BEFORE THE HEARING EXAMINER
FOR THE
CITY OF RICHLAND

FINDINGS, CONCLUSIONS AND DECISION APPROVING PRELIMINARY PLAT OF SKYLINE SOUTH

FILE NUMBER: S2020-102

APPLICANT: SPINK ENGINEERING, APPLICANT, ON BEHALF OF DENNIS SAWBY, OWNER

APPLICATION: TO SUBDIVIDE 9.79-ACRES INTO 54 SINGLE FAMILY RESIDENTIAL LOTS AND FOUR TRACTS, WITH ASSOCIATED INFRASTRUCTURE IMPROVEMENTS, REQUIREMENTS TO PAY APPLICABLE IMPACT FEES, AND OTHER CONDITIONS REQUIRED BY CITY DEVELOPMENT REGULATIONS

LOCATION: A TRIANGULAR SHAPED SITE COMPRISED ON THREE PARCELS LOCATED NORTH OF INTERSTATE 182, EAST OF HILLS MOBILE HOME PARK, WITH A COLUMBIA IRRIGATION DISTRICT CANAL RUNNING ALONG THE SITE'S DIAGONAL NORTHERN BOUNDARY. A LARGE BONNEVILLE POWER EASEMENT FOR HIGH TRANSMISSION POWER LINES EXTENDS ACROSS THE SOUTHERN PORTION OF THE SITE AND COMPRISES MOST OF PROPOSED TRACTS A, B, C AND D.

PARCEL NUMBERS: BENTON COUNTY ASSESSOR PARCEL NOS. 115983012926002, 122982012926002, AND 122982012925003.

REVIEW PROCESS: TYPE III, PRELIMINARY PLAT, HEARING EXAMINER DECISION

SUMMARY OF DECISION: *APPROVE,* SUBJECT TO CONDITIONS

DATE OF DECISION: JUNE 17, 2020

I. CONTENTS OF RECORD.

Exhibits: Staff Report. City of Richland Development Services Division Staff Report and recommendation of approval to the Hearing Examiner regarding "Skyline South" Preliminary Plat, File No. S2020-102, dated May 11, 2020;

1. Application materials;
2. Deviation Request;
3. Critical Areas Report;
4. Traffic Impact Analysis;
5. Preliminary Plat map and related drawings;
6. Public Notices and materials confirming same;
7. SEPA Environmental Checklist and Determination of Non-Significance issued for the proposal;
8. Written comments submitted by agencies and members of the public;
9. Phasing request from the applicant, in the form of an email from Mr. Spink dated May 11th;
10. Revised Preliminary Plat map, showing two potential phases for the project, received by the Examiner on May 14th *(This item is a post-hearing exhibit, submitted in accord with direction provided by the Examiner during the public hearing).*

On the record during the public hearing, the Examiner held the record open through May 22nd, to allow for additional discussion between the applicant and city staff, and potential comment on the phasing issue raised in the public hearing. Only one item was received during this time period, included as Ex. 10.

Testimony/Comments: The following persons were sworn and provided testimony under oath at the open-record hearing:

1. Mike Stevens, Planning Manager, for the City of Richland;
2. Steve Spink, PE, project engineer for the project, served as the applicant's primary representative during the public hearing;
3. Jon Vetter, local resident; and
4. Jeff Osborn, local resident, written comment included as part of Ex. 8

II. APPLICABLE LAW.

This application for preliminary plat approval was filed and vested under City of Richland development regulations in effect as of February 7, 2020. Amendments to the city's plat review process included in Ordinance No. 51-19 took effect on, and apply to applications filed after,

November 11, 2019. *(Ord. No. 51-19, Sec. 11, and publication date noted on page 9, explaining effective date as the day following publication, which occurred on Nov. 10, 2019).* While the final decision-maker in the process changed, the substantive approval criteria remain unchanged. So, under applicable provisions of the Richland Municipal Code (RMC), this preliminary plat[1] application is first subject to review and approval by city staff with respect to the engineering elements of said plat, then the Hearing Examiner is responsible for conducting an open record public hearing followed by a written Decision. A preliminary plat application is a Type III procedure. RMC 19.20.010(C)(1).

As explained in RMC 24.12.050(A), the hearing examiner shall consider any preliminary plat application and shall conduct an open record public hearing in accordance with Chapter 19.60 RMC. After the public hearing and review of materials in the record, the hearing examiner shall determine whether the preliminary plat is in accordance with the comprehensive plan and other applicable code requirements and shall either make a decision of approval or disapproval. The same provision of the city's code (RMC 24.12.050(A)) provides that any approval of the preliminary plat shall not be given by the hearing examiner without the prior review and approval of the city manager or her designee with respect to the engineering elements of said plat including the following:

> 1. Adequacy of proposed street, alley, right-of-way, easement, lighting, fire protection, drainage, and utility provisions;
>
> 2. Adequacy and accuracy of land survey data;
>
> 3. The submittal by the applicant of a plan for the construction of a system of street lights within the area proposed for platting, including a timetable for installation; provided, that in no event shall such a plan be approved that provides for the dedication of such a system of lighting to the city later than the occupancy of any of the dwellings within the subdivision.

The City's decision criteria for preliminary plat approval are substantially similar to state subdivision mandates found in RCW 58.17.110(2)[2] and reads as follows:

> ***Richland Municipal Code 24.12.053 Preliminary plat – Required findings.***
>
> *The hearing examiner shall not approve any preliminary plat application, unless the approval is accompanied by written findings that:*
>
> *A. The preliminary plat conforms to the requirements of this title;*

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[1] In this Decision and exhibits included in the Record, preliminary plat and preliminary subdivision mean the same thing, and use of one term should be read to apply to the other to the extent anyone views the terms to have distinct meanings, which for the purposes of this Decision, they do not.

[2] "A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that: (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) the public use and interest will be served by the platting of such subdivision and dedication. If it finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the legislative body shall approve the proposed subdivision and dedication. []" RCW 58.17.110(2).

B. Appropriate provisions are made for the public health, safety and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school;

C. The public use and interest will be served by the platting of such subdivision and dedication; and

D. The application is consistent with the requirements of RMC 19.60.095 (addresses transportation concurrency considerations).

And RMC 19.60.095 mandates the following additional findings:

19.60.095 Required findings.

No development application for a Type II or Type III permit shall be approved by the city of Richland unless the decision to approve the permit application is supported by the following findings and conclusions:

A. The development application is consistent with the adopted comprehensive plan and meets the requirements and intent of the Richland Municipal Code.

B. Impacts of the development have been appropriately identified and mitigated under Chapter 22.09 RMC.

C. The development application is beneficial to the public health, safety and welfare and is in the public interest.

D. The development does not lower the level of service of transportation facilities below the level of service D, as identified in the comprehensive plan; provided, that if a development application is projected to decrease the level of service lower than level of service D, the development may still be approved if improvements or strategies to raise the level of service above the minimum level of service are made concurrent with development. For the purposes of this section, "concurrent with development" means that required improvements or strategies are in place at the time of occupancy of the project, or a financial commitment is in place to complete the required improvements within six years of approval of the development.

E. Any conditions attached to a project approval are as a direct result of the impacts of the development proposal and are reasonably needed to mitigate the impacts of the development proposal.

The burden of proof rests with the applicant, and any decision to approve or deny a preliminary plat must be supported by evidence that is substantial when viewed in light of the whole record. RCW 36.70C.130(1)(c); and RMC 19.60.060. The application must be supported by proof that it conforms to the applicable elements of the city's development regulations, comprehensive plan and that any significant adverse environmental impacts have been adequately addressed. RMC 19.60.060.

The hearing examiner's decision regarding this preliminary plat application shall be final, subject to judicial appeal in the time and manner as provided in RMC 19.70.060 and Ch. 36.70C RCW *(The city's final decision on land use application may be appealed by a party of record with standing to file a land use petition in Benton County Superior Court. Such petition must be filed within 21 days of issuance of the decision). See RMC 24.12.050(B).*

III. ISSUE PRESENTED.

Whether substantial evidence demonstrates that the applicant has satisfied its burden of proof to satisfy the criteria for preliminary plat approval, with the requested deviation from city roadway standards for a segment of new street that is impacted by existing Bonneville Power facilities on the site?

Short Answer: Yes, subject to conditions.

Based on all the evidence, testimony, codes, policies, regulations, environmental documentation, and other information contained in the Record, the Examiner issues the following findings, conclusions and Decision approving the Skyline South Preliminary Plat and the applicant's Deviation Request, as set forth below.

IV. FINDINGS of FACT.

1. Any statements in previous or following sections of this document that are deemed findings are hereby adopted as such.

2. The Examiner has visited the road network and vicinity of the proposed plat on multiple occasions over the past few years in connection with other applications, and is fully advised on matters at issue herein, including without limitation adjacent developments and land uses, applicable law, application materials, and relevant comprehensive plan provisions.

3. The Staff Report and recommendation of approval includes a number of specific findings and conditions that establish how the underlying plat application, as conditioned, satisfies provisions of applicable law, is consistent with the city's Comprehensive Plan, and is designed or conditioned to comply with applicable development standards and guidelines.

Project Description.

4. Spink Engineering submitted the pending application on behalf of the property owner, Dennis Sawby, to subdivide property located in the City of Richland, accompanied by a Deviation request from otherwise applicable road width standards for a portion of new roadway impacted by existing Bonneville Power high voltage overhead power poles. *(Ex. 1, Preliminary Plat Application; Ex. 2, Deviation Request letter from Applicant, dated Feb. 6, 2020).* Staff deemed the application materials complete for purposes of vesting on February 7, 2020 and issued the first of several notices informing the public of the pending application and public hearing on February 24, 2020. *(Staff Report, page 9; Ex. 6, public hearing notices and confirmation materials).* Given the ongoing Covid-19 public health emergency, this matter was rescheduled several times, meaning that owners of property located within 300-feet of the proposed plat received three separate notices regarding the application and public

hearing, each extending the time period for public comment. *(Ex. 6, public notices and confirmation materials; Testimony of Mr. Stevens).*

5. The proposed subdivision would divide approximately 9.8-acres into a development site with 54 single family residential lots and four tracts, to be known as the Skyline South Preliminary Plat. The proposed plat will be served by City utilities, include new public street extensions and improvements serving the site, and comply with city development regulations mandating curbs, gutter and sidewalks on most public rights-of-way. *(Staff Report, pages 9-11, Exhibits 5 and 10, original and updated Preliminary Plat illustrations; Ex. 1, application materials).*

6. The Staff Report explains that the applicant indicates the new lots will be developed with attached single-family dwellings, commonly known as townhomes. *(Staff Report, page 6).* The City's R-3 zoning standards for the property impose a 3,000 sq.ft. minimum lot size for attached single-family dwellings. *(See RMC 23.18.040, captioned "Site requirements for residential use districts").* Proposed lot sizes for the Skyline South Preliminary Plat range from 3,006 sq.ft. to 9,781 sq.ft. *(Staff Report, page 2).* The dimensional standards (setbacks and the like) for the proposed plat are summarized on page 6 of the Staff Report.

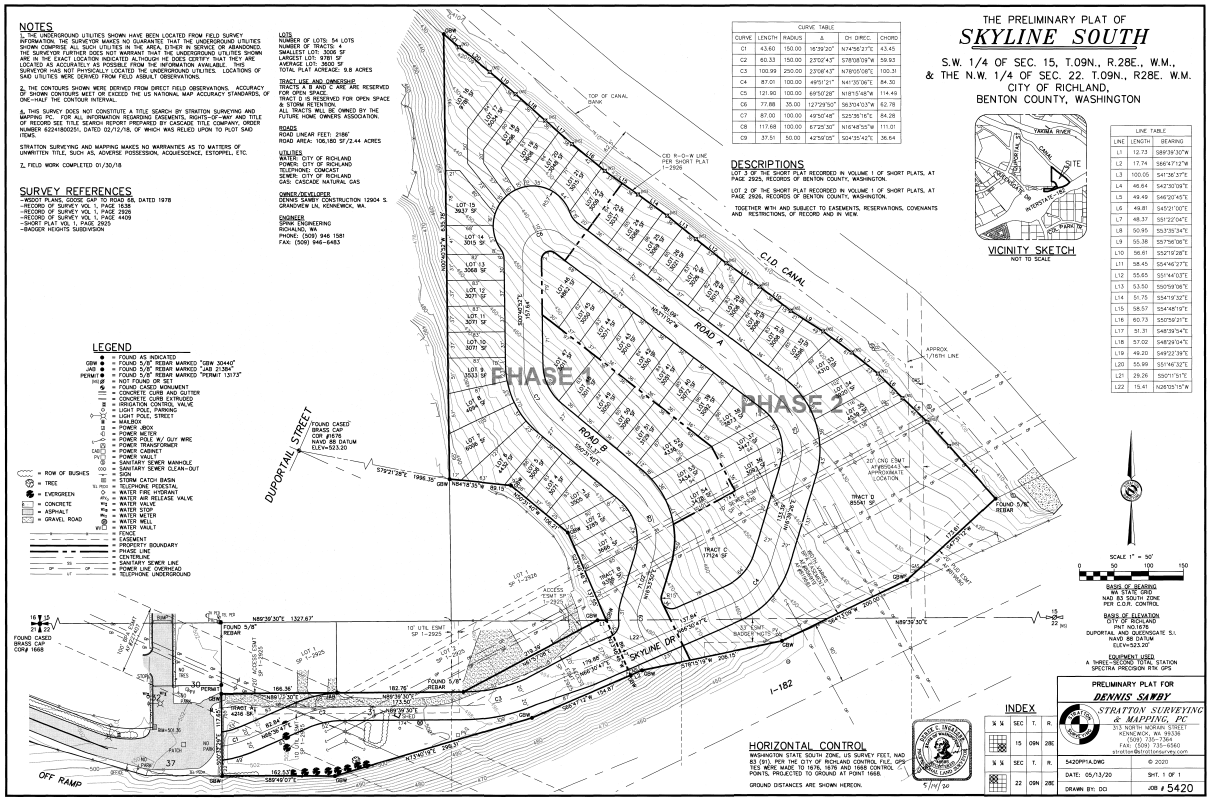
SEPA Compliance.

7. *Exhibit 7* includes the Environmental Checklist submitted by the applicant for project and the City's Determination of Non-Significance (DNS) issued on March 26, 2020. No one submitted comments regarding the DNS. Several agencies submitted written comments regarding the application, all of which were considered and addressed by Staff, but no one questioned or challenged the SEPA DNS issued for this project. *(Staff Report, page 11; Agency comments, included as part of Ex. 8).* No one appealed the SEPA threshold determination issued for the project. *(See WAC 197-11-545, re: failure to provide timely comment is construed as lack of objection to environmental analysis).* With such documentation and process, the pending application satisfied applicable SEPA review requirements, and stands unchallenged for purposes of this Decision.

Public Hearing.

8. The open-record public hearing for the application occurred on May 11, 2020, wherein the undersigned Examiner presided, and all persons wishing to provide comments were heard, providing testimony under oath. City staff, Applicant representatives and interested citizens appeared at the hearing or submitted written comments regarding the proposed plat. The Examiner is familiar with the site conditions and those of the surrounding area, having visited the site of the proposed project, and public roads leading to and from the vicinity of the proposed plat.

9. For the reader's convenience, a copy of the proposed Preliminary Plat of Skyline South, as revised by the applicant to show two possible phases *(Ex. 10),* is provided below:



Key issues raised during public hearing testimony, key portions of record.

10. As noted above, City staff, the applicant's engineer, and two members of the general public presented testimony under oath at the duly noticed open record public hearing held on May 11, 2020. Given the ongoing limits placed on public gatherings due to the Covid-19 health emergency, the Examiner conducted the public hearing via online communication means, coordinated by city staff, which included video images of most participants and several exhibits, with some people speaking by telephone.

11. At the hearing, Mr. Stevens summarized his Staff Report and recommendation of approval for the proposed plat. He also explained that the applicant's formal request for a roadway deviation met all conditions needed to obtain approval.

12. Mr. Stevens noted that the project will be required to construct a looped water system, to support multiple fire hydrants and fire sprinkler systems that will be required in each new home in the Skyline South subdivision. Sprinkler systems are mandated because of the number of units in the plat and the lack of any secondary emergency vehicle access. *(See Condition of Approval No. 32).* These requirements are further supported by the fact that the project site experienced a wildfire event in 2018. *(Staff Report, page 3, discussion of Fire Safety on page 10).*

13. Given the project's location, adjacent to a Biodiversity Corridor shown on state Department of Fish and Wildlife Priority Habitat Species mapping, the applicant submitted a Critical Areas Report for the site, included in the record as *Exhibit 3*. The Critical Areas Report was prepared by qualified professionals from the TerraGraphics Environmental Engineering firm and stands unrebutted and unchallenged. Mr. Stevens testified that the report showed no negative impacts should result from the project. The Staff Report, at page 6, explains that no mitigation measures are necessary to address potential impacts on the Biodiversity Corridor.

14. The Critical Areas Report includes several key findings, including without limitation: a) There are no Priority Species and Habitat (PHS) issues at the Skyline South site (Ex. 3, at page 13); b) There are no significant impacts to critical fish and wildlife habitat and conservation at the Skyline South site (Ex. 3, at page 14); c) there are no wetlands present on the site; and d) although the closest wetland is within 300 ft of the Skyline South site, based on the site topography and the presence of the irrigation canal and adjacent access road, site activities will result in no significant impact to adjacent wetlands. *(Ex. 3, at pages 14 and 15).*

15. The Critical Areas Report includes recommended Best Management Practices (BMPs) that should be implemented and observed throughout the development process in order to limit stormwater impacts on adjacent properties and facilities, particularly the irrigation canal. *(Ex. 3, at page 14).* It also includes geotechnical recommendations that should be observed, given some slopes exceeding 15% on the site. Conditions of approval have been included to implement relevant recommendations included in the Critical Areas Report. *(See Condition of Approval "D", which reads: "The applicant shall comply with all professional report conclusions and recommendations submitted in connection with the preliminary plat and engineering reviews, as approved and/or amended by the City; and Building Conditions based on Geotechnical Report recommendations).*

16. On behalf of the applicant, Mr. Spink, requested permission to develop the proposed plat in two phases. The Examiner held the record open so Mr. Spink could submit a revised plat drawing, showing the phasing he proposed. A copy of the revised plat map is now included in the record as *Exhibit 10.*

17. Mr. Spink also questioned proposed condition 20, requiring roads to intersect at an angle consistent with city design standards and code requirements. Mr. Stevens objected to any changes to such condition, because it was never raised as a formal Deviation Request.

18. The Examiner concurs with staff. As explained below, the city's code has a specific process that applicants must follow in order to obtain approval of a deviation from otherwise applicable subdivision standards. *See RMC 24.24.040.* Unlike the road-width standard for which the applicant submitted a written deviation request, the applicant failed to request a deviation from requirements set forth in condition 20 as part of the application materials. Asking for such relief at the last minute during the public hearing must be rejected. The matter was never the subject of any written application for a deviation on the topic, so it was

not subjected to the formal review and analysis required before it could be considered by the Hearing Examiner concurrently with the subdivision application. Accordingly, condition 20 will be included as proposed.

19. Mr. Spink also directed attention to proposed condition 61, requiring a qualified monitor onsite for ground disturbing activities, to comply with applicable state laws that protect archaeological and cultural resources. To fully understand the issue, the Examiner reviewed the entire record, particularly the written comment letter from the Washington Department of Archaeology & Historic Preservation, included in the Record as part of *Exhibit 6*.

20. The DAHP comment letter explains that the proposed project area has a *high potential for archaeological resources*, due, in part, to "the proximity of the proposed project area to the Yakima River, a resource known to have been important to both historic and prehistoric people. Additionally, several previously recorded archaeological sites are located near or directly adjacent to the proposed project area, suggesting that other cultural resources may be present." The letter continues by emphasizing that "the scale of the proposed ground disturbing actions would destroy any archaeological resources present. Identification during construction is not a recommended detection method because inadvertent discoveries often result in costly construction delays and damage to the resource. Therefore, we (DAHP) *recommend a professional archaeological survey of the project area be conducted prior to ground disturbing activities*. We also recommend consultation with the concerned Tribes' cultural committees and staff regarding cultural resource issues."

21. Proposed Condition No. 61 would only require onsite monitoring during ground disturbance activities. This is insufficient to satisfy the compelling concerns raised by state officials in the DAHP comment letter.

22. To properly address concerns raised by DAHP, Condition 61 has been amended to require that a professional archaeological survey of the project area must be conducted and a report discussing any findings must be submitted to the City for its review and approval prior to ground disturbing activities on the Skyline South project site. Further, before undertaking any ground disturbance activities on the project site, the applicant must submit written confirmation of consultation(s) it has undertaken with local Tribes' cultural committees and staff regarding cultural resource issues. The Planning Manager shall have authority to impose additional conditions that are consistent with those recommended based on the archaeological survey of the project area and/or consultation with local Tribe(s).

23. Evidence in the record supports the revised condition 61, and the condition is consistent with requirements for similar projects that also have the high potential for uncovering archaeological or cultural resources during ground disturbing activities. Rather than being more onerous for the applicant, the results of a site-specific archaeological survey of the project area could find that there are no resources on site that would necessitate on-site monitoring, or that monitoring should be limited to only a certain portion of the property. In any event, and without pre-judging the results of the survey, it should be and is required as a condition of approval in order to prevent the destruction of any archaeological resources

and to avoid potentially costly construction delays for the applicant that could result from an inadvertent discovery of cultural resources on the property.

24. During the public hearing, two local residents, Mr. Vetter and Mr. Osborne, expressed their concerns with possible traffic impacts on surrounding streets, too much density, BPA poles as a hazard for drivers, and other potential infrastructure impacts. Mr. Stevens and Mr. Spink were provided an opportunity to respond to public comments.

25. Comments made at the public hearing are fully addressed in the analysis provided in the Staff Report, and specific conditions of approval for this project, which are intended to ensure that the new plat complies with relevant city development regulations and will be in the public interest, among other things. Traffic considerations were fully analyzed in the Traffic Impact Analysis included in the Record as *Exhibit 4*. None of the public comments offered evidence of the sort that would serve as a basis to deny or add additional conditions to this project.

26. The Staff Report, at page 10, explains that the proposed plat is located outside the boundaries for both the Badger Mountain Irrigation District and the Kennewick Irrigation District. The Staff Report recommended that the plat should be conditioned to require the developer to install an irrigation water distribution system entirely separate from the City's domestic water system, and to obtain irrigation water from a source other than the City's domestic water system. *(See proposed Condition of Approval No. 35).* However, Staff accepted the applicant's clarification provided at the public hearing, directing attention to the map included in the City's code at RMC 18.06.080, Ex. A, which shows the site of the proposed Skyline South preliminary plat is <u>not included</u> in the area prohibited from using City water for irrigation purposes. Accordingly, proposed Condition No. 35 is stricken.

27. No one submitted any additional written comments after the hearing, as the record was held open through May 22nd and the hearing video was posted on the city's website for review by interested parties.

Deviation Request.

28. The Staff Report explains that City street standards normally require new plats similar to the pending matter to be designed and constructed with 34-foot wide street surfaces within 54-foot wide right-of-way. *(Staff Report, page 6)*. As noted elsewhere in this Decision, there is no dispute that a large Bonneville Power easement runs through most of the southern portion of the proposed Skyline South plat. Inside this easement, there are several large poles supporting high voltage power lines running overhead. The Bonneville Power poles are placed in a manner that makes it virtually impossible to construct a full 34-foot wide street surface along the relatively narrow strip of land where the much larger and developable portion of the new plat will be connected with the city's existing street network on the far southwest corner of the proposed plat. *(See proposed plat maps, Exs. 5 and 10).*

29. Given these circumstances, the applicant submitted a written request for a deviation from this otherwise applicable street standard for new subdivisions of this sort. *(See Ex. 2, Deviation request from Mr. Spink, dated Feb. 6, 2020, referencing proposed deviation as a roadway standard variance).*

30. The applicant seeks approval of a Deviation that would authorize use of a narrower roadway through the portion of the plat impacted by the Bonneville Power easement. Specifically, the requested Deviation would allow the applicant to construct a 27-foot wide, 40- foot wide right-of-way, single frontage Local Street for approximately 550-feet, rather than a 34-foot wide roadway within a 54-foot wide right-of-way, built to a specific city standard – ST14. This segment of roadway would be constructed per City standard drawing ST14 and would include curb and gutter on both sides, a 5-foot wide sidewalk on the north side and would be posted with no parking signs on the south side. *(Staff Report, pages 6, 7; Ex. 2, Deviation request letter, with description of request; Exs. 5 and 10, proposed plat maps illustrating segment of roadway that would be developed with this narrower standard).*

31. RMC 24.24.040, captioned "Deviations", empowers the Hearing Examiner to consider and approve deviations from otherwise applicable subdivision code requirements concurrently with an underlying subdivision application. The code reads as follows, with specific findings by the Examiner included under relevant passages in italics, explaining how the pending deviation request for a narrower roadway along the southwest portion of the Skyline South Preliminary Plat satisfies relevant approval criteria:

> In specific cases, the hearing examiner may authorize deviations from the provisions or requirements of this title that will not be contrary to public interest; but only where, owing to special conditions pertaining to a specific subdivision, the literal interpretation and strict application of the provisions or requirements of this title would cause undue and unnecessary hardship. No such deviation from the provisions or requirements of this title shall be authorized by the hearing examiner unless the hearing examiner shall find that all of the following facts and conditions exist and until:
>
> A. A written application for a deviation from subdivision standards, accompanied by an application fee as specified by the posted fee schedule, is submitted demonstrating all of the following: *(The applicant submitted a written request for this deviation in the form of a letter, included in the Record as Ex. 2. The Staff Report is silent on whether the applicant paid applicable fees for processing a deviation request, so if such fees are imposed by the city's posted fee schedule and they have not been collected, they must be paid in full within 30 days of this Decision, or this Deviation approval shall be null and void).*
>
> > 1. That special conditions and circumstances exist which are peculiar to the land involved and which are not applicable to other lands in the same area;
> >
> > *There is no dispute that the Bonneville Power easement and high-voltage transmission line poles present special conditions and circumstances peculiar*

to the property included in this portion of the proposed plat, and that such conditions do not exist on most other lands in the surrounding area where there are no BPA easements or power poles.

2. That literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the same area or as necessary for the reasonable and acceptable development of the property;

Given previously developed properties and public infrastructure surrounding the property included in this proposed plat, there is only one path of access practically available to serve the more developable portions of the plat. That access route is burdened by the BPA easement and power poles, making it virtually impossible to develop the roadway to the full 34-foot width normally required. Denial of the plat application because the access road is not 34-feet wide would deprive the applicant of the opportunity to move forward with the new subdivision of land, which is a reasonable and acceptable development of the property, and consistent with city Comprehensive Plan policies and zoning standards. The proposal to use a 27-foot wide roadway, built to another specific city standard with conditions to ensure emergency access (no parking signs on south side) can avoid any potential deprivation of otherwise available development rights on the property, and protect public health, welfare and safety.

3. That the special conditions and circumstances do not result from the actions of the applicant;

There is no dispute that the special conditions and circumstances at issue – i.e. the BPA easement and power poles – were not the result of any actions of the applicant or the current property owner.

4. That granting the deviation requested will not confer on the applicant any special privilege that is denied by this title to other lands in the same area;

Each written deviation request must stand on its own merits. This deviation request is based on special conditions and circumstances that do not exist on most other properties in the City of Richland. Approval of this deviation will not confer on the applicant any special privilege. The proposed 27-foot roadway width segment will be built consistent with city standards for such road width, and in compliance with International Fire Code standards.

5. That the deviation will not nullify the intent and purpose of the comprehensive plan or this title;

Quite the opposite: without approval of the requested deviation, it is likely that that the property included in this proposed plat could not be developed with

"high-density residential" uses, which would be inconsistent with the City's Comprehensive Plan land use designation for the property and zoning assigned to same (R-3, Multi-Family Residential). The 7-foot road-width reduction (from 34 to 27) for the segment of roadway that is most impacted by the BPA easement and facilities will not nullify the intent and purpose of the City's Comprehensive Plan or its subdivision code, but will instead allow the development to move forward in a manner that appropriately implements relevant Comprehensive Plan policies and city codes.

6. Deviations with respect to those matters requiring the approval of the city engineer may be granted by the hearing examiner only with the written recommendation of the city engineer.

The Staff Report (at page 8) confirms that the City's Public Works Department reviewed and recommends approval of the requested deviation, which is partly reflected in Condition of Approval No. 18.

B. The hearing examiner shall hold an open record hearing to consider the deviation application concurrently with the subdivision application.

The written request for a deviation (Ex. 2) was considered by the Examiner during the open record public hearing concurrently with the underlying subdivision application. Other verbal requests for 'flexibility' on other codes and standards applicable to the proposed plat made by the applicant's engineer at the public hearing must be rejected, because they were not raised in the manner required by RMC 24.24.040(A), addressed above.

32. As shown in findings provided above, the applicant's Deviation request as explained in *Exhibit 2* and generally depicted on the proposed plat maps included in the Record as *Exhibits 5 and 10*, meets applicable review criteria and is hereby approved.

33. Approval of this deviation request should not in any way be construed as a future precedent supporting future requests for roadway design deviations of any sort, particularly those without special conditions and circumstances substantially similar to those present in this instance.

How the application, with conditions, satisfies applicable city codes and policies.

34. With 54 lots proposed on a 9.79-acre site, the Staff Report explains that the application is within the density limits for the site, which is designated for high-density residential development in the Comprehensive Plan (average of 15 units per acre) and located in the City's R-3 Multi-Family Residential zone. The net residential density for the Skyline South plat would be 11.5 dwelling units per acre. Given that a large Bonneville Power easement for high transmission power lines extends across the southern portion of the project site and comprises most of proposed Tracts A, B, C and D (2.67-acres of land all together), the

proposed preliminary plat design seeks to maximize density potential on remaining portions of the property. *(Staff Report, pages 3, 4 and 5).*

35. The Staff Report explains that City utility services, like potable water, sanitary sewer, and electricity, are readily accessible and available to serve the proposed new plat. *(Staff Report, pages 9 – 11).*

36. RCW 58.17.110(2) expressly mandates that a city "shall approve" a proposed subdivision that makes appropriate provisions for various factors, all addressed in the city's approval criteria set forth in RMC 24.04. The Staff Report, testimony at the public hearing, and written materials included in the Record, all establish that the proposed application, as conditioned, makes appropriate provisions for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school.

Compliance with city development regulations achieves consistency with the Comprehensive Plan

37. RMC 24.04.020 explains that the purpose of the City's platting and subdivision codes is *"in furtherance of the comprehensive plan of the city"* and that such regulations contained in the city's platting and subdivision codes *"are necessary for the protection and preservation of the public health, safety, morals and the general welfare, and are designed, among other things, to encourage the most appropriate use of land throughout the municipality; to lessen traffic congestion and accidents; to secure safety from fire; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to promote the coordinated development of unbuilt areas; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve and restore natural beauty and other natural resources; and to facilitate the adequate provision of transportation, water, sewerage and other public uses and requirements."* The effect of this provision boils down to this: compliance with the City's Comprehensive Plan can be established, or at least partially established, through compliance with the city's platting and subdivision regulations found in Title 24 of the Richland Municipal Code. In this matter, substantial evidence in the record establishes compliance by the proposed plat (as conditioned herein) with the city's land platting regulations that are applicable to this project, thus implementing and complying with the City's Comprehensive Plan. (*See Staff Report, all Findings).*

38. The applicant's proposed plat design, as modified by conditions of approval, merits approval.

Proposed plat will provide public benefits

39. The applicant's submittals and the Staff Report establish that some aspects of the new subdivision will provide a public benefit, including without limitation, new housing

inventory and options fulfilling the city's goals and policies set forth in the Comprehensive Plan, open space, an attractive street system to serve the new plat, payment of impact fees to generate funds for large capital projects in the vicinity, and other features that will serve to promote health benefits of a walkable, appropriately connected, pedestrian-friendly community.

40. Except as modified in this Recommendation, all Findings, and statements of fact contained in the Staff Report, are incorporated herein by reference as Findings of the undersigned-hearing examiner.[3]

Substantial evidence demonstrates the proposed project, as conditioned, satisfies approval criteria.

41. The record contains substantial evidence to demonstrate that, as conditioned, the proposed plat makes appropriate provisions for:

    A. The public health, safety, and general welfare: *See Staff Report, including without limitation the Analysis provided on pages 12-14, and proposed findings on pages 15-16.*

    B. Open Spaces: *See Staff Report, page 12, discussion in item H below, and conditions of approval requiring payment of Park Impact Fees.*

    C. Drainage Ways: *the project will be consistent with all applicable standards for stormwater system design, including without limitation the Department of Ecology Stormwater Management Manuel for Eastern Washington. The new plat must be designed to provide on-site stormwater management and detention. Consistent with City development standards, the plat will be connected to the City's sanitary sewer system, which the applicant must extend into the project. See Staff Report, page 13; Storm Water conditions of approval 40-49; Sanitary Sewer conditions 36-38.*

    D. Streets or roads, alleys, other public ways: *the proposed plat has been reviewed by the City for compliance with applicable street system design requirements, and, subject to compliance with specific conditions of approval, can be consistent with all applicable city standards for city roads, streets, driveways, access, circulation, payment of impact fees, transportation concurrency and the like. Staff Report, proposed findings regarding transportation issues; TIA Report, Ex. 4;Conditions of approval 15-30.*

    E. Transit stops: *To the extent transit stops are or may be located nearby to serve residents of the proposed plat, or Richland residents generally, the subdivision design, access and internal circulation patterns, as conditioned, are appropriate to allow for pedestrians and vehicles to access arterials and other routes that could direct users to*

[3] For purposes of brevity, only certain Findings from the Department's Recommendation are highlighted for discussion in this Decision, and others are summarized, but any mention or omission of particular findings should not be viewed to diminish their full meaning and effect, except as modified herein.

existing or future transit stops and facilities. The proposed plat is within the Ben Franklin Transit service area, which provides service along Queensgate Drive, less than a half mile from the entry point to the new plat. Staff Report, page 13.

F. Potable water supplies: *The new subdivision will receive its domestic water supply from the City of Richland. Staff confirms that adequate capacity is available within the city's water supply system to provide domestic water service to the new plat, with extensions into the new plat used to provide service. (Staff Report, page 13). Condition of approval no. 33 will require the developer to demonstrate that all phases are capable of delivering adequate fire flows prior to construction plans being accepted for review. Condition 32, discussed above, requires a looped water system, needed to support the multiple fire hydrants and residential fire sprinkler systems required for this project. As discussed above, current city policies prohibit use of city water supplies for irrigation purposes in areas of the city located south of the Yakima River, where this plat is located, so Condition 35 will require the developer to find an irrigation source and install an irrigation distribution system in the new plat that will be entirely separate from the city's domestic water system.*

G. Sanitary systems: *The City's sewer system has capacity and adjacent infrastructure capable of serving the proposed plat and will do so. Extension of the sewer main from adjacent properties will be required. And, given that the site slopes downhill from the southwest to the northeast where the sanitary sewer main connection will occur, the gravity-fed aspects of the city's sewer system will not require any special infrastructure frequently needed in other areas, like lift stations and force-mains. Staff Report, at page 9; Sanitary Sewer conditions 36-38.*

H. Parks and recreation, playgrounds, schools: *The Staff Report explains that there are several city parks and other recreational opportunities within about one mile of the project site, and that park impact fees will be imposed and collected when each building permit for a new home is issued. See Staff Report, pages 11 and 12. The plat is located in the Richland School District. The School District did not provide any comments after receiving city notice regarding the project. Staff Report, page 13.*

I. Planning features to assure safe walking conditions for students: *See proposed internal street design and sidewalks proposed for the plat. Conditions of approval require new sidewalks through most of the new plat.*

25. Based on all evidence, exhibits and testimony in the record, the undersigned Examiner specifically finds that the proposed plat, as conditioned below, makes appropriate provisions for the considerations detailed in applicable law, including without limitation RMC 24.12.050, .053, and 19.60.095, and that the public use and interest will be served by the proposed plat and associated dedications and improvements.

V. CONCLUSIONS of LAW.

1. Based on the Findings as summarized above, the undersigned examiner concludes that the proposed plat, as conditioned below, conforms to all applicable zoning and land use requirements and appropriately mitigates adverse environmental impacts. Upon reaching such findings and conclusions as noted above, the preliminary plat meets the standards necessary to obtain approval by the City.

2. The applicant's written Deviation request, as described in *Exhibit 2* and the Staff Report, was reviewed by the Public Works Department, and the Staff Report recommends approval. Based on facts and explanations set forth above, the Deviation request merits approval.

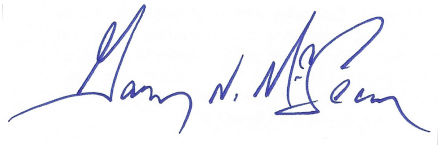
3. The conditions of approval imposed as part of this Decision are reasonable, supported by the evidence, and capable of accomplishment.

4. Any Finding or other statements in previous or following sections of this document that are deemed Conclusions are hereby adopted as such.

VI. DECISION.

Based upon the preceding Findings of Fact and Conclusions of Law, evidence presented through the course of the open record hearing, all materials contained in the contents of the record, and the Examiner's site visit, **the undersigned Examiner APPROVES the *"Skyline South"* Preliminary Plat** application, subject to the following Conditions of Approval.

Recommendation issued: June 17, 2020.



Gary N. McLean
Hearing Examiner for the City of Richland

CONDITIONS OF APPROVAL
FOR THE
PRELIMINARY PLAT OF SKYLINE SOUTH
FILE NO. S2020-102

General Conditions:

A. Development of the plat shall be substantially consistent with drawings provided in the Preliminary Plat Survey maps *(Exs. 5 and 10)* and application materials, subject to modifications necessary to comply with these conditions of approval. The Plat may be developed and approved in two phases, with boundaries for the two phases substantially similar to those depicted on the revised plat map included in the Record as *Exhibit 10.*

B. Preliminary Plat approval shall be null and void if any condition enumerated herein is not satisfied.

C. No construction or site development activities related to the plat may be undertaken until required city approvals become effective, and the City and other regulatory authorities with jurisdiction issue applicable permits.

D. The applicant shall comply with all professional report conclusions and recommendations submitted in connection with the preliminary plat and engineering reviews, as approved and/or amended by the City.

E. Applicant shall be responsible for consulting with state and federal agencies, and tribal entities with jurisdiction (if any) for applicable permit or other regulatory requirements. Approval of a preliminary plat does not limit the applicant's responsibility to obtain any required permit, license or approval from a state, federal, or other regulatory body. Any conditions of regulatory agency permits, licenses, or approvals shall be considered conditions for this project.

F. The final engineering plans and submittals necessary to obtain final approvals for each phase of the plat shall conform to all applicable provisions of the Richland Municipal Code and the Conditions of Approval herein.

G. The preliminary plat shall comply with all applicable provisions of the Richland Municipal Code, whether or not such provisions are enumerated or referenced in the approved preliminary plat plans, in the staff report or in this Decision. The burden is on the applicant to show compliance with applicable provisions of the City's code and these conditions at every stage of development.

H. <u>Deviation Request Approved</u>: As authorized by RMC 24.20.010 and explained in Findings 28 – 33 of this Decision, a Deviation is approved for this project allowing a 27-foot wide roadway surface within a 40-foot right-of-way for a portion of the street impacted by the Bonneville Power easement and high-voltage power poles. *(See Ex. 2, Deviation Request; Staff Report analysis on pages 6-8; Preliminary Plat maps, included as Exhibits 5 and 10).*

I. The existing roadway into the Hills Mobile Home Park is already named "Skyline Drive". A different name will be needed for the entrance road leading into the project, or the existing Skyline Drive will have to be renamed.

Public Works:

1. All final, approved plans for public improvements shall be submitted prior to pre-con on a 24" x 36" hardcopy format and also electronically in [.dwg] format compatible with the City's standard CAD software. Addendums are not allowed, all information shall be supplied in full size (and electronic) format. Electronic copies of the construction plans are required prior to the pre-con meeting along with the multiple sets of paper drawings. When construction of the public infrastructure has been substantially completed, the applicant shall provide paper and electronic record drawings in accordance with the City's "Record Drawing Requirements". The electronic record drawings shall be submitted in an AutoCAD format compatible with the City's standard CAD software. The final record drawings shall be submitted and approved by the City before the final punchlist inspection will be performed. All final punchlist items shall be completed or financially guaranteed prior to recording of the final plat.

2. Any and all necessary permits that may be required by jurisdictional entities outside of the City of Richland shall be the responsibility of the developer to obtain.

3. A copy of the construction drawings shall be submitted for review to the appropriate jurisdictions by the developer and his engineer. All required comments / conditions from all appropriate reviewing jurisdictions (e.g.: Benton County, any appropriate irrigation districts, other utilities, etc.) shall be incorporated into one comprehensive set of drawings and resubmitted (if necessary) for final permit review and issuance.

4. Any work within the public right-of-way or easements or involving public infrastructure will require the applicant to obtain a right-of-way construction permit prior to beginning work, per RMC Chapter 12.08. The applicant shall pay a plan review fee based on a cost-per-sheet of engineering infrastructure plans. This public infrastructure plan review fee shall apply each time a project is submitted for review. This fee will be different for commercial projects versus subdivision projects. Please visit the Public Works Private Development page on the City's webpage to find the current per-sheet fee. A permit fee in the amount equal to 3% of the construction costs of the work within the right-of-way or easement will be collected at the time the construction permit is issued. A stamped, itemized Engineers estimate (Opinion of probable cost) and a copy of the material submittals shall be submitted along with the approved plan submittal.

5. Public utility infrastructure located on private property will require recording of a City standard form easement prior to acceptance of the infrastructure and release of the final plat. The City requires preparation of the easement legal description by the developer two weeks prior to the scheduled date of plat acceptance. Once received, the City will prepare the easement document and provide it to the developer. The developer shall record the easement at the Benton County Assessor and return a recorded original document to the City prior to application for plat acceptance.

6. A pre-construction conference will be required prior to the start of any work within the public right-of-way or easement. Contact the Public Works Engineering Division at 942-7500 to schedule a pre-construction conference.

7. Site plan drawings which involve the construction of public infrastructure shall be drawn on a standard 24" x 36" drawing format to a scale which shall not be less than 1"=40'.

8. All plan sheets involving construction of public infrastructure shall have the stamp of a current Washington State licensed professional engineer.

9. All construction plan sheets shall include the note "CALL TWO WORKING DAYS BEFORE YOU DIG 1-800-424-5555 (or "811")." Or: http://www.call811.com/

10. A copy of the preliminary plat shall be supplied to the Post Office and all locations of future mailbox clusters approved prior to final platting.

Design Standards:

11. Public improvement design shall follow the following general format:

A. All materials and workmanship shall be in conformance with the latest revision of the City of Richland Standard Specifications and Details, Public Infrastructure Design Guidelines, and the current edition of the State of Washington Standard Specifications for Road, Bridge, and Municipal Construction. Please confirm that you have the latest set of standard specs and details by visiting the City's web page.

B. Waterlines shall be aligned on the south and east side of street centerlines.

C. Sanitary sewer shall be aligned on the north and west side of street centerlines.

D. Storm sewer shall be aligned on the south and east side of street centerlines.

E. Any sewer or storm manholes that are installed outside of public Right of Way shall have an acceptable 12-foot wide gravel access road (minimum) provided from a public street for maintenance vehicles.

F. 10-feet horizontal spacing shall be maintained between domestic water and sanitary sewer mainlines and service lines.

G. Watermains larger than 8-inches in diameter shall be ductile iron.

H. Watermains installed outside of the City Right of Way or in very rocky native material, shall be ductile iron and may need restrained joints. And, all watermains outside areas zoned R1 shall be ductile iron.

I. Fire hydrant location shall be reviewed and approved by the City Fire Marshal.

J. Sewer mains over 15-feet deep shall be constructed out of SDR26 PVC or C900 PVC. The entire main from manhole to manhole shall be the same material.

K. Water valves and manholes installed on private property shall be placed so as to avoid parked cars whenever feasible.

L. All utilities shall be extended to the adjacent property (properties) at the time of construction.

M. The minimum centerline finish grade shall be no less than 0.30 % and the maximum centerline finish grade shall be no more than 10.0 % for local streets. 12% can be allowed for local streets for short distances.

N. The minimum centerline radius for local streets shall be 100-feet.

O. Any filling of low areas that may be required within the public Right of Way shall be compacted to City standards.

P. An overall, composite utility plan shall be included in the submitted plan set if the project is phased. This comprehensive utility plan benefits all departments and maintenance groups involved in the review and inspection of the project.

Q. A detailed grading plan shall be included in the submitted plan set.

R. For public utilities not located within public street rights-of-way the applicant shall provide maintenance access acceptable to the City and the applicant shall provide an exclusive 10-foot wide public utility easement (minimum) to be conveyed to the City of Richland.

S. Final design of the public improvements shall be approved at the time of the City's issuance of a Right-of-way Construction Permit for the proposed construction.

T. All public improvements shall comply with the State of Washington and City of Richland requirements, standards and codes.

U. All cul-de-sacs shall have a minimum radius of 48-feet to the face of curb (57-foot ROW) to allow for adequate turning radius of fire trucks and solid waste collection vehicles.

V. Curb returns at minor intersections shall have a minimum radius of 25-feet. Curb returns at major intersections should have minimum radius of 30-feet but should be evaluated on a case by case basis.

W. All public streets shall meet design requirements for sight distance (horizontal, vertical and intersectional).

X. The final engineered construction plans shall identify locations for irrigation system, street lighting, gas service, power lines, telephone lines, cable television lines, street trees and mailboxes. All electrical appurtenances such as transformers, vaults, conduit routes, and street lights (including their circuit) need to be shown in the plan view.

Y. Construction plans shall reference all City of Richland standard details necessary to construct all public improvements which will be owned, operated, maintained by the City or used by the general public.

Z. The contractor shall be responsible for any and all public infrastructure construction deficiencies for a period of one year from the date of the letter of acceptance by the City of Richland.

12. If the project will be built in phases the applicant shall submit a master plan for the sanitary sewer, domestic water, storm drainage, electrical, street lighting and irrigation system for the entire project prior to submitting plans for the first phase to assure constructability of the entire project. This includes the location and size of any storm retention ponds that may be required to handle runoff.

13. If the City Fire Marshal requires a secondary emergency vehicle access, it shall be included in the construction plan set and be designed to the following standards:

- 2-inches compacted gravel, minimum (temp. SEVA only).
- 2% cross-slope, maximum.

- 5% slope, maximum. Any access road steeper than 5% shall be paved or be approved by the Fire Marshal.
- Be 20-feet in width.
- Have turning-radii accommodating those needed for City Fire apparatus.

13A. Secondary emergency vehicles accesses (SEVA's) shall be 20-feet wide, as noted. Longer secondary accesses can be built to 12-feet wide with the approval of the City of Richland Fire Marshal, however turn-outs are required at a spacing acceptable to the Fire Dept. Temporary SEVA's shall be constructed with 2-inches of compacted gravel, at a minimum. Permanent SEVA's shall be paved with 2-inches of asphalt over 4-inches of gravel, at a minimum.

Survey Monument Destruction:

14. All permanent survey monuments existing on the project site shall be protected. If any monuments are destroyed by the proposed construction, the applicant shall retain a professional land surveyor to replace the monuments and file a copy of the record survey with the City.

A. No survey monument shall be removed or destroyed (the physical disturbance or covering of a monument such that the survey point is no longer visible or readily accessible) before a permit is obtained from the Department of Natural Resources (DNR). WAC 332-120-030(2) states "It shall be the responsibility of the governmental agency or others performing construction work or other activity (including road or street resurfacing projects) to adequately search the records and the physical area of the proposed construction work or other activity for the purpose of locating and referencing any known or existing survey monuments." (RCW 58.09.130).

B. Any person, corporation, association, department, or subdivision of the state, county or municipality responsible for an activity that may cause a survey monument to be removed or destroyed shall be responsible for ensuring that the original survey point is perpetuated. (WAC 332-120- 030(2)).

C. Survey monuments are those monuments marking local control points, geodetic control points, and land boundary survey corners. (WAC 332-120- 030(3)).

When a monument must be removed during an activity that might disturb or destroy it, a licensed Engineer or Land Surveyor must complete, sign, seal and the file a permit with the DNR.

It shall be the responsibility of the designing Engineer to identify the affected monuments on the project plans and include a construction note directing them to the DNR permit.

Traffic & Streets:

15. The "Skyline South" preliminary plat lies within zone 2 of the boundary of the South Richland Collector Street Financing Plan (RMC 12.03). This plat shall therefore be subject to the fees administered by the finance plan for any phase submitted for approval.

16. The project applicant, at the City's request, conducted a traffic study to assess the anticipated operations at the intersection of Skyline Drive and Queensgate Drive. The study confirmed that the project's traffic loading will not result in an unacceptable level of service at this intersection. No vehicular traffic mitigation is required for this project, except for participation in the Title 12.03 impact fee program.

17. The portions of Skyline Drive that do not have home lots fronting on it shall be constructed full-width (curb, gutter, and all other typical frontage improvements) concurrent with the construction of the plat. Sidewalks along Skyline Drive shall be installed as noted in comment #24.

18. All proposed right-of-ways that are narrower than 54-feet shall have parking restricted, as per City standards. Street signs indicating restricted parking shall be installed prior to final platting at the developer's expense. The restricted parking areas shall be indicated on the construction plans and the final plat. Skyline Drive from the west plat boundary to the point that it widens out to 54-feet shall conform with the City's single frontage road standard. No parking will be allowed along the south side of this narrowed section of road. No Parking signs will be installed by the developer prior to final platting.

19. Road B shall intersect with Skyline Drive at an angle that is consistent with city design guidelines and municipal code. As proposed, it is intersecting at too acute of an angle.

20. The intersection of "Road A" and "Road B" at the northwest corner of the project has a centerline curve that is much sharper than the minimum city standard of 100-feet. These two roads need to intersect at an angle consistent with city design guidelines and municipal code. This may result in a redesigned preliminary plat and a change to the road alignment and lot layout.

21. The existing public right-of-way for the existing Skyline Drive appears to stop short of the western plat boundary. The developer of this project shall dedicate a public right-of-way corridor or a "right-of-way dedication easement" to the city that connects the existing Skyline Drive right-of-way corridor to this preliminary plat.

22. The tee intersection of Skyline Drive at the entrance to the Hills Mobile Home Park shall be reconstructed to be a city standard tee intersection with curb & gutter, streetlights and provisions for storm drainage. This reconstruction is necessary as this intersection is becoming a city right-of- way and shall meet city standards. The guardrail on the south side of Skyline Drive at the entrance to the plat shall be removed and replaced with city standard curb, gutter & sidewalk. See condition #23 below.

23. The existing driveway at the west end of the pre-plat lying on the north side of the proposed Skyline Drive shall either be removed or realigned. As shown on the pre-plat the new Skyline Drive alignment overlaps the existing driveway to these residential lots. Driveways to the existing homes shall be constructed on to Skyline Drive to city standards.

24. Sidewalks shall be installed along all public right-of-way frontages that building lots do not front on as follows:

- The north side of Skyline Drive from the tee intersection into Hills Mobile Home Park to the intersection with "Road B".
- Along the south side of existing Skyline Drive from the tee intersection into Hills Mobile Home Park to the intersection with Queensgate Drive. This will also require installation of approx. 245-feet of missing curb & gutter. Provisions for storm drainage may be needed also.
- Both sides of "Road B" from the south side of Lots 1 & 54 to the intersection with "Skyline Drive";
- Both sides of "Skyline Drive" from the south side of Lots 35 & 36 to the intersection with "Road B". The sidewalk on the south side of Skyline Drive shall terminate at the pedestrian ramp on the west side of this tee intersection.

  These sections of sidewalk shall be constructed at the same time as the adjacent roadways. The off-site sidewalk along Skyline Drive shall be constructed with plat construction.

25. The developer and project engineer shall demonstrate on the construction plans that all future driveways, sidewalks and pedestrian ramps will meet City and ADA requirements, and also provide at least 5-feet of separation between driveway and/or pedestrian ramp transitions.

26. Pedestrian ramps shall be designed to current City standard details and A.D.A. guidelines. Adequate Right-of-Way shall be provided at corners to allow for at least 1-foot of ROW behind the ped. ramp landing. Crosswalks between pedestrian ramps shall be designed to City guidelines and A.D.A. guidelines. Crosswalks at stop-controlled intersections shall have cross-slopes less than 2%. Crosswalks crossing thru-streets shall have cross-slopes less than 5%. The road profiles shall be designed to accommodate this.

27. A ten-foot public utility easement shall be provided adjacent to all public ROW corridors at the time of final platting.

28. The vision-clearance triangle needs to be shown on all corner lots on both the construction plans and the final plat document, in accordance with RMC Chapter 12.11.020. If the intersection is in a curve, it will have to be evaluated per AASHTO guidelines. This information may need to be designed by the engineer of record and supplied to the surveyor of record for inclusion into the final plat document.

29. All roads shall be constructed to provide for adequate fire truck & solid waste collection truck access & turnaround movements.

30. If the project is to be constructed in phases, all dead-end streets longer than 150-feet that will be continued later need to have temporary turnarounds built at the end of them. If the temporary turnaround is not located within the final plat an easement with a 50-foot radius will be required.

Domestic Water:

31. The closest watermain available for this project is located in Queensgate Drive to the west. It shall be the responsibility of the developer to extend a watermain to this property to serve domestic water at the time of plat construction. This water main shall be sized to adequately supply domestic water and fire flows to the proposed development.

32. Because of the lack of a secondary emergency vehicle access, fire sprinkler systems are required in all homes within this development. Developments of this size with multiple fire hydrants and residential fire sprinkler systems require a looped water system. Looping is required for redundancy in fire protection and also to prevent stagnation. For this project looping shall be accomplished by installing two parallel water pipelines from separate connections to the existing water main in Queensgate Drive.

33. The developer will be required to demonstrate that all phases are capable of delivering adequate fire flows prior to construction plans being accepted for review.

34. The fire hydrant layout shall be approved by the City Fire Marshal.

35. * There is no dispute that the proposed Skyline South plat lies outside the designated "Area Requiring Separate Irrigation" as shown on the map included as part of the city's code, at RMC 18.16.080, Exhibit A. Accordingly, the proposed Condition of Approval No. 35 – which would have required the development to identify an irrigation source and construct an irrigation distribution system entirely separate from the City's domestic water system – is stricken and not included as a Condition of Approval herein.

Sanitary Sewer:

36. The closest sanitary sewer available for this development is located along the Northeast border of the property, in the CID canal property. It shall be the responsibility of the developer to obtain permission, in the form of an easement favoring the City, from the CID and to extend a sewer main to this property to serve sanitary sewer at the time of plat construction.

37. The preliminary plat shows a sewer main running beneath the home at lots 32 and 33. No structures are allowed over city sewer mains. This main shall be relocated to the open Tract D to the east.

38. A 10-foot wide exclusive sanitary sewer easement shall be provided for any sewer main that is outside of the public Right-of-Way. Wider easements are required for mains that are buried deeper than 10-feet. If any manholes are located outside of the public Right-of-Way, maintenance truck access to said structure will be required.

Ground Water:

39. Groundwater or subsurface springs may be present on this site. Given the amount of groundwater encountered in this area (in both developed and undeveloped areas), the possibility of an underdrain system being required exists. Please have test pits and/or bore-holes dug by a geotech engineer, and an evaluation from said engineer prior to permit application. If an underdrain system is not required, the geohydrology report needs to state so. The requested report also needs to address any potential groundwater impacts to existing properties downslope of the proposed preliminary plat. Also, if groundwater is encountered within 5-feet of finished grade during plat construction, an underdrain system will be required.

Storm Water:

40. All construction projects that don't meet the exemption requirements outlined in Richland Municipal Code, Section 16.06 shall comply with the requirements of the Washington State Department of Ecology issued Eastern Washington NPDES Phase II Municipal Stormwater Permit. The Developer shall be responsible for compliance with the permit conditions. All construction activities subject to this title shall be required to comply with the standards and requirements set forth in the Stormwater Management Manual for Eastern Washington (SWMMEW) and prepare a Stormwater Site Plan. In addition, a Stormwater Pollution Prevention Plan (SWPPP) or submission of a completed erosivity waiver certification is required at the time of plan submittal. The City has adopted revised standards affecting the construction of new stormwater facilities in order to comply with conditions of its NPDES General Stormwater Permit program. This project, and each phase thereof, shall comply with the requirements of the City's stormwater program in place at the time each phase is engineered. The project will require detailed erosion control plans.

41. All public storm drainage systems shall have their flow rate and storage capacity designed by a professional engineer following the core elements defined in the latest editions of the Stormwater Management Manual for Eastern Washington, the current Richland municipal codes, the Phase II Municipal Stormwater Permit, and the City's "Public Infrastructure Construction Plan Requirements and Design Guidelines". The storm water calculations shall be stamped by a professional engineer and shall include a profile of the storm system showing the hydraulic grade line. The calculations should include an accurate delineation of the contributing drainage area to accurately size the stormwater facilities. Passing the storm water downhill to an existing storm system will require an analysis of the downstream storm system to determine its capability of accepting the storm water without being overwhelmed. The applicant's design shall provide runoff protection to downstream property owners.

42. If any existing storm drainage or ground water seepage drains onto the proposed site, said storm drainage shall be considered an existing condition, and it shall be the responsibility of the property developer to design a system to contain or treat and release the off-site storm drainage.

43. If there are any natural drainage ways across the proposed pre-plat, the engineered construction plans shall address it in accordance with Richland Municipal code 24.16.170 ("Easements-watercourses").

44. Any proposed storm drainage retention facilities within the boundary of the proposed preliminary plat shall not adversely affect neighboring properties.

45. Prior to or concurrent with the submittal of the first phase the developer shall provide a Geotechnical report including the percolation rate of the soils in the area of any storm retention ponds. If the project constructs a storm retention pond then the engineer will need to demonstrate that the pond will drain itself within 72 hours after the end of a storm event, and not have standing water in it longer than that. Engineering solutions are available for retention ponds that do not percolate within 72 hours.

46. The amount of post-development storm runoff from the proposed site shall not exceed the amount of pre-development runoff.

47. The parcel occupied by the stormwater basin shall be identified as a separate parcel or tract on the final plat and shall be dedicated to the City stormwater utility.

48. The developer should consider the long-term appearance of the storm basin, particularly if it will occupy a prominent location in the development. City storm pond maintenance practices consist of semi-annual vegetation trimming and silt and debris removal, so if the developer wishes for the pond to be landscaped and visually appealing, then a home-owners association should be considered for long-term landscape maintenance responsibilities. These maintenance responsibilities shall be noted on the final plat. Basins designed as detention and evaporative basins need to include plantings that will tolerate or thrive in standing water. Planting designs for areas not routinely exposed to water shall include plants that will thrive without irrigation. At a minimum the landscaping plan should be consistent with the City's intended maintenance standard as described above.

49. The developer shall be responsible for landscaping the storm pond and for its maintenance and the plantings through the one-year infrastructure warranty period. At 11 months after the final acceptance date the developer shall clean the storm system and basin of all accumulated oil, sediment, and debris. After this maintenance is completed and inspected the City will begin routine maintenance of the system and basin. The developer shall replace any plantings that have failed to survive the warranty period. The developer shall also perform trimmings required to control weeds in excess of 18-inches in height for the 12-months following the date of final plat acceptance.

Final Platting / Project Acceptance Requirements:

50. When the construction is substantially complete a paper set of "record drawings" shall be prepared by a licensed surveyor and include all changes and deviations. Please reference the Public Works document "RECORD DRAWING REQUIREMENTS & PROCEDURES" for a complete description of the record drawing process. All final punchlist items shall be completed or financially guaranteed prior to recording of the final plat.

51. Public utility infrastructure located on private property will require recording of a City standard form easement prior to acceptance of the infrastructure and release of a certificate of occupancy. The City requires preparation of the easement legal description by the developer two weeks prior to the scheduled date of final acceptance. Off-site ("third party") easements or right-of-ways for City infrastructure are the responsibility of

the developer to obtain. Once received, the City will prepare the easement document and provide it to the developer. The developer shall record the easement at the Benton County Assessor and return a recorded original document to the City prior to application for final occupancy.

52. Any off-site easements or permits necessary for this project shall be obtained and secured by the applicant and supplied to the City at the time of plat construction and prior to final plat acceptance by the City.

53. Ten-foot wide public utility easements will be required on the final plat along both sides of all Right-of-Ways within the proposed plat.

54. The vision-clearance triangle needs to be shown on all corner lots on the final plat document, in accordance with RMC Chapter 12.11.020. If the intersection is in a curve, it will have to be evaluated per AASHTO guidelines. This information may need to be designed by the engineer of record and supplied to the surveyor of record for inclusion into the final plat document.

55. A note shall be added to the face of the plat that states: "*The private drives within this plat are fire lanes and parking is restricted. The required no-parking signs shall be installed by the developer where applicable*."

56. Any roads narrower than 34-feet shall have parking restricted on one side, and any roads 27-feet or narrower shall have parking restricted on both sides. Street signs indicating restricted parking shall be installed prior to final platting at the developer's expense. The restricted parking areas shall be indicated on the final plats.

57. All landscaped areas within the plat that are in the public Right of Way shall be the responsibility of the homeowners to maintain.

58. The intended use and ownership of all tracts within the plat shall be noted on the final plat.

59. Property with an unpaid L.I.D. assessment towards it must be paid in full or segregated per Richland Municipal Code 3.12.095.

60. Any restricted parking areas shall be indicated on the final plats.

Planning Conditions.

61A. **Revised by the Hearing Examiner based on DAHP comment letter:** A professional archaeological survey of the project area must be conducted and a report discussing any findings must be submitted to the City's Planning Manager for review and approval prior to ground disturbing activities on the Skyline South project site. Further, before undertaking any ground disturbance activities on the project site, the applicant must submit written confirmation of consultation(s) it has undertaken with local Tribes' cultural committees and staff regarding cultural resource issues. The Planning Manager shall have authority to impose additional conditions that are consistent with those recommended in the archaeological survey report for the project area and/or consultation(s) with local Tribe(s). The applicant must ensure that the DAHP Project Number (2020-02-01530) for the Skyline South Residential Subdivision Project is shared with any hired cultural resource consultants and is attached to any communications or submitted reports.

61B. If the archaeological survey report required by condition 61A above recommends that an archaeological monitor should be present for all ground disturbing activities, then consistent with guidance provided by the State's Department of Archaeology & Historic Preservation, the monitor must be a professional archaeologist who meets the Secretary of the Interior's standards for prehistoric archaeology. Any monitoring requirement that may be imposed by the Planning Manager can be satisfied if the applicant uses the services of a qualified monitor from the Confederated Tribes of the Umatilla Indian Reservation ("CTUIR") to provide on-site

observation of ground-disturbing work associated with this project and document any archaeological resources observed during such monitoring.

Building Conditions

62. Grading shall be permitted by the City and performed in accordance with the Geotechnical Engineering report by Whiteshield, Inc. Any specific geotechnical requirements regarding foundations and/or site sloes shall be noted on the plat along with reference to the geotechnical investigation report.

63. Site grading permitting shall be contingent upon a geotechnical report providing specific soil load-bearing capacities and lot-specific recommendations as necessary.

64. Street designations shall be as set forth in RMC 12.01.060. Prior to submitting for the final plat, applicant shall submit three (3) street name options for each the street segments.

65. Addressing brackets [ ] are needed on all lots and tracts in subsequent final plat submittals.

66. Prior to submitting for the final plat, provide which lots, if any, will allow construction of multi-family (duplex) dwellings. Addressing will be generated accordingly.

Fire Department

67. RMC 21.01.030 provides that "wild-land areas" are areas which are undeveloped, uncultivated or unfit for cultivation, or considered by the city of Richland to be wasteland or desert, or which are any combination of these descriptions and which are deemed by the city of Richland as a hazard for wild fire purposes. The following requirements apply to buildings and structures constructed on, in, or near wild-land areas:

> a) All structures within 30-feet of a property line adjoining a wild-land area shall have noncombustible siding, soffit, and skirting on the side adjacent to the wild-land area when the wild-land area is in excess of five contiguous acres. This requirement shall not apply to interior lots of platted parcels of land and development phases whose streets are accessible and whose water system is operational.
>
> b) Decks and porches 36-inches or less in height shall have skirting if within 30-feet of adjacent wild-land areas when the wild-land area is in excess of five contiguous acres. Skirting shall be sufficiently constructed so as not to allow the accumulation of combustible material under the deck or porch. The area under the deck or porch shall not be used for storage.
>
> The City's Fire officials have determined that this plat is in a wild-land area, and must comply with the requirements listed above.

68. As determined by the Fire marshal, noncombustible siding or soffit material shall be required on the downhill side(s) of a structure that is within 30 feet of a grade that is 15 percent or greater in steepness. The grade shall be determined by the predominate slope on the downhill side measured from the structure or building and extending a maximum of 300 feet.

> **NOTE – In the event of a need for clarification regarding the application or interpretation of any term or condition of approval set forth above, either the applicant or the city can invoke the jurisdiction of the Hearing Examiner to issue a written clarification of a particular term or condition, through a written request detailing the matter, and the basis for such request. Such request shall be made as a Request for Reconsideration, submitted within seven (7) calendar days of the date this Decision is issued.**

Notice of Rights to Request Reconsideration or Appeal This Decision

Reconsideration –

Sec. 2.22(a) of the Richland Hearing Examiner Rules of Procedure reads as follows:

> (a) The Hearing Examiner may reconsider a decision or recommendation on an application, if it is filed in writing within 7 calendar days of the date of issuance. Only parties of record have standing to seek reconsideration. Any request for reconsideration shall be served on all parties of record and to any party's designated representative or legal counsel on the same day as the request is delivered to the Hearing Examiner. The Examiner will seek to accept or reject any request for reconsideration within 3 business days of receipt. If the Examiner decides to reconsider a decision, the appeal period will be tolled (placed on hold) until the reconsideration process is complete and a new decision is issued. If the Examiner decides to reconsider a recommendation made to the City Council, the transmittal to the City Council shall be withheld until the reconsideration process is complete and a new recommendation is issued. If the Examiner decides to reconsider a decision or recommendation, all parties of record shall be notified. The Examiner shall set a schedule for other parties to respond in writing to the reconsideration request and shall issue a decision no later than 10 business days following the submittal of written responses. A new appeal period shall run from the date of the Hearing Examiner's Order on Reconsideration.

Appeal –

The hearing examiner's decision regarding this preliminary plat application shall be final, subject to judicial appeal in the time and manner as provided in RMC 19.70.060 and Ch. 36.70C RCW *(The city's final decision on land use application may be appealed by a party of record with standing to file a land use petition in Benton County Superior Court. Such petition must be filed within 21 days of issuance of the decision). See RMC 24.12.050(B).*

> **NOTE:** The Notice provided on this page is only a short summary, and is not a complete explanation of fees, deadlines, and other filing requirements applicable reconsideration or appeals. Individuals should confer with advisors of their choosing and review all relevant codes, including without limitation the city code provisions referenced above and the Land Use Petition Act (Chapter 36.70C RCW) for additional information and details that may apply.