



NOTICE OF DECISION

PURSUANT TO RICHLAND MUNICIPAL CODE SECTION 19.60.080 NOTICE IS HEREBY GIVEN THAT THE CITY OF RICHLAND HEARINGS EXAMINER, ON APRIL 14, 2021 APPROVED THE PRELIMINARY PLAT OF WALNUT HEIGHTS (CITY FILE NO. S2021-101) SUBJECT TO CONDITIONS CONTAINED IN THE HEARING EXAMINER REPORT (ATTACHED):

**DESCRIPTION
OF ACTION:**

Preliminary plat of "Walnut Heights" subdividing 8.48-acres into 23 lots for single-family residential construction and one stormwater retention site.

SEPA REVIEW:

The above referenced action was reviewed in compliance with the requirements of the State Environmental Policy Act (RCW 43.21c) and the City issued a Determination of Non-Significance (EA2021-101) dated February 22, 2021.

APPROVED:

The subdivision approval is subject to conditions contained in the Hearing Examiner Decision.

PROJECT LOCATION:

The project site is located at 1255 Jolianna Dr, Richland, WA, which was formerly addressed as 771 Shockley Road, Richland, WA. The Assessor's Parcel Number for the site is 127982000004000.

APPEALS:

Appeals to the above described action may be made to the Benton County Superior Court by any Party of Record. Appeals must be filed within 21 days of issuance of this notice, which is April 16, 2021.

Mike Stevens
Planning Manager

April 16, 2021
Date



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

**FINDINGS, CONCLUSIONS AND
DECISION APPROVING
PRELIMINARY PLAT OF WALNUT HEIGHTS**

FILE NUMBER: S2021-101

APPLICANT/OWNER: R3T VENTURES, LLC

APPLICATION: TO SUBDIVIDE 8.48-ACRES INTO 23 SINGLE FAMILY RESIDENTIAL LOTS AND ONE STORMWATER RETENTION SITE, WITH ASSOCIATED INFRASTRUCTURE IMPROVEMENTS, REQUIREMENTS TO PAY APPLICABLE IMPACT FEES, AND OTHER CONDITIONS REQUIRED BY CITY DEVELOPMENT REGULATIONS

LOCATION: 771 SHOCKLEY ROAD, A TRAPEZOID SHAPED SITE LOCATED SOUTH OF SHOCKLEY ROAD AND WEST OF JOLIANNA DRIVE, ANNEXED INTO THE CITY OF RICHLAND ON JANUARY 5, 2021. THE SITE IS IN THE SOUTH RICHLAND AREA, RUNNING NORTH TOWARDS SHOCKLEY ROAD FROM THE NEW SINGLE FAMILY SUBDIVISION OF JOLIANNA HEIGHTS.

PARCEL NUMBERS: BENTON COUNTY ASSESSOR PARCEL No. 127982000004000

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

SUMMARY OF DECISION: *APPROVE*, SUBJECT TO CONDITIONS

DATE OF DECISION: APRIL 14, 2021

I. CONTENTS OF RECORD.

Exhibits: Staff Report. City of Richland Development Services Division Staff Report and recommendation of approval to the Hearing Examiner regarding “Walnut Heights” Preliminary Plat, File No. S2021-101, dated March 8, 2021 (27 pages);

1. Application materials;
2. Public Notices and materials confirming same;
3. SEPA Environmental Checklist and Determination of Non-Significance issued for the proposal; and
4. Written comments submitted by agencies and members of the public;

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. Rob Duncan, one of the owners/applicants, explained that the proposal is for a single project with no phasing; and
3. Tyler Duncan, for the owner/applicant.

II. APPLICABLE LAW.

This application for preliminary plat approval was filed and vested under City of Richland development regulations in effect in January of 2021. 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 plat¹ 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 final written Decision. A preliminary plat application is a Type III procedure. RMC 19.20.010(C)(1). The Staff Report includes some erroneous language referencing the old process, where the Examiner only made a recommendation to the City Council on preliminary plats. That is no longer the case and should be disregarded.

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

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.

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;

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.

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. 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 a preponderance of evidence. *RMC 19.60.060 and Hearing Examiner Rules of Procedure, Sec. 3.08.* 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 a preponderance of evidence demonstrates that the applicant has met its burden of proof to satisfy the criteria for preliminary plat approval?

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 Walnut Heights Preliminary Plat, as set forth below.

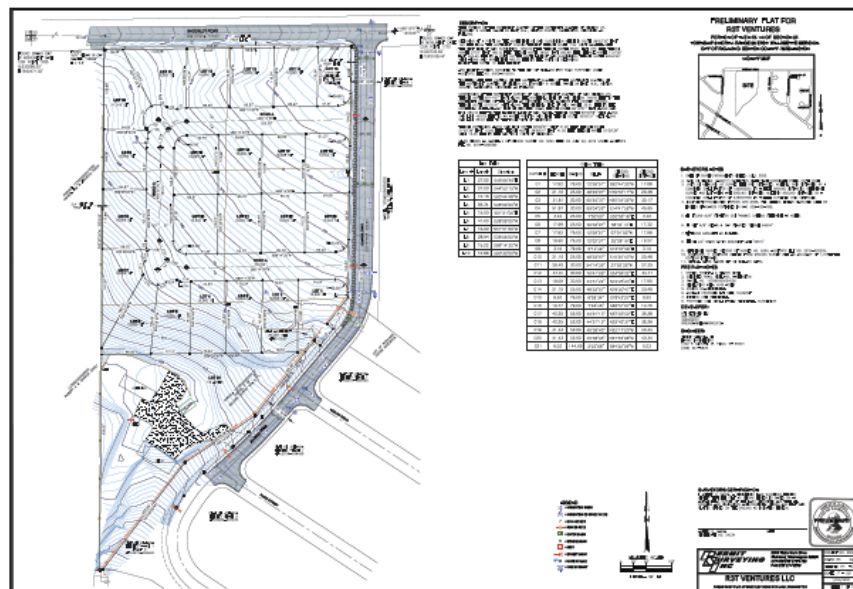
IV. FINDINGS of FACT.

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

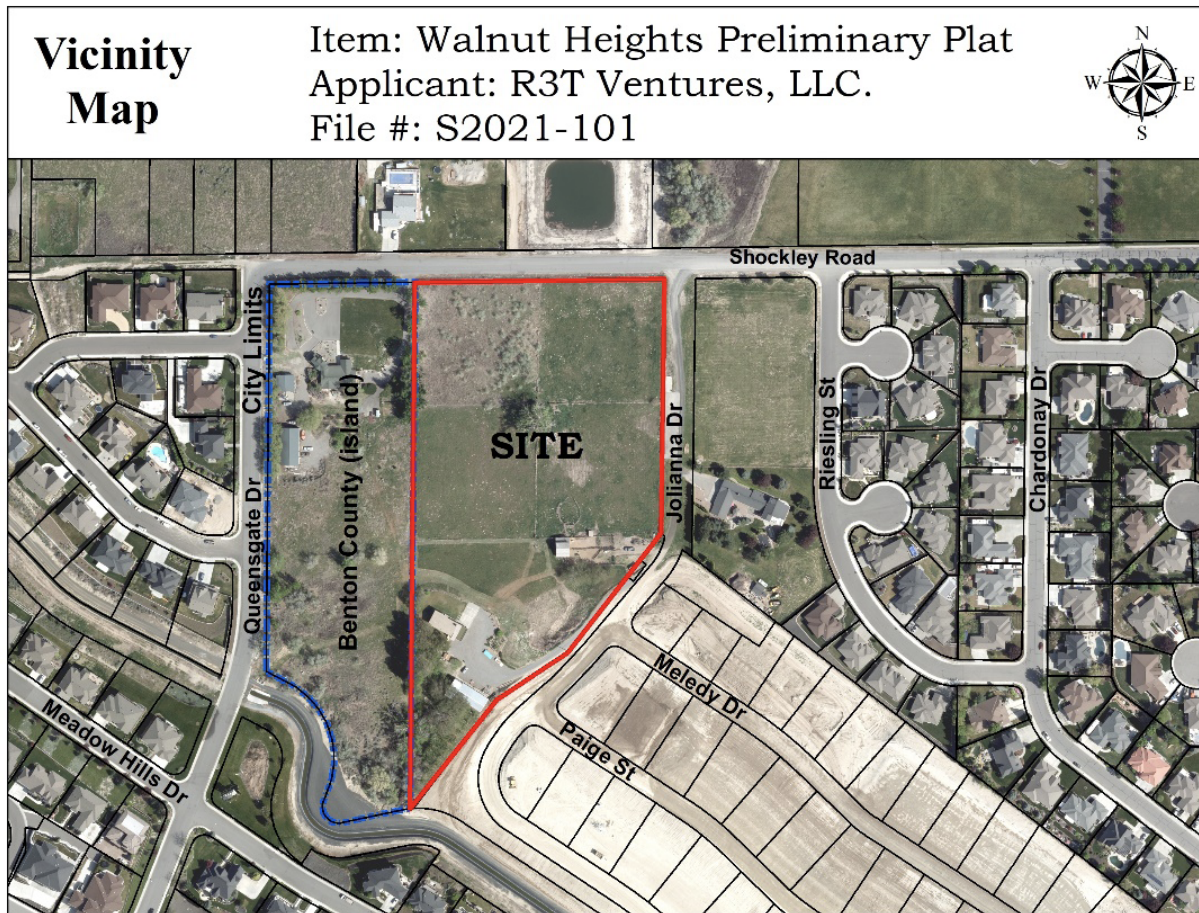
2. The Examiner has visited the road network and vicinity of the proposed plat on multiple occasions over the past few years in connection with other applications, and is fully advised on matters at issue herein, including without limitation adjacent developments and land uses, applicable law, application 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. The applicant, R3T Ventures LLC, is the owner of the 8.48-acre parcel that is subject to this pending preliminary plat application submitted on or about January 14, 2021. (*Ex. 1, Preliminary Plat Application materials; Staff Report, page 6*). Staff deemed the application materials complete for purposes of vesting on or about January 29, 2021, when they issued the first of several notices informing the public of the pending application and public hearing. (*Staff Report, page 6; Ex. 2, public hearing notices and confirmation materials*).
5. The proposed subdivision would divide the 8.48-acre site into 24 total lots, with 23 single family residential lots and one stormwater retention site (Lot 15), to be known as the Walnut Heights Preliminary Plat. The proposed plat will be served by City utilities, includes a new public street that will form a loop inside the new plat and provide two access points to/from Jolianna Drive, and comply with city development regulations mandating curbs, gutter and sidewalks on public rights-of-way. A copy of the proposed plat is provided below. (*Staff Report; Exhibit 1, application materials, particularly page 30 of 104 pages on .pdf file of project materials shared with the Examiner, Preliminary Plat illustration, sheet 1 of 1*).



6. A copy of the vicinity map provided in the Staff Report is republished below.



7. The Staff Report explains that the entire project site has been zoned R-1-10, which is consistent with the low-density residential development designation assigned in the City's Comprehensive Plan. Thus, the plat could be developed with up to average allowable residential density of up to 5 units per acre, though this application only proposes a net residential density of 3.35 dwelling units/acre. There will be 22 new residential lots; one much larger residential lot that will encompass the existing house, small vineyard, and other outbuildings on the lower triangle-shaped portion of the parcel; and one lot in the lowest part of the site on the northeast corner reserved for stormwater retention purposes, for a total of 24 lots.

8. Proposed lot sizes range from 7,500 square feet to 82,764 square feet; with an average lot size of 13,012 square feet. Access to the new plat would come from two connections with Jolianna Drive, with lots in the plat served by driveways connecting to the new interior loop road shaped like an extended horseshoe from Jolianna Drive. (*Staff Report, pages 2 and 11; Ex. 1, application materials, Preliminary Plat illustration above*).
9. The dimensional standards (setbacks and the like) for the proposed plat are summarized on page 5 of the Staff Report.

SEPA Compliance.

10. *Exhibit 3* includes the Environmental Checklist submitted by the applicant for project and the City's Determination of Non-Significance (DNS) issued on February 22, 2021. Several agencies and interested parties 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 ; Agency comments, included as part of Ex. 4*). 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.
11. Environmental information in the record confirms that the proposed new subdivision site is not located within nor does it contain any critical areas as defined by the city's critical areas regulations found in RMC Ch. 22.10.
12. The Staff Report appropriately explains that RMC 19.60.095(D) requires that new development proposals such as this shall not lower the level of service standard for transportation facilities below a level of service "D". (Staff Report, page 12). So, while the proposed project would add 22 new single family lots that will have direct access onto roadways proposed in the plat and in the vicinity, the Walnut Heights site is subject to RMC 12.03, the City's traffic impact fee program. Since this property is included within the traffic impact fee program it is exempt from the SEPA-related traffic study requirement (TIA). (*id.*).

Cultural Resource Considerations.

13. After receiving public notice regarding the pending application, the City received two comments expressing concerns about the potential for archaeological or cultural resources that could be uncovered on the property. (*See Ex. 4, written comment letter from Washington Dept. of Archaeological and Historic Preservation (DAHP), and email comment from the Yakama Nation*).
14. Corrine Camuso, the Cultural Resources Program Archaeologist for the Yakama Nation wrote: "The project is located within the traditional use area of the Yakama and is an area

considered to have a high probability for encountering cultural resources being near Yakama Traditional Cultural Properties and other culturally sensitive sites. We recommend a cultural resources survey. Please ensure a copy of the report is sent to our program for review/comment.” (*Email comment from Ms. Camuso to Mr. Stevens dated Feb. 10, 2021, included as part of Ex. 4*).

15. State Archaeologist Sydney Hanson wrote: “While our statewide predictive model indicates that there is a moderate-to-low probability of encountering cultural resources within the proposed project area, the project is located at the foot of Badger Mountain, an area of significance to several Tribes. Further, 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 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.” (*DAHP comment letter from Ms. Hanson to Mr. Stevens dated Feb. 10, 2021, included as part of Ex. 4*).
16. Given these comments, Staff recommended a condition of approval requiring a cultural resources survey of the project site before any ground disturbance work can occur. The Examiner has modified such condition, based on evidence in the record, to include additional language granting the Planning Manager authority to include additional conditions based on the results and recommendations made in the cultural resources survey report, from DAHP officials, or affected Tribes.

Public Hearing; notable issues.

17. The open-record public hearing for the application occurred on March 8, 2021, wherein the undersigned Examiner presided, and all persons wishing to provide comments were heard, providing testimony under oath. City staff and Applicant representatives appeared at the hearing, with no one from the general public asking to speak. No one opposed this application in writing or during the public hearing. 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.
18. The Examiner takes official notice of his previous subdivision application Recommendation of Approval made to the City Council for the neighboring Jolianna Heights preliminary plat, issued in December of 2016, under File No. S2016-102. That hearing record included relevant information about the surrounding street network, Shockley Road, and Jolianna Drive, that will serve this new Walnut Heights plat. The prior owner of the applicant’s property, Ben Zinsly, appeared during that hearing, and expressed his interest in seeing his property annexed into the city, which occurred in January of this year. The Jolianna Heights’ applicant expressed concerns with new road connection requirements that could prove beneficial to other undeveloped parcels, like Mr. Zinsly’s property (now the Walnut Heights’ applicant’s property), so he was fully advised on his opportunity to pursue a latecomer

agreement to share costs of public infrastructure (like a new street) that could benefit other soon-to-be-developed properties³. (See Findings, Conclusions and Recommendation to Approve “Jolianna Heights” Preliminary Plat, File No. S2016-102, on Page 8).

19. To date, this record offers no information on whether such “latecomer” options were pursued, or if any latecomer agreement obligations apply to the applicant in this Walnut Heights application. If any latecomer agreement has been or is subsequently created that attaches to the applicant’s property, then the terms of such agreement and financial obligations shall apply. And, this applicant is well within its right to explore its own latecomer options, though there do not appear to be many, if any, public street system requirements associated with this project that might benefit other property owners.
20. As noted above, City staff and two applicant representatives were the only people who appeared and presented testimony under oath at the duly noticed open record public hearing held on March 8, 2021. 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.
21. At the hearing, Mr. Stevens summarized his Staff Report and recommendation of approval for the proposed plat.
22. On behalf of the applicant, Rob Duncan, explained that this project will be developed at the same time, without any phasing, as implied in several recommended conditions of approval.
23. Tyler Duncan asked a question to clarify how an easement might be included on the face of the plat. Neither of the applicant representatives challenged any of the recommended conditions of approval or the analysis included in the Staff Report.
24. Given the comments received about possible cultural resources that could be uncovered during project development, Staff proposed a condition of approval, number 58, which reads as follows: “Based on known cultural resources on or near the work site, an archaeological survey of the project area shall be conducted prior to ground disturbing activities. All results shall be shared with the Washington State Department of Archaeology & Historic Preservation and Yakama Indian Nation.” This is insufficient to satisfy the compelling concerns raised by the Yakama and DAHP archaeologists.
25. To properly address concerns raised by the Yakama Nation and DAHP, Condition 58 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 Walnut Heights project site. Further, before undertaking any ground disturbance activities on the project site, the

³ RMC 12.09.010, addressing “Latecomer Agreements” for street improvements, reads as follows: *Any developer using private funds to construct street system improvements within the corporate boundary of the city may request to enter into a latecomer agreement with the city in order to recover a pro rata share of the costs of construction from other property owners that will later derive a benefit from the street system improvements made by the developer. The procedure for entering into such an agreement is administered by the city and provided in Chapter 3.10 RMC.*

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).

26. Evidence in the record supports the revised condition 58, 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.
27. Except as noted above, no one offered evidence of the sort that would serve as a basis to deny or add additional conditions to this project.

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

28. With 24 lots proposed on an 8.48-acre site, the Staff Report explains that the application is within the density limits for the site, which is designated for low-density residential development in the Comprehensive Plan (average of 0-5 units per acre) and located in the City's R-1-10 Low Density Residential zone. The net residential density for the Walnut Heights plat would be 3.35 dwelling units per acre. (*Staff Report, pages 2, 3, 4*).
29. 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 6, 7*).
30. 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 24.12.053. 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

31. 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*).

32. The applicant’s proposed plat design, as modified by conditions of approval, merits approval.

Proposed plat will provide public benefits

33. 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.

34. Except as modified in this Decision (particularly passages in the Staff Report referencing the previous preliminary plat review process where the Examiner’s product is only a recommendation and not a final decision), all Findings, and statements of fact contained in the Staff Report, are incorporated herein by reference as Findings of the undersigned-hearing examiner.⁴

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

⁴ 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.

35. 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 6-11, and proposed findings on pages 11-12.*
 - B. Open Spaces: *See Staff Report, page 9, 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 Manual 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 9; Storm Water conditions of approval 35-45; Sanitary Sewer conditions 31-33.*
 - 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; Conditions of approval 15-24.*
 - 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 existing or future transit stops and facilities. The proposed plat is within the Ben Franklin Transit service area, which provides service along Keane Road, about a quarter mile from the entry point to the new plat. Staff Report, page 9.*
 - 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 9).*
 - 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. Staff Report, at page 9; Sanitary Sewer conditions 31-33.*
 - 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, page 9. 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 9.

- 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.

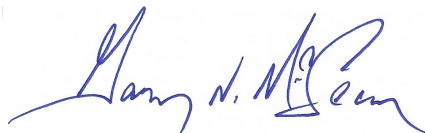
V. CONCLUSIONS of LAW.

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 conditions of approval imposed as part of this Decision are reasonable, supported by the evidence, and capable of accomplishment.
3. 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 previous site visits to the area, **the undersigned Examiner APPROVES the "Walnut Heights" Preliminary Plat** application, subject to the following Conditions of Approval.

Decision issued: April 14, 2021.



Gary N. McLean
Hearing Examiner for the City of Richland

**CONDITIONS OF APPROVAL
FOR THE
PRELIMINARY PLAT OF WALNUT HEIGHTS
FILE NO. S2021-101**

General Conditions:

- A. Development of the plat shall be substantially consistent with drawings provided in the Preliminary Plat Survey map included as part of the application materials, subject to modifications necessary to comply with these conditions of approval.
- 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. Because the applicant confirmed that the Walnut Heights plat will not be developed in phases (Testimony of Rob Duncan), all language addressing potential phases for this preliminary plat are moot and of no effect, whether specifically noted as such or not in any proposed condition of approval adopted as final conditions herein, as set forth below.

Public Works:

- 1. [Eliminated, as Applicant confirmed that project will not be developed in phases. *Testimony of Rob Duncan*].

2. 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.
3. A copy of the construction drawings shall be submitted for review to the appropriate jurisdictions by the developer and their 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. 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.
10. 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/>
11. 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:

11.2 Public improvement design shall follow the following general format:

- a. *[now included as preface above, to items listed under Condition 11.2].*
- b. 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.
- c. Water lines shall be aligned on the south and east side of street centerlines.
- d. Sanitary sewer shall be aligned on the north and west side of street centerlines.
- e. Storm sewer shall be aligned on the south and east side of street centerlines.
- f. 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.
- g. 10-foot horizontal spacing shall be maintained between domestic water and sanitary sewer mainlines and service lines.
- h. Fire hydrant location shall be reviewed and approved by the City Fire Marshal.
- i. Sewer mains over 15-feet deep shall be constructed out of SDR26 PVC.
- j. All utilities shall be extended to the adjacent property (properties) at the time of construction.
- k. 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.
- l. The minimum centerline radius for local streets shall be 100-feet.
- m. Any filling of low areas that may be required within the public Right of Way shall be compacted to City standards.
- n. 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.
- o. A detailed grading plan shall be included in the submitted plan set.
- p. 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.

- q. 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.
- r. All public improvements shall comply with the State of Washington and City of Richland requirements, standards and codes.
- s. All 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.
- t. All public streets shall meet design requirements for sight distance (horizontal, vertical and intersectional).
- u. 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 mail boxes. All electrical appurtenances such as transformers, vaults, conduit routes, and street lights (including their circuit) need to be shown in the plan view.
- v. 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.
- w. 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. *[Moot, because the applicant confirmed that the project will not be developed in phases. Testimony of Rob Duncan].* 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:

- a. 2-inches compacted gravel, minimum (temp. SEVAs only).
- b. 2% cross-slope, maximum.
- c. 5% slope, maximum. Any access road steeper than 5% shall be paved or be approved by the Fire Marshal.
- d. Be 20-feet in width.
- e. Have radii that are accommodating with those needed for City Fire apparatus.

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. A. 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)).

B. 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 file a permit with the DNR.

C. 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 Walnut Heights is subject to RMC 12.03, the City’s traffic impact fee program. Since this property is included within the traffic impact fee program it is exempt from the SEPA-related traffic study requirement (TIA).

16. The two bends in Road A need to be designed per city standard ST-16. As proposed they do not meet this minimum standard.

17. The Shockley Road frontage shall be completed per Richland Municipal Code and per City standards at the time of project construction, or during phase 1 construction if the project is phased. The road section (curb, gutter and sidewalk) shall be built with the face of curb at 18-feet off of centerline. A ten-foot public utility easement along the Shockley Road frontage shall be provided on the face of the final plat.

18. A note will be shown on the face of the final plat stating that Shockley Road is classified as an “Major Collector street”. Subsequently, no driveways accessing single family lots will be allowed onto it.

19. Sidewalks shall be installed along all public right-of-way frontages that building lots do not front on during construction of those phases (e.g., storm drainage ponds, parks, HOA tracts, etc.). In addition, the developer shall install a City standard sidewalk from the driveway to lot 24 down Jolianna Drive to the existing sidewalk.

20. The developer and his 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.

21. Pedestrian ramps shall be designed to current City standard details and A.D.A. standards. 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 standards. Crosswalks at stop-controlled intersections shall have crossslopes less than 2%. Crosswalks crossing thru-streets shall have cross-slopes less than 5%. The road profile shall be designed to accommodate this.

22. 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.

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

24. 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:

25. The proposed preliminary plat is located within the Tapteal 2 water pressure zone. There is a Tapteal 2 watermain is located in Jolianna Drive. It shall be the responsibility of the developer to extend a watermain to and through this property to serve domestic water at the time of construction. This water main shall be sized to adequately supply domestic water and fire flows to the proposed development. The water main shall make a separate connection to the existing main in Jolianna Drive at both the north and south intersections with Road A.

26. 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.

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

28. The developer shall provide a water service stub to all lots, including lot 24.

29. Richland Municipal Code Chapter 18.10 requires connection to available public water supplies and the discontinuance of private water systems. The developer shall affect compliance with this code as it relates to the existing private well and the properties served by it. This well can continue to be used for irrigation purposes but not for domestic uses.

30. In accordance with Richland Municipal Code Chapter 18.16.080, an irrigation source and distribution system, entirely separate from the City's domestic water system, shall be provided for this development. Irrigation service stubs shall be provided to all lots, including lot 24 and the proposed stormwater pond site. Construction plans will not be accepted for review until adequate and viable proof of an irrigation source is made available by the developer. The designing Engineer shall submit plans for the proposed irrigation system to the Irrigation District with jurisdiction over the property at the same time that they are submitted to the City for construction review. Plans shall be reviewed and accepted by said irrigation district prior to issuance of a Right-of-Way permit by the City. Easements shall be provided on the final plat for this system where needed.

Sanitary Sewer:

31. The closest sanitary sewer available for this development is located in Shockley Road. It shall be the responsibility of the developer to extend a sewer main to this property to serve sanitary sewer at the time of plat construction.

32. 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 may be required.

33. Sanitary sewer shall be extended to the adjoining properties adjacent to the preliminary plat. Lot 24 shall have a sewer service extended to it.

Ground Water:

34. A master grading plan completed by a licensed engineer shall be submitted along with the first submission of construction plans. The grading plan and accompanying geotech report shall make provisions for the existing neighboring land owners and address any impacts that the proposed grading and/or groundwater impacts will have on them. It shall also include a means for managing groundwater or subsurface springs if any are encountered during grading or construction.

Storm Water:

35. 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.

36. 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.

37. Storm drainage piping shall be installed in accordance with the City of Richland's Comprehensive Stormwater Management Plan. A portion of the 18-inch "Shockley Storm Mainline Conveyance" pipe shall be installed in Shockley Road (as identified in the Comp. Plan). This pipe currently ends approx. 270-feet to the east of this property. It shall be the responsibility of the developer of this project to extend this storm main to and across the frontage of this property. This storm main may be used by the developer to discharge flows in excess of those required to be managed on-site by the RMC and Public Works design standards.

38. If any existing storm drainage or ground water seepage drains onto the proposed site, said 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.

39. 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”).

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

41. 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.

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

43. 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. The design of the basin shall include access features meeting the city’s needs for maintenance.

44. The developer should consider the long-term appearance of the storm basin since 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. The developer shall propose a landscaping plan for the stormwater infiltration pond for City consideration. Landscaping requiring more maintenance effort than the City standard described above shall be provided by the development. 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.

45. 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:

46. 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.

47. 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.

48. 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.

49. 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.

50. 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.

51. The final plat shall include notes identifying all common areas and tracts and acknowledging the ownership and maintenance responsibility by the homeowners.

52. Street signs indicating any restricted parking areas shall be installed prior to final platting at the developer’s expense. The restricted parking areas shall be indicated on the final plats.

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

54. A one-foot “No access / screening easement” will be required along the Shockley Road right-of-way.

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

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

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

Planning Conditions.

58A. Revised by the Hearing Examiner based on DAHP and Yakama Nation comments: 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 Walnut Heights project site. The applicant must share the survey report with Washington State Department of Archaeology & Historic Preservation and the Yakama Nation offices that provided written comments included in the record as part of Ex. 4. 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 (2021-02-00786) for the Walnut Heights Subdivision Project is shared with any hired cultural resource consultants and is attached to any communications or submitted reports.

58B. If the archaeological survey report required by condition 58A 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.

Irrigation Conditions, requested by KID.

59. The plat shall include the following irrigation easements consistent with KID requirements:

- a. Dedicate to KID an irrigation easement 10 feet in width via a recorded deed to match irrigation system components, centered on an irrigation pipeline.
- b. On all lots within the plat, dedicate to KID an irrigation easement 10 feet in width, or five (5) feet in width if adjacent to a utility easement, located along the road frontage of each lot. An irrigation easement may be included within the 'sidewalk and utility' easement if one is proposed, denoting the easement as a "Sidewalk, Utility, and Irrigation Easement."

60. The application is required to install an irrigation system that conforms to the most recent edition of the KID Standard Specifications pursuant to Resolution 86-15-A. This includes providing distribution pipelines adequate to provide individual pressurized irrigation services to each lot within the preliminary plat. This system will be dedicated to the KID upon completion, at the time of final plat.

- a. KID Standard Specifications require a storage pond facility be constructed and sized appropriately for this plat application. Please dedicate this storage facility as a tract of land deeded to the KID. In addition, the KID Standard Specifications require a pump station facility be constructed and sized appropriately for this plat application.
- b. As an alternative to a pond, pump station, and other "on site" construction requirements per KID standards Specifications, the Applicant and KID may mutually agree that it is in each of their best interests that other "off site" improvements may be made to allow for the delivery of pressurized irrigation water to the plat. The other improvements would be proportionate and equal to the "on site" requirements and may include:
 - i. Contributions made towards a regional pump facility.
 - ii. The installation of pipelines off site.
 - iii. Entering into a Voluntary Mitigation Agreement with KID.

61. Design of the required irrigation system must be approved by KID prior to installation. The applicant is required to submit an irrigation plan designed by a professional engineer for review and approval by the KID. The plan may be hand drawn or computer drafted. The plan shall be accurate and to a scale not to exceed one (1) inch = 50 feet. This is a vital step of the approval process. In addition to compliance with Condition 2 above, the Plan must ensure all reasonable measures are taken to protect any easements, right-of-ways, and facilities. Please contact KID at 586-6012 for more information regarding this irrigation plan.

62. Completion of all the facilities, consistent with irrigation plan approved by KID, is required prior to KID signature on the Final Plat.

a. In the event any KID facilities are damaged during construction, the damage must be fully repaired to KID's then-existing standards.

b. For each phase of the plat, KID review and approval of construction and grading plans is required to allow KID to assure all reasonable measures to protect any easements and right-of-ways. Such review and approval will be coordinated as part of City review and the Final Plat approval process.

c. The KID must inspect any new irrigation system installations or modifications. The Applicant shall contact the KID to arrange an inspection at least 48 hours in advance of the desired inspection date.

d. As an alternative to immediate construction prior to approval of the Final Plat, the Applicant may choose to delay installation of the irrigation system by entering into a facilities installation agreement with the KID. The Applicant must still provide the KID with an irrigation system design that conforms to the most recent addition of the KID standard specifications. This irrigation system may be bonded and delayed up to five years. The facility installation agreement charge is \$350.00. The Applicant must establish an approved bonding mechanism with the KID in an amount approved by KID.

63. For each phase of the Project, KID/USBR review and approval of grading and construction plans is required to allow KID to assure all reasonable measures to protect any easements and ROWs. Such review and approval will be coordinated as part of the City's review and Final Plat approval process.

64. The Applicant shall include the potential failure of KID system components in its public offering statement for the plat pursuant to RCW 58.19.055(1)(r), which requires a public offering statement to include "[a] list of any physical hazards known to the developer which particularly affect the development or the immediate vicinity in which the developer is located and which are not readily ascertainable by the purchaser."

65. Prior to approval of each phase, the current year's assessment must be paid. If the final plat is submitted for review after May 31st of a given year or submitted for review prior to May 31st but not submitted for final approval prior to June 15th, the next year's estimated assessment (125% of the current year's assessment) must be paid prior to plat approval.

66. Prior to approval of the first phase, the USBR construction loan for all parcels owned by the property owner within the boundaries of the KID must be paid and all other USBR requirements associated with this payout must be completed.

67. The Review and Inspection fees in place at the time of each review request must be paid. At the time of application, the review fees are as follows:

a. A Preliminary Plat review fee of \$825.00 which must be paid prior to scheduling for final plat approval at a KID Board meeting for the first phase.

b. For each Phase an inspection fee of \$350 for the first 20 lots/tracts plus \$25 per lot/tract after 20 lots/tracts.

c. Final Plat review fee for each phase of \$225.00.

68. Per KID Policy 4.17, "Irrigable Land Recalibration Principles," as land within the plat is subdivided or developed; KID will remove the irrigation water allocation from the impermeable surfaces, such as streets, from the plats.

69. In order to receive KID irrigation water delivery, a water master (or point of contact) for the subdivision must be appointed. This water master can be appointed by the Homeowners Association (or similar organization) officers, or must be elected from among the property owners within the boundary of this proposed subdivision. If no HOA (or similar organization) is organized, then an election method is required (contact KID for pertinent

documentation).

70. Prior to approval of each phase, an electronic file (AutoCAD 2004 format) and hard copy (6-mil mylar, sealed by a professional engineer) of construction as-builts must be provided to KID.

71. All subdivisions of land are required to be approved by the KID Board of Directors during a KID Board Meeting. KID Board Meetings are regularly scheduled on the first and third Tuesdays of each month. All conditions must be received by KID a minimum of two weeks prior to a regularly scheduled Board Meeting in order to be considered at that meeting.

72. KID reserves the right to provide review comments under RCW 58.17.330(1) and RCW 58.17.330(2) in response to future design submittals by the Applicant prior to final plat approval. The scope of these reviews will be limited to Phases that are adjacent to the District's Rights of Way. KID review of construction plans will be consistent with the City of Richland's plan review timelines.

73. KID reserves the right to review and comment on the Applicant's plat line revisions for potential additional revisions to protect KID system components for Phases that are adjacent to KID's easements or ROWs.

74. KID reserves the right to review and comment on the Applicant's covenants, conditions, and restrictions to evaluate whether they should include any terms regarding protection of KID system components after construction and fencing requirements.

75. *[Moot, as the SEPA review, comment, and appeal periods for the DNS issued for this project have expired]*. KID reserves the right to submit additional comments during the City's review process under the State Environmental Policy Act (SEPA).

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.