

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

In the Matter of the Application of)
Tri-Cities Development, LLC (Matt Smith))
for Preliminary Plat Approval)
)
(Apple Valley Phase 5) _____)

No. FILE NO: **PP 19-03/PLN-2019-
03067**

ORDER OF
RECONSIDERATION

On January 28th, 2020, the Hearing Examiner of the City of Kennewick issued approval of a request for a preliminary plat subdivide 24.56 acres into 52 lots and five tracts on Low Density Residential property located at 3426 S. Young, Kennewick, Washington. Approval was granted subject to compliance with 25 conditions.

On February 4th, 2020, pursuant to the *City of Kennewick Hearing Examiner Rules of Procedure for Public Hearings on Land Use Permit Applications and Appeals* the City filed a Motion for Reconsideration of the January 28th, 2020 Decision. The City's Motion, supported by numerous exhibits identified below, was filed by the City Attorney's office who contended that procedural and substantive errors had been made by the Hearing Examiner.

Exhibits

The post hearing exhibits submitted by the City are:

- 24 and 25 E-mails from planning staff and the applicant's attorney indicating the times of the emails
- 26. Conceptual Southridge Land Use Plan"
- 27. Graphic depicting the 2008 Comprehensive Plan Transportation System Plan Projects
- 28. Graphic depicting the 2012 Comprehensive Plan Capital Facilities Analysis"
- 29. Graphic showing the four alternatives reviewed in the Ridgeline Alignment Study completed by McKay & Sposito for the City in 2017
- 30. Graphic of 2018 Transportation System Projects
- 31. Grading plan for Apple Valley
- 32. Graphic showing the alignment of the half street construction of Ridgeline from the Village at Southridge development to Apple Valley Phase 5
- 33. Apple Valley Grading Permit
- 34. February 14th, 2020 letter from Cary M Roe City of Kennewick Public Works Director

The post hearing exhibits submitted by the Applicant are:

- 35. February 13th 2020 Response from Kenneth Katzaroff,
- 36. February 14th 2020 e-mail from Matt Smith

All of these identified exhibits and all exhibits identified in the January 28th, 2020 Decision are part of the official record of this proceeding.

Issues presented in Motion for Reconsideration

I.

Procedural issues submitted by the City (as presented in the City's Request for Reconsideration)

1. On January 8, 2020, the City mistakenly agreed to cancel the January 13th date for the continuation of the open record hearing for this application as city staff believed that the City had reached an agreement with the applicant regarding the development of Ridgeline Drive. The communication regarding the cancellation was communicated to the Hearing Examiner on January 8, 2020. See, Exhibits 18 and 18(a).
2. As a result of its discussions with the applicant on January 8, 2020, staff submitted an amended traffic memo dated January 9th as well as an addendum to the staff report also dated January 9, 2020. Those items noted as Exhibits 19 and 20 were submitted to the Hearing Examiner at 4:48 p.m. on January 9, 2020. See attached as proposed Exhibit 24 a copy of email from planning staff to the clerk for the Hearing Examiner.
3. On January 9, 2020 at around 4:58 p.m. the letter from the applicant's attorney (dated January 8, 2020) was submitted to the Hearing Examiner and the City. See attached as proposed Exhibit 25 a copy of the email. The City would not have agreed to the cancellation of the January 13th hearing date had it seen the attorney letter on January 8th, rather than at the end of the day January 9th.
4. In Exhibit 22 of the Findings, Conclusions and Decision, the Hearing Examiner Order dated January 21, 2020 requested clarification from the Applicant regarding the conflicting position of the Applicant's attorney's letter of January 8, 2020 and the City's January 9, 2020 Addendum to the Staff Report. The Hearing Examiner's Order did not afford that same opportunity to the City.
5. The Applicant submitted a second letter from its attorney dated January 24th and the Hearing Examiner issued the present decision on January 28th.
6. The record is incomplete due to the cancellation of the January 13th hearing date. Further, the City should have been given an equal opportunity to address the clarification request from the Hearing Examiner in its January 21, 2020 Order. Because of the errors in the process, it is the City's position the Hearing Examiner's decision was not based on the record, but rather the assertions contained in the applicant attorney's letters.

The Motion (Request) for Reconsideration based on the alleged procedural deficiencies is denied.

The Hearing Examiner did not participate in any manner with the discussions between the City and the Applicant on January 8th and 9th and all misunderstandings set forth in the above City Motion are the result of those negotiations. The January 28th, 2020 Decision will not be overturned or amended based on those alleged errors of procedure.

In addition, the City argues that it was not given an equal opportunity to comment on the Appellant's clarification dated January 24th, 2020. While no procedure was established at that time for the City to respond, the City has used the instant process of Motion for Reconsideration to set forth its arguments. Any unfair process or treatment has been remedied.

II.

Errors of Interpretation claimed by City and set forth in the City's Request for Reconsideration

The following arguments were submitted by the City:

1. The extension of Ridgeline Drive westerly of Sherman Street is not an unplanned "road to nowhere." The City is required to plan for growth and anticipate the need for infrastructure to serve future growth via the Growth Management Act. This critical collector road extension has been planned for many years, and included in several City documents, including the 2005 Southridge Subarea Plan, the 2008 and 2018 adopted Transportation System Plan(s), several Six-Year Transportation Improvement Plans, the 2012 South Kennewick Industrial Area Urban Growth Area Expansion Capital Facilities Analysis, and was extensively studied in the 2017 Ridgeline Alignment Study, which included significant analysis and public involvement. See attached associated proposed exhibits 26-32.
2. The extension of Ridgeline Drive is a key link in the future transportation system that will serve the expanding Southridge area, including a funded interchange at the US395/Ridgeline intersection, and a future Interstate 82 overpass/interchange for future Georgia Street, east of the Amon Canyon. Ridgeline Drive will complete a roadway network that will create a grid and connectivity, while discouraging cut-through traffic on local subdivision streets. Without it, the area between Bob Olson Parkway and Interstate 82 would develop as a series of unconnected dead-end roads, with poor emergency response times, among other concerns.
3. Future phases of Apple Valley show a planned connection to the extension of Ridgeline Drive at Zimmerman and Colorado streets. See Applicant's attached Grading and Erosion Control Plan for Apple Valley, Phases 5-9 (January 2019). The Apple Valley development, along with other future developments, is creating the need for Ridgeline Drive west of Sherman. See attached proposed Exhibit 33.
4. The City is not requiring the full buildout of Ridgeline Drive by the Applicant. Per KMC 17.20.010(2)(g), (h) and consistent with other development applications, the City requires the developer to do half-street improvements and dedication of right-of-way along their property frontage only.
5. The City has made a reasonable effort to plan to connect the portion of Ridgeline Drive along Apple Valley Phase 5 easterly to Sherman Street and the City's existing transportation system. The developer for the Village at Southridge, immediately south of Apple Valley has indicated his next phase of development will be constructed by 2021, which per City requirements will include construction of the south half-street of Ridgeline Drive along his frontage from Sherman Street to approximately 1,430 feet west. At that point the Apple Valley Phase 5 frontage portion of Ridgeline Drive will no longer be an isolated section of road (See attached Ridgeline Exhibit A). In addition, the City has offered to use its own funds to construct the remaining north half-street of Ridgeline Drive east of Phase 5 to Sherman Street, when it becomes necessary.

Therefore, Ridgeline Drive does in fact have a reasonable and doable future connection to the rest of the City's transportation system.

6. The City has had no discussions with the Kennewick Irrigation District over the future potential crossing of the Amon Canyon wasteway. However, if that portion of Ridgeline Drive is ever constructed in the future, it would be performed by the developers who own that land. KID only has an easement for the wasteway, so there would be no condemnation of KID necessary for this action, only the accommodation of wasteway flows through a culvert.

It should be noted that the City understands that Ridgeline Drive may never connect across the Amon Canyon; however, there is still great public benefit for the extension of Ridgeline Drive between Amon Canyon and Sherman Street, and to connect with a future Georgia Street interchange with Interstate 82 that will serve both Southridge and the future Urban Growth Area south of I-82.

7. As for the nexus issue, Ridgeline Drive abuts Phase 5 of the Apple Valley Development, as well as Phases 6-9 as noted in the Grading Permit issued to the Applicant, this portion is not isolated but rather a part of the planned transportation system for the Southridge Improvement Area, which includes the next phases of the Apple Valley Development. Development of Ridgeline Drive will accommodate the new vehicle traffic generated by their entire development. In this case, the City is asking only for frontage improvements along the actual development, and not offsite improvements. As Apple Valley develops all of their phases, new roads like Ridgeline Drive and Colorado Street are necessary and appropriate to serve the new development and promote connectivity, and to provide options that do not force traffic through residential neighborhoods.

Decision on the Motion for Reconsideration of substantive issues.

In addressing the Motion of the City, federal and state court interpretations of similar issues has been relied on. The requested condition made by the City is to require the Applicant to develop the portion of Ridgeline Drive along the frontage of the Applicant's property. Key issues are the Applicant's design does not call for any plat or lot access off Ridgeline Drive, and, the design of the road extension would include a portion of property that the Applicant has no control, and the City has not provided timelines for the extension.

The City's position is that Ridgeline Drive is part of a transportation system in the southwest section of Kennewick. (A summary of the plans for that part of the City and the need for a developed Ridgeline Drive are set forth in section II. #2 (above))

The key issue is the extent of the legal responsibility of the Applicant for participation, including partial construction of Ridgeline Drive. In the January 28th, 2020 approval decision, the Applicant was not required to participate in the extension of Ridgeline Drive that fronted its property. Conclusions 9 through 12 set forth the reasoning of the Hearing Examiner in not adopting the recommendation of the City for this improvement. To support this decision federal and state court interpretations of similar issues were analyzed. The key

federal case was *Dolan vs. City of Tigard*, 512 US. 374 (1995) and the Washington case was *Burton vs. Clark*, 91 Wn. App. 525 (1998). These cases support the denial of the condition of Ridgeline Drive extension.

In *Dolan v. City of Tigard*, supra, the United States Supreme Court established that approval of a land-use permit that was conditioned on dedication of property to the government is not allowed without: 1) A showing of nexus, as required by *Nollan v. California Coastal Commission*, 483 U.S. 825, 836, 107 S.Ct. 3141(1987); and 2) rough proportionality between the government’s demand and the effects of the proposed land use.

In the Washington *Burton* case, citing *Dolan*, the Court of Appeals held “The *Dolan* Court said that to evaluate *Dolan*’s takings claim, it had to “determine whether the ‘essential nexus’ exists between the ‘legitimate state interest’ and the permit condition exacted by the city.” In making this holding the Court said:

... the government must show that its proposed solution to the identified public problem is “roughly proportional” to that part of the problem that is created or exacerbated by the landowner’s development. Thus, as already seen, the *Dolan* Court posed the question, “[W]hat is the required degree of connection between [1] the exactions imposed by the city and [2] the projected impacts of the proposed development.” (*Court cites Dolan*, 512 U.S. at 375) It answered by saying that the required connection was a “reasonable relationship” best described by the term “rough proportionality,” and that the government “must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development.” (*Court cites Dolan*, 512 U.S. at 391). The Washington Supreme Court ruled similarly in *Sparks v. Douglas County*, 127 Wash.2d 901, 907, 904 P.2d 738 (1995). where it noted that a regulatory exaction must be “reasonably calculated to prevent, or compensate for, adverse public impacts of the proposed development.” *Sparks*, 127 Wash.2d at 907, The purpose, once again, is “to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole,” (*Court cites Dolan*, 512 U.S. at 384, 114 S.Ct. 2309; *Nollan*, 483 U.S. at 835 n. 4, 107 S.Ct. 3141), while at the same time leaving government free to require a developer to rectify public problems insofar as the developer has created such problems.

While *Nollan* and *Dolan* on the federal level and *Burton* in the state of Washington involved the government’s seeking real property from the developers, it was not clear if other types of conditions of land-use approval imposed by the reviewing governmental body were subject to the constitutional tests of those cases. This question was answered in a 2013 decision by the US Supreme Court in *Koontz v. St. Johns River Water Management District*, 570 U.S. 595, 133 S.Ct. 2586, (2013). In a close 5-4 decision, the Court held that “monetary exactions,” potentially including building permit fees or impact fees, must satisfy the *Nollan* and *Dolan* requirements.

In the instant case, the City's recommended condition that the Applicant extend Ridgeline Drive would involve monetary expenditures of the Applicant that would fall under the *Koontz* limitation. The Applicant has not proposed access to Ridgeline Drive. The Applicant would be subject to the City's acquisition of other property in order to complete the extension. The final restriction for the condition of the improvement is that the City has not finalized or approved any construction of the street. For at least approval of the plat, the Applicant cannot be required to pay for part of the extension.

In light of the above, the Motion for Reconsideration is denied and the January 28th, 2020, Decision remains as stated.

Dated this 2nd day of March, 2020.

James M. Driscoll
Kennewick Hearing Examiner

Exhibit 24

Steve Donovan

From: Steve Donovan
Sent: Thursday, January 9, 2020 4:48 PM
To: Melinda Didier
Subject: Apple Valley Phase 5 Materials
Attachments: Addendum Memo.docx; PW2020-011 NW corner of Ridgeline Dr._Sherman St. Intersection, Apple Valley Subdivision, Phase 5 Preliminary Plat PP 19-03 _PLN-2019-03067 Final Revision per BM.docx; AppleValley-PH5-PrelimPlat_20191219.pdf

Melinda,

Here are the materials that I have for the Hearing Examiner.

The applicant said that they were going to submit a letter but have not as of yet.

Thanks,

Steve



Steve Donovan, AICP
City of Kennewick
Community Planning/Senior Planner
O: 509.585.4361
Steve.Donovan@ci.kennewick.wa.us



MEMORANDUM

Community Planning

To: City of Kennewick Hearing Examiner
From: Steve Donovan, Senior Planner
Date: January 9, 2020
Re: Addendum to Apple Valley Phase 5 Staff Report – PP 19-03/PLN-2019-03067

City staff and the applicant Matt Smith have had discussions to ensure that the proposed construction of Ridgeline Drive meets the requirements of the Kennewick Municipal Code. The below condition and statements are a result of the discussions.

The City is proposing the Following Condition of Approval:

“The City will accept a bond for the entire construction of Ridgeline Drive roadway and utilities, or for that portion Ridgeline Drive roadway and utilities not completed by the Developer. All proposed internal streets of the development must be constructed as required, and may not be bonded. Required sidewalks and landscaping along internal streets may still be bonded for.”

The applicant has provided the following statement:

“The applicant has provided a revised map of the preliminary plat showing sub phasing that would be done with the project to break it into 2 separate phases of construction and platting identified as a Phase A and B. The plat would still include the same overall land area as prior submittals and would retain the same number of overall lots to be developed (52). The applicant has worked with the public works department and agreed to construct and dedicate right of way for their half of Ridgeline Drive adjacent to the project as required by City of Kennewick municipal code. No deviation from the code is being requested with the application. The project would build portions of Ridgeline Drive and associated City utilities directly adjacent to the sub phases of the plat A and B as depicted on the mapping. Phase B of the plat would consist of lots 46-51 as shown on the mapping. Public works has agreed to a revised roadway width across the frontage of the plat for Ridgeline Drive and statement to this requirement is being provided by them to include in the record of the Apple Valley Ph. 5 preliminary plat.”

The applicant has proposed the following comment on the roadway section for Ridgeline Drive:

“Our understanding is that the road width was going to be reduced to a narrower section, and at any intersections onto Ridgeline that it would widen to accommodate a turn lane. These turn lanes would not be occurring though within the limits of Phase 5A/B.”

Revised comments from the Public Works Department and a revision to the plat showing proposed Phases 5A and 5B have been provided with this memorandum.

APPLE VALLEY - PHASE 5

PRELIMINARY PLAT

Located in The NW 1/4 Of Sec. 17, T. 8 N., R. 29 E., W.M.

BASIS OF BEARINGS:
 NORTH: 89°07'17" EAST ALONG THE NORTH
 LINE OF THE NORTHWEST 1/4 OF SECTION
 17, T. 8 N., R. 29 E., W.M. AS SHOWN IN
 BOOK 1 OF SURVEYS AT PAGE 438.
 DISTANCES SHOWN ARE TRUE GROUND
 LENGTH.

BASIS OF ELEVATION:
 CITY OF KENNEWICK POINT "00000"
 HAVING AN ELEVATION OF 74.62.



VICINITY MAP
 NOT TO SCALE

APPLICANT/DEVELOPER: ENGINEER:
 PRS
 PRS
 ATTN: JASON MATYK, PE
 400 BRADLEY BLVD, SUITE 100
 RICHLAND, WA 98352
 PHONE: (509) 942-1000

SURVEYOR:
 PRS
 ATTN: ALEX MATARAZZO, PLS
 400 BRADLEY BLVD, SUITE 100
 RICHLAND, WA 98352
 PHONE: (509) 942-1000

LEGEND

- EL ELEVATION
- INTX INTERSECTION
- PG PAGE
- R/W RIGHT-OF-WAY
- SF SQUARE FEET
- TYP TYPICAL
- SW, IR & UTIL ESMIT
- VOL VOLUME
- SECTION LINE OR SUB-SECTION LINE
- EXISTING RIGHT-OF-WAY
- EXISTING EASEMENT
- EXISTING GROUND CONTOUR AS DERIVED FROM AERIAL PHOTOGRAPHY
- PROPERTY LINE
- PROPOSED RIGHT-OF-WAY
- PROPOSED RIGHT-OF-WAY CENTERLINE
- PROPOSED LOT BOUNDARY
- PROPOSED PHASE LINE

LAND USE TABLE	
PHASE 5A	24.83 ACRES
PHASE 5B	12.37 ACRES
PHASE 5C	1.90 ACRES
PHASE 5D	82 LOTS + 4 TRACTS
PHASE 5E	48 LOTS + 5 TRACTS
PHASE 5F	8 LOTS + 1 TRACT
PHASE 5G	51 LOTS (LOTS 1-51)
PHASE 5H	7,302 SF (LOT 7)
PHASE 5I	2,800 SF (LOT 7)
PHASE 5J	11,172 SF (LOT 43)
PHASE 5K	8,845 SF (LOT 43)
PHASE 5L	9,904 SF (LOTS 1-45)
PHASE 5M	8,370 SF (LOTS 46-51)
PHASE 5N	14,208 SF (3.33 ACRES)
PHASE 5O	39,419 SF (9.09 ACRES)
PHASE 5P	FUTURE PHASE
PHASE 5Q	FUTURE PHASE
PHASE 5R	FUTURE PHASE
PHASE 5S	FUTURE PHASE
PHASE 5T	FUTURE PHASE
PHASE 5U	FUTURE PHASE
PHASE 5V	FUTURE PHASE
PHASE 5W	FUTURE PHASE
PHASE 5X	FUTURE PHASE
PHASE 5Y	FUTURE PHASE
PHASE 5Z	FUTURE PHASE
PHASE 5AA	FUTURE PHASE
PHASE 5AB	FUTURE PHASE
PHASE 5AC	FUTURE PHASE
PHASE 5AD	FUTURE PHASE
PHASE 5AE	FUTURE PHASE
PHASE 5AF	FUTURE PHASE
PHASE 5AG	FUTURE PHASE
PHASE 5AH	FUTURE PHASE
PHASE 5AI	FUTURE PHASE
PHASE 5AJ	FUTURE PHASE
PHASE 5AK	FUTURE PHASE
PHASE 5AL	FUTURE PHASE
PHASE 5AM	FUTURE PHASE
PHASE 5AN	FUTURE PHASE
PHASE 5AO	FUTURE PHASE
PHASE 5AP	FUTURE PHASE
PHASE 5AQ	FUTURE PHASE
PHASE 5AR	FUTURE PHASE
PHASE 5AS	FUTURE PHASE
PHASE 5AT	FUTURE PHASE
PHASE 5AU	FUTURE PHASE
PHASE 5AV	FUTURE PHASE
PHASE 5AW	FUTURE PHASE
PHASE 5AX	FUTURE PHASE
PHASE 5AY	FUTURE PHASE
PHASE 5AZ	FUTURE PHASE
PHASE 5BA	FUTURE PHASE
PHASE 5BB	FUTURE PHASE
PHASE 5BC	FUTURE PHASE
PHASE 5BD	FUTURE PHASE
PHASE 5BE	FUTURE PHASE
PHASE 5BF	FUTURE PHASE
PHASE 5BG	FUTURE PHASE
PHASE 5BH	FUTURE PHASE
PHASE 5BI	FUTURE PHASE
PHASE 5BJ	FUTURE PHASE
PHASE 5BK	FUTURE PHASE
PHASE 5BL	FUTURE PHASE
PHASE 5BM	FUTURE PHASE
PHASE 5BN	FUTURE PHASE
PHASE 5BO	FUTURE PHASE
PHASE 5BP	FUTURE PHASE
PHASE 5BQ	FUTURE PHASE
PHASE 5BR	FUTURE PHASE
PHASE 5BS	FUTURE PHASE
PHASE 5BT	FUTURE PHASE
PHASE 5BU	FUTURE PHASE
PHASE 5BV	FUTURE PHASE
PHASE 5BW	FUTURE PHASE
PHASE 5BX	FUTURE PHASE
PHASE 5BY	FUTURE PHASE
PHASE 5BZ	FUTURE PHASE
PHASE 5CA	FUTURE PHASE
PHASE 5CB	FUTURE PHASE
PHASE 5CC	FUTURE PHASE
PHASE 5CD	FUTURE PHASE
PHASE 5CE	FUTURE PHASE
PHASE 5CF	FUTURE PHASE
PHASE 5CG	FUTURE PHASE
PHASE 5CH	FUTURE PHASE
PHASE 5CI	FUTURE PHASE
PHASE 5CJ	FUTURE PHASE
PHASE 5CK	FUTURE PHASE
PHASE 5CL	FUTURE PHASE
PHASE 5CM	FUTURE PHASE
PHASE 5CN	FUTURE PHASE
PHASE 5CO	FUTURE PHASE
PHASE 5CP	FUTURE PHASE
PHASE 5CQ	FUTURE PHASE
PHASE 5CR	FUTURE PHASE
PHASE 5CS	FUTURE PHASE
PHASE 5CT	FUTURE PHASE
PHASE 5CU	FUTURE PHASE
PHASE 5CV	FUTURE PHASE
PHASE 5CW	FUTURE PHASE
PHASE 5CX	FUTURE PHASE
PHASE 5CY	FUTURE PHASE
PHASE 5CZ	FUTURE PHASE
PHASE 5DA	FUTURE PHASE
PHASE 5DB	FUTURE PHASE
PHASE 5DC	FUTURE PHASE
PHASE 5DD	FUTURE PHASE
PHASE 5DE	FUTURE PHASE
PHASE 5DF	FUTURE PHASE
PHASE 5DG	FUTURE PHASE
PHASE 5DH	FUTURE PHASE
PHASE 5DI	FUTURE PHASE
PHASE 5DJ	FUTURE PHASE
PHASE 5DK	FUTURE PHASE
PHASE 5DL	FUTURE PHASE
PHASE 5DM	FUTURE PHASE
PHASE 5DN	FUTURE PHASE
PHASE 5DO	FUTURE PHASE
PHASE 5DP	FUTURE PHASE
PHASE 5DQ	FUTURE PHASE
PHASE 5DR	FUTURE PHASE
PHASE 5DS	FUTURE PHASE
PHASE 5DT	FUTURE PHASE
PHASE 5DU	FUTURE PHASE
PHASE 5DV	FUTURE PHASE
PHASE 5DW	FUTURE PHASE
PHASE 5DX	FUTURE PHASE
PHASE 5DY	FUTURE PHASE
PHASE 5DZ	FUTURE PHASE
PHASE 5EA	FUTURE PHASE
PHASE 5EB	FUTURE PHASE
PHASE 5EC	FUTURE PHASE
PHASE 5ED	FUTURE PHASE
PHASE 5EE	FUTURE PHASE
PHASE 5EF	FUTURE PHASE
PHASE 5EG	FUTURE PHASE
PHASE 5EH	FUTURE PHASE
PHASE 5EI	FUTURE PHASE
PHASE 5EJ	FUTURE PHASE
PHASE 5EK	FUTURE PHASE
PHASE 5EL	FUTURE PHASE
PHASE 5EM	FUTURE PHASE
PHASE 5EN	FUTURE PHASE
PHASE 5EO	FUTURE PHASE
PHASE 5EP	FUTURE PHASE
PHASE 5EQ	FUTURE PHASE
PHASE 5ER	FUTURE PHASE
PHASE 5ES	FUTURE PHASE
PHASE 5ET	FUTURE PHASE
PHASE 5EU	FUTURE PHASE
PHASE 5EV	FUTURE PHASE
PHASE 5EW	FUTURE PHASE
PHASE 5EX	FUTURE PHASE
PHASE 5EY	FUTURE PHASE
PHASE 5EZ	FUTURE PHASE
PHASE 5FA	FUTURE PHASE
PHASE 5FB	FUTURE PHASE
PHASE 5FC	FUTURE PHASE
PHASE 5FD	FUTURE PHASE
PHASE 5FE	FUTURE PHASE
PHASE 5FF	FUTURE PHASE
PHASE 5FG	FUTURE PHASE
PHASE 5FH	FUTURE PHASE
PHASE 5FI	FUTURE PHASE
PHASE 5FJ	FUTURE PHASE
PHASE 5FK	FUTURE PHASE
PHASE 5FL	FUTURE PHASE
PHASE 5FM	FUTURE PHASE
PHASE 5FN	FUTURE PHASE
PHASE 5FO	FUTURE PHASE
PHASE 5FP	FUTURE PHASE
PHASE 5FQ	FUTURE PHASE
PHASE 5FR	FUTURE PHASE
PHASE 5FS	FUTURE PHASE
PHASE 5FT	FUTURE PHASE
PHASE 5FU	FUTURE PHASE
PHASE 5FV	FUTURE PHASE
PHASE 5FW	FUTURE PHASE
PHASE 5FX	FUTURE PHASE
PHASE 5FY	FUTURE PHASE
PHASE 5FZ	FUTURE PHASE
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PHASE 5GE	FUTURE PHASE
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PHASE 5GK	FUTURE PHASE
PHASE 5GL	FUTURE PHASE
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PHASE 5GN	FUTURE PHASE
PHASE 5GO	FUTURE PHASE
PHASE 5GP	FUTURE PHASE
PHASE 5GQ	FUTURE PHASE
PHASE 5GR	FUTURE PHASE
PHASE 5GS	FUTURE PHASE
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PHASE 5GU	FUTURE PHASE
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PHASE 5GW	FUTURE PHASE
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PHASE 5GY	FUTURE PHASE
PHASE 5GZ	FUTURE PHASE
PHASE 5HA	FUTURE PHASE
PHASE 5HB	FUTURE PHASE
PHASE 5HC	FUTURE PHASE
PHASE 5HD	FUTURE PHASE
PHASE 5HE	FUTURE PHASE
PHASE 5HF	FUTURE PHASE
PHASE 5HG	FUTURE PHASE
PHASE 5HH	FUTURE PHASE
PHASE 5HI	FUTURE PHASE
PHASE 5HJ	FUTURE PHASE
PHASE 5HK	FUTURE PHASE
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PHASE 5HN	FUTURE PHASE
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PHASE 5HQ	FUTURE PHASE
PHASE 5HR	FUTURE PHASE
PHASE 5HS	FUTURE PHASE
PHASE 5HT	FUTURE PHASE
PHASE 5HU	FUTURE PHASE
PHASE 5HV	FUTURE PHASE
PHASE 5HW	FUTURE PHASE
PHASE 5HX	FUTURE PHASE
PHASE 5HY	FUTURE PHASE
PHASE 5HZ	FUTURE PHASE
PHASE 5IA	FUTURE PHASE
PHASE 5IB	FUTURE PHASE
PHASE 5IC	FUTURE PHASE
PHASE 5ID	FUTURE PHASE
PHASE 5IE	FUTURE PHASE
PHASE 5IF	FUTURE PHASE
PHASE 5IG	FUTURE PHASE
PHASE 5IH	FUTURE PHASE
PHASE 5II	FUTURE PHASE
PHASE 5IJ	FUTURE PHASE
PHASE 5IK	FUTURE PHASE
PHASE 5IL	FUTURE PHASE
PHASE 5IM	FUTURE PHASE
PHASE 5IN	FUTURE PHASE
PHASE 5IO	FUTURE PHASE
PHASE 5IP	FUTURE PHASE
PHASE 5IQ	FUTURE PHASE
PHASE 5IR	FUTURE PHASE
PHASE 5IS	FUTURE PHASE
PHASE 5IT	FUTURE PHASE
PHASE 5IU	FUTURE PHASE
PHASE 5IV	FUTURE PHASE
PHASE 5IW	FUTURE PHASE
PHASE 5IX	FUTURE PHASE
PHASE 5IY	FUTURE PHASE
PHASE 5IZ	FUTURE PHASE
PHASE 5JA	FUTURE PHASE
PHASE 5JB	FUTURE PHASE
PHASE 5JC	FUTURE PHASE
PHASE 5JD	FUTURE PHASE
PHASE 5JE	FUTURE PHASE
PHASE 5JF	FUTURE PHASE
PHASE 5JG	FUTURE PHASE
PHASE 5JH	FUTURE PHASE
PHASE 5JI	FUTURE PHASE
PHASE 5JJ	FUTURE PHASE
PHASE 5JK	FUTURE PHASE
PHASE 5JL	FUTURE PHASE
PHASE 5JM	FUTURE PHASE
PHASE 5JN	FUTURE PHASE
PHASE 5JO	FUTURE PHASE
PHASE 5JP	FUTURE PHASE
PHASE 5JQ	FUTURE PHASE
PHASE 5JR	FUTURE PHASE
PHASE 5JS	FUTURE PHASE
PHASE 5JT	FUTURE PHASE
PHASE 5JU	FUTURE PHASE
PHASE 5JV	FUTURE PHASE
PHASE 5JW	FUTURE PHASE
PHASE 5JX	FUTURE PHASE
PHASE 5JY	FUTURE PHASE
PHASE 5JZ	FUTURE PHASE
PHASE 5KA	FUTURE PHASE
PHASE 5KB	FUTURE PHASE
PHASE 5KC	FUTURE PHASE
PHASE 5KD	FUTURE PHASE
PHASE 5KE	FUTURE PHASE
PHASE 5KF	FUTURE PHASE
PHASE 5KG	FUTURE PHASE
PHASE 5KH	FUTURE PHASE
PHASE 5KI	FUTURE PHASE
PHASE 5KJ	FUTURE PHASE
PHASE 5KK	FUTURE PHASE
PHASE 5KL	FUTURE PHASE
PHASE 5KM	FUTURE PHASE
PHASE 5KN	FUTURE PHASE
PHASE 5KO	FUTURE PHASE
PHASE 5KP	FUTURE PHASE
PHASE 5KQ	FUTURE PHASE
PHASE 5KR	FUTURE PHASE
PHASE 5KS	FUTURE PHASE
PHASE 5KT	FUTURE PHASE
PHASE 5KU	FUTURE PHASE
PHASE 5KV	FUTURE PHASE
PHASE 5KW	FUTURE PHASE
PHASE 5KX	FUTURE PHASE
PHASE 5KY	FUTURE PHASE
PHASE 5KZ	FUTURE PHASE
PHASE 5LA	FUTURE PHASE
PHASE 5LB	FUTURE PHASE
PHASE 5LC	FUTURE PHASE
PHASE 5LD	FUTURE PHASE
PHASE 5LE	FUTURE PHASE
PHASE 5LF	FUTURE PHASE
PHASE 5LG	FUTURE PHASE
PHASE 5LH	FUTURE PHASE
PHASE 5LI	FUTURE PHASE
PHASE 5LJ	FUTURE PHASE
PHASE 5LK	FUTURE PHASE
PHASE 5LL	FUTURE PHASE
PHASE 5LM	FUTURE PHASE
PHASE 5LN	FUTURE PHASE
PHASE 5LO	FUTURE PHASE
PHASE 5LP	FUTURE PHASE
PHASE 5LQ	FUTURE PHASE
PHASE 5LR	FUTURE PHASE
PHASE 5LS	FUTURE PHASE
PHASE 5LT	FUTURE PHASE
PHASE 5LU	FUTURE PHASE
PHASE 5LV	FUTURE PHASE
PHASE 5LW	FUTURE PHASE
PHASE 5LX	FUTURE PHASE
PHASE 5LY	FUTURE PHASE
PHASE 5LZ	FUTURE PHASE
PHASE 5MA	FUTURE PHASE
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PHASE 5ND	FUTURE PHASE
PHASE 5NE	FUTURE PHASE
PHASE 5NF	FUTURE PHASE
PHASE 5NG	FUTURE PHASE
PHASE 5NH	FUTURE PHASE
PHASE 5NI	FUTURE PHASE
PHASE 5NJ	FUTURE PHASE
PHASE 5NK	FUTURE PHASE
PHASE 5NL	FUTURE PHASE
PHASE 5NM	FUTURE PHASE
PHASE 5NO	FUTURE PHASE
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PHASE 5NQ	FUTURE PHASE
PHASE 5NR	FUTURE PHASE
PHASE 5NS	FUTURE PHASE
PHASE 5NT	FUTURE PHASE
PHASE 5NU	FUTURE PHASE
PHASE 5NV	FUTURE PHASE
PHASE 5NW	FUTURE PHASE
PHASE 5NX	FUTURE PHASE
PHASE 5NY	FUTURE PHASE
PHASE 5NZ	FUTURE PHASE
PHASE 5OA	FUTURE PHASE
PHASE 5OB	FUTURE PHASE
PHASE 5OC	FUTURE PHASE
PHASE 5OD	FUTURE PHASE
PHASE 5OE	FUTURE PHASE
PHASE 5OF	FUTURE PHASE
PHASE 5OG	FUTURE PHASE
PHASE 5OH	FUTURE PHASE
PHASE 5OI	FUTURE PHASE
PHASE 5OJ	FUTURE PHASE
PHASE 5OK	FUTURE PHASE
PHASE 5OL	FUTURE PHASE
PHASE 5OM	FUTURE PHASE
PHASE 5ON	FUTURE PHASE
PHASE 5OO	FUTURE PHASE
PHASE 5OP	FUTURE PHASE
PHASE 5OQ	FUTURE PHASE
PHASE 5OR	FUTURE PHASE
PHASE 5OS	FUTURE PHASE
PHASE 5OT	FUTURE PHASE
PHASE 5OU	FUTURE PHASE
PHASE 5OV	FUTURE PHASE
PHASE 5OW	FUTURE PHASE
PHASE 5OX	FUTURE PHASE



MEMORANDUM

Traffic Engineering Division

To: Steve Donovan, Planner
From: Joe Seet, Assistant Traffic Engineer
Date: January 9, 2020
Re: Traffic Engineering Comments for N.W. corner of Ridgeline Dr./Sherman St. Intersection, Apple Valley Subdivision, Phase 5 Preliminary Plat
Project: PP 19-03/PLN-2019-03067

This Traffic Engineering Comment letter dated January 9, 2020 supersedes all prior Traffic Engineering Comment letters.

KMC 13.16 Transportation Impact Fees

1. Per March 19, 2019 MOA with Tri-City Development Company, LLC., no TIF will be assessed for reasons stated within the MOA.

Traffic Operations

1. Trip generation and distribution analysis have been provided and Traffic has completed the review. Revise S. Taft St./W. 33rd Place to Stop instead of Yield condition on S. Taft St.

Proposed Driveway(s)

1. Please note that effective 11/4/19, residential lots may have a maximum driveway width of 36 feet (bottom width) as long as the drive can meet the ADA requirement of the 6-foot transition slope and a minimum 5-foot flat landing between driveways. Driveway widths are **NO** longer associated with garage/RV bays. Please use this consideration when developing the plat layout.
2. Please note that KMC 5.56.275(1) requires a minimum centerline radius of 200 feet.

5.56.275: - Street Radii and Grade.



- (1) Local Streets: Unless otherwise approved by the Deputy Director of Public Works, local streets shall be constructed with centerline radii which meet the following standards. On minor loop streets and cul-de-sac streets, where the street makes a 90-degree plus or minus five-degree turn, the minimum centerline radius shall be 50 feet. On all other minor loop street and cul-de-sac street curves, the minimum centerline radius shall be 150 feet. On all local through streets, other than minor loop streets, as determined by the Deputy Director of Public Works, the minimum centerline radius shall be 200. Unless otherwise approved by the Deputy Director of Public Works, the maximum grade on local streets shall be 12 percent.

3. Please note that vertical roadway curves will need to meet the AASHTO Rate of Vertical Curvature, K, value for both crest and sag curves. Please use this consideration when developing the roadway and grading plan.

Table 3-34. Design Controls for Crest Vertical Curves Based on Stopping Sight Distance

Design Speed (km/h)	Metric			U.S. Customary			
	Stopping Sight Distance (m)	Rate of Vertical Curvature, K ^a		Design Speed (mph)	Stopping Sight Distance (ft)	Rate of Vertical Curvature, K ^a	
		Calculated	Design			Calculated	Design
20	20	0.6	1	15	60	3.0	3
30	35	1.9	2	20	115	6.1	7
40	50	3.8	4	25	155	11.1	12
50	65	6.4	7	30	200	18.5	19
60	85	11.0	11	35	250	29.0	29
70	105	16.8	17	40	305	43.1	44
80	130	25.7	26	45	360	60.1	61
90	160	38.9	39	50	425	83.7	84
100	185	52.0	52	55	495	113.5	114
110	220	73.6	74	60	570	150.6	151
120	250	95.0	95	65	645	192.8	193
130	285	123.4	124	70	730	246.9	247
				75	820	311.6	312
				80	910	383.7	384

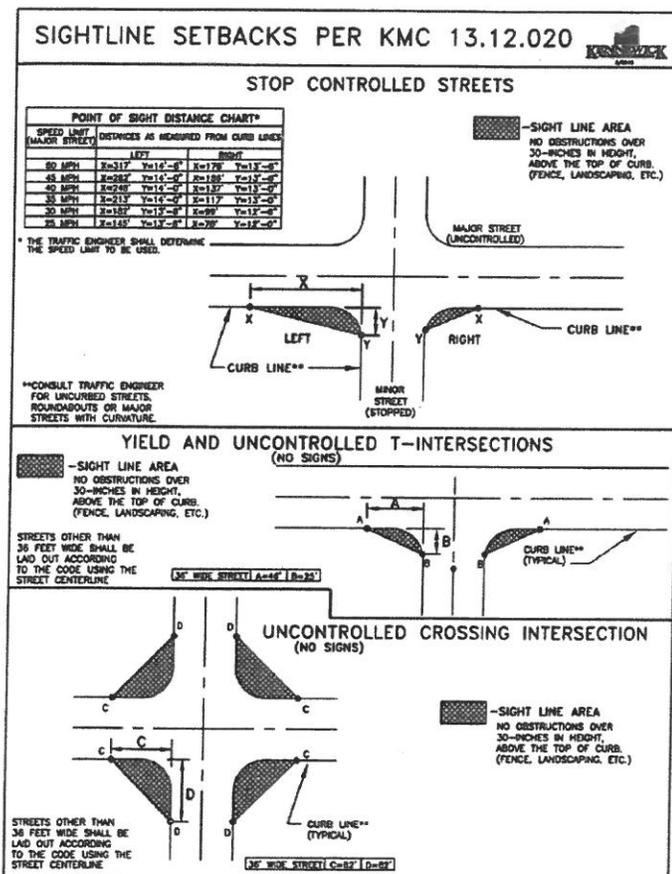
^a Rate of vertical curvature, K, is the length of curve per percent algebraic difference in intersecting grades (A). $K = L/A$.

Table 3-36. Design Controls for Sag Vertical Curves

Design Speed (km/h)	Metric			U.S. Customary			
	Stopping Sight Distance (m)	Rate of Vertical Curvature, K ^a		Design Speed (mph)	Stopping Sight Distance (ft)	Rate of Vertical Curvature, K ^a	
		Calculated	Design			Calculated	Design
20	20	2.1	3	15	80	9.4	10
30	35	5.1	6	20	115	16.5	17
40	50	8.5	9	25	155	25.5	26
50	65	12.2	13	30	200	36.4	37
60	85	17.3	18	35	250	49.0	49
70	105	22.6	23	40	305	63.4	64
80	130	29.4	30	45	360	78.1	79
90	160	37.6	38	50	425	95.7	96
100	185	44.6	45	55	495	114.9	115
110	220	54.4	55	60	570	135.7	136
120	250	62.8	63	65	645	156.5	157
130	285	72.7	73	70	730	180.3	181
				75	820	205.6	206
				80	910	231.0	231

^a Rate of vertical curvature, K, is the length of curve (m) per percent algebraic difference intersecting grades (A). $K = L/A$.

4. Please note that sightline setback triangles per KMC 13.12.020 are required for the proposed intersections. Per KMC 13.12.020(5), no view obstruction between the height of 36 inches and 90 inches above the roadway surface within the defined sight line setback area, except as allowed in Section 13.12.020(6).



Right-of-Way and Easement

1. Reserve a right-of-way tract along the parcel's southerly parcel line abutting Ridgeline Drive to be dedicated for future dedication to the City as right-of-way. The right-of-way tract shall be 26 feet wide with an additional adjacent 15-foot wide sidewalk and utilities easement, beginning from the most easterly parcel limit line and ending at the most westerly parcel limit line.

All of the half-street improvements along Ridgeline Drive, including pavement, curb, gutter, sidewalk, storm drain, water, and street lighting, per City of Kennewick Standard Drawing No. 2-4, shall be bonded per KMC 17.10.260. The Developer may choose to construct portions of these improvements, such as grading, storm drain and water, and bond the remaining improvements. Ridgeline Drive, west of Sherman Street, is to be constructed as a two-lane road, except at approaches to all intersections, where it is to be constructed as a three-lane road.

17.10.260: - Construction of Improvements.

Prior to final plat approval, all public rights-of-way must be improved to the minimum requirements of this code and the preliminary plat. Improvements may be greater than the minimum requirements, subject to approval of the City Engineer. In lieu of required improvements, a plat bond issued by a licensed corporate surety or two individual sureties or other approved surety must be provided to the full amount of the cost of such work, as estimated or approved by the City Engineer, including construction inspection costs, but in no case less than \$2,000.00. All or a portion of security will be released upon acceptance of the improvements by the City Engineer, or upon substitution of another approved bond or security. All streets and other public rights-of-way must be improved within two years after final plat approval, in accord with the approved plans. If, after two years, all public rights-of-way are not so improved, the City will cause the streets to be improved in accord with the approved plans, and the costs thereof must be paid by the bonding company, or out of the savings account assignment or other security. In lieu of the plat bond, a cash bond, a certified check, an irrevocable letter of credit, or other surety approved by the City Manager and City Attorney, equal to the cost of improvement may be posted. In addition, the City may require security up to two years against any defect in workmanship or materials in the installation of the improvements. Improvements must be designed and certified by a registered civil engineer prior to the acceptance. All city utility and street improvements must be approved by the City Engineer prior to final inspection and occupancy of any structure within the plat.

KMC 17.10.260

2. One (1) foot No Access Easement along Ridgeline Drive.
3. The Civil plans will need to include a signing and striping plan.

American Disability Act (ADA) Compliance

1. All proposed pedestrian facilities within the public right-of-way and easement, including but not limited to driveways, sidewalks, curb ramps, etc., shall be ADA compliant while maintaining Pedestrian Accessibility Route (PAR) accessibility, continuity and connectivity.
2. The proposed midblock pedestrian tracts did not appear to maintain route continuity between:
 - a. S. Wilson Pl. and S. Van Buren St.
 - b. S. Taft St. and Sherman St.
 Please revise to provide PAR continuity.
3. At all proposed sidewalk termini, provide asphalt transition ramps for ADA compliance.

Street Lights

1. Per KMC 5.53, Public Works Construction Standard Chapter 6 requires the design and installation of roadway lighting for the internal streets and along both Ridgeline Drive and Sherman St. per City of Kennewick Standard Drawings 6-1 and 6-2.
2. Roadway lighting plan sheet: Per COK Standard Specifications 6-1.02, the plan needs to include call-outs for the power source, meter locations, junction boxes, and conduits.

JS: cm
PW2020-011

Exhibit 25

Steve Donovan

From: Katzaroff, Kenneth <KKatzaroff@SCHWABE.com>
Sent: Thursday, January 9, 2020 4:59 PM
To: 'Matt Smith'; Steve Donovan
Subject: RE: Apple Valley Phase 5 Hearing Materials [IWOV-PDX.FID4056727]
Attachments: ScanAttachment.pdf

Attached is the letter.

Thank you.

Ken

Schwabe Williamson & Wyatt**Kenneth Katzaroff**

Attorney

Direct: 206-405-1985

Cell: 206-755-2011

kkatzaroff@schwabe.com

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From: Matt Smith <matt@wspi.net>
Sent: Thursday, January 9, 2020 4:58 PM
To: Steve Donovan <Steve.Donovan@ci.kennewick.wa.us>
Cc: Katzaroff, Kenneth <KKatzaroff@SCHWABE.com>
Subject: RE: Apple Valley Phase 5 Hearing Materials

Thanks Steve,

Ken is working fast to get you an additional comment on the construction of Ridgeline. Should have it any moment.

Thanks!

Matt

From: Steve Donovan <Steve.Donovan@ci.kennewick.wa.us>
Sent: Thursday, January 9, 2020 4:56 PM
To: Matt Smith <matt@wspi.net>
Subject: Apple Valley Phase 5 Hearing Materials

Matt,

Here are the materials I sent to the Hearing Examiner.

I will be out of the office tomorrow.

Steve



Steve Donovan, AICP
City of Kennewick
Community Planning/Senior Planner
O: 509.585.4361
Steve.Donovan@ci.kennewick.wa.us

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January 8, 2020

Kenneth Kataroff
Admitted in Washington
T: 206-405-1985
C: 206-755-2011

James M. Driscoll
Hearings Examiner
c/o Steve Donovan
City of Kennewick
210 W 6th Avenue
Kennewick, WA 99336

RE: Apple Valley Phase 5 – File Nos. PP 19-03/PLN-2019-03067; Objection to Proposed Conditions

Dear James:

This firm represents Matt Smith (the “*Applicant*”) in his application for Apple Valley Phase 5, City File Nos. PP 19-03/PLN-2019-03067 (the “*Application*”). This letter addresses comments and communications from City of Kennewick (the “*City*”) staff regarding proposed conditions and requirements of approval for the Application and serves as an objection to certain proposed conditions. In particular, the Applicant objects to conditions related to the bonding or construction of isolated portions of Ridgeline Drive, which have no current and no possible future connection to the rest of the City’s transportation system.

Per communications with City staff, including a telephone conference as recently as January 6, 2020, City staff proposes to impose a condition that the Applicant build (or bond for) significant portions of a purported “extension” of Ridgeline Drive (“*Ridgeline Improvement Area*”). See also, Traffic Engineering Comments, Exhibit 14 to the Staff Report. We believe that this requirement would be contrary to state law and, as described below, may constitute an unconstitutional exaction.

The City proposes that the Applicant build or bond for the Ridgeline Improvement Area. The City has made no reasonable effort or plan to connect Ridgeline Drive to the Ridgeline Improvement Area, nor is there a reasonable plan that connects the Ridgeline Improvement Area to any other portion of the City’s transportation system.

In fact, there is no practical way to connect the Ridgeline Improvement Area to the current Ridgeline Drive, to the east. A residential home and parcel owned and occupied by a third party exists between the Ridgeline Improvement Area and the current Ridgeline Drive, therefore no connection to the east is possible absent a condemnation action of the home (which is in the direct line of Ridgeline Drive).

There is also no practical way to connect the Ridgeline Improvement Area to the City’s transportation system, to the west. Not only does no system of roads exist, but the current

James M. Driscoll
January 8, 2020
Page 2

planned route in the Comprehensive Plan and Transportation System Plan would require traversing a substantial ravine and property owned by the Kennewick Irrigation District (“KID”). KID has represented to us that they have no interest in developing its property or allowing the improvement of roadways across its property. Further, per our engineers calculation, more than 150,000 cubic yards of fill would be required to traverse just a portion of the substantial terrain changes. Therefore, to accomplish a connection to the west, is also impractical and would require, at a minimum, an additional condemnation action filed against KID.

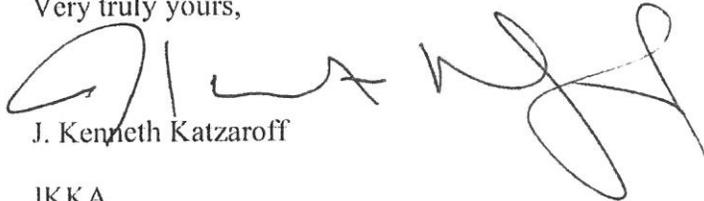
In short, the City is asking the Applicant to either build or bond for a road to nowhere.

The City’s request is similar to that in *Burton v. Clark County*, 91 Wn. App. 505 (1998). In *Burton*, the Washington State Court of Appeals reviewed a requirement imposed by Clark County to build a road across the Mr. Burton’s property as a condition to approval for a short plat. The court determined that where the County would not provide any reasonable plan as to when, if ever, the road would connect to the existing transportation system and thereby serve an actual public need, the requirement lacked a “legitimate state interest” or a “legitimate public purpose.” The court also determined that the County had not met its burden to show that the exacted road was a reasonable exercise of its police power. *Id.* at 528-529. On that basis, the court affirmed the hearings examiner’s opinion on remand that approved the plat without the exacted road.

Here, the City has provided no reasonable basis or legitimate public interest to require the Applicant to make improvements to the Ridgeline Improvement Area. The City has made no steps to actually connect the Ridgeline Improvement Area to either the east or the west, and in fact, such connection may require multiple condemnation actions. Therefore, like *Burton*, this Hearings Examiner should approve the Application without requiring the Applicant to construct or bond for the Ridgeline Improvement Area.

Should the City ever make provisions for the actual construction and connection of Ridgeline Drive to the rest of its transportation system, the Applicant will consent to the dedication of such right of way as may be reasonably necessary, including as a condition of approval to this Application.

Very truly yours,



J. Kenneth Katzaroff

JKKA

Exhibit 26

(2005)

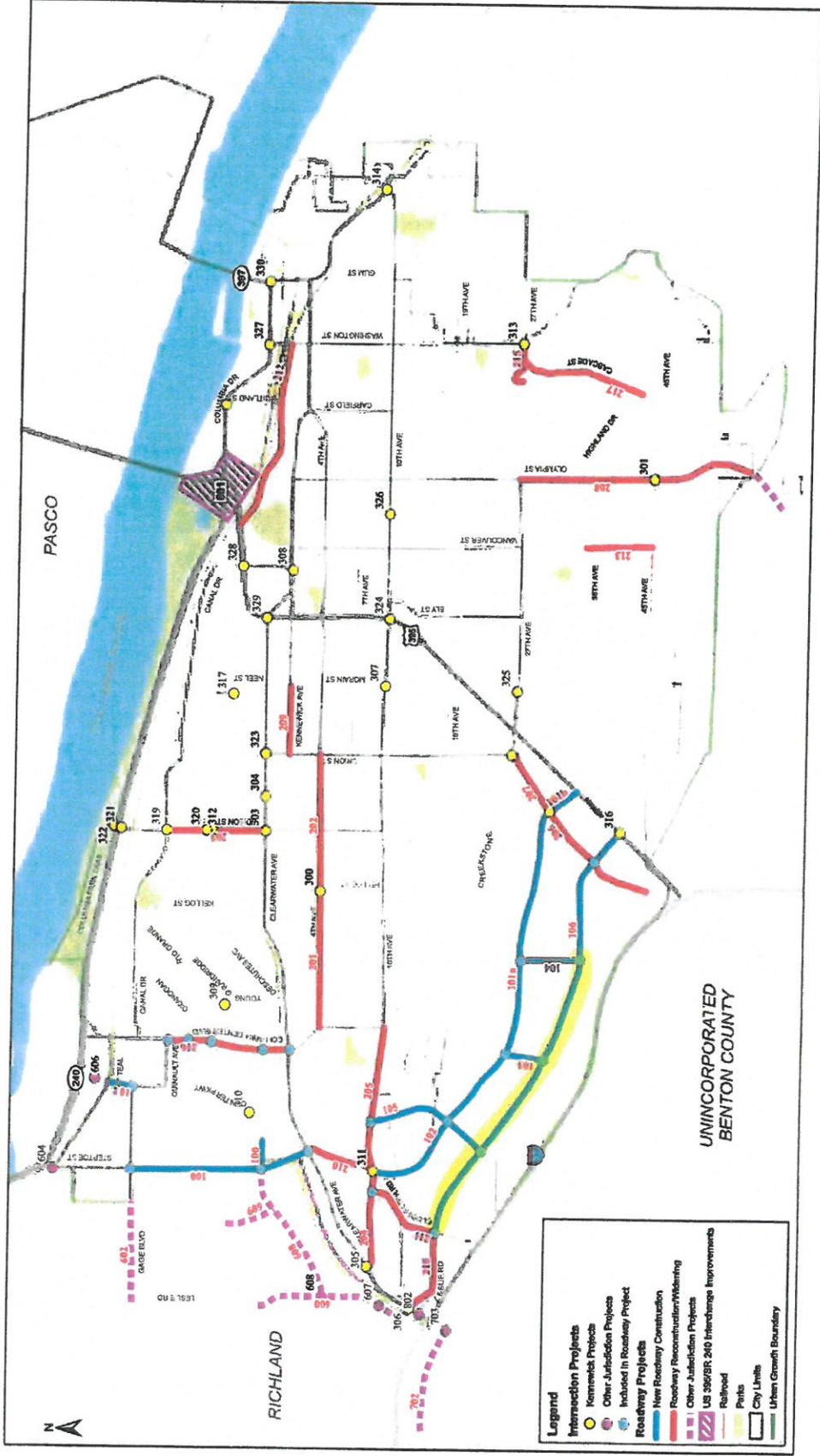


SOUTHRIDGE
FIGURE 2
LAND USE PLAN

LAND STRATEGIES (JUB) NOT TO SCALE NORTH

Exhibit 27

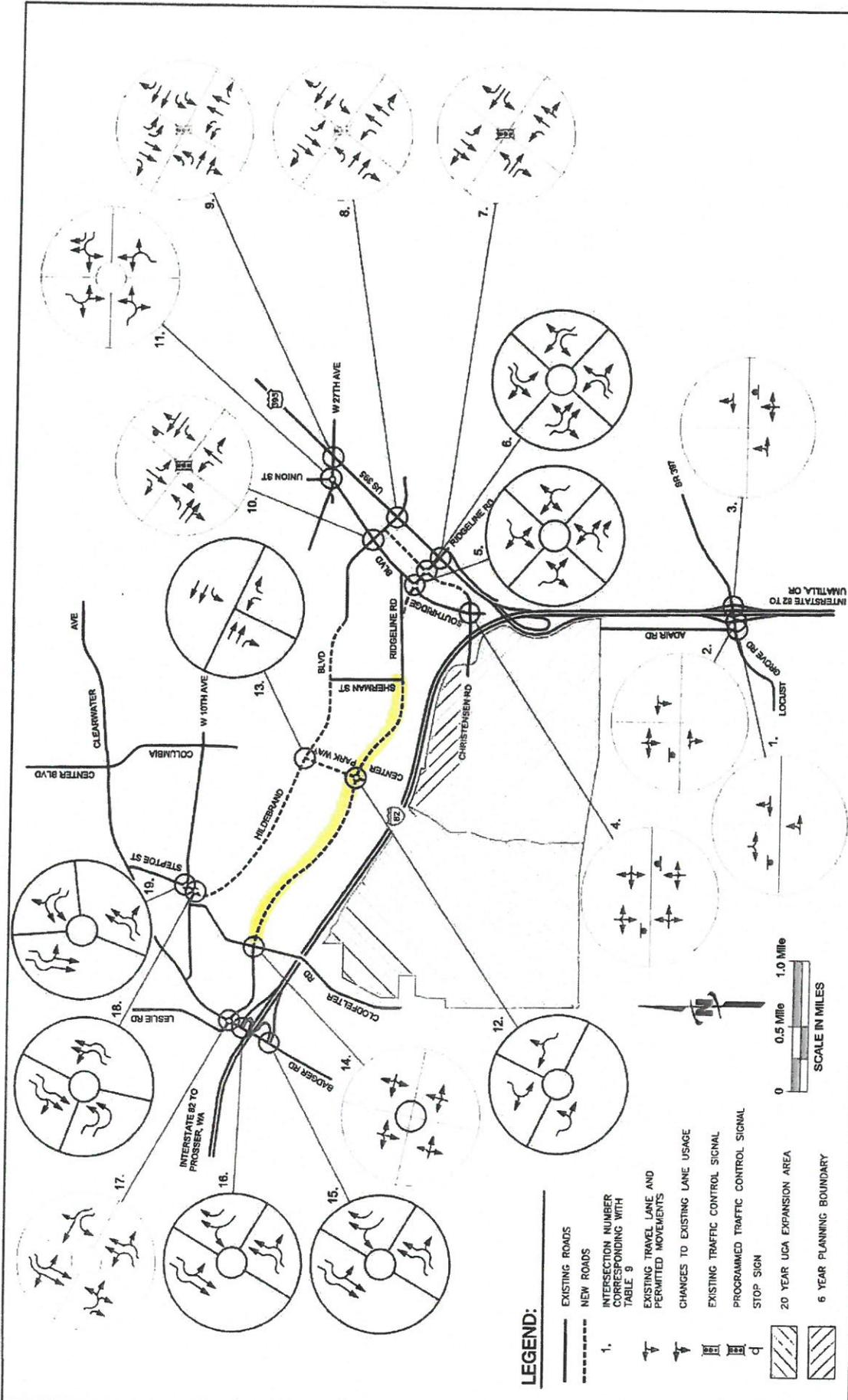
Exhibit 1-1 Street Projects



2008

Exhibit 28

2012 - UGA Capital Facilities Analysis



LEGEND:

- EXISTING ROADS
- - - - NEW ROADS
- 1. INTERSECTION NUMBER CORRESPONDING WITH TABLE 9
- ▶ EXISTING TRAVEL LANE AND PERMITTED MOVEMENTS
- ▶ CHANGES TO EXISTING LANE USAGE
- ▶ EXISTING TRAFFIC CONTROL SIGNAL
- ▶ PROGRAMMED TRAFFIC CONTROL SIGNAL
- ▶ STOP SIGN
- ▨ 20 YEAR UGA EXPANSION AREA
- ▨ 6 YEAR PLANNING BOUNDARY



2032 NO-BUILD LANE CONFIGURATION AND TRAFFIC CONTROL

KENNEBEC URBAN GROWTH AREA CAPITAL FACILITIES ANALYSIS

FIGURE 12



JUB ENGINEERS, INC.

PROJECT NO. 12-001

DATE: 12/15/11

SCALE: AS SHOWN

PROJECT LOCATION: 1:42 PM

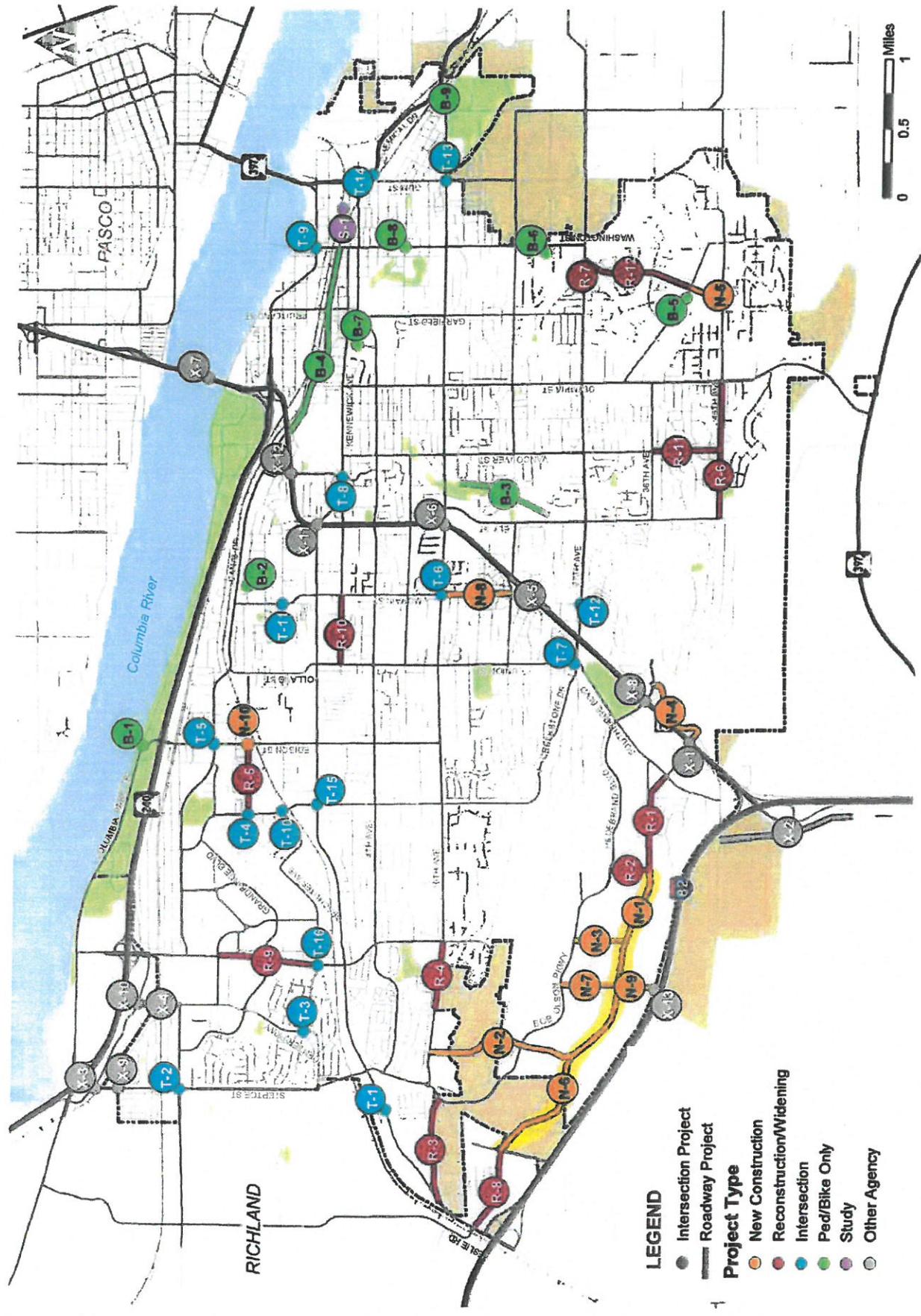
PROJECT NO. 12-001

DATE: 12/15/11

SCALE: AS SHOWN

Exhibit 29

Exhibit 30



Transportation System Plan Projects
 Kennewick Citywide Transportation Plan 2018

transpogroup **FIGURE 4-9**

Exhibit 31

2019- Apple Valley Grading Plan

- NOTE:**
- THIS PLAN IS WITHIN THE KENNEBEC PROTECTION DISTRICT AND IS UNLAWFUL TO CONSTRUCT WITHOUT THE NECESSARY PERMITS FROM THE KENNEBEC PROTECTION DISTRICT.
 - ANY EXPOSED SOILS SHALL BE COVERED IMMEDIATELY WITHIN 15 DAYS OF COMPLETION OF GRADING PER THE EROSION CONTROL MANUAL OF THE CITY OF KENNEBEC. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE EXPOSED SOILS FROM EROSION AND SHALL SUBMIT A PROTECTION PLAN TO THE CITY OF KENNEBEC FOR APPROVAL.
 - PAVING AND CURBS SHALL BE INSTALLED WITHIN 30 DAYS OF COMPLETION OF GRADING AND SHALL BE COVERED IMMEDIATELY WITHIN 15 DAYS OF COMPLETION OF PAVING.
 - INSTALL CURBS AND GUTTERS WITHIN 30 DAYS OF COMPLETION OF GRADING AND SHALL BE COVERED IMMEDIATELY WITHIN 15 DAYS OF COMPLETION OF CURB AND GUTTER INSTALLATION.
 - INSTALL CURBS AND GUTTERS WITHIN 30 DAYS OF COMPLETION OF GRADING AND SHALL BE COVERED IMMEDIATELY WITHIN 15 DAYS OF COMPLETION OF CURB AND GUTTER INSTALLATION.
 - A CONSTRUCTION STORMWATER CONTROL PLAN IS NOT REQUIRED FOR THIS PROJECT.
 - PRIOR TO GRADING ON CONSTRUCTION PHASE, THE CONTRACTOR SHALL OBTAIN A PERMIT FROM THE CITY OF KENNEBEC FOR THE GRADING WORK. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE EXPOSED SOILS FROM EROSION AND SHALL SUBMIT A PROTECTION PLAN TO THE CITY OF KENNEBEC FOR APPROVAL.

LEGEND

[Symbol]	EXISTING ELEVATION - CRITICAL AREA
[Symbol]	PROPOSED ELEVATION - CRITICAL AREA
[Symbol]	PROPOSED ELEVATION - GENERAL AREA
[Symbol]	PROPOSED ELEVATION - GENERAL AREA



APPLICANT/DESIGNER:
 TRACIES DEVELOPMENT CO. LLC
 ATTN: MATT SMITH
 1000 W. COLGROD AVENUE
 SUITE 1
 BEND, OR 97709
 (503) 325-0891

ENGINEER:
 JASON MATYK, P.E.
 400 BRADLEY BLVD., SUITE 108
 RICHLAND, WA 98941
 PHONE: (509) 843-1890

SURVEYOR:
 ATRICALEX MATYKALZO, P.L.S.
 400 BRADLEY BLVD., SUITE 108
 RICHLAND, WA 98941
 PHONE: (509) 843-1890

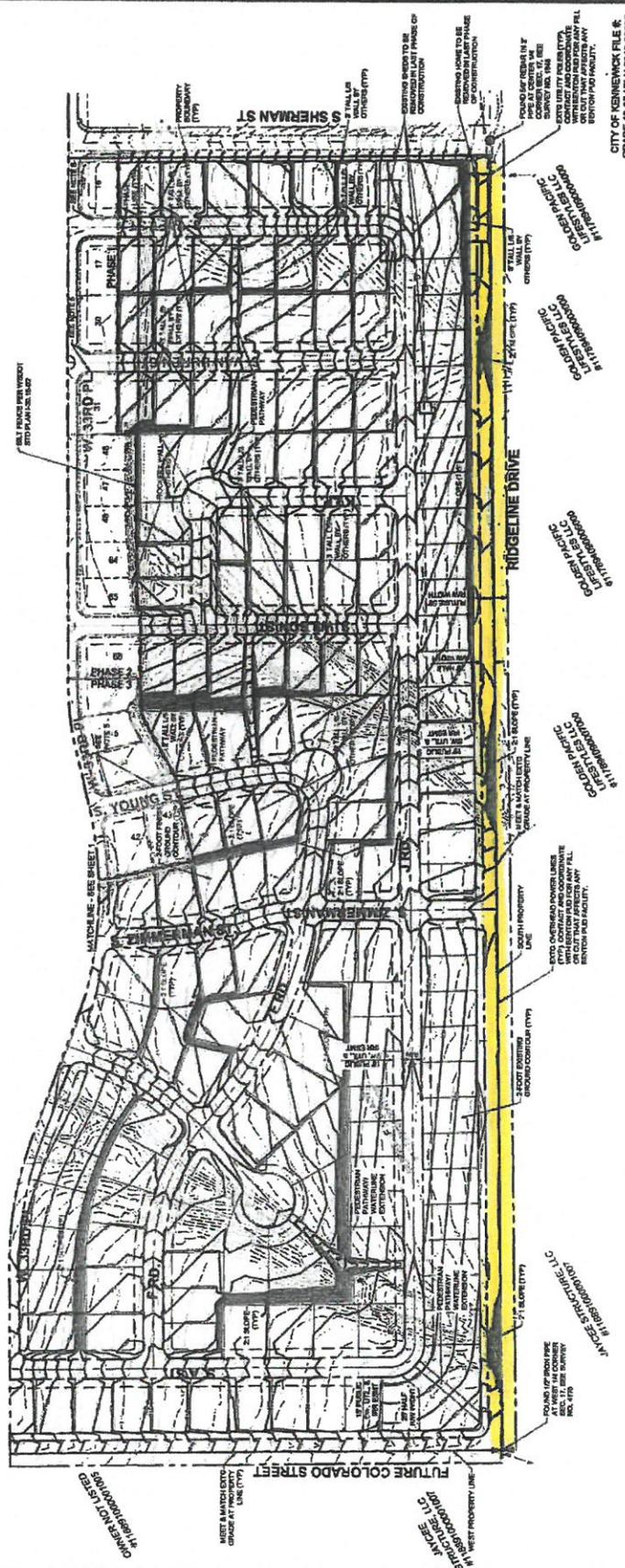


GRADING AND EROSION CONTROL PLAN FOR: APPLE VALLEY - PHASES 5 - 9 A SUBDIVISION LOCATED IN THE CITY OF KENNEBEC, WASHINGTON

118 Kennebec Planning & Development Department

DESIGNED BY: TRACIES DEVELOPMENT CO. LLC
 CHECKED BY: JASON MATYK, P.E.
 DATE: JANUARY 2019
 SHEET NO: 2 OF 3

CITY OF KENNEBEC
 GRADE 18-07 / R.N. 2018-00028



CITY OF KENNEBEC
 GRADE 18-07 / R.N. 2018-00028

18 City Street, Kennebec, ME 05245, USA. Kennebec Planning & Development Department, 118 South Central Street, Kennebec, ME 05245, USA. Kennebec Planning & Development Department, 118 South Central Street, Kennebec, ME 05245, USA.

Exhibit 32

RIDGELINE EXHIBIT A



S SHERMAN ST

RIDGELINE DR

Future Phase

Apple Valley

Phase 5

PROPOSED HALF-STREET CONSTRUCTION

Phase 1

Village at Southridge

Phase 2

Phase 3



Exhibit 33



January 29, 2019

Matt Smith
Tri-Cities Development Co., LLC
15 S.W. Colorado Avenue, Suite 1
Bend, OR 97702

RE: GRADE 18-07/PLN-2018-03095

Dear Mr. Smith,

Grading Permit No. 18-07/PLN-2018-03095 has been approved and is subject to the attached conditions.

Your permit is available to be picked up in the Building and Planning Department at City Hall upon receipt of your Contractor information. If you have any questions or comments regarding this permit and/or any of the conditions set forth in the approval, please feel free to contact me by phone: (509) 585-4558 or email: wes.romine@ci.kennewick.wa.us

Sincerely,


Wes Romine
Development Services Manager

- Attachments: Findings of Fact
- Conditions of Approval
- Grading Plan
- Benton Clean Air Authority Comments
- Benton PUD Comments

cc. GRADE 18-07/PLN-2018-03095 file
Martin Nelson/Ben Woodard, Department of Public Works

FINDINGS OF FACT

Staff has reviewed the grading application, and subject to the conditions of approval, make the following findings:

1. The applicant for this application is Matt Smith of Tri-Cities Development LLC, 15 SW Colorado Avenue, Suite 1, Bend, OR 97702.
2. The proposed grading is for a parcel(s) of land in future Apple Valley Phases 5 – 9, parcel numbers 1-1789-200-0001-009, and a portion of 1-1789-200-0001-008.
3. GRADE 18-07/PLN-2018-03095 is a grading permit for approximately 457,500 cubic yards of excavation and 457,500 cubic yards of fill. There is no proposed import or export of grading material from the site.
4. The subject property zoning is Residential Low Density (RL), and the Comprehensive Plan Land Use designation is Low Density Residential.
5. This Grading permit was received by the City of Kennewick on October 18, 2018 and declared complete for processing on October 22, 2018. It was routed for review to the Public Works Department, Benton Clean Air Agency and the Kennewick Irrigation District on October 22, 2018.
6. A Mitigated Determination of Non-significance (ED 15-62) was issued March 14, 2016 for Planned Residential Development & Preliminary Plat Nos. PRD 15-01/PP 15-06. The Environmental Review included grading for the site.

CONDITIONS OF APPROVAL

As per KMC 18.42.040, Grade Permit No. 18-07/PLN-2018-03095 is approved with the following conditions:

1. Comply with all Notes on the approved grading plans.
2. A Pre-Construction meeting with the City of Kennewick Department of Public Works is required prior to the start of grading.
3. Comply with the Benton Clean Air Agency comments which requires the applicant to submit a "Proof of Contact: Soil Destabilization Notification" prior to any excavation/construction.
4. At the completion of grading, submit as built drawings stamped by a licensed engineer and confirmation that grading complies with the approved grading plans. No permits will be issued at any of the parcels until as-built drawings are received.
5. Debris on City Streets is unacceptable and must be promptly removed.
6. The contractor shall at all times during construction, maintain proper dust control in accordance with the requirements of the Benton Clean Air Authority. If water is not available, the Contractor shall be responsible for dust control by any means approved by the Benton Clean Air Authority, Per City of Kennewick Standards Specifications 1-11.
7. Property owners as well as their contractors, subcontractors and other representatives shall follow all KMC's regarding storm water management, erosion and sediment control, and illicit discharges. Failure to meet City Code can result in approval delays, fines, and a hold on permits per the following KMC's:
 - a. KMC 14.29: Illicit Discharge
 - b. KMC 18.72: Clearing and Grading
 - c. KMC 18.20: Design and Construction
8. An NPDES Construction Stormwater General Permit is required from the Washington State Department of Ecology if there is a potential for stormwater discharge from a construction site with more than one acre of disturbed ground. It is the applicant's responsibility to obtain required stormwater permits from the Department of Ecology. For questions, contact Bryan Neet at (509) 575-2808 at the Washington State Department of Ecology.
9. Comply with WAC 173-400-040 general standards for maximum emissions as required by Benton Clean Air authority:
 - a. Fallout

- i. No person shall cause or permit the emission of particulate matter from any source to be deposited beyond the property under direct control of the owner(s) or operator(s) of the source in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material is deposited.
- b. Fugitive dust sources
 - i. The owner or operator of a source of fugitive dust shall take reasonable precautions to prevent fugitive dust from becoming airborne and shall maintain and operate the source to minimize emissions.



BENTON CLEAN AIR AGENCY

October 30, 2018

Re: Grade 18-07

Community Planning Department
Wes Romine
210 W, 6th Ave
Kennewick, WA 99336

Applicant/Proponent:
Tri-Cities Development Co.
Attn: Matt Smith
15 SW Colorado Ave Ste 1
Bend, OR 97702

Dear Mr. Romine:

It has come to our attention that you are reviewing a proposal for the above named applicant in which a parcel or parcels will be cleared for the development of homes. Because these activities may cause possible fugitive dust emissions, we would like to take this opportunity to provide information to ensure that the applicant takes reasonable steps to control the dust from his/her project.

The Benton Clean Air Agency (BCAA) requires the applicant submit a Proof of Contact: Soil Destabilization Notification for this project prior to any excavation/construction taking place. This will insure that the proponent has the ability and resources to control fugitive dust emissions that may be created as a result of construction activities. This will also inform them of the regulations and requirements of the BCAA. Additionally, a written dust control plan must be developed and maintained for all soil destabilization projects, and must be readily available upon request by the BCAA. Part of this plan is submitting the name of at least one person for the project so that the BCAA has a point of contact should we receive any dust complaints from the project. The Soil Destabilization Notification form can be found and submitted on our website, www.bentoncleanair.org.

Thank you for the opportunity to comment on this proposal. If you have any questions, or would like further information on this subject, please contact us at (509) 783-1304.

Sincerely,


John Lyle
Inspector

Wes Romine

Subject:

FW: [E] Grading Permit Application GRADE 18-07/PLN-2018-03095

From: Chad Brooks [<mailto:brooksc@bentonpud.org>]

Sent: Thursday, November 01, 2018 8:40 AM

To: Wes Romine

Subject: RE: [E] Grading Permit Application GRADE 18-07/PLN-2018-03095

Benton PUD has existing overhead feeder line on North side of Future Ridgeline Dr. Contact Benton PUD for any fill or cut that affects any Benton PUD facility.

Thank you

Chad Brooks

Distribution Design Tech I

Benton PUD

Email: brooksc@bentonpud.org

Main # (509)582-2175

Direct # (509)582-1233



s under the Public Records Act.

- NOTE:**
- THIS PARCEL, IS WITHIN THE GENERAL RESOLUTION DISTRICT AND IS CONSIDERED INHABITABLE LANDS. THEREFORE, IT IS ASSUMED BY THE APPLICANT THAT THE CITY OF KENNEWICK IS THE APPLICABLE JURISDICTION FOR THIS PROJECT.
 - THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF KENNEWICK AND THE WASHINGTON STATE DEPARTMENT OF ECOSYSTEMS MANAGEMENT. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF KENNEWICK AND THE WASHINGTON STATE DEPARTMENT OF ECOSYSTEMS MANAGEMENT.
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HATCHING LEGEND

[Symbol]	BROOKS HAZARD - CRITICAL AREA
[Symbol]	STEEP SLOPE - 15% - CRITICAL AREA
[Symbol]	VERTICAL CURVE DETERMINATIONS ARE OF RECORD ON CITY RECORDS OR MAPS.



Scale 1" = 100'

APPLICANT/DEVELOPER:
 ATTN: JASON MATTOX, PE
 15 SW COLORADO AVENUE
 BEND, OR 97702
 (541) 382-6981

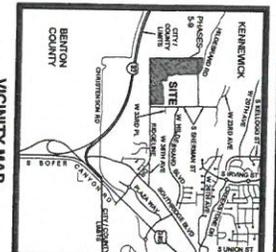
ENGINEER:
 ATTN: JASON MATTOX, PE
 15 SW COLORADO AVENUE
 BEND, OR 97702
 (541) 382-6981

DATE: 08/20/2018

PROJECT:
 APPLE VALLEY - PHASES 5-9
 15 SW COLORADO AVENUE
 BEND, OR 97702
 (541) 382-6981

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CITY OF KENNEWICK FILE #
 GR/DE 18/07 / PLAN 2018-03585

CITY OF KENNEWICK

APPROVED BY CITY OF KENNEWICK PUBLIC WORKS

811 Call Before You Dig logo

DESIGNED BY: J.M. WOODCOCK

CHECKED BY: J.M. WOODCOCK

DATE: 08/20/2018

SHEET 2 OF 3

GRADING AND EROSION CONTROL PLAN FOR:

APPLE VALLEY - PHASES 5 - 9

A SUBDIVISION LOCATED IN THE CITY OF KENNEWICK, WASHINGTON

PBS Engineering and Construction, Inc.

400 Baskley Blvd, Ste 106
 Kennewick, WA 98557
 509.942.1800

pbsusa.com

GENERAL NOTES

ALL MATERIALS AND WORKMANSHIP SHALL BE IN ACCORDANCE WITH THE 2015 EDITION OF THE INTERNATIONAL BUILDING CODE (IBC), LOCAL RULES AND STANDARDS OF GOVERNING JURISDICTION, THE CURRENT EDITION OF THE CITY OF KENNEWICK STANDARDS AND SPECIFICATIONS, AND SPECIFICATIONS FOR THE WOOD STANDARDS MUNICIPAL CONSTRUCTION M4-10.

THE CONTRACTOR AND ALL SUB-CONTRACTORS SHALL BE LICENSED BY THE STATE OF WASHINGTON, AND BONDED TO DO WORK IN THE PUBLIC RIGHT-OF-WAY AND SHALL HAVE A CURRENT CITY OF KENNEWICK LICENSE. THE CONTRACTOR SHALL BE RESPONSIBLE TO OBTAIN ALL NECESSARY PERMITS NECESSARY TO CONSTRUCT IMPROVEMENTS.

ALL CONTRACTORS PERFORMING WORK WITHIN THE RIGHT-OF-WAY OR INVOLVING CITY UTILITIES ARE REQUIRED TO BE PRE-QUALIFIED WITH THE CITY OF KENNEWICK.

CONTRACTOR IS RESPONSIBLE FOR VERIFICATION OF SITE CONDITIONS, INSTALLATION STANDARDS AND FABRICATION AND/OR FIELD ERECTION TO SHOP DISCREPANCIES BETWEEN SITE CONDITIONS AND THE CONSTRUCTION DRAWINGS SHALL BE CALLED TO THE ATTENTION OF THE ENGINEER PRIOR TO THE ENGINEER'S APPROVAL. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE LOCATION OF EXISTING UTILITIES SHOWN ON THESE DRAWINGS ARE APPROXIMATE ONLY.

THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY AND ALL CONSTRUCTION DEFICIENCIES FOR A PERIOD OF ONE YEAR FROM THE DATE OF ACCEPTANCE BY THE CITY OF KENNEWICK.

CALL 811 A MINIMUM OF TWO BUSINESS DAYS PRIOR TO COMMENCING ANY EXCAVATION ACTIVITIES TO IDENTIFY THE FIELD LOCATIONS OF ALL UNDERGROUND UTILITIES.

ALL SPECIAL INSPECTION AND TESTING SHALL BE TESTING AS REQUIRED BY THE CITY INSPECTION AND TESTING AGENCY FOR REQUIRED CONSTRUCTION INSPECTIONS AND MATERIAL TESTING.

MATERIALS TESTING AGENCY IS TO SUBMIT TESTING REPORTS FROM LOTS AND STREETS TO PBS FOR GEOTECHNICAL REVIEW. PBS IS TO SUBMIT THE TESTING REPORTS TO THE CITY OF KENNEWICK ALONG WITH RELEVANT PHOTOS.

CONTRACTOR TO SCHEDULE A PRECONSTRUCTION START OF ANY CITY ENGINEER MEETS PRIOR TO THE CHANGES OR MODIFICATIONS TO THE PROJECT PLANS SHALL FIRST BE APPROVED BY THE CITY ENGINEER OR HIS REPRESENTATIVE.

A TRAFFIC CONTROL PLAN MUST BE SUBMITTED TO THE ENGINEERING DIVISION FOR REVIEW A MINIMUM OF THREE (3) WORKING DAYS IN ADVANCE OF BEGINNING ANY WORK WITHIN THE RIGHT-OF-WAY. ANY DAMAGE OR DISTURBANCE OF EXISTING UTILITIES OR OTHER PROPERTY RESULTING FROM THE CONTRACTOR'S WORK SHALL BE REPAIRED BY THE CONTRACTOR AT HIS OWN EXPENSE. ALL DAMAGE TO PRE-CONSTRUCTION CONDITION OR BETTER ALL PRE-CONSTRUCTION SHALL BE INDICATED ON ONE SET OF "AS-BUILT" PLANS.

PROVIDE AND MAINTAIN TEMPORARY FENCING AND/OR AREAS OF THE PROJECT NECESSARY TO LIMIT ACCESS TO CLEAR EMERGENCY ACCESS ROUTES TO SITE AT ALL TIMES.

THE CONTRACTOR SHALL BE RESPONSIBLE FOR DEVELOPING AND MAINTAINING A DUST CONTROL PLAN PER CITY OF KENNEWICK REQUIREMENTS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR CLEANING THE DIRT AND DEBRIS FROM THE SITE, WHICH MAY ACCUMULATE ON PAVED SURFACES. ADVANCE TO THE SITE AS A RESULT OF THE CONSTRUCTION ACTIVITY. CLEANING SHALL BE ON A DRY OR BE WASHED INTO THE CITY OF KENNEWICK STORM DRAIN SYSTEM.

THE CONTRACTOR SHALL NOT EQUIPACT OVER FOUR FEET IN DEPTH WITHOUT USING ADEQUATE LITTLE MEASURES. THE CONTRACTOR IS REFERRED TO THE 2015 IBC PART 9 FOR EXCAVATION, TRENCHING, AND SHORING REQUIREMENTS.

EARTHWORK

ALL FILL OR MATERIAL SHALL BE COMPACTED TO 95% OF MAXIMUM DENSITY AND COMPLIANCE WITH ASTM D1557 FOR COHESIVE SOILS.

ALL FILL SHALL BE TESTED AND DOCUMENTED BY AN INDEPENDENT MATERIAL TESTING AGENCY.

REMOVE ALL DEBRIS FROM THE AREA TO BE REPAIRED PRIOR TO BACKFILLING. PLACE LOAD BEHIND THE EXCAVATION. THE SUBGRADE SHALL BE 4 INCH THICK LIFTS FOR HAND COMPACTORS, AND 6 INCH THICK LIFTS FOR HAND COMPACTORS, THE REMAINDER DENSITY.

ALL AREAS TO RECEIVE FILL MATERIALS SHALL BE STRIPPED OF VEGETATION OR ORGANIC MATERIAL AND REPAIRED PRIOR TO THE SUBGRADE SHALL BE SCARIFIED, MOISTURED, AND ROLLED TO 95% MOI PER ASTM D1557.

IMPORTED ENGINEERED FILL SHALL BE NATURALLY OR ARTIFICIALLY LEVIGATED, CRUSHED GRAVEL, CRUSHED NATURAL OR CRUSHED SAND WITH AT LEAST 90% PASSING AN 1/2" SIEVE, AND NOT MORE THAN 12% PASSING AN 200 SIEVE.

CONTRACTOR SHALL HAVE A COPY OF THE FOLLOWING GEOTECHNICAL REPORTS AND INVESTIGATIONAL DATA AVAILABLE FOR INSPECTION AND TESTING AGENCY FOR REQUIRED CONSTRUCTION INSPECTIONS AND MATERIAL TESTING.

GEOTECHNICAL ENGINEERING SERVICES-CHITCAL INC. REPORT PREPARED BY PBS DATED AUGUST 17, 2015. THE REPORT IS TO BE SUBMITTED TO THE CITY OF KENNEWICK ALONG WITH RELEVANT PHOTOS.

CONTRACTOR SHALL BE RESPONSIBLE TO COMPLY WITH THE RECOMMENDATIONS OF THESE REPORTS WHEN CONDITIONS VARY FROM THOSE IDENTIFIED IN THE REPORTS AND ADDENDUMS.

FOR STRUCTURAL FILL, USE EXISTING ON-SITE SOIL OR APPROVED IMPORTED SOIL. PROVIDED IT IS FREE OF ORGANICS AND BOUNDERS THAT IS GREATER IN LIFTS AND 6 INCH DIAMETER, AND IT IS INSTALLED IN STRUCTURAL FILL SOIL SHOULD BE SAND OR GRAVEL THAT IS WELL GRADED FROM FINE TO COARSE AND CONTAINS LESS THAN 1% PERCENT BY WEIGHT OF PARTICLES GREATER THAN 3/4 INCH DIAMETER. THE BEST STRUCTURAL FILL FOR FOUNDATION SUBGRADE AREAS.

LARGE HEAVY VIBRATORY ROLLER COMPACTORS OR WHEEL-ROLLER COMPACTORS SHALL BE USED TO COMPACT THE BEST SOIL. COMPACTOR RESULT EQUIPMENT IS USED TO COMPACT THE SOIL, THE COMPACTOR THICKNESS MAY NEED TO BE DECREASED.

MASS GRADING AND SOIL PLACEMENT AND DENSITY GAUGE MUST BE MONITORED WITH NUCLEAR DENSITY GAUGE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE.

MOISTURE REQUIREMENTS FOR SOIL COMPACTON VARIATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE.

IF FILL AND EXCAVATED MATERIAL WILL BE PLACED ON HORIZONTAL (VERTICAL) LIFTS, THESE MUST BE PLACED IN HORIZONTAL LIFTS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE.

EROSION CONTROL

PROVIDE TEMPORARY EROSION AND SEDIMENTATION CONTROL MEASURES TO PREVENT SOIL EROSION AND SEDIMENTATION FROM THE CONSTRUCTION SITE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE.

IF THE ENTRANCE IS NOT PREVENTING SEDIMENT FROM BEING TRACKED ONTO PAVEMENT, THEN THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE.

CONTRACTOR SHALL INSTALL AND MAINTAIN TEMPORARY SILT FENCING TO PREVENT ANY WATER RUNOFF FROM DISTURBED AREAS. AT A MINIMUM, SILT FENCING SHALL BE INSTALLED AT ALL EXCAVATION SITES. THE SILT FENCING SHALL BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE.

REMOVE EROSION AND SEDIMENTATION CONTROLS ONCE THEY ARE NO LONGER NEEDED AND DURING REMOVAL, HYDROMULCH APPLIED ON ALL EXPOSED SOILS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE.

INSTALL CATCH BASIN INLET PROTECTION LOCUS PER CITY OF KENNEWICK STANDARD SPECIFICATION 2-27 IN THE FIRST DOWNSTREAM CATCH BASIN IN THE COMPLETED RIGHT-OF-WAY.

WITH WRITTEN APPROVAL OF THE GEOTECHNICAL ENGINEER, CONCRETE SOILS ARE GENERALLY SUITABLE FOR USE IN STRUCTURAL FILL. DURING CONSTRUCTION, ONE MUST BE MAINTAINED BY AIR DRYING AND/OR ADDITION OF WATER. PROVIDE THE PARTICLES CRISIS. 12 INCHES NOMINAL DIAMETER ARE PERMITTED IN STRUCTURAL FILL. THE FINE-DRAINED FRACTION OF THE SOILS ARE MOISTURE SENSITIVE, AND DURING WET WEATHER, MAY BECOME UNWORKABLE BECAUSE OF MOISTURE CONTENT. CONSTRUCTION OF FINE-DRAINED SOILS MAY BE REQUIRED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE.

CONTRACTOR SHALL PROVIDE THE CITY INSPECTOR WITH A PROPOSED COMPACTON TESTING PLAN THAT INCLUDES DAILY SCHEDULE FOR COMPACTON TESTING. THE TESTING SHALL BE PERFORMED ON THE SITE.

ALL MATERIAL, TESTING REPORTS SHALL BE REVIEWED BY THE CITY INSPECTOR. THE TESTING SHALL BE PERFORMED ON THE SITE.

TESTING AGENCY WILL TEST COMPACTON OF SOILS IN PLACE ACCORDING TO ASTM D1557, AS APPLICABLE. TESTS WILL BE PERFORMED IN THE FOLLOWING LOCATIONS AND FREQUENCIES:

SUBGRADE PREPARATION; AT SURFACE AND AT EACH COMPACTED LIFT AND BACKFILL LAYER. AT LEAST 1 TEST FOR EVERY 5000 SQUARE FEET OR LESS OF EACH LAYER.

TRENCH BACKFILL AT EACH COMPACTED LIFT AND AT LEAST 1 TEST FOR EVERY 100 FEET OR LESS OF EACH LAYER. AT LEAST 1 TEST PER DAY.

CONSTRUCTION TESTING IS REQUIRED AT THE ABOVE LOCATIONS. TESTING REPORTS SHALL BE SUBMITTED TO THE CITY INSPECTOR. THE TESTING SHALL BE PERFORMED ON THE SITE.

SPECIAL INSPECTION

PRIOR TO PLACEMENT OF PREPARED FILL, THE SPECIAL INSPECTOR SHALL DETERMINE THAT THE SITE HAS BEEN REPAIRED IN ACCORDANCE WITH THE CITY OF KENNEWICK STANDARD SPECIFICATION 2-27 IN THE COMPLETED RIGHT-OF-WAY.

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SUBGRADE PREPARATION; AT SURFACE AND AT EACH COMPACTED LIFT AND BACKFILL LAYER. AT LEAST 1 TEST FOR EVERY 5000 SQUARE FEET OR LESS OF EACH LAYER.

TRENCH BACKFILL AT EACH COMPACTED LIFT AND AT LEAST 1 TEST FOR EVERY 100 FEET OR LESS OF EACH LAYER. AT LEAST 1 TEST PER DAY.

CONSTRUCTION TESTING IS REQUIRED AT THE ABOVE LOCATIONS. TESTING REPORTS SHALL BE SUBMITTED TO THE CITY INSPECTOR. THE TESTING SHALL BE PERFORMED ON THE SITE.

CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE.

REMOVE EROSION AND SEDIMENTATION CONTROLS ONCE THEY ARE NO LONGER NEEDED AND DURING REMOVAL, HYDROMULCH APPLIED ON ALL EXPOSED SOILS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE.

INSTALL CATCH BASIN INLET PROTECTION LOCUS PER CITY OF KENNEWICK STANDARD SPECIFICATION 2-27 IN THE FIRST DOWNSTREAM CATCH BASIN IN THE COMPLETED RIGHT-OF-WAY.

WITH WRITTEN APPROVAL OF THE GEOTECHNICAL ENGINEER, CONCRETE SOILS ARE GENERALLY SUITABLE FOR USE IN STRUCTURAL FILL. DURING CONSTRUCTION, ONE MUST BE MAINTAINED BY AIR DRYING AND/OR ADDITION OF WATER. PROVIDE THE PARTICLES CRISIS. 12 INCHES NOMINAL DIAMETER ARE PERMITTED IN STRUCTURAL FILL. THE FINE-DRAINED FRACTION OF THE SOILS ARE MOISTURE SENSITIVE, AND DURING WET WEATHER, MAY BECOME UNWORKABLE BECAUSE OF MOISTURE CONTENT. CONSTRUCTION OF FINE-DRAINED SOILS MAY BE REQUIRED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECT MAINTAINMENT OF THE SITE.

CONTRACTOR SHALL PROVIDE THE CITY INSPECTOR WITH A PROPOSED COMPACTON TESTING PLAN THAT INCLUDES DAILY SCHEDULE FOR COMPACTON TESTING. THE TESTING SHALL BE PERFORMED ON THE SITE.

ALL MATERIAL, TESTING REPORTS SHALL BE REVIEWED BY THE CITY INSPECTOR. THE TESTING SHALL BE PERFORMED ON THE SITE.

TESTING AGENCY WILL TEST COMPACTON OF SOILS IN PLACE ACCORDING TO ASTM D1557, AS APPLICABLE. TESTS WILL BE PERFORMED IN THE FOLLOWING LOCATIONS AND FREQUENCIES:

SUBGRADE PREPARATION; AT SURFACE AND AT EACH COMPACTED LIFT AND BACKFILL LAYER. AT LEAST 1 TEST FOR EVERY 5000 SQUARE FEET OR LESS OF EACH LAYER.

TRENCH BACKFILL AT EACH COMPACTED LIFT AND AT LEAST 1 TEST FOR EVERY 100 FEET OR LESS OF EACH LAYER. AT LEAST 1 TEST PER DAY.

CONSTRUCTION TESTING IS REQUIRED AT THE ABOVE LOCATIONS. TESTING REPORTS SHALL BE SUBMITTED TO THE CITY INSPECTOR. THE TESTING SHALL BE PERFORMED ON THE SITE.



GRADING AND EROSION CONTROL PLAN FOR: APPLE VALLEY - PHASES 5 - 9
A SUBDIVISION LOCATED IN THE CITY OF KENNEWICK, WASHINGTON

811
Call before you dig
800-4-A-SAFE-DIG

DESIGNED BY: [Signature]
DATE: JANUARY 2018
SHEET 10 OF 10

CITY OF KENNEWICK FILE #:
GRADE 18477 / PLN-2018-00095
CITY OF KENNEWICK
Approved by City of Kennebec Public Works, Date: [Signature]

Exhibit 34



Leading the Way

February 14, 2020

Mr. James M. Driscoll
Hearing Examiner
City of Kennewick
210 W 6th Avenue
Kennewick, WA 99336

sent via email: jim@driscollhearings.com

Subject: Apple Valley Phase 5 – File Nos. PP 19-03/PLN-2019-03067 –
Response to Kenneth Katzaroff Letter of February 13, 2020

Dear Mr. Driscoll,

The City of Kennewick has reviewed Mr. Katzaroff's letter of February 13th and wishes to correct many of the statements contained in the letter. In our request for reconsideration, the City did not revise the actual facts and circumstances surrounding the application, or the February 6th meeting conversation.

This is not a road to nowhere, as we have shown in our previous submittals. It has been planned for at least 15 years with public involvement. It has been analyzed in several transportation studies and is needed to serve the Southridge area as it builds out. Without Ridgeline Drive taking some of the future Southridge area traffic, the Hildebrand/US395 intersection will be significantly over capacity in the future. It is true that this portion of Ridgeline Drive is not needed today since nothing has been developed in this area and Apple Valley is the first of many developments to be served by Ridgeline Drive west of Sherman Street. However, it will be an important route to provide connectivity and emergency response into the future.

The applicant has chosen to build Phase 5 in a sort of leap-frog manner, which is why this portion of Ridgeline Drive will be isolated for a short period of time. Ridgeline Drive is shown on Apple Valley's ultimate development plans and in fact has a future road connection to it.

Mr. Katzaroff asserts that in the January 6th telephone conversation, he informed staff that a letter would be included from his office challenging the imposition of any requirement to extend or build Ridgeline Drive. If he had indicated that forthcoming opposition in the meeting, we would have certainly insisted on moving forward with the public hearing.

Although Mr. Katzaroff claims that the City's records include nearly 15-years of comments in opposition to Ridgeline Drive, and that the proposed alignment is unneeded, unrealistic and unfeasible, we respectfully disagree. This road is certainly needed, is realistic and feasible, with perhaps the exception of crossing the Amon Canyon. However, it is still needed east of Amon Canyon, connecting the Southridge area to the soon to be built US395/Ridgeline Drive interchange, and a future interchange at Interstate 82/Georgia Street to the west.

PUBLIC WORKS

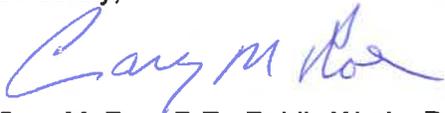
Mr. Kataroff asserts that the Village at Southridge's application may never come before the City, but Phase 1 and 2 of the Village at Southridge have already been platted and the right-of-way dedicated for the south half of Ridgeline Drive connecting to Sherman Street. During the January 6th meeting, the developer of the Village at Southridge indicated his intention to develop Phase 3 along Ridgeline Drive by 2021, which will require the construction of the south half of Ridgeline Drive along his property frontage.

The City is not strong-arming and forcing exactions of unrelated and unconnected road systems. The applicant intends to connect to this road with a future phase of Apple Valley and it is needed to serve both Apple Valley and future development to the west.

Mr. Kataroff claims that the City has never taken a serious look at the feasibility of constructing Ridgeline Drive, or how it may come to fruition. The City conducted an extensive Ridgeline Alignment study, completed by McKay Sposito in 2017, which involved significant and direct involvement with the current owners of property along the alignment. This study also examined several horizontal routes, proposed road profile grades, and preliminary cost estimates to construct the road.

We ask that the Hearing Examiner take into account the above information in making a determination regarding the City's request for reconsideration.

Sincerely,



Cary M. Roe, P.E., Public Works Director
City of Kennewick

C: J. Kenneth Kataroff
Matt Smith
Marie Mosley
Lisa Beaton
Greg McCormick
Bruce Mills

Exhibit 35

February 13, 2020

Kenneth Kataroff

T: 206-405-1985

C: 206-755-2011

James M. Driscoll
Hearing Examiner
City of Kennewick
210 W 6th Avenue
Kennewick, WA 99336

RE: Apple Valley Phase 5 – File Nos. PP 19-03/PLN-2019-03067; Response to
Request for Reconsideration

Dear James:

As you know, this firm represents the applicant (“Mr. Smith”) for the above referenced matter (“Apple Valley”). This letter (“Letter”) responds to the City of Kennewick’s (the “City”) Request for Reconsideration (“Request”) and is filed in compliance with the Hearing Examiner’s Order Setting Schedule for Motion of Reconsideration dated February 4, 2020. We ask that the Hearing Examiner deny the City’s Request or affirm the Findings, Conclusions and Decision issued on January 28, 2020 (the “Decision”).

The Hearing Examiner correctly determined that any requirement to build or extend Ridgeline Drive was not supported by Washington state law and failed the “essential nexus” requirements articulated in *Dolan v. City of Tigard*, 512 U.S. 374 (1994). We join in the Hearing Examiner’s comprehensive and legally correct analysis in Conclusions based on Findings numbers 9-12 of the Decision.

The City’s Request is disingenuous and revises the actual facts and circumstances surrounding the application and discussion by Mr. Smith, myself, and the City. To the extent necessary, we respond to the City’s Request below:

Proper Procedures Were Followed

On January 6th, 2020, Mr. Smith and I attended a telephone conference meeting with the Public Works Department regarding the proposed requirement to build portions of Ridgeline Drive. As previously described in my letter dated January 8th, 2020 and in my letter dated January 24, 2020, during that meeting, the Public Works Director, Mr. Cary Roe, asserted that the City was proposing to require Mr. Smith to build certain portions of Ridgeline Drive as a condition of approval for Phase 5 of the Apple Valley Subdivision. Both Mr. Smith and myself objected to the condition and a discussion ensued as to why such a requirement would be an unconstitutional exaction because it constituted a requirement to build a road to nowhere. At that time, Mr. Smith informed staff that he would consider the newest proposal (to build half-street improvements) and I informed staff that a letter would be included from my offices challenging

the imposition of any requirement to extend or build Ridgeline Drive. That letter was then was then submitted – through planning staff – to the record and the Hearing Examiner on January 8th, 2020.

Also discussed on the January 6th, 2020 conference call, was that the City and Mr. Smith had both agreed to forego the January 13th, 2020 hearing and to instead proceed in writing only. This was despite my assertion that any requirement for construction or extension of Ridgeline Drive would likely constitute an exaction and would fail under established precedent.¹ The City's Request indicating that they were surprised by my written opposition or that they believed an agreement had been reached is disingenuous.

The City's claim that there was "erroneous procedure" is incorrect and provides no basis for reconsideration under the Kennewick Municipal Code 4.02.130, and should therefore be denied.

Response to Additional Claimed "Errors of Fact" and Information

The City's records include nearly 15-years of comments in opposition to this exaction. Mr. Smith has long participated in the in the Southridge Sub-Area planning process, including the proposed alignment of Ridgeline Drive, including testifying or participating in virtually all meetings on the subject. A consistent theme has been that the proposed alignment was unneeded, unrealistic, and unfeasible because it would require tens or hundreds of thousands of cubic yards of cut and fill.

This is on top of the fact that the actual property required to connect the road is not within the power or authority of Mr. Smith or the City. Simply put, the City's condition to build a portion of a land-locked, unconnected street improvement is a road to nowhere. Further, the City seems to believe that other potential development, which may or may not occur by another third party (developer for the Village at Southridge) may, in the future, also be required to build additional portions of Ridgeline Drive, potentially sometime in 2021. Request at 3, #5. However, that application is not before the City at this time – and may never be before the City.

The City is not legally allowed to strong-arm and force exactions of unrelated and unconnected road systems, particularly when no related permitting requests or plans are before it. Such a reliance on speculative occurrences is unreasonable and unsupported. We understand that the City has extensive planning process that includes a line on a map where it would like to see Ridgeline Drive built, however the City has never taken a serious look at what the construction of that road would require or how to see it come to fruition.

¹ It is worth reiterating that Mr. Roe also asked if Mr. Smith would be willing to bond for the improvements and to re-bond after the statutory authorized two-year period. After admitting that the road would not be built within two years, Mr. Roe asked if Mr. Smith would be willing to engage in a development agreement to "get around" RCW 58.17.130.

Of note, the City's Request ignores the fact that no connection exists to the east of the property, where a current residential home exists. Perhaps worse, to the west, the City admits that it has had no discussion with the required property holders, and, in fact, notes that connection of Ridgeline pursuant to that plan *may never occur*. ("...if that portion of Ridgeline Drive *is ever constructed in the future*....(emphasis added) Request at 3, #6.)

As the Hearing Examiner pointed in Conclusion 10, the City has also failed to identify any public problem that the building the isolated road would solve. In its Request, the City again fails to identify any public problem – other than a reference to the City's Transportation Plan. That reference is insufficient because the City fails to identify any practical way or solution by which this isolated portion of Ridgeline Drive would ever connect to the City's system.

One simple fact remains: the City has asked Mr. Smith to construct an isolated piece of a road that has no connection to the rest of the transportation system. That request is contrary to established precedent and may not be imposed as a condition to the application under consideration.

We ask that this Hearing Examiner either deny the City's Request or affirm the Decision.

Very truly yours,



J. Kenneth Katzaroff

JKKA

Cc: Lisa Beaton, City Attorney

Exhibit 36

Melinda Didier

From: Matt Smith <matt@wspi.net>
Sent: Friday, February 14, 2020 5:47 PM
To: 'jim@driscollhearings.com'
Cc: 'Katzaroff, Kenneth'; Marie Mosley; Lisa Beaton; Cary Roe; Gregory McCormick; Steve Donovan; Melinda Didier; Bruce Mills
Subject: RE: Apple Valley Phase 5 - Request for Reconsideration

Mr. Driscoll,

I am in receipt of the letter of February 14 from Cary Roe and would like to clarify a few points:

- The reference to a 'road to nowhere' is a reference to the fact that the half street improvements adjacent to phase 5 would not connect to anything. There is no dependable timeframe to cause them to connect to anything. Any connection would incorporate land that we or the City do not own or control, and is therefore outside the scope of consideration for Apple Valley phase 5.
- We have been involved in the "planning process" for more than 15 years and have provided our input that the road is unnecessary and untenable all along.
- The development of our phase 5 has not been conducted in a 'leap frog' manner. It is immediately adjacent to previously developed phases that provide adequate access and utilities for phase 5. The proposed half street improvements and other infrastructure do not benefit or are not reasonably necessary for phase 5.
- We did show a connection to Ridgeline Dr. in our grading plan only, as required by the City. These phases have not been platted, and indeed may never be should the cost of the construction of Ridgeline Drive prove prohibitive.
- We respectfully disagree with the characterization of the January 6th telephone conversation. Mr. Katzaroff and I did indicate that we would protest the condition to build an unconnected and inaccessible half street improvement. We stated that we were willing to leave previous concessions offered of grading and ROW dedication on the table.
- There are many, many aspects of the proposed alignment that are unfeasible to construct, not just the crossing of Amon Canyon. The grades (throughout the proposed alignment are prohibitive) and ROW acquisition to name two reasons.
- Mr. Roe asserts that "During the January 6th meeting, the developer of the Village at Southridge indicated his intention to develop phase 3 along Ridgeline Drive by 2021..." This is not true as the developer of the Village at Southridge did not attend the January 6th meeting. Even if the intention is to 'develop by 2021', this is entirely uncertain and does not represent a reliable timeframe and is outside the scope of Apple Valley phase 5.
- Again, there is an existing house preventing the connection the Ridgeline Drive improvements from Apple Valley phase 5 to anything else, including any potential improvements on the south half of the proposed alignment.

Respectfully to all.

Thank you for your consideration.

Matt

Matt Smith
V.P Tri Cities Development Co., LLC
15 SW Colorado, Ste 1
Bend OR 97702
541-410-8470

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