

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

In the Matter of the Application of)	FILE NO: PP 19-04/PLN-2019-
)	03457
AR Holdings, LLC)	
for Preliminary Plat Approval)	FINDINGS, CONCLUSIONS,
)	and DECISION
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SUMMARY OF DECISION

Preliminary plat approval is granted for subdivision of 9.05-acres into 32 single-family lots. The project is generally located north of 6602 W Hildebrand Boulevard, Kennewick Washington. The approval is subject to conditions as set forth in the Decision section of this document.

SUMMARY OF RECORD

Request

AR Holdings, LLC (Applicant) requested approval of a preliminary plat to subdivide 9.05-acre parcel of land generally located north of 6602 W Hildebrand Boulevard, Kennewick Washington.¹ The development will be a 32-lot single-family home subdivision

Hearing Date:

The Hearing Examiner of the City of Kennewick held an open record hearing on the application February 24, 2020.

Testimony:

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

- Steve Donovan -City of Kennewick
- Joe Seet-City of Kennewick
- Caleb Stromstead- Applicant’s representative
- Mallikarjuna Vallem-Applicant
- Jose Chavallo-neighborhood property owner

Exhibits admitted for the public record:

At the open record hearing, the following exhibits were admitted:

1. Staff Report
2. Application
3. Notice of Public Hearing, 300-ft. mailing list and mailing affidavit
4. Preliminary Plat
5. Determination of Non-Significance ED 19-38/PLN-2019-03457, dated 1/28/2020
6. Critical Areas Habitat Review Kennewick, dated 2/06/2018

1. The legal description is: SHORT PLAT #3580, LOT1. RECORDED IN VOLUME 1 OF SHORT PLATS AT PAGE 3580,RECORDS OF BENTON COUNTY, WASHINGTON. (AF#2018-027982, 9/20/2018)

7. Geotechnical Investigation, Geohazards Assessment, Sherman Street Development Kennewick, Washington, dated 2/21/2018
8. Aquifer Recharge Area Statement, dated 1/21/2020
9. Memorandum – Traffic Engineering Division, dated 1/20/2019
10. Revised Trip Generation and Distribution Analysis Letter in Support of PP No. 19-04/PLN-2019-03457 / Valley View Homes Preliminary Plat Application, dated 1/24/2020
11. Revised traffic comments email, dated 1/28/2020
12. Letter from the Bonneville Power Administration, dated 12/16/2019
13. Email from Chad Brooks, Benton PUD, dated 12/18/2019
14. Letter from Kennewick Irrigation District, dated 12/16/2019
15. Memorandum – Public Works Department, dated 12/18/2019
16. Letter from Jose Chavallo, dated 12/23/2019
17. Department of Health email, dated 12/17/2019
18. Letter from State of Washington Department of Ecology, dated 12/18/2019
19. Washington State Department of Transportation, letter dated 12/19/2019
20. Benton Clean Air Agency letter, dated 12/10/2019
21. Letter from Kennewick School District, dated 1/23/2020
22. Hard copy of Power Point presentation

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

FINDINGS

1. The Applicant requested approval of a preliminary plat to subdivide a 9.05-acre parcel of land generally located north of 6602 W Hildebrand Boulevard, Kennewick Washington. The development will be a 32-lot single-family home subdivision on land that is zoned Residential, Low Density (RL) and a Comprehensive Plan designation of Low Density Residential. *Exhibit 1, pgs. 1-2*
2. The subject property was annexed into the City on May 7th, 1974 and, at that time, was zoned Agriculture with the passage of Ordinance 1754. The zoning designation was changed on December 6, 2011, with Ordinance 5385 that established the current zoning designation of RL *Testimony of Mr. Donovan; Exhibit 1, pg. 2*
3. The properties that are adjacent to, or in the same general area, are either developed with single-family residences or are vacant property. The land use designations for the surrounding properties are Medium Density Residential and Low Density Residential. The City Staff has determined that the proposed plat will be in conformity with existing and future development and will not have impacts on these properties. *Testimony of Mr. Donovan; Exhibit 1, pg. 4*
4. Pursuant to the Washington State Environmental Policy Act (SEPA) the City of Kennewick, the lead agency for review of the project, determined that the proposal is exempt from SEPA

review because the number of single-family units proposed for the site is less than 30 units and the criteria as set forth in KMC 4.08.110 are satisfied. *Testimony of Mr. Dooavan*

5. Pursuant to the Table of Residential Development Standards (*KMC 18.12.010 A.2*), the lot width and setback standards are satisfied by the design of the proposed preliminary plat. In addition to the development standards, the City of Kennewick's Single-Family Residential Design Standards apply to the proposed project. RL zoning districts do not have minimum or maximum density requirements for the development of parcels of land, but RL zoning standards include a requirement for a minimum lot size of 7,500 square feet. The smallest lot will be 7,512 square feet. *Testimony of Mr. Donovan: Exhibit 4*
6. The site contains slopes that are greater than 15%, as well as some erosion hazard areas. A February 21, 2018, geotechnical report was prepared for the site by White Shield, Inc. and was submitted to the City for review. The City accepted the recommendations of the report and recommended that they be made a condition of approval. *Exhibit 7; Exhibit 1, pg.5, condition 7*. The Applicant did not object to the Report or its Findings.
7. In addition to compliance with the requirements of the report, the Kennewick Building Department will require an additional geotechnical report for each individual lot prior to the issuance of any building permits for individual homes. *Exhibit 1; pg. 5*
8. The northern portion of the site has been delineated as an Uncertified Shrub Steppe, which is designated as a Fish and Wildlife Habitat Conservation Area. A critical areas habitat review, dated February 6, 2018, was submitted to the City. The review concluded that the site does not meet the criteria to be designated as a Shrub Steppe Critical Areas Habitat. The City was in agreement with said evaluation. *Exhibit 6; Testimony of Mr. Donovan*
9. Because the site is designated as an Aquifer Recharge Area, the Applicant must adhere to the requirements of KMC Chapter 18.60 – Critical Areas – Critical Aquifer Recharge Areas. In response to this requirement the Applicant submitted a January 21, 2020 letter from Aqtera Engineering stating that no regulated or prohibited uses will occur on-site. *Exhibit 1, pg. 5; Exhibit 8*.
10. The 9.05 acres is to be developed into 32 lots. The minimum lot size (lot 12) will be 7,512 square feet and the maximum lot size (lot 1) will be 26,299 square feet. The average lot size in the subdivision will be 10,796 square feet. In an RL zone the minimum lot size is 7,500 square feet. In addition to the lots, there will be 48,852 square feet of right-of-way in the plat. *Exhibit 4, proposed plat map*. Lots 13 and 14 have been designed to be located in the southeast corner of the plat. They will share an access road and the maintenance of said access will be the responsibility of the owners of the lot. *Exhibit 1, pg.6*
11. The proposed subdivision is located in an area that is classified by the City for park purposes as Service Area 1. In December 2017, the City of Kennewick adopted a Park Impact Fee ordinance that became effective January 1, 2018 (*Ord. 5736*). Pursuant to the ordinance the park impact fees for the Service Area 1 are \$920 per single-family unit. The fees are due at the time of building permit application, or they can be deferred until

occupancy with a recorded covenant of payment obligation form. *Exhibit 1, pg. 4; Testimony of Mr. Donovan*

12. An existing zone 5, 12-inch water main is located in Sherman Street. It will serve finished floors at or above 805 feet to 940 feet. If static water pressure in the water supply piping is in excess of 80 psi, an approved type pressure regulator preceded by an adequate strainer must be installed and the static pressure must be reduced to 80 psi or less. All water mains within the site shall be looped in order to avoid buildup of stagnant water. This activity will assist in minimizing bacteria regrowth and minimize taste and odor issues associated with stagnant water. *Exhibit 15, pg. 1*
13. The Applicant is required to submit a sanitary sewer plan that includes sanitary sewer sizes. the plan must be submitted for review by the City before construction drawings are submitted for review. The sewer main will be in city right-of-way. Currently there is an existing 8-inch sewer main in South Sherman Street.² *Exhibit 15, pg. 2*
14. The City has adopted the Storm Management Manual of eastern Washington. All designs, construction, and post construction management of storm drainage facilities must be in accordance with said Manual and with City of Kennewick standards. City storm water standards for residential subdivisions require designs to retain and dispose of the calculated difference between a 25-year, 24-hour event for a developed state of the site and the 24-hour event for the natural pre-developed state of the site. Detention ponds (control outlet) may be used only if it can be clearly demonstrated that infiltration, or retention, are not feasible per City of Kennewick Standard Specifications. Prior to Final Plat approval the Applicant must submit detailed civil engineering drawings for review and approval to the City's Public Works Department. The submittal must include a storm water plan that satisfies City standards, including a design that has erosion control and conveyance of the upstream flow through the project. Consideration must be given to low points and the effects on downstream capacity. *Exhibit 1, pg.3; Exhibit 15 pg. 2; Testimony of Mr. Seet.*
15. The proposal is required to satisfy design requirements and transportation impact fees that are detailed in the Traffic Engineering Division memorandum dated December 20, 2019.see Exhibit 9. The transportation impact fees are a one-time charge for direct impacts caused by the traffic generated from the proposed development and is used to pay for transportation projects needed to address said impact. The TIF as of June 2019 is \$1,246.00 per dwelling unit of single-family housing. The 2019 TIF was increased on January 1, 2020. *Exhibit 9*
16. Access to the plat will be off Sherman Street which borders it on the west. A looped public road, Sherman Loop, will provide access to all of the lots of the subdivision. Sherman Loop will have a 40 foot-wide right-of-way that will have sidewalks on both sides of the street. *Testimony of Mr. Donovan; Exhibit 4.*³

² See Recorded Drawing F-3001

³ The stated street names are for review purposes. The names of the streets may be changed in the future.

17. Sidewalks, streetlights, storm drainage, and designate sidewalk and utility easements in conformance with the latest City of Kennewick (COK) Standard Specifications and details are required as part of the development. *Exhibit 1, pgs. 3 and 4; Exhibit 9; Exhibit 15, pg. 1. Exhibit 4.*
18. The Kennewick School District, which will serve the residents of the developed subdivision, has capacity to add students at all levels at the three schools that will be attended by the students of the subdivision. The Capital Projects Director of the Kennewick School district identified the schools as the Sagecrest Elementary School, Chinook Middle School and Southridge High School. Students living in the proposed subdivision are in a walking zone for Horse Southridge High School. Sagecrest Elementary and Chinook Middle School are in bussing zones. *Exhibit 21*
19. The Kennewick Irrigation District (KID) reviewed the proposal and in a letter to the City Planning dated December 16th, 2019 submitted comments regarding the project. *Exhibit 14, pgs. 1-3.* The site is located within the KID boundary, but it is currently not classified as irrigable land. In October of 2014, KID Board of Directors reserved a water allocation for the site that gave KID the option and ability to become the irrigation purveyor if KID determined it was in its best interest to do so. KID, in December 16th, 2019 letter to the City, stated that it intends to work with the Applicant in order to provide an allocation of KID irrigation water. The letter also set forth requirements for such a process. *Exhibit 14.*
20. The proposal was reviewed by the Bonneville Power Administration (BPA). In a December 18th, 2019 email to the Kennewick Planning Department, the BPA stated that “there is an OG power line near South of property. This is the only power on East Side of Sherman St. for subdivision. First pole is totally full with on leaves two poles to drop power into subdivision. Developer/contractor needs to provide AutoCAD file so Benton PUD can get lots into mapping system”. *Exhibit 13.*
21. The Washington Department of Ecology (DOE) submitted comments in a December 18th, 2019 letter to the City. DOE submitted information regarding disturbance of ground with the potential for stormwater discharge off-site. *Exhibit 18.* No evidence was presented of this activity.
22. The Washington Department of Transportation (DOT) submitted a letter to the City on December 19th, 2019 acknowledging that the proposed site is not adjacent to US 395, the sole north-south arterial serving the area. The DOT recommended that the City require the Applicant to contribute to construction of an interchange at US 395 and Ridgeline. *Exhibit 19*
23. A property owner to the east of the proposed development submitted a comment letter and testimony at the hearing that set forth his concerns about the proposed development. He contended that could design of the plat could possibly “land-lock” his property. According to the witness, his property is bisected by an irrigation ditch and steep slopes and without access plans to his southern parcel of land he would be impacted. The witness

acknowledged that currently there is no direct road access to the southern part of his property. His access is currently off Sherman Street via a private road access. *Testimony of Mr. Chavallo; Exhibit 16.*

24. The Kennewick Staff reviewed Mr. Chavallo's comments and determined that his property is currently one lot that has access to Sherman Street via a private road to the NW corner of his site. The proposed development will not eliminate the access. According to the Staff, the City does not have authority to require the Applicant to provide access to that portion of the neighbor's property. *Exhibit 1, pg. 4; Testimony of Mr. Donovan*
25. The proposed plat is consistent with the Comprehensive Plan and is zoned similar to much of the surrounding property. It complies with Kennewick's development standards for Residential Low Density (RL) zoning. *Exhibit 1, pg. 5; Testimony of Mr. Donovan.*
26. The proposed plat is consistent with the Kennewick Comprehensive Plan RESIDENTIAL GOAL that requires that the development "[P]rovide for attractive, walkable, and well-designed residential neighborhoods, with differing densities and compatible with neighboring areas." *Testimony of Mr. Donovan*
27. The proposed plat is consistent with the Kennewick Comprehensive Plan. The development will consist of single-family residences that are permitted uses in the Residential, Low Density (RL) zoning district. The subject property will be served by City utilities and services. *Exhibit 1, pg. 1-5; Exhibit 9, 12 and 15.*
28. The proposed plat is consistent with the Kennewick Comprehensive Plan, Residential Goal 1, Policy 1, because it will ensure provision of parks, schools, drainage, transit, water, sanitation, infrastructure and pedestrian in new residential developments. *Exhibit 1, pg. 1-5; Exhibits 9, 12, 14, 15 and 21.*
29. The proposed plat is consistent with the Kennewick Comprehensive Plan RESIDENTIAL GOAL 2 that requires the development of the plat to include a means to "[P]rovide appropriate public facilities supporting residential areas." The plat will have city water and sewer available and internal street and surrounding improvements of surroundings. *Exhibit 1, pg.3; Exhibit 15; Testimony of Mr. Donovan*
30. The plat will be constructed to City of Kennewick Residential Design Standards and the development requirements as set forth in the Kennewick Municipal Code. Pursuant to the review of the plat application and supporting material, the Kennewick Planning Staff representative submitted that appropriate provisions have been made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, public sidewalks, utility easements and other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation areas, playgrounds, schools and school grounds, and the proposed subdivision has considered all other relevant facts and other planning features that assure safe walking.

31. The proposed plat is consistent with the Kennewick Comprehensive Plan RESIDENTIAL GOAL 3 that promotes "...a variety of residential densities with a minimum target of 3 units per acre as averaged throughout the urban area.". The density for the proposed development area is 3.53 units per acre. *Exhibit 1, pg.; Exhibit 4*
32. The proposed plat is consistent with the Kennewick Comprehensive RESIDENTIAL GOAL 3 that requires the development to "[P]romote a variety of residential densities with a minimum density target of 3 units per acre as averaged throughout the urban areas." *Exhibit 1, pg.; Exhibit 4*
33. The designs of the roads and sidewalks within and along the plat satisfy the requirement that safe walkways be provided. The Applicant will provide sidewalks within the plat and along the portion of the plat that abuts Vancouver Street. The Applicant does not own the property that is beyond his property along Vancouver and cannot make the needed improvements along that stretch. The City reviewed the School District's response to walking along Vancouver and contacted the District for additional information. The District did not provide any change in its review of the plat and provided a map for safe walking along the Vancouver Street stretch. The Applicant has complied with the statutory requirement for providing a safe walkway through and along his property.

CONCLUSIONS

Jurisdiction:

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

Criteria for Review:

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

- (1) The Hearing Examiner will inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. All plats will be reviewed to determine their conformance with the Comprehensive Plan, comprehensive water plan, utilities plan, and Comprehensive Park and Recreation Plan, and anything else necessary to assist in determining if the plat should be approved. Appropriate provisions must be made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, public sidewalks, utility easements and other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation areas, playgrounds, schools and school grounds, and shall consider all other relevant facts and other planning features that assure safe walking conditions for students who only walk to and from school. All relevant facts will be considered to determine whether the public interest will be served by the subdivision and dedication. If it is determined that the proposed plat makes such appropriate provisions, then the Hearing Examiner must approve the proposed plat. Dedication of land to any public body may be required as a condition of subdivision approval. The Hearing Examiner will not, as a

condition to the approval of any plat, require a release from damages to be procured from other property owners.

RCW 58.17.033

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

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

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

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

KMC 4.08.110: SEPA Exemption

Categorical Exemptions: (1) The following types of construction are categorically exempt except when undertaken in any part on lands covered by water, within 300 feet of any areas which might contain aquatic resources, including wetlands, streams, or other areas where surface or groundwater might collect, pond or flow or parcels designated as “Survey Highly Advised: Very High Risk” by the Washington State Department of Archeology and Historic Preservation:

(a) The construction or location of single-family residential structures of thirty (30) dwelling units or less.

Conclusions based on Findings

1. The Applicant requested approval of a preliminary plat to subdivide a 9.05-acre parcel of land generally located north of 6602 W Hildebrand Boulevard, Kennewick Washington. The development will be a 32-lot single-family home subdivision on land that is zoned Residential, Low Density (RL) and a Comprehensive Plan designation of Low Density Residential. *Finding of Fact No. 1*
2. The subject property is zoned Residential Low Density and the Comprehensive Plan designation is Low Density Residential. The proposed plat has been designed to meet the requirements of both designations. *Finding of Fact No. 2*
3. The proposed plat has been reviewed by the City and other agencies and has been determined to be in conformance with the City of Kennewick Comprehensive Plan *Findings of Fact Nos. 25-30*; water requirements of the City of Kennewick, *Finding of Fact No. 12*; sanitary sewer service requirements, *Finding of Fact Nos 13*; storm sewer service requirements, *Finding of Fact No. 14.*; Comprehensive Park and Recreation Plan *Finding of Fact No. 10*; and all relevant requirements to the approval of the plat.

4. Appropriate provisions have been made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, public sidewalks, utility easements and other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation areas, playgrounds, schools and school grounds, and the proposed subdivision has considered all other relevant facts and other planning features that assure safe walking conditions for students who walk to and from school. *Findings of Fact Nos. 3-22 and 30*
5. The proposed plat is exempt from the review of the State Environmental Policy Act. *Finding of Fact No. 4; KMC 4.08.110 (1): SEPA Exemption*
6. Various state and local agencies submitted comments and recommendations. The recommendations addressed impacts that could be created with the development of the plat. The recommended conditions are specific to the development and would mitigate the impacts. *Findings of Fact Nos.19-22.*
7. The designs of the roads and sidewalks within and along the plat satisfy the requirement that safe walkways be provided. The Applicant will provide sidewalks within the plat and along the portion of the plat that abuts Vancouver Street. The Applicant does not own the property that is beyond his property along Vancouver and cannot make the needed improvements along that stretch. The City reviewed the School District's response to walking along Vancouver and contacted the District for additional information. The District did not provide any change in its review of the plat and provided a map for safe walking along the Vancouver Street stretch. The Applicant has complied with the statutory requirement for providing a safe walkway through and along his property. *Findings of Fact Nos.3-22*

DECISION

Based on the administrative record developed at the public hearing approval and the Findings of Facts and Conclusions as set forth above preliminary plat approval is granted approval of a preliminary plat to subdivide a 9.05-acre parcel of land generally located north of 6602 W Hildebrand Boulevard, Kennewick Washington. The development will be a 32-lot single-family home subdivision on land that is zoned Residential, Low Density (RL). The approval is subject to conditions as set forth in the Decision section of this document.

NOTE: The term "Applicant" in these conditions shall apply to the Applicant and its successors in interest of any part of this approved plat.

1. The Applicant shall comply with all City of Kennewick regulatory controls, policies and codes, including the Single-family Residential Design Standards and Residential Low Density (RL) zoning designation.

2. 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.
3. Common area landscaping and residential street trees are required to be installed or bonded for prior to final plat.
4. Prior to final plat approval, a maintenance agreement shall be submitted for the future maintenance of the shared access to Lots 13 and 14.
5. All fees required by the City shall be paid prior to the approval of the final plat.
6. All development of the plat shall be in conformance with the plat drawings submitted as Exhibit 5 at the public hearing.
7. The Applicant shall comply with the applicable requirements of Kennewick Municipal Code Chapters 18.60 – Critical Areas-Critical Aquifer Recharge Areas.
8. The Applicant shall comply with the applicable requirements of Kennewick Municipal Code Chapter 18.62 – Critical Areas-Geologically Hazardous Areas and the recommendations in the February 21, 2018 Geotechnical Investigation, Geo-Hazards Assessment.
9. The Applicant shall comply with Kennewick Irrigation District letter dated December 16, 2019 (Exhibit14).
10. The Applicant shall comply with the Benton-Franklin Health Department comments dated January 26, 2018 (Exhibit 8).
11. The Applicant shall secure approval of the School District for bus stops for the children who attend the school
12. The Applicant shall comply with all requirements and conditions as set forth in the City of Kennewick Public Works Department memo (Exhibit 15)
13. The Applicant shall comply with all requirements and conditions as set forth as stated in the Traffic Engineering Division comments. (Exhibit 9)
14. The Applicant must provide dust control method(s), including but not limited to, hydro seeding for all areas of the site that are disturbed.
15. The proposed subdivision is located in an area that is classified by the City for park purposes as Service Area 1. In December 2017, the City of Kennewick adopted a Park Impact Fee ordinance that became effective January 1, 2018 (*Ord. 5736*). Pursuant to the ordinance, the park impact fees for the Service Area 1 are \$920 per single-family unit. The fees are due at the time of building permit application, or they can be deferred until occupancy with a recorded covenant of payment obligation form.

16. The Applicant shall provide the address of each proposed lot consistent with that as depicted by the City of Kennewick GIS Department.
17. The Applicant shall record all required easements for utilities.
18. If, during construction, there is disruption or damage to an existing water, sewer or storm drainage system the Applicant and its agents shall be responsible for repair of the damaged system.
19. The Applicant and its agents shall work with the City's Public Works Department in the striping of streets and any other safety issues resulting from the development of the plat.
20. Residential street trees are required to be installed prior to issuance of the Certificate of Occupancy for each new home. Provide a list of street trees to be used for approval prior to planting.
21. The Applicant shall execute a written agreement to the satisfaction of the City Attorney that establishes a private maintenance agreement of the access drive for lots 13 and 14.
22. Geo-Tec reports are required for each lot at the time of building permit submittal.
23. The Preliminary Plat (PP 19-04) expires 5 years from the approval date. While the City may grant an extension, any extension application must be applied for before the approved preliminary plat expires.

Dated this 9th day of March, 2020

James M. Driscoll
Kennewick Hearing Examiner