

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

In the Matter of the Application of	)	PP 16-05/PLN-2016-03254
	)	
<b>Dennis Murphy</b>	)	<b>Meadows at Southridge</b>
	)	
	)	
For Preliminary Plat	)	FINDINGS, CONCLUSIONS, AND
_____	)	DECISION

**SUMMARY OF DECISION**

The requested preliminary plat to subdivide one parcel totaling 10.04 acres into 44 single-family residential lots is **APPROVED** subject to conditions.

**SUMMARY OF RECORD**

**Request**

Dennis Murphy (Applicant) requested approval of a preliminary plat subdividing a parcel totaling 10.04 acres into 44 single-family residential lots. The subject property is located at 5147 W 27<sup>th</sup> Avenue in Kennewick, Washington.

**Hearing Date**

On March 13, 2017, the City of Kennewick Hearing Examiner conducted an open record public hearing on the request.

**Testimony**

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

- Michelle Dellinger, Assistant Planner
- Wes Romine, Kennewick Development Services Manager
- John Deskins, City of Kennewick Transportation Engineer
- Jason Mattox, PBS Engineering, Applicant Representative
- Brian Thoreson, Applicant Representative
- Charles Miller
- Gene Spaulding
- Ben Woodard, Kennewick Irrigation District

**Exhibits**

At the open record hearing, the following exhibits were offered in evidence:

1. Staff Report prepared by Michelle Dellinger, dated March 1, 2017
2. Application
3. Notice of Application/Mailing List, dated November 22, 2016

4. Vicinity Map
5. Preliminary Plat Plans
6. Conceptual Grading Plan
7. Traffic Engineer memorandum, dated January 11, 2017
8. SEPA Determination, dated December 9, 2016
9. Public Works memorandum, dated November 30, 2017
10. Kennewick Irrigation district letter, dated December 7, 2017
11. Recorded Secondary Emergency Vehicle Access (SEVA) Document
12. Planning Staff's PowerPoint presentation

Upon consideration of the testimony and exhibits submitted, the Hearing Examiner enters the following findings and conclusions in support of the decision:

#### **FINDINGS**

1. The Applicant requested approval of a preliminary plat subdividing one parcel of land approximately 10.04 acres into 44 single-family residential lots. The subject property is located at 5147 W 27<sup>th</sup> Avenue in Kennewick, Washington. *Exhibits 1 and 2.*
2. Topographically, the site topography is rolling with slopes between one and 8%. The site contains no indications of unstable soils in the immediate vicinity. It is vegetated with shrubs, grasses, sagebrush, and rabbit brush. There are no surface waters, wetlands, geologic hazard areas, or other areas on-site that are regulated by the City's critical areas ordinance (CAO) as established in Kennewick Municipal Code (KMC) Chapters 18.58 and 18.62. No known threatened or endangered species are found on-site. *Exhibit 8.*
3. Adjacent parcels to the west and south are zoned Residential Low Density (RL). Property to the north is zoned Residential Suburban District (RS). To the west is Chinook Middle School which is zoned Public Facility (PF). *Exhibits 1 and 4.*
4. As of August 2016, the subject property has a Comprehensive Plan Land Use Designation of Low Density Residential. In January 2016, the site was rezoned to have the accompanying Residential Low (RL) zoning designation. The purpose of the RL zone is to establish areas for low-density, single-family, residential buildings, to stabilize and protect residential districts, and to promote and encourage a suitable environment for family life in an urban setting. *Kennewick Municipal Code (KMC) 18.03.040(2). Exhibit 1.*
5. The RL zoning district does not have a minimum or maximum density, instead requiring a minimum lot size of 7,500 square feet. The minimum required lot width is 60 feet. The proposed lots range in size from 7,500 to 10,423 square feet with an average lot size of 8,109 square feet. All lots would satisfy the minimum lot width requirement. The plat

would result in a density of 3.25 units per acre. All proposed lots appear capable of providing an adequate building envelope outside of required setbacks. Conformance with remaining development standards, including structure setbacks and building height among others, would be reviewed at the time of building permit issuance. Planning Staff indicated that the plat as proposed complies with applicable bulk dimensional standards. *KMC 18.12.010 A.2; Exhibits 1 and 5; Dellinger Testimony.*

6. The project is located south west of W. 27<sup>th</sup> Avenue and north of W. 32<sup>nd</sup> Avenue. Both streets feed into the major arterial Southridge Boulevard to the east. The proposed lots would connect to the existing public road network in two locations: in the northeast corner, the project would connect to W. 27th Avenue, and in the northwest corner of the site, it would connect to W. 28th Avenue. The two proposed internal 40-foot rights-of-way would be provided with full street improvements, including 18-foot easements for sidewalks, irrigation, and utilities on both sides. The Residential Design Standards allow curb tight sidewalks as an option to separated sidewalks; however the sidewalk at driveway curb cuts would be required to meet ADA standards. A separate permit would be required from the 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.). The proposed internal road includes a dead end street over 600 feet long (S. Dawes Place). The City's road standards require secondary access for residential streets over 600 feet long. Pursuant to KMC 17.20.010(2)(d)(ii), projects in the Southridge Sub-area may provide a second emergency vehicle access (SEVA) instead of the second city standard street. *Exhibits 1, 5 and 7.*
7. The proposed SEVA is to be provided within a 45-foot wide tract of land between proposed Lots 39 and 40 that connects to S. Dawes Street to the west; that 45-foot wide easement continues through the site between proposed Lots 28 and 29 to the Chinook Middle School property to the east. The 45-foot tracts, known as Tracts A and B, would include access and utility easements, Kennewick Irrigation District facilities, and a paved pedestrian pathway connecting to the existing pedestrian pathway provided from the Southridge Phase 1 development to the west. Pavement is required for a minimum 20-foot width and the SEVA access would be required to meet fire code requirements. Some kind of bollards would be installed to restrict vehicular access to emergency vehicles only. The SEVA would be required to be maintained by a formal lot owners association or other recorded maintenance agreement. *Exhibits 1, 5, and 11; Dellinger Testimony; Deskins Testimony.*
8. Frontage along W. 27th Avenue would be brought up to current City street standards, completing the existing sidewalk gap and construction a new public street intersection. There is adequate sight distance available in both directions at the proposed W. 27th Avenue site entrance. The posted speed limit on 27th Avenue is 25 miles per hour, and there is an existing speed hump just west of the proposed access. *Exhibits 5 and 7; Deskins Testimony.*
9. The Applicant submitted a professionally prepared trip generation letter, which projected 419 average new daily trips including 33 AM and 44 PM peak hour trips daily. *Exhibit 7.*

10. The City's traffic engineer determined that this proposal meets concurrency for transportation. The traffic engineer submitted recommended conditions of project approval requiring the following:
  - The cul-de-sac should show an 18-foot easement behind the right-of-way.
  - The existing access easement between lots 28 and 29 shall continue east to the Kennewick School District property and be paved similar to the west side.
  - A speed hump and signage shall be installed between lots 7 and 8 on W. 28<sup>th</sup> Avenue.
  - [Transportation impact fees are required.]

*Exhibit 9.* No traffic impact assessment was required because none of the affected intersections are close to reaching a level of service requiring mitigation from additional trips. As of the time the staff report was written, traffic mitigation fees of approximately \$938 per dwelling unit are required per the City of Kennewick's traffic mitigation ordinance, payable at the time of building permit issuance. The fee amount may go up in 2018. Traffic mitigation fees can be paid at the time of building permit issuance or deferred until occupancy with a recorded covenant of payment obligation form. *Exhibits 1, 7, and 9; Deskins Testimony.*

11. City of Kennewick stormwater standards require residential subdivisions to be designed to retain and dispose of a 25-year, 24-hour event for the developed state and the 24-hour event for the natural pre-developed state. The adjacent property containing the Chinook Middle School encountered percolation issues due to the caliche layer encountered at a depth of 25 feet. Because of the likelihood that the subject property is underlain by the caliche layer, storm calculations for the instant project are required include the evaluation of infiltration rates at proposed locations and depth when using drywells. Detention ponds may be used only where it can be clearly demonstrated that infiltration is not feasible per City of Kennewick Standard Specifications. Prior to final plat approval the Applicant would be required to submit detailed civil engineering drawings for review and approval to the Public Works Department, including a stormwater plan consistent with City standards. *Exhibits 1 and 9; Dellinger Testimony.*
12. All lots are proposed to be connected to municipal water and sewer service; the Applicant would be required to extend water and sewer mains to and through the plat with a stub to each lot. An existing six-inch waterline is available at W. 27<sup>th</sup> Avenue, a 15-inch waterline is available at Southridge Boulevard, and an eight-inch waterline is available at the east end of W. 28<sup>th</sup> Avenue. A existing 12-inch waterline crosses between proposed Lots 39 and 40. There is an existing eight-inch sanitary sewer line at W. 35<sup>th</sup> Avenue and an eight-inch sanitary sewer line at W. 27<sup>th</sup> Avenue. Comprehensive water and sewer plans would be required to be submitted by the Applicant and approved by the City for the entire plat prior to civil construction plan approval. All new water mains must be looped to avoid buildup of stagnant water. Municipal water is not available for irrigation purposes. *Exhibits 1 and 9.*

13. The proposed plat was reviewed by the Kennewick Fire Marshal for compliance with applicable Fire Code standards. The reviewing Deputy Fire Marshal noted that either the SEVA would be required or all homes would need to be developed with fire sprinklers. Also, fire hydrants would be required at all intersections at along the public streets at an average spacing of every 50 feet. *Exhibit 9.*
14. All areas disturbed during site preparation, including individual lots, would be required to be hydroseeded and maintained in a vegetated condition until development to prevent dust impacts to surrounding properties. Planning Staff recommended a condition requiring a landscape plan to be submitted for review and approval prior to final plat approval. Additionally, a maintenance agreement for all common areas must be submitted and approved by the City Attorney and recorded against the property. *Exhibit 1.* The Applicant representative indicated that no common areas are proposed aside from the SEVA and the pedestrian pathway. *Mattox Testimony.*
15. Based on the City's Comprehensive Park Plan, the plat is required to dedicate 0.4 acres for public parkland. Because the area is too small for use on-site, park fees are required in lieu of dedication of park land to mitigate impacts to park zone 6W. Payment of the fees would be required prior to signing the final plat mylar based on the percentage of lots being final platted per phase. *Exhibits 1 and 8.*
16. The plat is located within the boundaries of the Kennewick School District and would be served by Sagecrest Elementary, Chinook Hills Middle, and Southridge High Schools. According to correspondence dated December 29, 2016 from the Kennewick School District, the District has capacity to add students at all levels and at the three affected schools. The subject property is in a walking zone to Chinook Middle School and Southridge High School. Due to the distance from the plat to Sagecrest Elementary, students would be bussed. All new streets in the plat would be provided with five-foot wide sidewalks connecting to W. 27<sup>th</sup> Avenue and W. 28<sup>th</sup> Avenue. Safe walking to schools and bus stops would be provided. *Exhibits 1 and 10.*
17. The Kennewick Irrigation District (KID) submitted a comment letter dated December 6, 2016, noting that the subject property is irrigable acreage within KID's service boundaries. In order to provide irrigation water to the lots, KID requested plat conditions requiring a 10-foot irrigation easement along all irrigation system components and all lot frontages, unless lots are encumbered with a utility easement of at least five feet, in which case a five-foot irrigation easement was requested. The KID's comments also noted the existence of a 45-foot United States Bureau of Reclamation (USBR) right-of-way adjacent to/through the proposed plat, which is the area proposed for use as the SEVA. This right-of-way contains an existing KID pump station off-site to the west. The proposal's use of this USBR right-of-way is subject to approval in the form of a license or permit. No grading or permanent structures can be developed within the USBR right-of-way without express prior approval from KID or USBR, as appropriate. Other notes in the KID comments included (abbreviated/paraphrased to topic only): requesting a note on the face of the final plat informing that the site is within KID boundaries; informing that the site within KID's Southridge Master Plan Benefit Area and

requiring compliance with the master plan; installation of an irrigation system that comports with KID requirements; an irrigation plan prepared by a licensed engineer approved by the KID; KID inspection of irrigation installation; payment of the KID annual assessment, USBR construction loans (if any), and KID inspection fees; appointment of a subdivision water master; approval of the subdivision by KID, and compliance with KID residential use standards. KID requested that its comments, which are comprised of information and recommended conditions, be made conditions of the City's plat approval. *Exhibit 10; Woodard Testimony.*

18. An Applicant representative noted that the developer has begun conversation with KID about its requirements . The plat would connect to KID irrigation lines at W. 28th Avenue. No issues are foreseen. *Mattox Testimony.*
19. Planning Staff indicated that the proposed plat generally conforms to the City's Comprehensive Plan due to conformance with the following goals and policies:

Urban Area Policy 3: Promote new growth consistent with the Comprehensive Land Use Map, the Capital Facilities Plan and the Capital Improvement Plan.

Residential Goal 1: Guide the design of new residential developments to be compatible with adjacent residential areas.

Residential Goal 3: Promote a variety of residential densities with a minimum density target of 3 units per acre as averaged throughout the urban area.

Residential Goal 4: Encourage residential development only in urban areas where services can be provided.

Residential Policy 5: Provide provisions for parks, schools, drainage, transit, water, sanitation, infrastructure, pedestrian, and aesthetic considerations in new residential developments.

Housing Goal 1: Support and develop a variety of housing types and densities to meet the diverse needs of the population.

*Exhibit 1.*

20. The City of Kennewick assumed the role of lead agency in review of the proposal for compliance with the requirements of the State Environmental Policy Act (SEPA). Upon review of the complete application materials and the environmental checklist, the City's Responsible Official issued a mitigated determination of non-significance (MDNS) on December 9, 2016. Required mitigation included payment of park impact fees in the amount of \$20,954.33 are due at the time of final plat. *Exhibits 1 and 8.* The MDNS was not appealed. *Exhibit 1; Dellinger Testimony.*

21. The application was submitted on November 21, 2016 and determined to be complete on the same date. Notice of application was mailed to owners of surrounding properties on November 22, 2016 and posted on-site on December 9, 2016. Notice of public hearing was mailed to surrounding property owners on February 24, 2017 and published on February 26, 2017. *Exhibits 1 and 3.*
22. At hearing, there was public comment offered by neighboring property owners. Neighboring property owners expressed concerns on the following: objection to the proposed density; concern about adequate recreation space for future family residents; structure height and impacts to views and privacy; how traffic would be controlled at 28th Avenue where it intersects with 27th Avenue; dust during construction, which was extreme during construction of previous phases of Southridge; stormwater management given the difficulties encountered at the middle school; whether utilities would be undergrounded; evaluation of impacts to pygmy rabbit and burrowing owl habitat which used to be present; and whether two entrances would be adequate to serve the new traffic, among other topics. *Charles Miller Testimony; Gene Spaulding Testimony.*
23. Developers are required to manage dust during construction. Dust control during construction is regulated by the Benton County Clean Air Authority, which agency has the power to fine developers who generate excessive dust. While stormwater the school has been a problem, the Applicant would be required to infiltrate stormwater runoff on-site. Prior to construction, a complete stormwater civil engineering plan would be required, which would include appropriate testing to demonstrate the site's capacity for on-site management. Construction of roads and homes would not be allowed without first receiving approval of an engineered stormwater plan that complies with all applicable requirements. With regard to former on-site habitat for any particular species, the Washington State Department of Fish and Wildlife was notified of the proposal and did not comment. All new utility lines would be underground. With regard to concerns about too many lots being proposed, the subject property is not zoned for larger lots. The majority of the lots proposed are in fact larger than the minimum required in the zone, which is 7,500 square feet. There are no particular on-site recreation requirements that apply to the proposal. The large undeveloped access/utility easement tracts would create some open space. The project would be required to pay park impact fees. *Dellinger Testimony; Romine Testimony.*
24. The Applicant representatives reiterated that each lot would be required to infiltrate stormwater runoff on-site, noting that a geotechnical study of the entire site has already been conducted, which shows that infiltration is a feasible stormwater management technique. With regard to testimony about significant dust problems during previous phases of development at Southridge, the Applicant representatives noted that ultimately dust control is a contractor responsibility, but Hayden Homes (the developer) would be willing to be a point of contact for complaints about dust. Brian Thoreson offered to give neighbors his business card to facilitate such communications. They also noted that the proposed density for the 10.04 acres is about 3.25 units per acre, which is lower than the four units per acre encouraged by the site's Comprehensive Plan designation. They agreed that all utilities would be underground. The developer plans to build standard two

story homes, most of which would not be taller than 25 feet. The plat would be governed by a lot owners association, which entity would maintain the SEVA and pedestrian path easements. *Thoreson Testimony; Mattox Testimony.*

25. Upon complete review, and considering evidence offered at hearing, Planning Staff submitted the position that the proposed plat would be harmonious with the surrounding properties and would comply with all applicable development standards and Comprehensive Plan policies. Staff recommended approval with conditions. The Applicant waived objection to the recommended conditions of approval. *Exhibit 1; Dellinger Testimony; Mattox Testimony.*

## **CONCLUSIONS**

### **Jurisdiction**

The Hearing Examiner is authorized to hear and decide applications for preliminary plat pursuant to KMC 4.02.080(b) and 17.10.080.

### **Preliminary Plat Criteria for Review**

Pursuant to KMC 17.10.080(1), an application for preliminary plat may be approved only when the record demonstrates conformance with the Comprehensive Plan, comprehensive water plan, utilities plan, the Comprehensive Park and Recreation Plan, and when the record demonstrates that appropriate provisions will be 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 shall consider all other relevant facts and other planning features that assure safe walking conditions for students who only walk to and from school.

### **Conclusions Based on Findings**

1. As conditioned, the plat would be consistent with applicable goals and policies of the City of Kennewick Comprehensive Plan. The subject property is undeveloped RL-zoned land surrounded by single-family developments and a school. The proposed development is consistent with the City's vision for the vicinity and would complement existing surrounding residential development. City water and sewer are available; the Applicant would be required to extend utilities to each lot. Conditions of approval would ensure that development is consistent with all applicable City utility, road, stormwater, and fire standards and that the project's park impacts are mitigated through the payment of impact fees. *Findings 3, 4, 5, 6, 8, 11, 12, 13, 15, and 19.*
2. With conditions, all necessary findings for the public health, safety, and general welfare have been met. Single-family residential development is permitted in the RL zone; the proposed density comports with zoning and Comprehensive Plan designations for the subject property. Geotechnical review would be required to demonstrate the capacity of the soils of each lot to support the proposed structures and infiltrate runoff. As conditioned, the proposed new internal roadways would comply with applicable City street standards, providing sidewalks connecting to existing off-site sidewalks and developing an extension of the existing pedestrian pathway to the Chinook Middle

School site. The Applicant's trip generation letter demonstrated that the project's trips are not anticipated to result in delays at area intersections that would lower levels of service to the point of requiring mitigation. Traffic impacts would be mitigated through payment of traffic impact fees. A stormwater plan demonstrating compliance with the City's stormwater standards would be required at the time of civil engineering review. A condition would ensure compliance with the requirements of the KID subdivision approval process. Common open spaces, consisting solely of the 45-foot access/utility easement through the property, would be maintained by a lot owners association. Disturbed areas would be hydroseeded to prevent dust impacts. School aged residents of the plat would be adequately served at the appropriate schools without resulting in adverse capacity impacts. Safe pedestrian connections to Chinook Middle School and Southridge High School are in place, and the project's new sidewalks and paved pedestrian pathway would connect to existing facilities. Elementary school students residing in the plat would be bused. Provisions for parks and recreation would be made through payment of park impact fees in lieu of dedication. The proposal was reviewed for compliance with the requirements of SEPA and the issued MDNS was not appealed. *Findings 1, 2, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 20, 22, 23, 24, and 25.*

### **DECISION**

Based on the preceding findings and conclusions, the requested approval of a preliminary plat subdividing two parcels totaling 10.04 acres in Kennewick, Washington into 44 single-family residential lots is **GRANTED** subject to the following conditions:

1. The Applicant shall comply with City of Kennewick regulatory controls, policies, and codes, including the Single-family Residential Design Standards for the Single-family lots.
2. All fees required by the City shall be paid prior to the approval of the final plat.
3. The Applicant shall construct residential streets per latest City of Kennewick Standard Specifications and Details. The internal roadways shall conform with City of Kennewick Standard Detail 2-1 sheet 2 of 4 or Detail 2-1 sheet 1 of 4. The Single-Family Residential Design Standards allow an option for curb tight sidewalks which may be used.
4. Development shall be in conformance with the plat drawing in the record at Exhibit 5.
5. Development shall comply with Traffic Engineer memorandum dated January 11, 2017 in the record at Exhibit 7.
6. Development shall comply with Public Works memorandum dated November 30, 2016 in the record at Exhibit 9.
7. Development shall comply with Kennewick Irrigation District letter dated December 7, 2016 in the record at Exhibit 10.

8. Geo-Tec reports are required for each lot not later than the time of building permit submittal. With prior approval, a geological report addressing the entire project may be accepted as long as all applicable codes are met regarding soil bearing capacity.
9. The Applicant shall place a pedestrian pathway through Tract A and Tract B consistent with KMC 18.75 Residential Design Standards Single Family connection the existing pedestrian pathway from the west at Southridge Phase 1 to Chinook Middle School property to the east. The Applicant shall provide an easement called out as Pedestrian Pathway on the Final Plat. A placement detail on both Tracts must be included on the landscape plan showing compliance with the Residential Single Family Design Standards, Pedestrian Walkways, Page 17.
10. The SEVA access from S. Dawes Street must comply with the Fire Department requirements and allow for the pedestrian pathway entrance to remain unencumbered by posts or cables. The Applicant shall provide a drawing meeting the requirements of pedestrian connections and the Fire Department SEVA access for approval prior to civil review.
11. The Applicant shall create and provide a copy of the The Meadows at Southridge Covenants, Conditions, and Restrictions for review and approval presenting sections specific of the Residential Single Family Design Standards for:
  - a) Fencing types allowed adjacent to the pedestrian walkways and adjacent to W. 27<sup>th</sup> Avenue;
  - b) Street tree requirements listing specifics in placement requirements; and
  - c) Once approved a recorded copy of the CC&R's must be submitted prior to Final Plat.
12. In lieu of dedication of park land park fees are required in the amount of **\$20,954.33** for impacts to Park Planning Zone 6W-Southridge. Park fees will be collected prior to signing the final plat drawing.
13. The Applicant shall submit a landscape plan 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 material, and ground cover prior to final plat approval. The landscape plan shall be prepared by a licensed landscape architect or licensed landscape installer drawn to a legible scale. The Applicant shall provide dust control method(s) such as hydro seeding for all areas of the site that are disturbed and will need to be maintained until developed. Re-hydro seeding may be required.
14. The Applicant shall ensure that fourteen common area landscaping and residential street trees are installed or bonded for prior to final plat and are required to be shown on the landscape plan.
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 or required parties fail or refuse to maintain these areas. Specific maintenance responsibilities must be assigned and listed for all areas in this section that applies.

16. The Preliminary Plat (PP 16-05) expires five 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.

DECIDED March 27, 2017.

By:



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Sharon A. Rice  
City of Kennewick Hearing Examiner