

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

In the Matter of the Application of)	No.	PP 16-01/PLN-2016-00194
)		
Matt Smith for William Smith Properties)		FINDINGS, CONCLUSIONS,
for Preliminary Plat Approval)		and DECISION
)		
<u>Sage Crest –Phase 5</u>)		

SUMMARY OF DECISION

A requested Preliminary Plat for the subdivision of land on a portion of 2 parcels that total 10.61 acres into 28 lots for development as single family homes is approved with conditions as stated herein.

SUMMARY OF RECORD

Request

Matt Smith for William Smith Properties and Kennewick Acquisition Company III, LLC (Applicant) requested approval of a preliminary plat for the development of a subdivision of a portion of 2 parcels that comprise approximately 10.61 acres. The proposed plat would be divided into 28 lots for development as single family homes. The property is located south of Ridgeline Drive and east of the future extension of S. Sherman Street. Parcel Nos. 1-1789-401-0857-011, and 1-1789-400-0002-011¹

Hearing Date:

The Hearing Examiner of the City of Kennewick held an open record hearing on the application on April 11, 2016.

Testimony:

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

Wes Romine	City of Kennewick
Mr. John Deskins	City of Kennewick
Mr. Matt Smith	Applicant representative
Mr. Jason Mattox	Applicant representative
Mr. Jason McShane	KID representative

Exhibits admitted for the public record:

At the open record hearing the following exhibits were admitted:

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

¹ The lengthy and complicated legal description of the property is accurately stated on pages 1-3 of the staff report. Reference is made to said description and it is incorporated as part of this document.

5. Preliminary Plat Plans
6. Conceptual Grading Plan
7. SEPA Determination Mitigated Determination of Non-Significance
8. City Department Comments
9. Outside Agency Comments
10. Revised recommended conditions of approval
11. Development Agreement (2008)
12. Planning staff Power Point
13. KID Board approval letter (to be submitted after hearing-copies to all parties)

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

FINDINGS

1. The Applicant requested approval of a Preliminary Plat (PP 16-01) for a preliminary plat for the development of a subdivision of a portion of two 2 parcels that total 10.61 acres (Plat name is Sage Crest- Phase 5). The proposed plat would be divided into 28 lots for single family homes. *Exhibit 1, pg. 1*. The property is located south of Ridgeline and east of the future extension of S. Sherman Street (Parcel Nos. 1-1789-401- 0857 and 1-1789-400-0002-011).
2. The parcels that are to be developed are 10.61 acres in size. They will be developed with proposed lots that range from 7,990 to 17,565 square feet. The average lot will be 10,681 square feet. *Exhibit 1, pg 5*. Access to the lots will be from Ridgeline Drive and W. 38th Avenue. *Exhibit 1, pg 5 Exhibit 5*
3. The subject parcels were annexed into the City in April 2006 and were classified with a Residential Medium Density (RM) zoning designation (Ord. 5142). The zoning designation for the sub-area in which the subject property is located was later addressed and clarified by City Council in December 2011, and the zoning remained Residential Medium Density (RM) (Ord 5385). *Exhibit 1, pg. 5; Exhibit 7; Exhibit 12, pg. 5*
4. The City of Kennewick's Single-Family Residential Design Standards apply to the project. The minimum allowed lot size is 4,000 square feet--the smallest lot proposed is 7,990 square feet. The minimum allowed lot width is 50 feet--the minimum proposed lot is 54 feet. There are no maximum or minimum density requirements. The allowed minimum setbacks are: structure street setback-25 feet; garage setback-20 feet; side yard setbacks -5 feet; and rear yard setback-15 feet. The maximum allowed building height is 30 feet. All standards are satisfied based on the submitted plans. *Exhibit 12; Testimony of Mr. Romine*
5. All the surrounding property is zoned Residential Medium Density (RM). The vacant land, west of the subject property, will be developed in the future. The land south and directly across future W. 38th Avenue is the location of the new Sage Crest Elementary that is currently under construction. *Exhibit 1, pg. 7; Testimony of Mr. Romine*

6. Pursuant to the Washington State Environmental Policy Act (SEPA (RCW 43.21C)) the City was designated the lead agency for review of environmental impacts resulting from the proposed development. On February 9, 2016, the City issued a mitigated determination of Nonsignificance (MDNS) for the project. No appeals were filed. *Exhibit 7; Exhibit 1, pg. 4*
7. There are no critical areas that have been identified on the site. *Testimony of Mr. Romine.* The topography on site slopes at less than a 15% grade. *Exhibit 12, pf. 2*
8. In 2008 a development agreement for development in the area was reached between the City and Applicant. The agreement has been recorded. The subject property was included in the area that was covered by the development agreement. Certain development requirements are mandated by the agreement. *Exhibit 11; Exhibit 1, pg. 5; Testimony of Mr. Romine.*
9. Pursuant to the development agreement (Exhibit 11) the Applicant is responsible for a payment of eight hundred dollar (\$800.00) for each platted lot that is above the 810-foot contour line. The fee, which is due at the time of building permit, is the contribution for the extension of zone 5 water to the site. *Exhibit 11, section 4.6; Exhibit 1, pg.6; Exhibit 8, pg.1.*
10. It is the opinion of the City's traffic engineer that the proposed project will satisfy City of Kennewick standards for concurrency for transportation. Per the development agreement, half-street improvements are required on Ridgeline Drive. Full residential street improvements are required on interior plat roadways. The traffic impact fees have been established at \$900.00 per lot. *Exhibit 1, pg.6; Exhibit 8, pg.3; Testimony of Mr. Romine; Exhibit 12.*
11. As part of the City's preliminary plat review process dedicated land for park purposes of a "Park Fee Determination Process" is required. Based on the City's Comprehensive Park Plan for the proposed plat, the required amount of land to be dedicated for park land is 0.1844 acres. This amount of land area is too small for a city park, and as a result, the City calculated a park fee in lieu of land dedication. Included in the information provided in the calculation form were land values and density of living units that are used to calculate park mitigation fees. For the instant project it was calculated that the Applicant must pay fees \$4,811.65. The final MDNS established that the fees are required to mitigate impacts to park zone 6W-Southridge. Fees are required to be paid prior to signing the final plat Mylar. *Exhibit 1, pgs. 6 and 7; Exhibit 7.*
12. City of Kennewick storm water standards for residential subdivisions require storm water utilities to be designed to retain and dispose of a 25-year, 24 hour event for the developed property and the 24-hour event for property in the natural pre-developed state. Prior to final plat approval the Applicant will be required to submit detailed civil engineering drawings for review and approval to the City's Public Works department. This submittal will include a storm water plan that will need to meet City standards. *Exhibit 8, pg. 1*

13. In the Kennewick Table of Residential Development Standards (KMC 18.12.010 A.2) the Residential Medium Density (RM) zoning district does not include minimum or maximum density requirements. However, it does establish the minimum allowed lot size as 4,000 square feet. The smallest lot of the proposed plat is 7,990 square feet.
Testimony of Mr. Romine; Exhibit 1, pg. 5
14. In addition to the preliminary plat approval the Applicant must secure permits from the Kennewick Department of Public Works for driveways, sidewalks, wheelchair ramps and utility extensions (water, sewer, street², storm drainage, street lights, fire hydrants, etc.). Full street improvements for residential streets within the subdivision are required pursuant to KMC 5.56.270 and must be constructed to the Kennewick Standard Detail 2-1, sheet 2 of 4. The Residential Design Standards allow curb tight sidewalks as an option to separated sidewalks; the sidewalk at driveway curb cuts must meet ADA standards.
Testimony of Mr. Romine; Exhibit 1, pg. 6
15. A 12 inch zone 5 city waterline to serve all lots above 810 foot elevations is available at S. Penn Street. For each lot above the 810 foot elevation a fee of \$800.00 is due at the time of building permit. Water is also available in Ridgeline Drive. The water mains must be looped to avoid buildup of stagnant water and minimize bacteria regrowth *Exhibit 1, pg. 6; Exhibit 12; Exhibit 8, pg. 1*
16. The Kennewick Fire Department submitted that a paved access road from W. 36th Avenue to the intersections of S. Sherman and Ridgeline Drive is required. The Applicant is also responsible for installation fire hydrants and street spacing that are consistent with City standards. Water mains must be capable of providing 1,000 GPM and must be looped. *Exhibit 8, pg. 4*. At the hearing, the City representative agreed with the Applicant's request that the access road may be gravel. *Testimony of Mr. Smith and Testimony of Mr. Romine.*
17. Doug Carl of the Kennewick School District submitted a memo, dated March 31, 2016, identifying the schools which will serve the students living in the subdivision. The schools are the Sage Crest Elementary School, Chinook Middle School and Southridge High School. Students living in the proposed subdivision are in a walking zone to all three schools. All new streets within the subdivision are required to have 5-foot wide sidewalks that will connect to Ridgeline Drive sidewalks that connect to Southridge High School and Chinook Middle School. New sidewalks on streets within the subdivision will connect to W. 38th Avenue with sidewalks and a safe walking route to Sage Crest Elementary School. The memo concluded that the Kennewick School District has the capacity to add students at all levels and at the three schools. *Exhibit 1, pg. 7; Exhibit 9, pg 6*

² Streets on W.38th Avenue and S. Penn Street have been permitted and are under construction.

18. The Bonneville Power Administration reviewed the plat application and determined that the proposal will not directly impact BPA facilities in the area. The BPA had not objections to the plat. *Exhibit 9, pg. 7*
19. At the public hearing Kennewick Irrigation District (KID) submitted comments and recommended conditions relating to its review of the proposed plat. KID's representative, Jason McShane, testified that at the time of the plat hearing by the City the KID Board of Directors had not met to issue conditions for final approval of the proposed plat. The conditions submitted in exhibit 9 were proposed conditions that still had to be acted upon by the Board. Mr. McShane was instructed to submit a memo to the City Planning official, Wes Romine, after the Board approved KID's recommended conditions. *Testimony of Mr. McShane; Exhibit 9*
20. In the post hearing memo to Mr. Romine, Mr. McShane submitted the approved conditions of approval issued by the KID Board. The final conditions were almost identical to the proposed conditions. The only change was condition 3(a) which was changed to require that Tract B be a "restricted Right of Way for the benefit of KID where no building or encroachments shall be allowed." The condition also provided that "If at such time that KID determines, in its sole discretion, that it no longer requires Tract B and vacates the Right of Way by KID Board action, Tract B shall revert to adjacent property owners. *Exhibit 13, pg 2*. The Applicant submitted no comments to the Board's approval.
21. The Kennewick Planning Department submitted in the staff report 11 recommended conditions of approval. *Exhibit 1, pgs. 8 and 9*. At the public hearing the Department submitted an additional two proposed conditions. One of the new recommended conditions would require common area landscaping and residential street trees to be installed or bonded prior to final plat. The other new proposed condition would require the Applicant to execute a written agreement to allow the City to make arrangements for maintenance of any common areas, open spaces, private roads, and common landscape areas should the Homeowner's Association fail or refuse to maintain these areas. *Exhibit 10; Testimony of Mr. Romine*.
22. In the opinion of the City Planning Department 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*
23. Single-Family development is a permitted use in a Residential Medium Density (RM) zone. Sage Crest-Phase 5 is able to be served with city utilities. The plat will be consistent with the Comprehensive Plan URBAN AREA POLICY 3: which [promotes

new growth consistent with the Comprehensive Land Use Map, the Capital Facilities Plan and the Capital Improvement Plan. *Testimony of Mr. Romine; Exhibit 1, pg. 7.*

24. The proposed plat must be consistent with the City's Comprehensive Plan section RESIDENTIAL GOAL 1: The land on Sage Crest- Phase 5 that will be developed has the same zoning designation as the surrounding property and complies with development standards for Residential Medium Density (RM) zoning. *Testimony of Mr. Romine; Exhibit 1, pg. 8*
25. Sage Crest-Phase 5 will have a density of 2.64 units per acre. This density, together with other densities of development in the urban area helps satisfy a density target of three units per acre. The proposal is consistent with the City's Comprehensive Plan, RESIDENTIAL GOAL 3. *Exhibit 1, pg. 8; Testimony of Mr. Romine.*
26. The proposed plat must be consistent with the City's Comprehensive Plan section RESIDENTIAL GOAL 4. It encourages residential development where services can be provided. As previously noted, Sage Crest-Phase 5 will have City water and sewer is available at Ridgeline Drive and Zone 5 and water to serve lots above the 810-foot elevation is available at S. Penn Street. *Exhibit 8 pg. 1; Exhibit 1, pg 8*
27. The proposed plat must be consistent with the City's Comprehensive Plan section RESIDENTIAL POLICY 5: Sage Crest - Phase 5 will provide provisions for parks, schools, drainage, transit, water, sanitation, infrastructure, pedestrian, and aesthetic considerations in new residential developments. *Exhibit 1, pg 8*

CONCLUSIONS

Jurisdiction:

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

Criteria for Review:

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

- (1) The Hearing Examiner will inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. All plats will be reviewed to determine their conformance with the Comprehensive Plan, comprehensive water plan, utilities plan, and Comprehensive Park and Recreation Plan, and anything else necessary to assist in determining if the plat should be approved. Appropriate provisions must be made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, public sidewalks, utility easements and other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation areas, playgrounds, schools and school grounds, and shall consider all other relevant facts and other

planning features that assure safe walking conditions for students who only walk to and from school. All relevant facts will be considered to determine whether the public interest will be served by the subdivision and dedication. If it is determined that the proposed plat makes such appropriate provisions, then the Hearing Examiner must approve the proposed plat. Dedication of land to any public body may be required as a condition of subdivision approval. The Hearing Examiner will not, as a condition to the approval of any plat, require a release from damages to be procured from other property owners.

RCW 58.17.033

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

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

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

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

RCW 58.17.310.

Approval of plat within irrigation district without provisions for irrigation prohibited. In addition to any other requirements imposed by the provisions of this chapter, the legislative authority of any city, town, or county shall not approve a short plat or final plat, as defined in RCW 58.17.020, for any subdivision, short subdivision, lot, tract, parcel, or site which lies in whole or in part in an irrigation district organized pursuant to chapter 87.03 RCW unless there has been provided an irrigation water right of way for each parcel of land in such district. In addition, if the subdivision, short subdivision, lot, tract, parcel, or site lies within land within the district classified as irrigable, completed irrigation water distribution facilities for such land may be required by the irrigation district by resolution, bylaw, or rule of general applicability as a condition for approval of the short plat or final plat by the legislative authority of the city, town, or county. Rights of way shall be evidenced by the respective plats submitted for final approval to the appropriate legislative authority. In addition, if the subdivision, short subdivision, lot, tract, parcel, or site to be platted is wholly or partially within an irrigation district of two hundred thousand acres or more and has been previously platted by the United States bureau of reclamation as a farm unit in the district, the legislative authority shall not approve for such land a short plat or final plat as defined in RCW 58.17.020 without the approval of the irrigation district and the administrator or manager of the project of the bureau of reclamation, or its successor agency, within which that district lies. Compliance with the requirements of this section together with all other applicable provisions of this chapter shall be a prerequisite, within the expressed purpose of this chapter, to any sale, lease, or development of land in this state.

Conclusions based on Findings

1. The Applicant requested approval of a Preliminary Plat (PP 16/01/PLN-2016-00194) for a subdivision on a parcel of land consisting of two parcels on 10.61 acres. Any existing structures will be removed from the site. The proposed plat, zoned RM, would be developed into 28 single lots. The site is located south of Ridgeline Drive and east of the future extension of S. Sherman Street, Kennewick, Washington. The Kennewick minimum lot size for single family lots RM zoning property is 4,000 square feet; there is no maximum lot size. The lots range from 7,790 square feet to 17,565 square feet and the average lot size of the proposed plat is 10,681 square feet. The proposed preliminary plat satisfies the Residential Development Standards contained in KMC 18.12.010(A.2). The lots will have access from Ridgeline Drive and W. 38th Avenue. *Findings of Fact Nos 1-5 and 22*
2. 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 No. 2, 4-5, 7-19 and 22*
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. 23-27*; comprehensive water plan *Findings of Fact Nos. 14-15*; and Comprehensive Park and Recreation Plan *Finding of Fact No. 11*; and all relevant requirements to the approval of the plat.
4. 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 February 9, 2016, the City issued mitigated determination of Nonsignificance (MDNS) for the project. No appeals were filed. No critical areas are located on site. *Finding of Fact No. 6*
5. Various state and local agencies submitted comments and recommendations. The recommendations address impacts that will be created with the development of the plat. The recommended conditions are specific to the development and mitigate impacts. *Findings of Fact Nos 14-20*
6. The proposed plat includes required improvements for infrastructure and open space. Adequate provisions have been determined for park fees to offset the impacts for recreational impacts. Schools in the area can handle the increase in students generated by the development. Utilities, including drainage, water and sewer are available to the site. Pedestrian and aesthetic considerations in the new development

are called out on the plat map submitted for approval. The proposed plat provides provisions for parks, schools, drainage, transit, water, sanitation, infrastructure, pedestrian, and aesthetic considerations in new residential development. *Finding No. 22 and other references within the Findings of Fact.*

DECISION

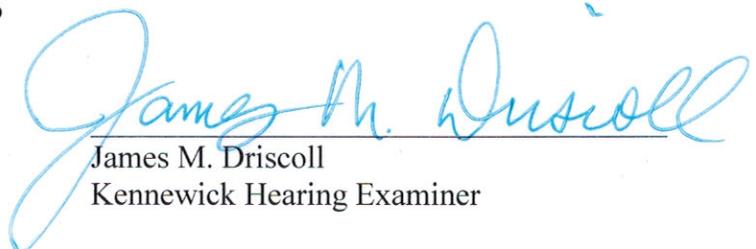
Based on the administrative record developed at the public hearing, Sage Crest-Phase 5 preliminary plat approval is granted for the development of a subdivision of a portion of two 2 parcels that comprise approximately 10.61 acres. Sage Crest-Phase 5 plat may be divided into 28 lots for future development of single family homes. The property is located south of Ridgeline and east of the future extension of S. Sherman Street (Parcel Nos. 1-1789-401- 0857 and 1-1789-400-0002-011).

Approval is granted subject to the following conditions:

1. The Applicant and/or his successors shall comply with all City of Kennewick regulatory controls, policies and codes, including all Single-family and Multi-Family Residential Design Standards.
2. All required fees imposed by the City, including those addressed in this document and all other plat review documents, shall be paid prior to the approval of the final plat.
3. The Applicant and/or its successors must comply with Traffic Engineer memorandum dated March 9, 2016. (Exhibit 8 of the administrative record of the plat review) The required right-of-way width shall be consistent with the standard in effect on the date of complete application, December 30, 2015.
4. With one exception the Applicant and/or its successor's development of the plat must comply with the Fire Department Memorandum, dated March, 2016. (Exhibit 8, pg.4 of the administrative record of the plat review). The Applicant may install a gravel access road from west 38th Avenue to the intersection of South Sherman and Ridgeline Drive.
5. The Applicant and/or its successors must comply with any requirements of a 2008 development agreement for development in the area that was reached between the City and Applicant and recorded. (*See Exhibit 11 of the administrative record*)
6. Development of the plat shall be in conformance with the plat drawing, (Exhibit 5 of the administrative record of the plat review.)
7. The Preliminary Plat (PP 16-01) expires 5 years from the approval date. The City may grant an extension, but any extension application must be applied for prior to the time that the approved preliminary plat expires.

8. The Applicant and/or its successors must comply with the Public Works memorandum dated March 8, 2016 (Exhibit 8. Pgs. 1 and 2 of the administrative record of the plat review).
9. The Applicant and/or its successors must provide dust control method(s) such as hydroseeding for all areas of the site that are disturbed.
10. In lieu of dedication of land for park purposes, park fees are required to be paid in the amount of **\$4,811.65** for impacts to Park Planning Zone 6W-Southridge. Park fees shall be collected prior to signing the final plat Mylar.
11. All conditions issued in the March 21, 2016, MDNS shall be satisfied prior to final plat approval.
12. The Applicant and/or its successor must comply with Kennewick Irrigation District's conditions as set forth Exhibit 13 (KID Board approval letter of the plat review).
13. Geo-Tech reports are required for each lot at the time of building permit submittals. With prior approval by the City of Kennewick a blanket geological report may be accepted if all applicable codes are met regarding soil bearing capacity.
14. Common area landscaping and residential street trees are required to be installed or bonded for prior to final plat.
15. The Applicant shall execute a written agreement to the satisfaction of the City Attorney that will allow the City to make arrangements for maintenance of any common areas, open spaces, private roads, and common landscape areas should the Homeowner's Association fail or refuse to maintain these areas.

DATED THIS 25th day of April, 2016


James M. Driscoll
Kennewick Hearing Examiner