

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

In the Matter of the Application of)	PP 17-02
)	
)	
Jaya Holdings LLC)	Irving Square
)	
)	FINDINGS, CONCLUSIONS,
For a Preliminary Plat)	AND DECISION
_____)	

SUMMARY OF DECISION

The request for preliminary plat approval to subdivide 3.44 acres to create 22 single-family and multi-family residential lots at 21 North Irving Place in Kennewick, Washington is **APPROVED** subject to conditions.

SUMMARY OF RECORD

Request

Mallikarjuna Vallem, on behalf of Jaya Holdings LLC (Applicant), requested approval of preliminary plat approval to subdivide 3.44 acres to create 22 single-family and multi-family residential lots. The subject property is located at 21 North Irving Place in Kennewick, Washington.

Hearing Date

On July 10, 2017, the City of Kennewick Hearing Examiner conducted an open record public hearing on the request.

Testimony

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

Michelle Dellinger, Kennewick Planner

Joe Seet, Kennewick Traffic Engineer

Caleb Stromstad, AHBL, Inc., Applicant Representative

Lauren Luvaas

Exhibits

1. Kennewick Community Planning Department Staff Report, dated June 27, 2017
2. Application, dated April 20, 2017
3. Mailing Affidavit, Notice of Public Hearing, and Mailing List

4. Vicinity Map
5. Preliminary Plat Plans
6. Conceptual Grading Plan
7. Traffic Letter
8. Mitigated Determination of Non-Significance, dated June 1, 2017
9. City Department Comments
10. Outside Agency Comments
11. Tract A Approvals
12. Planning Staff PowerPoint presentation, dated July 10, 2017

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

FINDINGS

1. Mallikarjuna Vallem, on behalf of Jaya Holdings LLC (Applicant), requested approval of preliminary plat to subdivide 3.44 acres to create 22 single-family and multifamily residential lots. The subject property is located at 21 North Irving Place in Kennewick, Washington.¹ *Exhibits 1 and 2.* The plat application was submitted on April 20, 2017 and determined to be complete on April 24, 2017. *Exhibit 1.*
2. The subject parcel was annexed into the City in April 1980 with mixed zoning designations. Changes to the zoning designation were made in 1995 and 1996. On March 21, 2017 Short Plat 3521 was recorded (AF#2017-007400). Parcel number 1-0489-201-3521-002 was assigned. The parcel is designated Commercial Community (CC) and Residential Medium Density (RM) with the proposed project area designated as RM. *Exhibit 1.*
3. The currently undeveloped subject property is south of W. Clearwater Avenue and is separated from that major arterial by commercially zone property that is currently vacant. Parcels to the north are zoned Residential Low Density and developed with residential uses (the Wonderland Tract and Pleasant Hill Subdivision). The site abuts N. Irving Place to the west, and across Irving is an existing apartment complex on property zoned

¹ The legal description of the subject property is: Lot 2 of Short Plat 3521; also known as Tax Parcel No. 1-0489-201-3521-002. *Exhibit 1.* Lot 1 of the short plat is the vacant commercial property abutting to the north. *Testimony of Michelle Dellinger; Exhibit 12 Slide 5.*

Residential Medium Density. To the east is Wickersham's Addition, which is zoned Residential Low Density and developed with single-family residential uses. *Exhibits 1 and 12 (Slides 3, 4, and 5).*

4. The site is relatively flat and contains no identified critical areas. There are no known indications of surface instability. *Exhibits 1 and 8.*
5. The site is zoned Residential Medium Density (RM), which allows a minimum lot size of 4,000 square feet. The City of Kennewick's Single- and Multifamily Residential Design Standards apply to this project. The purpose of the RM district is to establish areas for medium density single and multiple-family residential buildings and to establish regulations for their development. The district is for more intensive residential use where necessary or desirable to achieve good neighborhood design and stabilize land use. *Kennewick Municipal Code (KMC) 18.03.040.3.* Uses allowed in the zone include single- and multifamily residential development, typical residential accessory structures, home occupations, and other typically residential uses (including daycare and nursing home facilities subject to certain types of review). *KMC 18.12.010.A.1.*
6. Per the Table of Residential Development Standards, the RM zoning district has a maximum density requirement of 13 units per acre, with a minimum required lot size of 4,000 square feet. The smallest lot proposed is 5,030 square feet, which is the minimum required density for two dwelling units (duplex). Building heights are limited to 30 feet. Minimum setbacks from boundaries are: 15 feet from streets, except for garages which must be setback 20 feet; 15 feet from rear lot lines; and five feet from side lot lines. *Exhibit 1; KMC 18.12.010.A.2.*
7. The proposed plat would divide the 3.44-acre site into 22 single-family and multifamily residential lots ranging from 5,030 to 5,573 square feet, with an average of lot size of 5,104 square feet. The lots would be created in two phases, with Phase 1 consisting of approximately eight lots and Phase 2 of the remaining lots. Also proposed is Tract A, a 9.5-foot wide sidewalk, utility, and irrigation easement proposed along the eastern two-thirds of the site's southern boundary. Planning Staff indicated that, as proposed, each lot satisfies the minimum RM dimensional standards. Compliance with setbacks and building heights would be reviewed at the time of building permit. *Exhibits 1 and 5; Caleb Stromstad Testimony; Michelle Dellinger Testimony.*
8. Access to the plat would be from two connections to Irving Street (a Local Street), which dead ends at the site's southeast corner and connects to W. Clearwater Avenue (a Major Arterial) north of the site. The project would be required to bring the site's Irving Street frontage up to current City road standards, including pavement, curb, gutter, sidewalk and street lighting. A new internal public road would loop through the plat, providing public street frontage for each proposed lot. This road would also be built to City standards including sidewalks, streetlights, and storm drainage facilities, with sidewalk and utility easements. *Exhibits 1, 5, and 7.*

9. The Applicant submitted a professionally prepared trip generation letter, which projected trip volumes from the proposed lots based on the industry standard Institute of Transportation Engineers Trip Generation Manual. At the time the letter was written, 25 lots were proposed for development with 13 single-family homes and 12 duplexes. The letter determined that the plat would generate 263.5 average new daily trips including 21 AM and 26 PM peak hour trips. The letter stated that the trips generated would have no adverse effect on the surrounding street system. No off-site improvements were identified as required. *Exhibit 7.*
10. The submitted traffic letter satisfied applicable City requirements for traffic review. The City's Traffic Engineer has determined that this project meets concurrency for transportation. The plat would be required to pay traffic impact mitigation fees of \$938 per single-family dwelling unit and \$582 per multifamily dwelling unit, consistent with Ordinance 5596. Traffic impact fees can be paid at the time of building permit issuance or deferred until occupancy with a recorded covenant of payment obligation form. A cost of living increase adjustment may occur in 2018. *Exhibits 1 and 9; Joe Seet Testimony.*
11. Stormwater runoff from the site's new impervious surfaces must be controlled per City of Kennewick standards. The project's stormwater management facilities must be designed to control the 25-year, 24-hour storm. Detention ponds would only be allowed to be used if it can be clearly demonstrated that infiltration, or retention, are not feasible per City of Kennewick standard specifications; no tract for stormwater management is proposed. Prior to final plat submittal, the Applicant would be required to submit a stormwater management plan including detailed engineering plans for review, and the plan must receive Public Works Department approval. *Exhibits 1 and 9.* The conceptual plat in design involves drywells and on-site infiltration of runoff from the project's new impervious surfaces. *Caleb Stromstad Testimony.*
12. Municipal water and sewer service are available to serve all proposed lots. Comprehensive water and sewer plans would be required during civil engineering review. The developer would be required to loop all water mains to avoid the buildup of stagnant water consistent with KMC 14.10.010. *Exhibit 9.*
13. The project is required to mitigate impacts to Park Planning Zone 5W (Grange) through the payment of park fees in lieu of dedicated park land. Park fees of \$32,856.17 would be due based on the percentage of lots developed in each phase prior to final plat. *Exhibits 1 and 8.*
14. Aside from the landscaping strip in Tract A, it is not clear whether there would be any landscaped common areas. A landscape plan is required for the landscaping of all common areas, which the plat would be required to maintain. Planning Staff recommended a condition of approval would ensure the landscape plan is submitted and approved before final plat, if applicable. *Exhibit 1.*
15. The subdivision would be served by Edison Elementary, Chinook Middle School, and Kamiakin High School. The Kennewick School District did not indicate that the plat

would result in capacity deficiencies at any of the identified schools. The subject property is within Edison Elementary and Kamiakin High School walking zones. Students would be bused to Chinook Middle School. *Exhibit 1*. Project sidewalks would connect to existing sidewalks that would create a continuous safe walking route to the two walk zone schools. *Exhibits 1 and 12 (Slide 5); Michelle Dellinger Testimony*.

16. The project creates a dead end street over 600 feet long at the southern terminus of Irving Street. Pursuant to KMC 17.20.010(2)(c)(i), residential streets over 600 feet long are required to be provided with a second access via a City standard street. However, in lieu of a second City standard street, KMC 17.20.010(2)(d)(ii) allows either a second emergency vehicle access (SEVA) to be provided or for each dwelling within the final plat to be equipped with an International Fire Code (IFC) or equivalent approved sprinkler system installed and operable prior to occupancy. In the recommended conditions, Planning Staff proposed a condition requiring sprinklering because at this time the property is not accessible at its boundaries by any potential emergency vehicle access other than Irving Street. However, at hearing the Applicant requested that the condition be modified to allow for either sprinklers or a SEVA. The Applicant is in the process of investing purchasing SEVA easements from properties to the south, which would connect with W. First Place or S. Jefferson Street. Planning Staff agreed that the recommended condition could be modified to match the language regarding Fire Code provisions on the face of the proposed plat. *Exhibits 1 and 4; Caleb Stromstad Testimony*.
17. The proposal was circulated to various local, County, and State agencies for review and comment. The Washington State Department of Ecology submitted comments addressing the potential requirement of an NPDES permit due to the proposed disturbance of more than one acre, noting that a stormwater pollution prevention plan and erosion sediment control plan would be required. *Exhibit 8*.
18. The Kennewick Irrigation District (KID) submitted comments including recommended conditions of approval addressing the required KID irrigation easement. Comments from various private utilities were submitted, including Benton PUD and Charter Communication. The KID and the various utilities acknowledged and accepted that the easement provided along Tract A could not be wider than 9.5 feet. *Exhibit 10*.
19. The Kennewick Fire Department reviewed the proposal and noted the issue regarding the dead end street greater than 600 feet in length, requesting a secondary emergency vehicle access or sprinklering for each dwelling. *Exhibit 9*.
20. The City of Kennewick Public Works Department reviewed the proposal and submitted comments intended to be, and in fact, incorporated into conditions of approval that would ensure compliance with road standards, fire code, water and sewer utility provision, stormwater management, and construction drawing requirements. The proposal was reviewed by the City's Building Official. *Exhibit 9*.

21. The site has a Comprehensive Plan land use designation of Residential Medium Density. Planning Staff identified the following Comprehensive Plan policies as applicable to the proposal:

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

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

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

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

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

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

Staff submitted the position that, as conditioned, the proposal would effectuate the goals and policies of the City's Comprehensive Plan. *Exhibit 1*.

22. The City of Kennewick acted as lead agency for review of the proposal for compliance with the requirements of the State Environmental Policy Act (SEPA). After reviewing the Applicants' environmental checklist, the City's Responsible Official issued a mitigated determination of non-significance (MDNS) on June 1, 2017 requiring mitigation of parks impacts through the payment of fees as discussed in finding 15 above. The SEPA appeal period closed June 15, 2017; no appeals were filed. *Exhibit 8; Michelle Dellinger Testimony*.
23. Notice of public hearing was posted on-site on June 1, 2017, mailed to surrounding property owners on June 23, 2017 and published on June 25, 2017. Notice as provided was consistent with City requirements. *Exhibit 1; Michelle Dellinger Testimony*.
24. At hearing, an owner of one parcel abutting the southern site boundary whose back yard is adjacent to proposed Tract A testified that he is very pleased with proposal; they had feared more apartment complexes would be proposed on-site and they welcome detached and attached single-family dwellings in place of apartments. He noted for the record that he had not been approached by the Applicant regarding a potential secondary emergency vehicle access easement. *Lauren Luvaas Testimony*.

25. In response to this comment, the Applicant representative clarified that the Applicant is contemplating secondary access directly south of the terminus of Irving Street; it would be a gated, emergency vehicle only access. He indicated that these conversations have not begun yet, and that the concept for secondary access is still in development. *Caleb Stromstad Testimony.*
26. Upon completion of review, and considering evidence offered at hearing, Planning Staff recommended approval of the plat with the conditions as proposed in the staff report and modified based on testimony. *Exhibit 1; Dellinger Testimony.* The Applicant waived objection to the recommended conditions of approval in the staff report. *Caleb Stromstad Testimony.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide applications for preliminary plat pursuant to KMC 4.02.080(b)(ii) and 17.10.080.

Preliminary Plat Criteria for Review

Pursuant to KMC 17.10.080(1), an application for preliminary plat may be approved only when the record demonstrates conformance with the Comprehensive Plan, comprehensive water plan, utilities plan, the Comprehensive Park and Recreation Plan, and when the record demonstrates that appropriate provisions will be made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, public sidewalks, utility easements and other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation areas, playgrounds, schools and school grounds, and shall consider all other relevant facts and other planning features that assure safe walking conditions for students who only walk to and from school. In considering preliminary plats, pursuant to KMC 17.10.080(4), the City may impose any conditions necessary to protect the health, safety, and welfare of the property users, both within and adjacent to property to be subdivided.

Conclusions Based on Findings

1. As conditioned, the proposed plat makes adequate provision for the public health, safety, and general welfare. Conditions would ensure that a stormwater management plan, designed to control runoff from the 25-year 24-hour storm, is submitted and meets with City approval prior to issuance of construction permits. The plat would provide two access points to the public street network, each designed and built consistent with City road standards. The project would provide half-street frontage improvements on Irving Street and full street improvements on the new internal public road. A condition of approval would ensure that fire protection requirements are satisfied either through provision of a secondary emergency vehicle access or through sprinklering of the individual dwelling units. The municipal utilities have capacity to serve the proposed lots. Park, schools, and traffic impacts would be mitigated through the payment of fees. The schools that would serve the plat have capacity to accept the anticipated students from the project. The record shows that continuous safe walking routes are available to the elementary and high schools and that middle students would be bused. The proposal

was reviewed for compliance with SEPA and an MDNS was issued. No appeals were filed. *Findings 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 19, 20, 22, and 26.*

2. As conditioned, the proposed plat would be consistent with applicable goals and policies of the City of Kennewick Comprehensive Plan. Single- and multifamily housing are permitted uses in the RM zone and in the Residential Medium Density land use designation. The proposed lots sizes are consistent with the zoning and land use designations of the site. The project's traffic impacts would be mitigated through the payment of impact fees. A condition would ensure that all lots undergo geotechnical evaluation prior to building permit issuance and that erosion and dust control would be provided throughout construction consistent with the requirements of applicable City standards. *Findings 3, 4, 5, 6, 7, 10, 17, 21, and 26.*

DECISION

Based on the preceding findings and conclusions, the requested preliminary plat subdividing 3.44 acres to create 22 single-family and multifamily residential lots at 21 North Irving Place in Kennewick, Washington is **APPROVED** subject to the following conditions:

1. Development of the site shall comply with City of Kennewick regulatory controls, policies and codes, including the Single-family and Multi-Family Residential Design Standards.
2. All fees required by the City shall be paid prior to the approval of the final plat.
3. The Applicant shall construct residential streets per City of Kennewick Standard Detail 2-1, sheet 2 of 4 or Detail 2-1 sheet 1 of 4. This will be a mixed residential development and the Single-Family Residential Design Standards allows an option for curb tight sidewalks which may be used.
4. Development shall be in conformance with the plat drawing.
5. Final project design and construction shall comply with Traffic Engineer memorandum dated June 20, 2017.
6. Final project design and construction shall comply with Public Works memorandum dated May 2, 2017.
7. Final project design and construction shall comply with Kennewick Irrigation District letter dated May 25, 2017.
8. Geo-Technical reports are required for each lot at the time of building permit submittal.
9. Unless an approved secondary emergency vehicle access is provided, all dwelling units shall require an automatic fire sprinkler system installed in compliance with NFPA 13D.

10. The Applicant shall create and provide a copy of the Irving Square Covenants, Conditions, and Restrictions for review and approval by the City addressing applicable sections of the Residential Single and Multi-Family Design Standards including but not limited to the following:
 - a. Fire protection consistent with Condition 9 above.
 - b. Fencing setbacks at corner lots.
 - c. Street tree requirements listing specifics in placement requirements.
 - d. Shared driveways concerning responsibility for maintenance and repair.
 - e. Once approved a recorded copy of the CC&R's must be submitted prior to Final Plat.
11. In lieu of dedication of park land, park fees are required in the amount of \$32,856.17 for impacts to Park Planning Zone 5W-Grange. Park fees will be collected based on a percentage of lots being platted for each phase of a final plat.
12. 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 must also include the five feet of required planting strip in Tract A. The landscape plan shall be prepared by a licensed landscape architect or licensed landscape installer drawn to a legible scale. Provide dust control method(s) such as hydro seeding for all areas of the site that are disturbed and will need to be maintained until developed. Re-hydro seeding may be required.
13. Common areas, residential street planting strip, and residential street trees are required to be installed or guaranteed prior to final plat.
14. The Applicant shall execute a written agreement to the satisfaction of the City Attorney which will allow the City to make arrangements for maintenance of any common areas, open spaces, and common landscape areas should the Homeowner's Association or required parties fail or refuse to maintain these areas. Specific maintenance responsibilities must be assigned and listed for all areas in this section that applies.
15. The Preliminary Plat (PP 17-02) expires five years from the approval date. The City may grant an extension, but any extension application must be applied for before the approved preliminary plat expires.

DECIDED June 24, 2017.

By:



Sharon A. Rice
City of Kennewick Hearing Examiner