



NOTICE OF DECISION

PURSUANT TO RICHLAND MUNICIPAL CODE SECTIONS 19.60.080 & 23.46.050, NOTICE IS HEREBY GIVEN THAT THE RICHLAND HEARING EXAMINER HELD A PUBLIC HEARING ON AUGUST 12, 2019 TO CONSIDER AN APPLICATION SUBMITTED BY LCR CONSTRUCTION FOR A SITE PLAN REVIEW APPLICATION FOR THE DEVELOPMENT OF AN APPROXIMATELY 13-ACRE SITE, WITH EIGHT (8) MULTI-FAMILY RESIDENTIAL BUILDINGS CONTAINING UP TO 324 DWELLING UNITS, A CLUBHOUSE AND COVERED PARKING STRUCTURES TOGETHER WITH ASSOCIATED PARKING AND LANDSCAPING AREAS IN THE LIMITED BUSINESS (C-LB) ZONE.

REQUEST: Development of an approximately 13-acre site, with eight (8) multi-family residential buildings containing up to 324 dwelling units, a clubhouse and covered parking structures together with associated parking and landscaping areas

LOCATION: Northwesterly of the intersection of Highway SR-240 and Kingsgate Way (APN#1-28082000007000).

DESCRIPTION OF ACTION: Site Plan Approval approved subject to the following findings of fact, conclusions of law and conditions of approval.

FINDINGS OF FACT:

1. Any statements of fact or findings set forth in previous or following sections of this Decision that are deemed findings of fact are hereby adopted as such and incorporated by this reference.
2. The Examiner has visited the project site, road network, and several nearby development projects in the vicinity on multiple occasions over the last several years, and is fully advised on matters at issue herein, including without limitation applicable law, surrounding uses and potential hazards, application materials, and post-hearing language proposed by the applicant and accepted by the city regarding certain conditions of approval.
3. On or about July 1, 2019, the applicant, Lee Petty/LCR Construction, submitted its Site Plan Review Application needed to construct a 324-dwelling unit multi-family residential project on a C-LB zoned site. *Staff Report, page 7; Exhibit 1.* Following receipt, City staff complied with all applicable public notice requirements for the Site Plan Review application and the public hearing held for the matter. *Staff Report, Page 13, finding 12; Exhibit 4, notices and confirmation materials.*
4. As part of the Site Plan review, the applicant filed a completed SEPA Checklist disclosing various project features that could impact aspects of the surrounding environment. *Exhibit 5.* Staff reviewed the completed checklist, plans, and other application materials and issued a

Determination of Non-Significance for the underlying Site Plan application on August 6, 2019. *Exhibit 6; Staff Report, page 13, finding 13.* No one submitted any comments questioning or challenging the SEPA DNS issued for this project.

5. By operation of WAC 197-11-545 (re: Effect of no comment), if a consulted agency does not respond with written comments within the time periods for commenting on environmental documents, the lead agency may assume that the consulted agency has no information relating to the potential impact of the proposal as it relates to the consulted agency's jurisdiction or special expertise; further, lack of comment by other agencies or members of the public on environmental documents within the applicable time period shall be construed as lack of objection to the city's environmental analysis. Again, the record establishes that the no one submitted any timely comments regarding the DNS or appealed the determination.

6. No one from the general public submitted any written comments or appeared at the public hearing to provide any testimony regarding the pending application for Site Plan Approval.

7. At the public hearing, only staff (Mr. O'Neill) and the applicant's architect (Mr. Stanicar) provided sworn testimony supporting approval of the Site Plan application, subject to conditions. Only two topics – a) ADA compliance associated with pedestrian features on the north and south portions of the project, and b) emergency plan/notification requirements given the project's location in the 10-mile Emergency Planning Zone for the Columbia Generating Station – required additional research and focus after the hearing concluded.

Project.

8. The applicant proposes to construct 8 multi-family residential buildings with up to 324 dwelling units, with a club house building and associated parking structures, paving and landscaping on a 14.8-acre site located in the C-LB zone.

9. The Project is known as the "Horn Rapids Apartments" project, generally located in the northwest corner of Kingsgate Way and SR 240, Parcel No. 12808201361100, across from the Horn Rapids community, in the north part of the City of Richland.

10. There is no dispute that the project site is located within Section 3C of the 10-mile Emergency Planning Zone (EPZ) for potential emergency situations at the Columbia Generating Station or the 300 Area of the Hanford Site. (*See Aug. 6, 2019 memo from Benton County Emergency Services, included in the record as part of Exhibit 10*). A copy of the EPZ area, showing where Section 3C is situated with respect to the Columbia Generating Station nuclear plant (owned and operated by Energy Northwest), and the most current evacuation routes, is provided on the following pages and included in the record as Exhibit 13. As of the date of this decision, the attached map is accessible on the Energy Northwest website (*energy-northwest.com*) under Emergency Information, Evacuation Routes.

11. Benton County Emergency Services provided a written comment regarding this proposal to construct a 324-unit multi-family apartment complex in the designated EPZ area, explaining that: "*Special consideration should be taken to provide emergency notification and instructions to the residents who would eventually reside in the proposed multifamily units. The applicant should create an emergency plan that acknowledges the risk and identifies methods of notifications and*

should coordinate with Benton County Emergency Management regarding the emergency plan.”
Ex. 10.

12. The Examiner takes official notice of previous development permit applications that involved similar emergency planning considerations related to residential uses proposed in or near the EPZ area for the Columbia Generating nuclear plant to the north, including without limitation File Nos. SUP 2015-101 and -102, one of which included evidence showing that several existing residential uses are already within the EPZ in the City of Richland, including the Horn Rapids Golf Course Community, with some projects using tone alert radios in each residence as a means to assure proper emergency notifications and alarms can be provided to affected residents.

13. The Staff Report includes recommended conditions of approval that have been reviewed and acknowledged by the applicant, that are derived from language in the Richland Municipal Code for projects in another zoning district that might also be located in or near the EPZ area noted by Benton County Emergency Services. *(See Staff Report, pages 11 and 12, recommended Conditions 7 through 10)*. Conditions of approval like those recommended in the Staff Report are fully warranted and supported by evidence in the record, including without limitation Exhibits 10 and 13, depicting and explaining the Emergency Planning Zone where this project is located.

14. With respect to the ADA compliance issues raised by the applicant at the public hearing for pedestrian features on the north and south portions of the development site, the Examiner would like to commend the applicant and staff teams for working together to generate language acceptable to all parties, and provides assurance that pedestrian facilities will be designed to comply with ADA requirements to the fullest extent possible. Where site conditions, like steep grades and the like, do not readily allow for ADA compliance, the applicant must provide technical data supporting exceptions or deviations from otherwise applicable city design standards for sidewalks and pedestrian pathways.

15. Throughout the review process and at the public hearing, no one offered any testimony or evidence to rebut key findings provided in the Staff Report, or that would provide any factual or legal basis to deny the requested Site Plan approval. ***The application satisfies approval criteria for Site Plan Review.***

16. The record includes a preponderance of evidence that includes design plans, testimony by the applicants' design architect, a site and design analysis summarized in the Staff Report, written comments, and other materials, which establish that the proposed project satisfies all 5 approval criteria contained for a Type II permit, found in RMC 19.60.095, which reads as follows:

A. The development application is consistent with the adopted comprehensive plan and meets the requirements and intent of the Richland Municipal Code. *See all findings above, and in the Staff Report; Staff Report, analysis on pages 1-10, explaining how the project is designed or can be conditioned to meet performance standards and special requirements for residential uses in the CLB zone.*

B. Impacts of the development have been appropriately identified and mitigated under Chapter 22.09 RMC (the City's SEPA requirements and policies). *As noted above, the project was reviewed under applicable SEPA procedures, which resulted in issuance of a DNS for the*

project, which was not questioned or appealed. See Staff Report, SEPA discussion, and Exhibits 5 and 6.

C. The development application is beneficial to the public health, safety and welfare and is in the public interest. *As conditioned, especially with clear emergency planning and notification requirements generated in consultation with Benton County Emergency Management officials, the project should adequately protect the health, safety and welfare of future residents and be 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. See *Transportation discussion in Staff Report, and Public Works comments and proposed conditions in Exhibit 9, particularly conditions 14-23 that address Traffic and Streets, including access points, frontage improvements, vision-clearance/safety considerations, pedestrian facilities and the like.*

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 conditions of approval for this project are based on the evidence in the record, supported by applicable law, and fully capable of accomplishment.*

17. The Development Services Staff Report includes a number of specific findings and explanations that establish how the underlying application satisfies provisions of applicable law and is consistent with the city’s zoning regulations. Except as modified in this Decision, all Findings and statements of fact contained in the Staff Report are incorporated herein by reference as Findings of the undersigned-hearing examiner.

18. Based on the record, the applicant demonstrated that its Type II Site Plan Review application merits approval, meeting its burden of proof imposed by RMC 19.60.060.

19. Approval of this Site Plan Review will not and does not constitute, nor does it imply any expectation of, approval of any administrative permit or subsequent reviews that may be required for construction or other activities on the site.

CONDITIONS OF APPROVAL:

1. The site shall be developed in substantial conformance with the site plan, landscaping plan and building elevations submitted with the site plan review application, included in the record as part of *Exhibit 2*;

2A. Site development shall conform to the requirements and conditions included in the Public Works Department Comments dated August 1, 2019 included in the records as *Exhibit 9* – except that items 16 and 18 under “Traffic & Streets” are modified to read as follows:

16. A sidewalk shall be installed alongside or parallel to the south side of the “private access easement” roadway along the north boundary of the project. In addition, a sidewalk shall be installed along or

parallel to the southerly access road to Kingsgate Way. To the fullest extent possible, these sidewalks shall be ADA compliant. Where existing conditions do not readily allow for ADA compliance, the applicant shall provide technical data supporting exceptions or deviations from the standard.

18. The pedestrian path connection to the Vantage Highway pathway shown on Sheet SP-2 and located along the south property boundary of the project shall be redesigned to access the path from the southwest corner of the site shall be constructed substantially similar as depicted on the submitted Site Plan SP-2.1 dated August 15, 2019. This is to serve the likely pedestrian demand for convenient access to the City's planned park to the west of this site. To the fullest extent possible, this pathway section constructed shall be ADA compliant.

2B. Any modifications or minor deviations to conditions found in Ex. 9 shall be subject to approval by the Development Services Manager.

3. The site plan(s) submitted with subsequent building permit application(s) shall specify precise setbacks for each building respective to distances from the nearest property line(s);

4. A minimum 10-foot wide, irrigated landscape buffer shall be provided interior to and along the entire distance (800-feet) of the northwesterly property line. Said landscape buffer shall contain trees spaced thirty (30) feet apart and shall contain a variety of shrubs and grasses interspersed between the trees;

5. Landscaping within the 10-foot landscape strip along the western property boundary shall include tree plantings for each 30 linear feet along the landscape strip. Trees shall be species having an average mature spread of crown of greater than 15 feet and shall be a minimum of six to eight feet in height and have a diameter at breast height (dbh) caliper of at least one and one-half inches at planting. Diameter at breast height is measured at four and one-half feet from average grade within six feet of the tree trunk so as not to include mounding at the tree base. Trees having an average mature spread of crown less than 15 feet may be substituted by grouping the same so as to create the equivalent of a 15-foot crown spread;

6. A single freestanding sign is available to the property. Sign placement shall be restricted to the center 2/3 of the respective Kingsgate Way right-of-way frontage in a location outside the clear vision triangle;

7. The applicant shall prepare an emergency response plan in coordination with Benton County emergency services. Said emergency response plan shall be implemented prior to or simultaneously with the issuance of a certificate of occupancy for a project. Installation of radios, signaling devices, signage, alarms, or other emergency notification/alert equipment may be required as part of building permits for aspects of the project.

8. Prior to the submittal of the first building permit application for the project, the applicant shall consult with Benton County emergency services to determine the following:

i. The specific hazards to residential, day care and/or preschool populations that exist in the vicinity of the project site resulting from existing industrial land uses in the general area. Such hazards shall be determined and assessed through the review of risk management hazard plans that are on file with Benton County emergency services;

ii. The parameters of the emergency services plan that are necessary to support the proposal. Such plan will at a minimum address the following:

- (A) Provisions for emergency notification;
- (B) Identification of evacuation routes;
- (C) Identification of special populations that may reside or be located within the proposed project (small children, seniors, individuals with mobility restrictions, etc.) for identification of specific provisions to address the safety of these special populations;

iii. Identification of any plans for sheltering residential populations during an emergency event and any specific building or site design features to be incorporated into the project to mitigate potential hazards created by nearby industrial facilities; and

iv. Identification of plans to inform the future residents of the residential project of the specific emergency notification procedures and actions that would be taken during an emergency event.

9. Following completion of the consultation process, the applicant shall obtain a written statement from Benton County Emergency Services that either:

i. Indicates that the proposed project site is located outside of any known hazard area which represents a threat to residential, day care or preschool populations as identified in the risk management plans on file with Benton County emergency services and that the requirement for a specific emergency response plan is waived; or

ii. Identifies the known hazards to residential, day care or preschool populations that are known to exist in or near the project site. Such report shall identify the specific mitigation measures that will be included in the emergency response plan. The applicant shall sign a statement acknowledging and agreeing to the mitigation measures included in the emergency response plan.

iii. The applicant is required to provide any information requested by Benton County emergency services for the preparation of an emergency response plan;

10. The written statement from Benton County Emergency Services referenced in Condition No. 9 (above) shall be submitted to the City's Development Services Manager concurrent with the first building permit application for the project.

11. Any requirements imposed by Benton County Emergency Services (for buildings or units to include emergency alert equipment or devices and the like) or other government agencies with jurisdiction or authority over any aspect of the project shall be deemed conditions of approval for this Site Plan Review.

APPEAL PROCEDURES: Written notice of appeal to the city council, together with such fees as are required by RMC [19.80.020](#), must be filed with the city clerk within 10 days from the date of the issuance of this notice of decision. Such appeal shall be consistent with the requirements set forth in Chapter [19.70](#) RMC for appeal of decisions on Type II permit applications. Appeals must be filed within 10 business days of issuance of this notice. The deadline for filing an appeal is September 30, 2019.



Mike Stevens,
Planning Manager

September 16, 2019
Date