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<sup>2</sup> The August 1, 2016 Remand Decision issued by the Hearing Examiner is part of the administrative record.

<sup>3</sup> William Smith and Smith Properties Inc. were not initially applicants. Subsequent to the August 1, 2016 Hearing Examiner decision they were included as Applicants.

- living and rehab buildings to be constructed as part of the project. *Exhibit 1; Exhibit 2.*
2. On May 4, 2016 an application for PP 16-03 for a 152 lot single-family subdivision on the subject property was filed with the City by Scott Espedal of Golden Pacific Lifestyles and Matt Smith of William Smith Properties, Inc. (PP Applicant). The preliminary plat was to be part of PRD-16-01 and was proposed as a 4 phased development with the first phase of construction starting in the fall of 2016 and the remaining phases to be developed based on market demand. The requested preliminary plat was projected to be part of the larger planned residential development whose boundaries are located south of Ridgeline Drive and to the east and west of the future extension to the south of S. Sherman Street. *Testimony of Mr. Romine and Mr. Mattox at the July 13, 2016 hearing; Exhibit 2, pg 1; Exhibit 2, pgs. 2-3*
  3. The owners listed in the PRD 16-01 application were a different ownership group than the owners listed in the Plat PP 16-03 application and at the time of the July 13, 2016 hearing there was not common ownership of the PRD and the Plat. *Exhibit 2, pg. 1; Exhibit 2 pg 2; Testimony of Mr. Romine at the July 13, 2016 Hearing.* However each of the projects of the initial applications were contingent on the other project. If the increased proposed preliminary plat density were to be allowed it would be dependent on the approval of the PRD; and the relief sought in the PRD was contingent on the plat approval. Without a common ownership neither permit could stand on its own merits as applied for. *Testimony of Mr. Romine at the July 13, 2016 Hearing*
  4. In April 2016 a completely different preliminary plat not part of the instant PRD or Plat was approved (PP 16-01) that included lots on the west side of S. Nelson Street. In a rather confusing design the original drawing of the requested PRD 16-01 permit depicted an area of the PRD near where the Independent Living Facility is projected to be built. The ILF, if built as depicted, would overlap a row of lots west of S. Nelson Street that had already approved with a separate and already approved plat (PP 16-01). At the July 13, 2016 hearing it was unclear if this area was included as part of PRD 16-01 even though it was already an approved part of another plat. To add to the confusion the ownership of the area was not with the Applicants of PRD 16-01. As noted the application was remanded for further review by the Hearing Examiner for further clarification of ownership and land of the PRD. *Exhibit 23, pg. 3; Testimony of Mr. Romine; Exhibit 20*
  5. As a means of clarifying the confusing use of the approved plat, the Applicants in the amended application have reduced the area of the PRD and excluded the overlapping area of PP 16-01. The PRD application has been modified to depict 15.31% of open space instead of the previously listed 16.71%. The revised PRD drawing showing 15.31% open space satisfies the City of Kennewick code requirement of 15%. These reduced percentages are the result of the reduction of the PP 16-01 property in the calculations. *Exhibit 23, pg. 3; Testimony of Mr. Romine; Exhibit 20*

6. PP 16-03 would include 153 single family lots and the clubhouse proposed at the corner of Ridgeline Drive and S. Sherman at the north boundary of the parcel. The proposed lots on the east side of S. Sherman are owned by the William Properties Inc. while the lots on the west side of Sherman are owned by the Golden Pacific Lifestyles LLC. Both ownership groups are responsible for the Plat development. *Exhibit 19, pg. 3*
7. The entire parcel of land that would be developed as part of the PRD and the Plat was annexed into the City in April 2006 and was designated with a Residential Medium Density (RM) (Ord. 5142). The zoning for the Southridge sub-area was clarified by City Council in December of 2011 and the zoning for the subject property remained Residential Medium Density (RM) (Ord 5385). *Exhibit 1. Pg.9; Testimony of Mr. Romine at the July 13, 2016 Hearing*
8. Pursuant to the Washington State Environmental Policy Act (SEPA) the City was designated as the lead agency for review of environmental impacts resulting from the proposed development. On May 6, 2016, the City issued mitigated determination of Nonsignificance (MDNS) for the project. No appeals were filed. *Exhibit 9; Testimony of Mr. Romine.*
9. The adjacent properties to the south, east and north across Ridgeline Drive and to the east of S. Sherman are zoned RM and many of these properties are developed with single family homes. Other properties in the general area have been approved for single family structures and lots for future development. Directly to the west is vacant land zoned RM. To the north across future Ridgeline Drive and west of S. Sherman Street is vacant land zoned Residential Low Density (RL) that most likely will be developed with single-family homes. The Kennewick Planning staff submitted that the proposed Preliminary Plat will be harmonious with the surrounding properties. *Testimony of Mr. Romine; Exhibit 1, pg. 11*
10. A public hearing on the requests was held on July 13, 2016. After a review of the administrative record, including all testimony presented at the public hearing and all exhibits of record a Hearing Examiner of the City of Kennewick issued a remand of the request to the City Planning Department for further review consistent with the Findings and Conclusions of the Hearing Examiner's Remand Order. In the Order the Hearing Examiner issued a list of items that were required to be reviewed by the City as part of the remand. They included:
  - a). more clear description by the Applicants of the proposed uses and descriptions for the PRD 16-01 parcel and the PP 16-03 parcel and how the two parcels will be developed with each other.
  - b). more clear description of what is being proposed as part of PRD 16-01. This should be done with a Site Plan submittal.
  - c). complete Maps and landscape plans of the PRD that include all the properties included in the proposal.
  - d). consistency with project names

- e). what impacts, if any, would result to adjoining properties from the approval of PRD 16-01?
  - f).if lots 171 and 172 are not owned and included in PRD 16-01 would there be a need for PP 16-03 to be developed with PRD relief?
  - g).what would be the density of PP 16-03 if lots 171 and 172 of PRD 16-03 are not allowed for open space relief?
  - h). Any other information the City deems necessary in order to properly address the requirements for approval of plats and planned developments in Kennewick.
11. Subsequent to the Remand Order of the Hearing Examiner the Plat and PRD Applicants submitted a revised Planned Residential Development application. It was for 51.9 acres that includes a 55+ senior living community development with Independent Living, Assisted Living and Rehab facilities. In addition the PRD would permit 154 single-family lots to be developed as part of a five phased project. The PRD drawing was also amended to exclude an area immediately west of S. Nelson Street that had been included in the original PRD proposal. *Exhibit 19, pg. 3; Testimony of Mr. Mattox, Testimony of Mr. Romine, Exhibit 23. pg. 1*
12. At the time of the initial hearing the eastern portion of the PRD the location of proposed lots 170 and 172 had not been acquired by the Applicant for use in the PRD, but an option to purchase the land had been offered. While the option has still not been exercised, the parties have joined in the amended PRD request to be Applicants for the PRD. *Testimony of Mr. Romine; Testimony of Mr. Mattox; Exhibit 19*
13. Subsequent to the September 22, 2016 hearing, the City reviewed the ownership of the properties, the status of the ownership arrangement and the proposal of using the 51+ acres for PRD relief of PP 16-03. Based on the review the Kennewick Planning Staff recommended as a condition of approval that the land for the eastern portion of the PRD must be acquired as part of the PRD prior to the final plat approval of phase 4. If the property for PRD 16-01 is not acquired at that time, no further development of PP 16-03 would be allowed unless additional land is provided for open space to offset reduced standards for phases 1-4. *Testimony of Mr. Romine; Exhibit 23, pg. 5.*
14. The entire PRD would be developed on 51.9 acres of land that include three separate and distinct tax parcels in Kennewick. The PRD at full development would include housing options for seniors and development of single family housing which is the preliminary plat request. *Exhibit 19, pg. 1; Testimony of Mr. Mattox*
15. Upon completion PRD 16-01 would include numerous uses that are permitted in RM zoned properties. They include:
- Single family development
  - Independent living facility which would be a multi-story facility with multiple rooms within one building

- Assisted living facility which would be a multi-story building with multiple rooms
- A rehab facility which would be a single story facility for needed care and medical procedures including after hospital care
- Cottage style homes that would be near the living and rehab facilities. The cottages would be rentals or owner occupied units.
- A clubhouse that would be used for various events.

*Testimony of Mr. Mattox; Exhibit 23, pg. 2; Exhibit 10. Pg. 2*

16. The minimum lot size for RM zoned properties is 4,000 square feet. The minimum lot width for RM lots is fifty feet. The proposed plat meets these standards and no modification requests would be made since the initial hearing. *Exhibit 1, pg. 8; Exhibit 6*
17. The minimum side yard setback for RM properties is 5 feet and the minimum rear yard setback is 15 feet. The lots of the proposed plat meet these standards and no modification requests were made or requested since the initial hearing. *Exhibit 1, pg. 8; Exhibit 6*
18. The maximum density for the site is thirteen units per acre. The minimum lot frontage for the lots of the plat is thirty feet. No modification requests have been made since the initial hearing. *Exhibit 1, pg. 8; Exhibit 6*
19. As part of the plat development water main and sanitary sewer line extensions that will serve the proposed subdivision are required to be constructed at the Applicants' or their successors' expense. A separate permit will be required from the Kennewick Department of Public Works prior to construction for driveways, sidewalks, wheelchair ramps and utility extensions (water, sewer, street, storm drainage, street lights, fire hydrants, etc.). *Exhibit 1, pg. 10*. A representative of the City testified that these utility facts remain effective with the amended application. *Testimony of Mr. Romine*
20. The development of the plat is subject to a development agreement between the City of Kennewick and Brinkley Farms/William Smith Properties (recording number 2008-004878) that compensates the City for extending zone 5 water to the subject property area. As part of the agreement eight hundred dollars (\$800.00) shall be paid at the time of building permit for each platted development lot above the 810-foot contour line. *Exhibit 1, pg. 10*. An existing 12-inch water main at the westerly end of W. 38<sup>th</sup> Avenue will provide service to the development above the 810-foot elevation. A 16-inch water line inside a waterline easement is projected to serve the development above the 810-foot elevation west of S. Nelson Street (formerly S. Penn Street). *Exhibit 1, pg. 10*. A representative of the City testified that these utility facts remain effective with the amended application. *Testimony of Mr. Romine*

21. An existing 8-inch sanitary sewer at the intersection of Ridgeline Drive and S. Nelson Street (formerly S. Penn Street) will serve the development. The specific water and sewer requirements for development of PP 16-03 and PRD 16-01 are outlined in the Department of Public Works comments dated April 12, 2016 and the addendum to comments dated May 26. *Exhibit 11, pgs. 1-4.* A representative of the City testified that these utilities facts remain effective with the amended application. *Testimony of Mr. Romine*
22. City stormwater standards for residential subdivisions after development are required to have a design that will retain and dispose of a 25-year, 24 hour developed state storm and the 10-year 24-hour event for the natural pre-developed state. Prior to Final Plat approval the Applicants are required to submit detailed civil engineering drawings for review and approval to the City's Public Works Department. The submittal must include a stormwater plan that will meet City standards. A "Comprehensive Stormwater Plan" must be approved by the City for the *entire* plat prior to approval of phase 1 construction plans. Design calculations per City standards will be required at the time of civil preliminary review. *Exhibit 1, pgs. 9 and 10*
23. The intent of the City's Critical Area ordinance is to control slope stability. The site contains Erosion Hazard and Steep Slope critical areas with slopes over 15% that are considered "Steep Slope" (over 15% slope), and "Erosion Hazard" critical areas. *Exhibit 1, pg. 10.* A Critical Area report is required (KMC 18.58.140) along with additional requirements for Geologically Hazardous areas (KMC 18.62.06). . Any site work will require observation of a qualified engineer to certify compliance with recommendations of Geotechnical engineers. *Testimony of Mr. Romine*
24. The Applicants' representative HDJ Design Group submitted a detailed Geotechnical Investigation and Geohazards Assessment for development of the project. As part of the report site, conditions were analyzed, testing was completed and conclusions presented in section 7.0, and the City accepted the conclusions. *Exhibit 10- Geotechnical Investigation Report.* A representative of the City testified that the investigation and geohazard information remain effective with the amended application. *Testimony of Mr. Romine*
25. In order for a grading permit to be implemented the required grading must be monitored by a licensed engineer. At the end of grading activity the Applicant must provide certification that grading was done consistent with the Critical Area Report. *Exhibit 1, pg. 10*
26. As part of the City's preliminary plat review process a "Park Fee Determination Process" form was required to be completed. Included in the information provided in the form are land values and density of living units that were used to calculate park mitigation fees. For the instant project it has been determined that the Applicant is required to pay \$20,657.68 to mitigate impacts on park zone 6 W. (Southridge). Fees

will be required to be paid prior to signing the final plat mylar. *Exhibit 1, pg. 10*. A representative of the City testified that the park review information remain effective with the amended application. *Testimony of Mr. Romine*

27. An existing 20-foot wide Bonneville Power Administration (BPA) access easement crosses the southern lots of the plat that are adjacent to the Kennewick Irrigation District canal. The Applicant has been negotiating with the BPA to vacate the existing access easement and provide an alternate access and then. The existing BPA access easement must be vacated prior to final plat of any phase that has proposed lots encumbered by the easement. *Exhibit 1, pg. 11*

Doug Carl, Capital Projects Director of the Kennewick School District (KSD) submitted in a June 29, 2016, in which he stated that the School District will be able to serve the subdivision. The schools which the students of the subdivision will attend are the Sage Crest Elementary School, Chinook Middle School and Southridge High School. Students residing in the proposed subdivision will be in a walking zone for Sage Crest elementary and Southridge High School, and a bussing zone for Chinook Middle School is required. All new streets within the subdivision will be required to have 5-foot wide sidewalks which will connect to S. Sherman Street and Ridgeline Drive for a safe walking route to Southridge High School, and connect to W. 38<sup>th</sup> Avenue that has sidewalks that connect to Sage Crest Elementary School. *Exhibit 12, pg. 11; Exhibit 1, pg. 11*

28. The Applicants submitted a landscape plan map of the original PRD concept. *Exhibit 7, pgs. 1-2*. The plan was revised and submitted at the remand hearing as part of Exhibit 19. A landscape plan must be reviewed for approval of all common areas, open spaces and rights of way not left in a natural state, listing the number, location and species of trees, sizes of plant materials and ground cover prior to final plat approval. The landscape plan shall also include any fencing that will be constructed along arterial street frontage. *Exhibits 19 and 23*
29. Single-Family housing is a permitted use in the Residential Medium Density (RM) zoning district. The subject property can be served by City utilities. The proposal will be consistent with the City's Comprehensive URBAN AREA POLICY 3 that requires new growth consistent with the Comprehensive Land Use Map, the Capital Facilities Plan and the Capital Improvement Plan. *Exhibit 1, pg. 12*
30. The proposed five phased plat is consistent with the City's Comprehensive Plan Land Use and complies with development standards for RM zoning districts. The proposal will be consistent with the City's Comprehensive RESIDENTIAL GOAL 1: which requires the design of new residential developments to be compatible with adjacent residential areas. *Exhibit 1, pg. 12*
31. As noted above required utility services are available to the site. Residential Goal 4 of the City's Comprehensive Plan which encourages residential development only in urban areas where services can be provided is satisfied with the project. *Exhibit 1, pg. 12. Exhibit 9;*

32. Because the homes to be developed within the plat are subject to the City's residential development and design standards, RESIDENTIAL POLICY 3: of the Comprehensive Plan is satisfied. Open space exceptions will be allowed subject to the PRD review and the conditions as imposed in this document. *Testimony of Mr. Romine; Exhibit 1, pg. 12.*
33. RESIDENTIAL POLICY 5 of the City's Comprehensive Plan requires that the development of plats requires provisions for parks, schools, drainage, transit, water, sanitation, infrastructure, pedestrian, and aesthetic considerations in new residential development. As noted in these Findings this policy is satisfied with the instant plat request. *Testimony of Mr. Romine.*
34. The development of the plat will result in an infill project that contains multi and single family housing in a middle income price range. HOUSING GOAL 1 of the City's Comprehensive Plan which requires development of a variety of housing types and densities to meet the diverse needs of the population is satisfied.
35. The Applicant submitted a Traffic Impact Analysis letter for the PRD and Plat dated January 19, 2016 that provided data of the project description and the trip generation based on the proposed development. It identified key intersections, proposed infrastructure, capacity analysis based on the projects and other projects in the area, sight distances and traffic calming. The conclusion of the HDJ Design Group was:

The project impacts, in combination with the in-process trips, does not require traffic control beyond the minimum two-way STOP control. To maintain an acceptable LOS, no auxiliary additional lanes are needed. Full buildout of the intersection should be based on traffic growth associated with the completion of Ridgeline Drive.

The Letter included recommended traffic improvement. *Exhibit 13, pgs. 1-8*

36. In a memo dated May, 4, 2016 the Kennewick Traffic Engineering Division submitted comments relating to the transportation letter and the projected traffic for the PRD. *Exhibit 11, pgs. 5-6.* Although the gist of the traffic analysis did not change or become amended, *Testimony of Mr. Romine and Mr. Mattox*, subsequent to the Hearing Examiner Remand Order the Division submitted additional comments prior to the Remand Hearing. In a memo dated September 15, 2016 it was stated by the City that recommended conditions of development related to traffic and traffic control be based on the City's "...review of the proposed development site plan, existing traffic conditions, the average weekday traffic volumes generated by similar types of developments (per current ITE Trip Generation Manual), traffic flow and safety, proximately to the intersection adjoining property access and in conformance with Kennewick Administrative Code (KAC) Chapter 13-46 "Highway Access Management". *Exhibit 22.*
37. At the July 13, 2016 hearing the City and the Applicant were in agreement that condition #2 as recommended by the Traffic Engineering Division that reserving right-of-way land for a future roundabout at Sherman Street and Ridgeline Drive could be

open to negotiation in the future. The City Planning Department submitted that the conditions recommended by the Traffic Division were incorporated in the conditions submitted in the Remanded Staff Report. *Testimony of Mr. Romine; Exhibit 23. Exhibit 11, pg. 5; Testimony of Mr. Mattox; Testimony of Mr. Romine.*<sup>4</sup>

38. The Applicant commented at the September 22, 2016 hearing that the City's recommendation for various right-of-way widths for development of streets and sidewalks is more that required by the development standards of the City. *Testimony of Mr. Maddox.* The City can only impose development standards that are in effect that are established by the ordinances. *Testimony of Mr. Mattox*
39. Planned Residential Developments, regulated in KMC 18.45, encourage imaginative design and creation of permanent open space by permitting greater flexibility in zoning requirements than generally permitted by Kennewick's development standards. Specific setbacks, lot sizes, height limits, and other dimensional requirements are allowed to be waived if the Development Standards listed in KMC 18.45.050 and the Open Space Standards in KMC 18.45.060 are met.
40. As part of the Applicant's PRD application the following modification requests were made by the Applicant:
  - A reduction of the minimum 15 foot structure street setback to 11.5 feet.
  - A reduction of the minimum 20 foot garage street setback to 19.5 feet.
  - An increase of the 30 foot maximum building height for certain structures (ILF, ALF and Rehab buildings) to 45 feet.
  - Allowance of 28-foot private road standard with separated sidewalk on one side and no sidewalk on other side.*Exhibit 1, pg. 8, Exhibit 6; Testimony of Mr. Romine*
41. KMC 18.45.060: Open Space Standards requires that a "...PRD shall dedicate not less than 15 percent of the gross land area for common open space for the use of its residents." The original design of the Plat and PRD included an area immediately west of S. Nelson Street that resulted in PRD open space percentage of 17.15% *Exhibit 1, pg 8,6; Testimony of Mr. Romine* However, as noted in Finding of Fact 11, some of the property of the original design has been removed with the amended application. The new design plans for the PRD, including the land of PP 16-03, includes 5.31% open space and satisfies KMC 18.45.060. *Testimony of Mr. Mattox; Testimony of Mr. Romine; Exhibit 1, pg8; Exhibit 23, pg 3*
42. The proposed revised PRD would include all of the area of the plat and the other lots that are to be developed with the various elderly housing options. In total the PRD includes 51.9 acres of gross land area of which 8.9 acres would be common open space. Based on the design of the lots of the Plat the resulting density would be 7.48% of open space the plat. Without the property of all of the parcels proposed in the PRD

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<sup>4</sup> The Traffic Division restated the condition in *Exhibit 22, pg. 2*

the required 15% open space standard for the plat would not be satisfied. It is thus imperative that the PRD be approved in order for the Plat with its proposed current design and density to be approved. *Testimony of Mr. Romine;*

43. Planned Developments, regulated in KMC 18.45 encourage imaginative design and creation of permanent open space by permitting greater flexibility in zoning requirements than generally permitted by Kennewick's development standards. Specific setbacks, lot sizes, height limits, and other dimensional requirements are allowed to be waived if the Development Standards listed in KMC 18.45.050 and the Open Space Standards in KMC 18.45.060 are met. The City Planning Department reviewed all of the new information submitted as part of the remand and also reviewed the information that was originally filed and did not have to be modified. The City concluded that PRD 16-01 meets the PRD requirements of Kennewick and the PRD, including PP 16-03 can approved with conditions. *Testimony of Mr. Romine; Exhibit 23*
44. Prior to construction of the Independent Living Facility, Assisted Living Facility, and the Rehab Facility submit a Site Plan application for review and approval. *Testimony of Mr. Romine*
45. After review of the application and plans the City of Kennewick Planning Department submitted that appropriate provisions for development of the plat 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. *Testimony of Mr. Romine;*

*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.

*Criteria for Review:*

- A. 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.

- B. The purpose of a Planned Residential Development is set forth in KMC 18, 45. The purposes are:

18.45.010: Purpose:

It is the purpose of this chapter to:

- (1) Encourage imaginative design and the creation of permanent open space by permitting greater flexibility in zoning requirements than is generally permitted by other sections of the Kennewick Municipal Code (“KMC”);
- (2) Preserve or create environmental amenities superior to those generally found in conventional developments;
- (3) Create or preserve usable open space for the enjoyment of the residents;
- (4) Preserve, to the greatest extent possible, the natural characteristics of the land, including, but not limited to, topography, natural vegetation, waterways, and views;
- (5) Encourage development of a variety of housing types; and
- (6) Provide for maximum efficiency in the layout of streets, utility networks and other public improvements and infrastructure. (*Ord. 5501 Sec. 1 (part), 2013*)

Conclusions based on Findings

1. The initial development request for the subject property, filed on March 28, 2016 by the PRD Applicant, was for a Planned Residential Development Permit (PRD 16-01). The original development of PRD 16-01 was projected to have 172 lots which included 153 single-family lots, 16 cottage lots, an Independent Multi-Family Living facility, an assisted multi-family living facility, and a rehab facility building. The requested PRD was for deviations from the Residential Medium Density (RM) zoning development standards. The request was for relief from certain requirements for

private gated streets and a building height increase for independent Living, assisted living and rehab buildings to be constructed as part of the project, *Finding No 1*

2. A public hearing on the requests was held on July 13, 2016. After a review of the administrative record, including all testimony presented at the public hearing and all exhibits of record a Hearing Examiner of the City of Kennewick issued a remand of the request to the City Planning Department for further review consistent with the Findings and Conclusions of the Hearing Examiner's Remand Order. In the Order the Hearing Examiner issued a list of items that were required to be reviewed by the City as part of the remand. They included:
  - a). more clear description by the Applicants of the proposed uses and descriptions for the PRD 16-01 parcel and the PP 16-03 parcel and how the two parcels will be developed with each other.
  - b). more clear description of what is being proposed as part of PRD 16-01. This should be done with a Site Plan submittal.
  - c). complete Maps and landscape plans of the PRD that include all the properties included in the proposal.
  - d). consistency with project names
  - e). what impacts, if any, would result to adjoining properties from the approval of PRD 16-01?
  - f).if lots 171 and 172 are not owned and included in PRD 16-01 would there be a need for PP 16-03 to be developed with PRD relief?
  - g).what would be the density of PP 16-03 if lots 171 and 172 of PRD 16-01 are not allowed for open space relief?
  - h). Any other information the City deems necessary in order to properly address the requirements for approval of plats and planned developments in Kennewick.

*Finding No. 19*

3. Subsequent to the Remand Order of the Hearing Examiner the Plat and PRD Applicants submitted a revised Planned Residential Development application. *Finding No. 11* . The revised PRD was for development of 51.9 acres that includes a 55+ senior living community development with Independent Living, Assisted Living and Rehab facilities. In addition the PRD would permit 154 single-family lots to be developed as part of a five phased project. The PRD drawing was also amended to exclude an area immediately west of S. Nelson Street that had been included in the original PRD proposal. *Finding No. 11*
4. 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 No. 16-29*

5. 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 Nos. 30-35*; comprehensive water plan *Findings Nos. 20-21*; utilities plan *Findings 19-21*, and Comprehensive Park and Recreation Plan, *Finding No. 26*; and all relevant requirements to the approval of the plat. *Finding No. 11*
6. The purposes of a Planned Residential Development as set forth in KMC 18, 45 have been satisfied with the PRD application and design.
7. The PRD will include imaginative designs and uses of the property with the addition of 55+ housing and amenities and the creation of permanent open space by permitting greater flexibility in zoning requirements than is generally permitted by other sections of the Kennewick Municipal Code. *Findings Nos. 11, 14-15, 41-45*
8. The PRD with development of the plat and the uses of the PRD will preserve usable open space for the enjoyment of the residents of the subdivision and the 55+ housing. *Finding No. 42*
9. The PRD when developed with the subdivision and the 55+ housing will provide development of a variety of housing types.
10. Prior to construction of the Independent Living Facility, Assisted Living Facility, and the Rehab Facility submit a Site Plan application for review and approval. *Testimony of Mr. Romine*

### **DECISION**

Based on the preceding Findings of Fact and Conclusion that summarize the administrative record in this matter it is here by ordered that the requested approval of PRD 16-01 and Plat 16-03 are granted. The Applicants are allowed to develop a 154 single family lot into a subdivision; and housing and medical facility for 55+ that shall include an independent living facility, an assisted living facility and a medical rehab facility. The PRD and the Plat are granted subject to the following conditions:

1. The Applicants and their successors shall comply with City of Kennewick regulatory controls, policies and codes, including relevant Single-family Residential Design Standards of the City of Kennewick.
2. Prior to construction of the Independent Living Facility, Assisted Living Facility, and the Rehab Facility the Applicants or their successors submit a Site Plan application for review and approval. No building permits will be issued until approval of the Site Plan is given by the City.

3. All fees required by the City shall be paid prior to the approval of the final plat of each phase of the Plat
4. The Applicants or their successors shall construct S. Sherman Street per City of Kennewick Standard Detail 2-1, sheet 1 of 4 or 2 of 4 unless deviations are approved by the Public Works Director. Private Residential Streets and Ridgeline Drive are to be constructed per Exhibit 8. Where curb tight sidewalks are allowed street trees per the Single-family residential design standards are still required and the centerline of the trees shall be a maximum 5-feet from the back of sidewalk.
5. The development of the Preliminary Plat shall be in conformance with the Preliminary Plat drawing dated September 2016 and the Planned Residential Development drawing dated September 2016, (Exhibits 20 & 21).
6. Prior to the submission of the final plat of phase 4 of the Preliminary Plat (PP 16-03), the Applicants or their successors shall provide documentation to the City to confirm that ownership of the property on the east portion of the PRD has been acquired by the Applicants or their successors. If ownership has not been acquired the Applicants must include the property of phase 5 with the phase 4 final plat to ensure that there is sufficient property in the phases 1,2 3 and 4 to satisfy open space requirements of RM zoning standards of the City. Subsequent to and if transfer of land is required from phase 5 to the other phases, phase 5 of PP 16-03 shall be reviewed by the City to determine whether the remaining property in phase 5 can be developed. The review shall include minimum number of lots in phase 5 must be converted to
7. Prior to development of the PRD area to the east of the Preliminary Plat Phases 1-5, The Applicants or their successors shall submit a preliminary plat amendment to Sage Crest Phase 5 (PP 16-01) to add the connection to S. Nelson Street as shown on the PRD drawing and remove the existing stub street and access currently shown near Ridgeline Drive at the west of S. Nelson. If a preliminary plat amendment and modifications cannot be made to Sage Crest Phase 5, submit a revised PRD layout for approval per KMC 18.45.090 prior to issuance of a building or other permits.
8. Grading activity is to be inspected by a qualified geotechnical engineer. At completion of grading it must be certified that the cut and fill of the site is per the recommendations of the Geotechnical Investigation Report and Geohazards Assessment prepared by HDJ Design Group.
9. All retaining walls over 4-feet tall, including rock retaining walls, shall be designed and stamped by a licensed engineer. The Applicants or their successors shall submit drawings and calculations to the building department for review and approval.
10. The Applicants or their successors shall comply with the Geotechnical Design Recommendations of the Geotechnical Investigation Report and Geohazards Assessment prepared by HDJ Design Group.

11. The Applicants or their successors must submit a landscape plan for approval of all common areas, open spaces and rights of way not left in a natural state. The plan must list the number, location and species of trees, sizes of plant materials and ground cover prior to final plat approval. The landscape plan shall also include any fencing that will be constructed along arterial street frontage. The landscape plan shall be prepared by a licensed landscape architect or licensed landscape installer drawn to a legible scale.
12. All landscaped areas to be irrigated with an automatic sprinkler system or drip irrigation system. Xeriscape landscaping is encouraged.
13. A Homeowners' Association shall be established for PP-16-03
14. The Applicants or their successors shall execute a written agreement to the satisfaction of the City Attorney which will allow the City to make arrangements for maintenance of the common areas, open spaces, private roads, access driveways, and landscaped areas should the Homeowner's Association fail or refuse to maintain these areas. The arrangement must be recorded prior to the first building permit being issued.
15. Prior to commencing any construction, the Applicants or their successors must record with the Benton County Auditor a description of the property indicating that it is subject to the PRD development.
16. The Applicants or their successors must comply with the Public Works memorandum dated April 12, 2016 and Addendum dated May 26, 2016 (Exhibit A-11).
17. The Applicants or their successors must comply with Traffic Engineer memos revised and dated September 15, 2016 (Exhibit 22). Comply with Fire Department comments dated April 4, 2016 (Exhibit 11).
18. The Applicants or their successors must comply with Building Department comments dated March 31, 2016 (Exhibit 11).
19. The Applicants or their successors must comply with Kennewick Irrigation District letter dated April 20, 2016 and June 15, 2016 (Exhibit 12).
20. The Applicants or their successors must provide dust control method(s) such as hydroseeding for all areas of the site that are disturbed. Rehydroseeding may be required.
21. In lieu of dedication of park land and based on the "Park Fee Determination Process" calculation, the Applicants or their successors must pay park fees in the amount of **\$20,577.68** for impacts to Park Planning Zone 6W (Southridge). Fees will be collected at the final plat based on a percentage of lots being final platted.

22. Preliminary Plat 16-03/PLN-2016-01360 expires 5 years from the approval date, the City can grant an extension however an extension needs to be applied for before the preliminary plat expires.
23. Storm drainage shall be constructed to retain and dispose of a 25-year storm, 24-hour developed state storm. A controlled overflow, not to exceed the 10-year natural state storm is allowed. A piped overflow from all localized low points is required. The City will not accept ownership or maintenance of storm drainage ponds.
24. If surface retention is to be used for storm drainage, the homeowners will be responsible for maintenance. If surface retention is to be used, the pond shall be designed with a minimum of 2-foot freeboard and a spillway. No allowance for infiltration is allowed with surface retention. Future houses, driveways, sidewalks and streets will be considered as impervious surfaces.

Dated this 10<sup>th</sup> day of October, 2016

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James M. Driscoll  
Kennewick Hearing Examiner