

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

In the Matter of the Application of)	No.	PP 18-04/PLN-2018-02625
)		FINDINGS, CONCLUSIONS
AR Holdings, LLC)		AND DECISION
for Preliminary Plat Approval)		
_____)		

SUMMARY OF DECISION

The requested Preliminary Plat proposed to subdivide 2.47 acres at 3908 W 7th Avenue (parcel Number 1-0389-302-0042-005) into 30 lots is granted subject to the conditions listed here-in.

SUMMARY OF RECORD

Request

AR Holdings, LLC (referred to as Applicant) owns the subject property. Jaya Holdings LLC and Mr. Mallikarjuna Vallem are the proposed developers. A request for approval of a preliminary plat for development of a subdivision of 2.47 acres into 30 single family lots at 3908 W. 7th Avenue, Kennewick Washington¹ to the City of Kennewick

Hearing Date:

The Hearing Examiner of the City of Kennewick held an open record hearing on the application on January 14, 2019.

Testimony:

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

Steve Donovan	City of Kennewick
Joe Seet	City of Kennewick
Caleb Stromstad	Representative of Applicant
Daniel Tissel	Representative of Kennewick Irrigation District
William Keatts	Public witness
Brandon Zunker	Pubic witness
Nate Higgins	Public witness

Exhibits:

At the open record hearing the following exhibits were admitted:

1. Staff Report

¹ Parcel Number 1-0389-302-0042-005 and legally identified as: A portion of the southeast quarter of the northwest quarter of Section 18, Township 8 North, Range 30 East, W.M., Benton County Washington, more particularly described as follows:
Lot 2 of Short Plat 691, as recorded with the Benton County Auditor in Volume of Short Plats at Page 691 Records of Benton County Washington,

2. Application
3. Notice of Public Hearing, 300-ft. mailing list and mailing affidavit
4. Preliminary Plat map
5. Fire Hydrant and Fire Access Map, dated December 5, 2018
6. Preliminary Grading Plan, dated December 5, 2018
7. Determination of Non-Significance, dated December 20, 2018
8. Email from Greg Duffy, Parks Department, dated September 6, 2018
9. Email from Chad Brooks, Benton PUD, dated September 7, 2018
10. Memorandum – Public Works Department, dated September 11, 2018
11. Memorandum – Traffic Engineering Division, dated September /17, 2018
12. Plat map showing City of Kennewick GIS Department comments.
13. Letter from Mike DeKlyen, Field Realty Specialist, Bonneville Power Administration, dated September 20, 2018
14. Letter from Kennewick Irrigation District, dated September 27, 2018
15. Memorandum – Fire Department Memorandum, dated December 12, 2018
16. Letter from Brandon Potts, Kennewick School District Capital Projects Director, dated December 13, 2018
17. Email from Nate Higgins, dated September 10, 2018
18. Email from Nathan Joshlin, dated September 18, 2018
19. Email from Leonardo Luzi, September 21, 2018
20. Hard copy of Power Point presentation
21. Memo for Mr. Seet regarding traffic revisions.

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

FINDINGS OF FACT²

1. The Applicant requested approval of a preliminary plat (PP 18-04) for a 30-lot single-family subdivision on 2.47 acres at 3908 W. 7th Avenue, Kennewick, Washington. The proposed development will include some lots built with single-family structures and other lots built with townhouses. *Testimony of Mr. Donovan.*
2. The Applicants design for the plat calls for 30 lots with 32 residential units on-site. As depicted in the preliminary plat map (Exhibit 4), lots 18 and 19 will be developed with duplexes. The remaining 28 lots will be developed with single-family residences. *Testimony of Mr. Stromstad; Exhibit 4.*
3. The site is zoned Residential, Medium Density (RM) and has a Comprehensive Plan Land-Use Designation of Medium Density Residential. *Exhibit 1, Staff Report Pgs. 1 and 3; Testimony of Mr. Donovan.* The property was annexed into the City in August 1975 and was zoned RM (City of Kennewick Ordinance 1855). *Exhibit 1, Staff Report pg.3*
4. The properties in the immediate vicinity of the subject property include single-family residences and a middle school. There are properties to the east that are developed with

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

multifamily structures, including duplexes. There is also open space in the general vicinity. The land use designations for the developed surrounding properties are Medium Density. The open Space in the area is zoned Residential, Medium Density and Open Space. *Exhibit 1, Staff Report, pg. 4; Testimony of Mr. Donovan.*

5. 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 December 20, 2018 the City issued determination of Nonsignificance (DNS) for the project. No appeals were filed. *Testimony of Mr. Donovan; Exhibit 7*
6. The City of Kennewick's Table of Residential Development Standards as set forth in KMC 18.12.010 A.2 establishes the maximum density of 13 units per acre. The Standards include the minimum lot sizes for single family lots to be 4,000 square feet and 1,800 square feet for Rowhouse/Townhouses. *Exhibit 1, Staff Report, pg. 3*
7. As depicted on the submitted a preliminary plat map for the plat, the average lot size of the development will be 2,806 square feet and the smallest proposed lot is projected to be 1,884 square feet and the largest lot will be 7,887 square feet. *Exhibit 4; Exhibit 1, Staff Report, pg. 3*
8. The access to the plat is proposed to be off W 7th Avenue. There will be a road off W 7th Avenue that will extend to the entrance of the plat. The road, currently referred to as "Road A" will intersect with the internal road, "Road B", which will in an easterly direction. The other internal plat road, "Road C" will be a southerly extension off Road B. *Exhibit 4, Pg. 1.* The roads will be classified as local streets. Full street improvements with sidewalks and curbs and gutter on each side of the Road A are required. The internal streets will be developed to City Development standards. *Testimony of Mr. Donovan; Exhibit 4 -plat map; Exhibit 1, Staff report-pg. 5.* Further the City submitted that a maintenance agreement for an access easement to Lots 17 and 18 of the plat shall be recorded with Benton County. *Exhibit 1- Staff Report, proposed conditions.*
9. Currently the Applicant is in discussions with the Kennewick School District, the owner of the property that abuts proposed Road A. It is the intent of the Applicant to make full-street improvements to Road A, if the District dedicates the necessary property to the City. *Testimony of Mr. Stromstad.* With the development of Road A, there will be a relocation of the access to the lot immediately south of the proposed plat. With the relocation the current access will be closed. Some aesthetic relief will be required for the closed access. The owner of the property suggested that at the least bark be provided at that point. *Testimony of Mr. Higgins.*
10. Based on information and materials submitted by the Applicant and Kennewick's Traffic Division comments, the City traffic engineer determined that the traffic generated by the proposed development would satisfy Concurrency for Transportation requirements. *Testimony of Mr. Seet, Kennewick Assistant Traffic Engineer.*
11. In Kennewick traffic mitigation fees are set for development of single-family and multi-family structures. *Kennewick Ord. 5596.* The current traffic mitigation fees of \$982 per dwelling unit for single-family and \$556 per dwelling unit for multi-family units

with cost of living adjustments are required. *Testimony of Mr. Donovan; Exhibit 11, pg.1.* 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. *Exhibit 1, Staff Report, pg. 3*

12. KMC 17.10.080 (1) (d and e)- Provisions for Public Health, Safety, and Welfare require a review of the proposed plat provisions for potable water service and sewers. An existing 8-inch waterline has been stubbed to the property in an easement at 518 Perry Court. The Department of Public Works of Kennewick submitted that 1-inch water services are required for each lot, and, are to be at the Applicant's or its successor's expense. All; improvements must satisfy the City of Kennewick Standard Specification Section 4-3.01. *Exhibit 10, pg. 1; Exhibit 1, Staff Report, pgs. 3 and 4.* The plat is consistent with the City's Comprehensive Water Plan.
13. Potable water is not available for irrigation purposes. Portions of the proposed plat are within the boundaries of the Kennewick Irrigation District (KID). KID reviewed the proposal and, in a September 27, 2018 letter to the City Planning, submitted comments regarding the project. *Exhibit 14, pgs. 1-5.* The Applicant must contact Kennewick Irrigation District for irrigation services. *Exhibit 10, pg., 1.* The comments have been made a condition of approval.
14. Each dwelling unit will be separately and independently connected to a sewer main.³ An existing 8-inch sewer service has been stubbed to the site from S. Perry Court in an easement on the south side of 512 S. Perry Court. *Exhibit 10, pg. 2.* The plat is consistent with the City's Utilities Plan. *Exhibit 10, Pg.2; Testimony of Mr. Donovan*
15. In the city of Kennewick residential sub-divisions storm drainage systems must be dedicated to the public and must designed to retain and dispose the calculated difference between a 25-year 24-hour event for the developed state and the 24-hour event for the natural pre-developed state. Detention ponds (control outlet) may be used only where it can be clearly demonstrated that infiltration, or retention, are not feasible per City of Kennewick Standard Specifications Section 5-9.02. (1). According to the City Public Works Department who have reviewed initial plans, the storm drainage proposal for the will l be in accordance with the Storm Management Manual and Eastern Washington and City Standards. *Exhibit 10, pg. 2; Exhibit 1, Staff Report, pg. 3;*
16. The site does not contain any designated critical areas. It has a flat terrain without any developmental limitations. *Exhibit 1, Staff Report, pg. 4; Testimony of Mr. Donovan.*
17. Maintenance and management of open space, common areas, and private roads (*KMC 18.45.100*) is required. *Testimony of Mr. Donovan.* A Homeowner's/Property Owner Association (HOA) may be required. *Testimony of Mr. Donovan; Exhibit 7; Exhibit 1, staff report-pg. 6; Testimony of Mr. Donovan*
18. A landscaping plan for the development's proposed open space must be submitted to the City for approval prior to Final Plat approval. The approved plan must address all common areas, open spaces and rights-of-way not left in a natural state, and the listing of 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

³ If the connection is 6-inch or larger in diameter the requirements of KMC 14.22.030 will apply.

architect or licensed landscape installer drawn to a legible scale. *Testimony of Mr. Donovan.*

19. The proposed development is subject to the provisions of KMC Chapter 3.90⁴ that establish park impact fees (KMC3.90.010). The site is in Park Service Area 1 of the City and is subject to a \$920 park fee for each of the 28 single family units and a \$540 park fee for each unit in the two multi-family buildings. Park fees are due at the time the building permit is issued. *Exhibit 8; Exhibit 1, Staff Report, pg. 4.* The plat is consistent with the City's Comprehensive Park Plan. *Exhibit 1, Staff Report, pg. 4; Testimony of Mr. Donovan*
20. The Kennewick School District has the capacity to add students at all levels, including the three schools that will serve the subdivision. The schools are: Edison Elementary School, Highlands Middle School and Southridge High School. Students living in the proposed subdivision would in the bussing zone for two of the schools, Edison Elementary and South Ridge High schools. Bus stops must be provided, subject to School District approval. All walk lanes and sidewalks to Highlands Middle School must be approved by the City. *Exhibit 16; Exhibit 1, Staff Report, pg. 4.* Because the property west of the subject property may be used for School District athletic purposes, there may also be a need for a crosswalk on Road A. *Testimony of Mr. Donovan; Testimony of Mr. Higgins*
21. In the City of Kennewick plat development must be consistent with, and generally conform to, the City's Comprehensive Plan. As part of the plat review process City Staff considered the goals and policies of the Plan and how they will be implemented with the development of the land use request. The Planning Department conducted a review of the request for compliance with the Comprehensive Plan and concluded that the instant request is consistent with, and will generally conform to, the City's Comprehensive Plan. The proposal will implement the goals and policies of the Plan. *Testimony of Mr. Donovan; Exhibit 1, pg. 6*
22. As previously noted, (*Finding 3*) the site has a Comprehensive Plan Land-Use Designation of Medium Density Residential. Key residential goals and policies of the Comprehensive Plan were identified by the City Planning Department. They included:
 - a) RESIDENTIAL GOAL 1: *“Provide for attractive, walkable, and well-designed neighborhoods, with differing densities and compatible with neighboring areas.”* This goal will be satisfied with open space provided in the plat. With varied lot sizes contributing to increased density the subdivision will be consistent with neighboring properties.
 - b) RESIDENTIAL GOAL. 1: POLICY 1: *“Maintain residential zoning regulations that offer a similar graduation in building scale and bulk.”* This policy will be satisfied with differences in proposed housing density on site and the varying allowed density development in the general area. *Exhibit 1, pgs., 3 and 4; Testimony of Mr. Donovan.*
 - c) RESIDENTIAL GOAL 1: POLICY 2: *“Require multi-family housing to incorporate architectural forms and features compatible with the surrounding*

⁴ KMC chapter 3.09 was enacted in 2017.

neighborhood. Features that promote compatibility include landscaping, setbacks, rooflines and building forms that reduce the appearance of bulk. This policy will be satisfied by requirements that the development of the multi-family units meet all development standards, including landscaping, setbacks, rooflines and building forms that reduce the appearance of bulk. Exhibit 1, pgs. 3 and 4; Testimony of Mr. Donovan.

- d) RESIDENTIAL GOAL 2: “*Provide appropriate public facilities supporting residential areas.*”: POLICY 1: “*Ensure provision of parks, schools, drainage, transit, water, sanitation, infrastructure, and pedestrian in new residential developments.*”. The goal and policy are satisfied because the proposed development will be connected to City water and sewer utilities and common open space available will be available to residents. Providing, or contributing to, parks, schools, storm sewer facilities and other infrastructures improvements will be required. *Exhibit 1, pgs. 3 and 4; Testimony of Mr. Donovan. (See conditions of approval).*
- e) RESIDENTIAL GOAL 1: POLICY 3: “*Deny residential developments if concurrency is not met for transportation, water, and sewer, or appropriately condition.*” The required concurrency has been met for transportation. (*see Finding 10*). Appropriate conditions for water and sewer were proposed by the City and are part of the Conditions of this plat approval. *Exhibit 10. (See conditions of approval)*
- f) 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.*”: POLICY 3: “*Residential Medium Density – Place areas that can support high-quality, compact, urban development with the access to urban services, transit, and infrastructure, whether through new development or through infill.*” The proposed plat is located in an area that can be developed with high quality, compact, urban development with access to urban services, transit and infrastructure. The proposed development with a 15% higher density than required by the requirements of the Planned Residential Development regulations provides housing that is consistent with the City’s long-range density projections. *Uncontradicted testimony of Mr. Donovan.*

- 23. In the City of Kennewick, plat development must be consistent with and generally conform to the City’s subdivision laws and the zoning codes and standards. *Testimony of Mr. Donovan; Exhibit 1, Staff Report.*

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. 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:

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.

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.

Conclusions based on Findings

1. Appropriate provisions have been made for, but not limited to, the public health, safety, and general welfare, *Finding Nos. 5, 8, 10-15, 17-20*; for open spaces *Finding No. 17*; drainage ways *Finding No. 15*; streets or roads, alleys, public sidewalks, *Finding Nos. 8, 9 and 11*; utility easements and other public ways *Finding Nos. 8 and 9*; transit stops, potable water supplies *Finding Nos. 13 and 16*; sanitary wastes *Finding Nos. 12, 14 and 15*; parks and recreation areas; playgrounds *Finding No. 19*;

- schools and school grounds *Finding No. 20*; and the proposed subdivision has considered all other relevant facts and other planning features that assure safe walking conditions for students who walk to and from school. *Finding Nos. 20 and 23*
- ..
2. 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. 5-21 and 23 and 22 a-f*; the City's comprehensive water plan *Finding of Fact No. 12*; the City's utilities plan *Finding No. 13*; and Comprehensive Park and Recreation Plan *Finding No 19*; and all relevant requirements to the approval of the plat.
 3. In the City of Kennewick plat development must be consistent with and generally conform to the City's Comprehensive Plan. As part of the plat review process City Staff considered the goals and policies of the Plan and how they will be implemented with the development of the land use request. The Planning Department did a review of the request for compliance with the Comprehensive Plan and concluded that the instant request is consistent with, and will generally conform to the City's Comprehensive Plan and will implement the goals and policies of the Plan. *Finding No 22 a-f*

DECISION

Based on the administrative record developed at the public hearing approval is approval of a preliminary plat (PP 18-04) for a 30-lot single-family subdivision on 2.47 acres at 3908 W. 7th Avenue, Kennewick, Washington. The proposed development will include lots built with single-family structures and two lots built with townhouses, The conditions of approval are:

1. The development of said approved preliminary plat must be consistent with this decision and conditions. The Applicant, and/or its successors shall comply with all City of Kennewick regulatory controls, policies and codes, including all Single-family Residential Design Standards for single family structures and all applicable Residential, Medium Density (RM) requirements for multi-family structures.
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, unless stated otherwise herein.
3. Development of the plat shall be in conformance with the plat drawing, Exhibit 3 of the administrative record of the plat review.
4. A landscape plan must be submitted 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.

5. All fees required by the City shall be paid prior to the approval of the final plat.
6. The Applicant, and/or its successors, shall provide addresses for the proposed lots as labeled by the City of Kennewick GIS Department. (Exhibit 12).
7. The Applicant, and/or its successors, shall comply with the Fire Department Memorandum as set forth in Exhibit 15.
8. The Applicant, and/or its successors, shall Comply with the Traffic Engineering Division comments as set forth in Exhibit 11.
9. The Applicant, and/or its successors, shall Comply with the Memorandum – Public Works Department as set forth in Exhibit 10.
10. A maintenance agreement for the access easement relating to access to proposed lots 17 and 18 shall be recorded with Benton County.
11. The Applicant, and/or its successors, shall provide dust control method(s), including but not limited to, hydro seeding for all areas of the site that are disturbed.
12. A Homeowner's/Property Owner Association (HOA) is required for maintenance and management of open space, common areas, and private roads (*KMC 18.45.100*). The HOA document shall be reviewed by the City of Kennewick for form.
13. At the time of development of Road A, the City and the School District will decide if a crosswalk is needed to cross said street. The City shall inform the Applicant or its successors of the decision and it shall be the responsibility of the Applicant, or its successors, to provide the crosswalk.
14. Preliminary Plat (PP 18-04) expires 5 years from the approval date. The City may grant an extension, but any extension application must be applied for before the approved preliminary plat expires.

DATED THIS 22nd, day of January, 2019

James M. Driscoll
Kennewick Hearing Examiner