

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

In the Matter of the Application of ) No. **FILE NO: PP 15-04/PLN-2015-02833**  
)  
J-U-B Engineering, Inc )  
for Preliminary Plat Approval ) **AMENDED DECISION**  
**The Ridge at Hansen Park-Division I** )

**SUMMARY OF AMENDED DECISION**

The Findings of Fact, Conclusions and Decision of the Kennewick Hearing Examiner issued on November 24<sup>th</sup>, 2015 are amended. Condition numbers 9 and 10 have been satisfied and an agreement between the parties regarding Kennewick Irrigation property is made part of the preliminary plat decision.

**FINDINGS OF FACT FOR AMENDED DECISION**

1. BMB Development, Inc. (referred to as Applicant), requested approval of a preliminary plat for development of a subdivision of two parcels (38.28 acres) into 84 lots for single family homes. The vacant site is at 8523 W. 10<sup>th</sup> Avenue, Kennewick, Washington.
2. Based on the administrative record developed at a public hearing on November 9, 2015 in front of a City of Kennewick Hearing Examiner approval of the requested preliminary plat was granted. On November 24<sup>th</sup>, 2015. The approval was subject to 10 conditions
3. Conditions 9 and 10 required further negotiations between the Applicant and the Kennewick Irrigation District (KID) with regard to the proposed development and KID's properties. Said conditions read:
  9. Conditions listed in Exhibit 11 are not adopted.<sup>i1</sup> However, prior to the issuance of any permits the Applicant and the Kennewick Irrigation District shall meet for the purpose of identifying which conditions could be implemented to meet the requirements of RCW 58.17.310. The meeting shall be held no later than December 11<sup>th</sup>, 2015. The parties shall submit a written report to the City Planning Department (Mr. Steve Donovan) no later than December 15<sup>th</sup>, 2015. The report shall provide any terms of

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<sup>1</sup> Exhibit 11 is a letter from Jason McShane, P.E. Kennewick Irrigation District Engineering/Operations Manager, dated 9/15/15, in which the proposed conditions are listed.

agreement between the parties, or, inform the City of the lack of agreement.

10. If there is agreement of the appropriate conditions, a list of those conditions shall be submitted to Hearing Examiner no later than December 17<sup>th</sup>, 2015. After a review of the record, and the appropriate law of Washington, the Examiner will issue an amendment to this decision. The amended decision will either include the agreed upon conditions: or if the parties are unable to reach an agreement, the Hearing Examiner will review each condition as set forth in Exhibit 11 to determine if it is to be a condition of the plat.
4. No appeals of the plat approval were filed. However, the Applicant and KID were unable to submit a proposed agreement to the City by the required date. They jointly requested and were granted an extension to submit the document. Subsequent extensions were granted by the Hearing Examiner.<sup>2</sup>
5. On October 12<sup>th</sup>, 2016 an attorney for the Applicant submitted a letter to Steve Donovan of the City of Kennewick Development Services in which it was stated that on October 4<sup>th</sup>, 2016 the Board of Directors of KID authorized an agreement between the Applicant and KID for the implementation of conditions that satisfy RCW 58.17.310. The agreement was signed. The October 4<sup>th</sup>, 2016 letter is Exhibit 25 of the administrative record.

#### CONCLUSION

1. The requirements of conditions 9 and 10 as set forth in the November 24<sup>th</sup>, 2015 preliminary plat decision have been satisfied.

#### AMENDED DECISION

The November 24<sup>th</sup>, 2015 decision is hereby amended to include the following conditions. The emphasis in these conditions has been provided in the materials presented for the record.<sup>3</sup>

11. Adequate irrigation easements consistent with Kennewick Irrigation District (“KID”) easement requirements shall be shown and dedicated on the face of the Final Plat, **ten (10) feet** in total width **five (5) feet** on each side of the center line centered on an existing irrigation pipeline serving the Subdivision, or if located along the road frontage of all lots, within the City of Kennewick “Sidewalk, Utility and Irrigation Easement”.
12. All existing right-of-ways or easements in favor of the United States Bureau of Reclamation (“USBR”), shall be shown on the face of the Final Plat with notes shown on the face of the Final Plat indicating: (i) “No grading may be performed and no permanent

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<sup>2</sup> December 14, 2015; January 28, 2016; March 2, 2016; April 29, 2016; and July 20, 2016.

<sup>3</sup> The language of the new conditions has not been changed. The numbering of the conditions has been changed for that as presented in order to be consistent with the list of conditions of the November 24<sup>th</sup>, 2015 decision.

structures may be built within the USBR right-of-way or easement without an approved permit from the KID and/or the USBR when applicable”, and (ii) “The property included within the subdivision is located within the boundaries of the KID and in the immediate vicinity of irrigation infrastructure. Please refer to [www.KID.org](http://www.KID.org) for further information.”

13. The Developer agrees to install signs reviewed and reasonably approved by the KID at any point where public or private roads cross the KID canal.
14. The Developer is required to submit an irrigation distribution plan designed by a professional engineer for review and reasonable approval by the KID prior to installation. The plan may be hand drawn or computer drafted. The plan shall be accurate and to a scale not exceed **one inch = 50 feet**. Completion of all facilities set forth in the approved irrigation distribution plan is required prior to KID’s signature on a certificate approving the Final Plat.
15. Irrigation system installations and modifications made consistent with the approved irrigation distribution plan shall be inspected and approved prior to the KID signing the certificate approving the Final Plat. The Developer shall contact the KID to arrange an inspection at least **forty-eight (48) hours** in advance of the desired inspection date.
16. Prior to recording a Final Plat for any phase of the Subdivision, the current year’s real estate taxes, including KID’s assessments, must be paid in full. If the Developer seeks Final Plat approval from the City of Kennewick after May 31st of a calendar year, the following calendar year’s estimated KID’s assessments (in the amount of **one hundred twenty-five percent (125%)** of the current calendar year’s assessment), shall be paid prior to recording the Final Plat.
17. Prior to recording a Final Plat for the first phase of the Subdivision, the USBR construction loan (if any) for all adjacent parcels included within the Subdivision and owned by the Developer within the boundaries of the KID must be paid, and all other USBR requirements legally imposed by the USBR must be completed.
18. The Developer shall timely pay KID all review and inspection fees applicable to the Subdivision in accordance with written KID policies and fee schedules then in place.
19. Each phase of the Subdivision shall require the appointment of a water master or single point of contact for matters relating to the operation and use of irrigation district facilities. The initial water master shall be the Developer (or Developer’s successor-in-interest), but procedures for appointing a new water master can be set forth in covenants, conditions and restrictions recorded prior to Final Plat approval, or by a homeowners’ association consisting entirely of owners of lots within the Subdivision. The Developer or homeowners’ association shall notify the KID in writing of any change in the name and address of the water master.

20. Written requests to sign any certificate confirming completion of required irrigation facilities and approval of a Final Plat shall be submitted on KID approved forms no less than **two (2) weeks** prior to a regularly scheduled KID board meeting, which generally are held on the first and third Tuesdays of each month.
21. Prior to KID signing a certificate approving a Final Plat for each phase of the Subdivision, Developer agrees to provide KID an electronic file (AutoCAD 2004 format) of construction as-builts to the KID. The Mylar for any phase of the Subdivision submitted to the KID for its certificate shall comply with the City of Kennewick's subdivision code. The Developer shall provide the KID full size copies of the final Mylar, stamped by a professional engineer.
22. Material modifications to a plat for any phase of the approved Subdivision shall be subject to additional review and comment by the KID consistent with City of Kennewick's subdivision code.
23. The Conditions, Covenants, and Restrictions for the Subdivision shall require the owner of each lot located adjacent to the USBR right of way or easement to maintain a fence adjacent to the USBR right of way or easement.

With the exception of the additional exhibit and conditions 11-13, no other changes or amendments are made to the November 24, 2015 decision. The decision remains in effect.

Dated this 19<sup>th</sup> day of October, 2016.

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James M. Driscoll  
Kennewick Hearing Examiner