



NOTICE OF DECISION

PURSUANT TO RICHLAND MUNICIPAL CODE SECTION 19.60.080, NOTICE IS HEREBY GIVEN THAT ON DECEMBER 16, 2021 THE CITY OF RICHLAND HEARING EXAMINER ISSUED A DECISION APPROVING THE PRELIMINARY PLAT OF SOUTH ORCHARD (CITY FILE NO. S2021-104):

**DESCRIPTION
OF ACTION:**

The preliminary plat of "South Orchard" proposing to subdivide 194.5-acres into 475 lots and twenty-nine (29) tracts for residential, commercial, civic and open-space development, has been approved.

SEPA REVIEW:

The probable significant adverse environmental impacts of the proposed project have been adequately addressed in the Planned Action Ordinance [RMC 19.50.030 (B)].

APPROVED:

The subdivision application has been approved.

PROJECT LOCATION:

The project site is located along the north side of Reata Road, west of Morningside Parkway in the Badger Mountain South master planned community (APN 1-04882000001000)

Shane O'Neill,
Senior Planner

December 17, 2021
Date

A full text of the Hearing Examiner's recommendation report can be viewed at:
<https://www.ci.richland.wa.us/departments/development-services/planning/land-use>

An appeal of 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.



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

**FINDINGS, CONCLUSIONS AND
DECISION APPROVING
“SOUTH ORCHARD” PRELIMINARY PLAT**

FILE NUMBER: S2021-104

APPLICANT/OWNER: NOR AM INVESTMENTS, LLC

APPLICATION: TO SUBDIVIDE 194.5 ACRES INTO 475 LOTS, ALLOWING FOR RESIDENTIAL, COMMERCIAL, CIVIC, AND OPEN-SPACE DEVELOPMENT

LOCATION: PART OF THE BADGER MOUNTAIN SOUTH SUB-AREA, IN THE BADGER MOUNTAIN MASTER PLANNED COMMUNITY, ON THE WEST END OF THE SOUTHERNMOST PART OF THE BMS COMMUNITY, NORTH OF REATA ROAD

PARCEL NUMBERS: 1-0488-200-0001-000 (PARENT PARCEL)

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

SUMMARY OF DECISION: *APPROVAL*, SUBJECT TO CONDITIONS

DATE OF DECISION: DECEMBER 16, 2021

I. CONTENTS OF RECORD.

Copies of all materials in the record and a digital audio recording of the open-record hearing conducted for this application are maintained by the City and may be requested by using the City's Public Records online portal or other methods for requesting records as described in the City's Public Records Disclosure Policy No. 0260.

Exhibits: *Final Staff Report.* City of Richland Development Services Division Staff Report and recommendation of approval to the Hearing Examiner regarding the "South Orchard" Preliminary Plat, File No. S2021-104, transmitted to the Examiner on Nov. 12th, dated November 17, 2021, issued following Remand, with 11 attached exhibits, as identified and numbered on page 34 of such report (*80 pages in .pdf file of materials, with report on pages 1-34*);

Remand Order. Issued by the Hearing Examiner in September of 2021, based on issues that prevented approval at such time (six pages);

Initial Staff Report. City of Richland Development Services Division Staff Report to the Hearing Examiner detailing numerous issues regarding the "South Orchard" Preliminary Plat and recommending Remand of such application for revisions, File No. S2021-104, dated July 12, 2021, with 9 Exhibits as identified and numbered on page 33 of such report (*91 pages in .pdf file of materials*);

Applicant's Response to Initial Staff Report. Email correspondence from Applicant Representative, Mr. Sweeney, to City Staff, dated July 9, 2021, with multiple attachments, all transmitted to the Examiner from Staff on July 12, 2021;

Amended Staff Report, for initial public hearing in July. Staff memo amending Initial Staff Report, dated July 8, 2021, with several exhibits attached thereto, including an additional *Exhibit 7A*, an email comment from the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Cultural Resources Protection Program (CRPP) dated July 7, 2021, which reads as follows:

"[CTUIR] has reviewed the materials regarding the BMS South Orchard project. The project area is in close proximity to three historic properties of religious and cultural significance, Piyuušmaamí uštáy ('hills of the snakes'), usipamá ('for horses'), and Wišpúšya ('Beaver') to the CTUIR. Given that the project area is in close proximity to these traditional use areas and that the project will reach native soils, the likelihood of encountering cultural resources is high. Therefore, we recommend a cultural resource survey with subsurface testing."

Primary Exhibits Relied upon in issuing this Decision – all provided with the Final Staff Report, with updated drawings, comments, and recommendations, based on revisions made to the proposal in response to the Remand Order:

1. Application, REVISED, dated October 21, 2021 (.pdf pages 35-36);
2. Preliminary Plat Maps, Road Sections, Grading and Drainage Plans, Utility and other plan sheets, including 10 pages of REVISED plan sheets dated 10.21.2021 (begins on .pdf page 37);
3. Applicant’s Response to the Remand Order, undated (begins on .pdf page 55);
4. TENW memo dated October 18, 2021, re: ongoing review of BMS Traffic Impact Analysis (TIA) (begins on .pdf page 57);
5. Master Agreement Consistency Recommendation (MACR), revised, dated October 21, 2021 (.pdf page 58);
6. Master Agreement Consistency Determination (MACD), revised, dated Nov. 3, 2021 (.pdf page 64);
7. Planned Action Consistency Determination (PACD), revised, dated November 3, 2021 (.pdf page 65);
8. BMS Master Agreement, page D-6 (.pdf page 67);
9. Site Photos (.pdf page 68);
10. Public Notices and affidavits confirming same (.pdf page 72);
11. Written Comments received after Remand, before final hearing, including two items, one a letter dated Nov. 8, 2021 from the City of West Richland, and another dated Nov. 10, 2021 from WSDOT (these comments are marked as Exhibit 12 in .pdf file of materials, beginning on .pdf page 78).
12. (Added into the Record during the final night of hearing) Public Works Department memo dated November 9, 2021, detailing specific transportation improvement projects funded by Traffic Impact Fees collected in Traffic Impact Zone 3, where the proposed plat and other parts of the BMS community are located. Previously included as Exhibit 16 in the Goose Ridge II Decision. Submitted and discussed during Mr. O’Neill’s testimony.
13. Applicant Response to Final Staff Report, undated, forwarded to the Examiner on November 18th.

14. Post-hearing Supplement to Final Staff Report, including additional conditions of approval, mistakenly omitted from the Staff Report, with attached emails by/between staff and applicant representatives, indicating acceptance with such proposed conditions.
15. Richland City Council packet item for its Nov. 16th meeting, with coversheet, proposed Interlocal Agreement, drawing, and other materials, updated to include signed copy of Richland City Council Resolution No. 139-21, adopted on November 16, 2021, authorizing an agreement with Benton County to revise the City of Richland's corporate boundary to include the Reata Road right-of-way where it runs below the BMS/South Orchard development project, discussed during the public hearing, as a way to resolve questions regarding frontage improvements and the like that will be required along such right-of-way if it is in the County or the City. *(signed copy transmitted to the Examiner on November 19th).*
16. BMS Master Agreement, from October 2015, complete copy added to the record by the Examiner for reference by interested parties.
17. Master Declaration of Covenants, Conditions, and Restrictions for Badger Mountain South, added to the record by the Examiner for reference by interested parties. *(Benton County Auditor's Office, Recording No. 2012-027520 COV, recorded on 09/07/2012 (30 pages)).*

Testimony/Comments: The following persons were sworn and provided testimony under oath during the open-record hearing on November 17th for the revised application:

1. Shane O'Neill, Senior Planner, for the City of Richland;
2. Pete Rogalski, P.E., Public Works Director for the City of Richland, explained his professional judgement and opinions that support wider streets than some shown in application materials, that traffic safety and general drivability would be reduced if narrower streets are used in some instances, and that the City's transportation impact fees collected for each building permit in the proposed plat will be sufficient to proportionally fund transportation system improvements needed to mitigate impacts of this project, and that the pending TIA will be used to refresh the list of transportation improvements needed for the BMS community, which is all located in a specific impact fee area, known as "zone 3";
3. Darren Sweeney, Applicant's representative, summarized written comments included in the record as Ex. 13, which included concurrence with a possible condition of approval to withhold final plat approval until the TIA is accepted ("We are working with City staff to make sure the new TIA is accepted and approved before the final plat of the first phase of South Orchard is approved. We would be

amenable to a preliminary plat condition to make that a requirement of the final plat”), spoke to the merits of the revised South Orchard preliminary plat application;

4. Kaleb Mapstead, P.E., with AHBL Inc., Engineer of record for the project applicant, summarized portions of plan sheets that he believes to show compliance with various requirements and standards for the proposal merits of application and responded to questions; clarified that final plat design would not include narrower (32 foot) road widths on streets that are considered “Major” collectors, noting Major collectors would be at least 34 feet;

For this application, the Examiner takes official notice of sworn testimony provided by Mr. Rogalski and Carlo D’Alessandro, PE, Transportation and Development Manager for the City of Richland Public Works Department, during the public hearing held on November 8, 2021 before the Hearing Examiner for the Goose Ridge II preliminary plat application (File No. S2021-107), which is also located in the BMS community and included comments from the City of West Richland similar to those found in Ex. 11 for this South Orchard project. During their testimony, Mr. Rogalski and Mr. D’Alessandro offered credible and un rebutted evidence that trip counts used to determine if transportation improvements are “triggered” so construction should move forward are based upon building permits issued, not lots approved in final subdivisions, so the 1,000 unit threshold and others referenced in some comments have not been or will not be met until such time as 1,000 building permits are issued for new homes in the BMS community.

II. APPLICABLE LAW.

Under applicable provisions of the Richland Municipal Code (RMC), a preliminary plat 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).

As explained in RMC 24.12.050(A), the hearing examiner shall consider any preliminary plat application and shall conduct an open record public hearing in accordance with Chapter 19.60 RMC. After the public hearing and review of materials in the record, the hearing examiner shall determine whether the preliminary plat is in accordance with the comprehensive plan and other applicable code requirements and shall either make a decision of approval or disapproval. The same provision of the city’s code (RMC 24.12.050(A)) provides that any approval of the preliminary plat shall not be given by the hearing examiner without the prior review and approval of the city manager or their 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)¹ 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.*
- 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*

¹ "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).

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. (emphasis added).

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 satisfied their burden of proof to satisfy the criteria for preliminary plat approval?

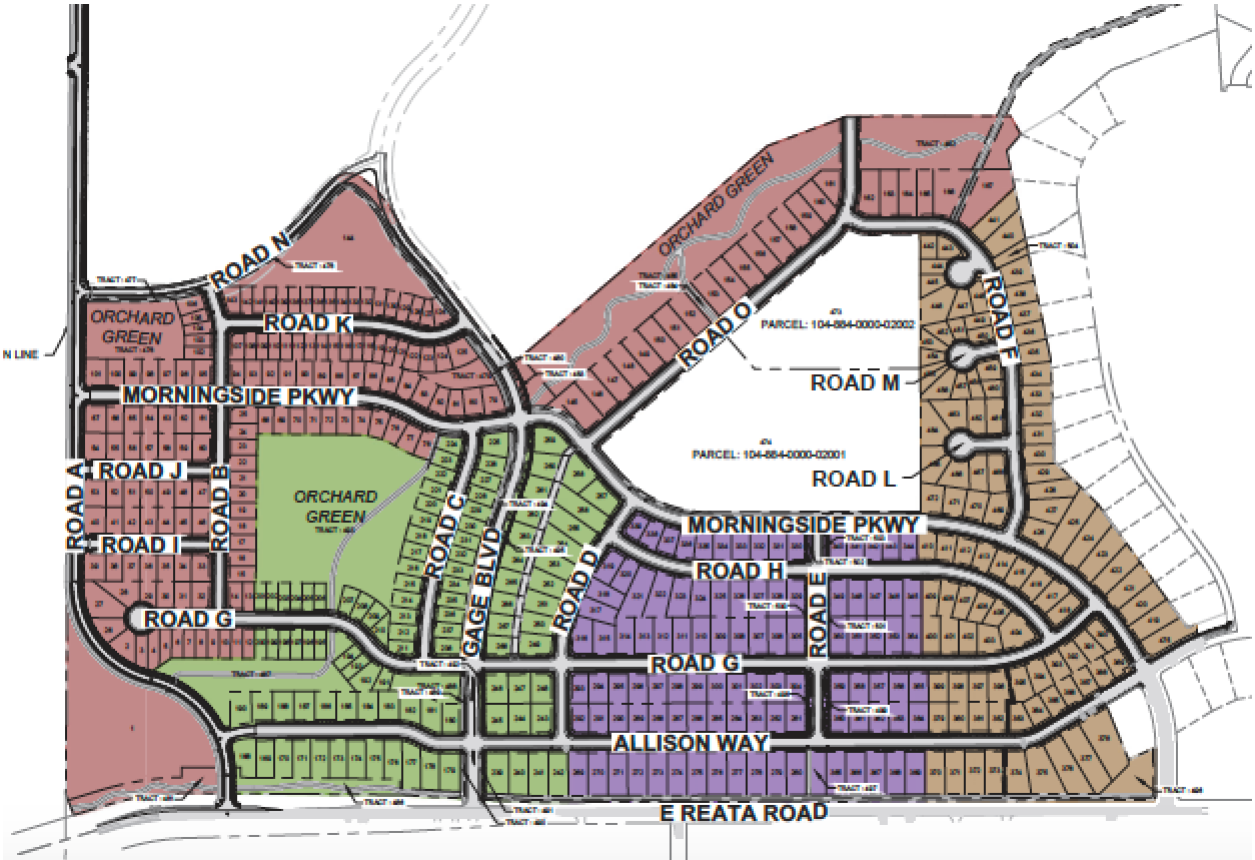
Short Answer: Yes, but only if the proposed plat is developed in compliance with specific conditions.

IV. FINDINGS OF FACT.

1. Upon consideration of the Staff Report, exhibits, public hearing testimony, follow-up research and review of applicable codes, plans, policies, controlling legal instruments, including without limitation the Badger Mountain South LUDR provisions, this Decision is now in order. Based on all the evidence, testimony, codes, policies, regulations, and other information contained in the Record, the Examiner issues the following findings, conclusions and Decision to approve the preliminary plat as set forth below.
2. Any statements in previous or following sections of this document that are deemed findings are hereby adopted as such. Captions should not be construed to modify the language of any finding, as they are only provided to identify some of the key topics at issue in this application.
3. Nor Am Investment, LLC, is the applicant and owner of the parcel(s) of property addressed in this revised preliminary plat application. (*Final Staff Report, pages 1-2; Exhibit 1, revised application; Ex. 2, revised plat drawings*).

4. The project site is part of the larger Badger Mountain South master planned community and is subject to review and compliance with applicable provisions of city development regulations as well as the Land Use and Development Regulations (LUDR) for the Badger Mountain South master planned community.
5. The Badger Mountain South master planned community is intended to be a “walkable and sustainable community” with a range of housing types, mixed-use neighborhoods, up to 5,000 dwelling units, businesses and other commercial activities, all subject to specially adopted Land Use and Development Regulations (LUDR) for the area. (*LUDR, 1.A, Intent, and 1.B, Purpose*). The property addressed in this application is located in the “South Orchard” portion of of the BMS community. (*LUDR, Sec. 1.E*).
6. Earlier this year, the city received a new application for a Preliminary Plat known as South Orchard, assigned File No. S2021-104. Testimony at the initial public hearing for this matter, on July 12th, explained that a previously approved preliminary subdivision for the same area expired at some point this year and is of no legal effect in this new application.
7. Based upon the record established at the initial public hearing, the Hearing Examiner found that the proposal could not be approved because it failed to meet applicable city requirements and LUDR provisions and remanded the application for additional information and revisions needed to satisfy relevant standards and approval criteria. (*Remand Order, dated September 29, 2021*).
8. On or about October 21, 2021, the Applicant submitted revised plat application materials, included as *Exhibits 1-4* in the Final Staff Report. Following review of the revised application materials, city staff deemed the materials complete for purposes of further review and acceptance on or about the same date it mailed, posted, and published Notices of the revised Application and Public Hearing for the matter on November 3 and 5, 2021. (*Final Staff Report, page 11; Ex. 10, copies of notices and confirmation materials*). All written comments received prior to the final public hearing from members of the public or interested agencies are included in the record as part of *Exhibit 11*. Copies of public comments received before the initial public hearing were also reviewed and considered in issuing this Decision. The applicant and City staff adequately addressed most of those comments and major concerns in revisions made to the application, and/or in new information included in the record following the Remand Order. The same is true for most all of the sworn testimony from the initial public hearing, which was considered in reaching this Decision, but was not of special relevance given that the application has been revised and additional evidence has been included in the record to clarify various issues.
9. This revised South Orchard preliminary plat application would divide 194.54 acres into a development site with 475 total lots, including 471 residential lots, 2 multi-family lots, 2 civic/open space lots, and 29 tracts. (*Final Staff Report, page 2; Ex. 2, Revised Preliminary Plat illustrations, dated October 21, 2021, Sheet C001, Land Use Table*).

10. For the reader’s convenience, a screen shot of the revised Preliminary Plat of South Orchard illustration is provided below:



(Portion of revised plat drawing, included as part of Ex. 2, ‘Revised Preliminary Plat’ illustration, dated October 21, 2021, Sheet C001).

- 11. The application seeks approval to develop the proposed plat in 4 (four) phases, as depicted using different colors for each phase as shown above and on the more detailed plan sheets included in *Exhibit 2*.
- 12. The LUDR specifies various “districts” that are applied to properties in the BMS community. For this plat, most of the land area is located in the BMS-NG (Neighborhood General) District, with large portions in the BMS-NE (Neighborhood Edge) District, the BMS-NC (Neighborhood Connector) District, the BMS-NC District with an overlay, and the BMS-Civic District (See *Staff Report, discussion on pages 5 and 6; Ex. 2, revised preliminary plat plan sheet C005, labeled “BMS Districts”*).
- 13. Block standards are mandated in the LUDR at Section 7.B, including without limitation: a restriction on block lengths to no more than 1,000 feet (see *LUDR Sec. 7.B(2), which is satisfied by this application through use of trail connections, a midblock crossing, and the like to interrupt otherwise lengthy road-segments along blocks as explained on page 9 of the*

Staff Report, subject to a correction that the longest, uninterrupted block length for this revised plat appears to be 985 feet instead of 1,045-feet as stated in the Final Staff Report², see further discussion of the topic in Ex. 5, the updated MACR for this revised application, on .pdf page 62); and requirements for a minimum number of at least 2 (two) Building Types per block in portions of this proposed plat that are in the BMS-NC and BMS-NG districts (see Sec. 7.B(5)(a).

14. Section 2.D of the LUDR specifies all of the Building Types that are allowed in each District.
15. Conditions of approval must be enforced that require the applicant to identify all Building Types that will be allowed on each lot included in this plat, to ensure compliance with the Building Type, the minimum number of Building Types per block mandates, density, and other requirements. *(See discussion in Staff Report; Comments in Ex. 13, Applicant's response to Final Staff Report, providing additional information showing how proposal satisfies LUDR density requirements, and need to revise either LUDR or Master Agreement to be consistent with one another).*
16. Consistent with LUDR Sec. 1.G(5) and 7.B(5)(a)(2 and 3), the face of the final plat documents must identify the building type(s) that will be allowed on each lot, and demonstrate that there will be two building types per block for all blocks of the proposed plat that are within the BMS-NC and BMS-ND Districts. *(See proposed Condition of Approval No. 78, on page 34 of Final Staff Report).*
17. The Regulating Plan and purpose section for the various districts in the BMS community is found in the LUDR at Sec. 1.F.1(c), which reads in part as follows: *"No house in the BMS-NG District is intended to be farther than three blocks from any park, mini park or other type of open space."* *(LUDR, page 1-3, Sec. 1.F.1(c)).* While this LUDR provision did not come up during public testimony for this application, it has been a significant issue in other preliminary plats considered in the BMS community, especially the recent Goose Ridge II matter. While a cursory review of the revised plat design shown in Ex. 2 for this South Orchard subdivision appears to include genuine park, mini park, and open spaces, so that no house in the NG District areas will be further than three blocks from such amenities, all final plat reviews for each phase of this plat must ensure that Sec. 1.F.1(c) and all other LUDR provisions are satisfied. (NOTE: The "3-block" proximity rule in Sec. 1.F.1 of the LUDR should probably be included in future reviews and recommendation forms used by the Master Plan Administrator and City staff).
18. If not already, as determined by the Planning Manager and the City Attorney, Conditions addressing ownership and maintenance of privately held open space/park, and other common

² The higher figure showing the largest block size to be greater than 1,000 feet appears to be a typographical error, as a possible "carry-over" number first used in the initial staff report, because the revised and initial Master Agreement Consistency Recommendation both indicate that the longest block length (without interruptions) is just 985 feet. In any event, the MACR clearly evidences concurrence that the LUDR mandates a 1,000 foot limit on block-lengths, and the Examiner finds and concludes that the block-interruption strategies used in this revised plat are appropriate means to accomplish such objective.

areas should be included in specific covenants, conditions, and restrictions for the subdivision, sometimes called CC&Rs or CCRs.

19. The Examiner takes official notice of a recorded legal instrument that applies to properties located in the BMS master planned community³, specifically The Master Declaration of CC&R's for Badger Mountain South, which includes a section that reads as follows:

8.1 **Applicability.** The following use standards, conditions and restrictions shall apply to all residential lots within BMS. The CCRs for any Phase may contain more restrictive but not less restrictive standards, conditions and restrictions. In the event any architectural, design, construction, use, or maintenance standard, condition or restriction for a Phase is more restrictive than provided in this Article 8, the more restrictive standard, condition or restriction shall control.

20. Based upon the record, the Examiner finds and concludes that it is necessary to include requirements for additional CCRs that clarify spaces that are required for Park/Open Space purposes in this proposed plat, how such space is to be landscaped, the amenities required in such space, the function any Park or Open Space is intended to provide, and the like, as well as language recognizing that the City is not responsible for enforcing provisions in any CCR, but that it rests with the specific HOA for a particular subdivision.

Transportation Concurrency.

21. RMC 19.60.095(D) mandates that a projects like this preliminary plat proposal may 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. (emphasis added).*
22. One of the primary reasons for the Remand Order was based upon testimony and evidence showing that transportation concurrency requirements could not be satisfied until a final, updated Transportation study for the BMS community was approved by the City of Richland. Before the remand, there was no clarity on precisely what “yardstick” the City was using to

³ This document was not included in the application materials or the Staff Report but was provided to the Examiner during post-hearing research to obtain access to relevant legal instruments addressing many of the topics raised by BMS residents in connection with other BMS project applications before the Examiner. Given the substance of comments that were not adequately addressed in testimony or written materials already in the record, the Examiner found good cause to reopen and supplement the record at the end of last week, to include a copy of the CC&Rs and a copy of the entire BMS Master Agreement, which includes provisions that resolve some unanswered questions at the time of the Remand Order. The record is now closed, and this Decision is in order. (See H.Ex. Rule 1.14(d) re: official notice of records; and Rule 1.17, reopening to supplement record; new Exhibits 16 and 17).

determine if and when various road improvements will be required. Following the Remand, the City's Public Works Director and Transportation Engineer offered credible, un rebutted evidence and sworn testimony as part of the Goose Ridge II hearing process, establishing that "Building Permits issued" instead of "approved lots" are used as the yardstick to determine if and when various transportation improvement requirements are triggered for projects in the BMS community.

23. Having reviewed and considered the entire record, including the entire BMS Master Agreement that has been added to the record by the Examiner as *Exhibit 16*, and prior sworn testimony from City Public Works staff responsible for transportation system improvement issues, the Examiner finds and concludes that the "yardstick" used by the City to count units for purposes of triggering various transportation improvements is actual building permits issued by the City in the BMS community, and not the number of lots approved in final plats issued for properties that are located in the BMS community. (*Testimony of Mr. Rogalsky during this hearing as well as during the Goose Ridge II hearing; Testimony of Mr. D'Alessandro during the Goose Ridge II hearing; Ex. 12, Public Works Department memo detailing specific transportation improvement projects funded by Traffic Impact Fees collected in Traffic Impact Zone 3, where the proposed plat is located*).
24. Mr. Rogalsky provided credible and reassuring testimony, within the scope of his professional expertise, and provided written materials explaining that this proposal will be required to pay transportation impact fees that are used to fund a long list of specific transportation improvements needed to mitigate impacts associated with this proposed plat. (*Ex. 12; Testimony of Mr. Rogalsky*).
25. Based upon the testimony of Mr. Rogalsky, *Exhibit 12*, and the mitigation measures included in the Planned Action Consistency Determination issued on November 3, 2021 (*Ex. 7*), the Examiner expressly finds and concludes that a specific list of required transportation system improvements or strategies are or will be in place at the time of occupancy of this project, or the impact fee revenues to be collected for each building permit issued for homes in the new plat will serve as an adequate financial commitment to complete the required improvements within six years of final plat approval for this plat. However, if at the time of final plat approval for any phase of this plat, City officials determine that impact fees and other resources (including additional contributions from or work performed by private developers) have been or will be inadequate to complete transportation projects required as conditions to mitigate the impacts of this plat, then the final plat could be denied. (*See RMC 19.60.095(D), concurrency requirements for preliminary plats; RMC 24.12.110, Final Plat approval requirements*).
26. In response to public comments from local residents in the BMS community in other preliminary plat hearings, or from surrounding jurisdictions like the City of West Richland, expressing concerns that the timing of some transportation projects may have been changed from dates given in the Master Agreement, the Examiner directs attention to Section 19.4 of the BMS Master Agreement, which reads as follows: "The timing for the construction of

Transportation Improvements is set forth in Exhibit B⁴. The City and Nor Am may agree to change the timing of construction of road improvements if deemed to be in the public interest. Mr. Rogalsky and Mr. D'Alessandro have offered credible testimony in public hearings summarizing some of the projects where timing has been changed, as they deemed to be in the public interest. Moving forward, periodic written reports or updates from the Public Works Director on the City's website pages summarizing BMS community information may be helpful to keep the public and neighboring jurisdictions (like West Richland) better informed, and to maintain public confidence that transportation system requirements are appropriately monitored and enforced, all as the Public Works Director might deem to be in the public interest. An additional condition of approval has been included as part of this Decision, specifying that changes in the timing of road improvements required as part of this project shall be considered "Minor Revisions" to the approved preliminary plat, subject to a Type I approval process that includes public notice of such decisions and possible appeals to the Examiner, noting that any review of such revision requests will require substantial deference to any determination made by the Public Works Director. (See RMC 19.20.010 and .030; See Condition of Approval, General **Condition J**).

27. While the issue may have already been resolved through discussions between state and city officials, the applicant and City staff should be fully advised that no phase of final plat approval should move forward until concerns expressed by WSDOT are adequately addressed. See *Ex. 11*, the WSDOT Comment letter dated November 10, 2021, from Region Planning Engineer, Paul Gonseth, P.E., found on page 80 in the .pdf file for the Final Staff Report materials, which reads in relevant part as follows:

"The subject property is in the vicinity of Interstate 82 (I-82) and the Dallas Road (Exit 104) interchange and within the Badger Mountain South (BMS) subarea. I-82, including the interchanges, is a fully controlled limited access facility, Highway of Statewide Significance (HSS), and part of the National Highway System (NHS). We are not opposed to this proposal, or any previous proposals within the BMS subarea; however, we are concerned with the cumulative impact development of the subarea is having on I-82, specifically the Exit 104 interchange. Exit 104 currently operates within acceptable safety and operational thresholds and it is to the benefit of the city, county and state to preserve this interchange's safety and efficiency. The additional vehicle trips generated by this project will cause the total subarea trip level to exceed all mitigation triggers described in exhibit B of the BMS master agreement. To date, no effort to mitigate subarea impacts to I-82 and Exit 104 has been made. The latest analysis, the draft BMS Traffic Impact Analysis (TIA) dated May 14, 2021, states the eastbound and westbound ramp terminals at Exit 104 are projected to fail in 2025. The TIA also recommends the developer only contribute towards a portion of the cost to mitigate these impacts and doesn't clearly identify a complete funding strategy. It is our position that the BMS subarea is the sole driver creating the need for improvements to Exit 104, and the developer and city are responsible for ensuring these impacts are mitigated prior to the year 2025.

Therefore, as a condition of plat approval, the city and developer must amend the BMS master agreement to include fully funded mitigation strategies and updated timelines to preserve the safety and efficiency of the I-82 Exit 104 interchange. [...]" (*Ex. 11, Comment Letter dated November 10, 2021, from WSDOT Region Planning Engineer, Paul Gonseth, P.E., included as part of documents erroneously marked Exhibit 12, provided with the Final Staff Report package, found on page 80 of 80 in the .pdf file*).

⁴ Included as *Ex. 16* in this record for the South Orchard application.

SEPA Compliance.

28. The City of Richland’s Planned Action Ordinance adopted in or about 2010 for the Badger Mountain master planned community covers development within the Badger Mountain South Subarea. The Supplemental Final Environmental Impact Statement issued in 2010 for the Planned Action Ordinance covers the site of this proposed plat. (*Final Staff Report, page 11*). Accordingly, standard SEPA review is not required, so long as the project is consistent with the master plan and mitigation measures adopted and identified in applicable SEPA documentation for the master planned area. (*Final Staff Report discussion on page 11; and Ex. 7, Planned Action Consistency Determination*). With such documentation, and so long as the project is developed in a manner that meets the conditions of approval imposed as part of this Decision, which mandates compliance with the LUDR provisions applicable to the BMS master planned community, the pending application satisfies(ies) applicable SEPA review requirements.
29. The applicant objected to Staff’s proposed Condition in the Initial Staff Report that would have mandated a professional archaeological survey of the site prior to ground disturbing activities, based on a letter from the Department of Archaeology and Historic Preservation. (*See .pdf page 74 of Initial Staff Report file materials, where a DAHP official explains that: “Our statewide predictive model indicates that there is a moderate probability of encountering cultural resources within the proposed project area.”; Initial Staff Report; Testimony of applicant representatives at the July hearing*).
30. There is no evidence in this record to show that DAHP’s predictive model mapping was ever included as part of the record reviewed or considered at the time the original environmental review occurred for the BMS community in the late 2000s or whenever it occurred.
31. Similarly, there is no evidence in the record showing that information included in a written comment submitted by the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) was ever included as part of the environmental information reviewed or considered when the BMS environmental reviews took place in the late 2000s. (*See Exhibit 7A, a written comment from the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Cultural Resources Protection Program (CRPP) dated July 7, 2021, which reads in part as follows:*

“[CTUIR] has reviewed the materials regarding the BMS South Orchard project. The project area is in close proximity to three historic properties of religious and cultural significance, Piyuušmaamí uštáy (‘hills of the snakes’), usipamá (‘for horses’), and Wišpúušya (‘Beaver’) to the CTUIR. Given that the project area is in close proximity to these traditional use areas and that the project will reach native soils, the likelihood of encountering cultural resources is high. Therefore, we recommend a cultural resource survey with subsurface testing.”
32. The Final Staff Report modifies the initial recommendation for a full cultural resource survey, omitting a recommended condition to this effect, and makes reference to RCW

43.21C.440.3(b), regarding no requirement for additional environmental review if a proposal is consistent with the development described in the planned action ordinance. (*Final Staff Report, page 20, item 28*).

33. In any event, the Examiner finds and concludes that there is a clear preponderance of un rebutted evidence establishing that cultural resource concerns must be taken into account as this project moves forward. Accordingly, the applicant must confer with DAHP and CTUIR officials, to generate an Inadvertent Discovery Plan, to be onsite throughout ground disturbance work on the site, independent of substantive SEPA authority, but to be consistent with other state statutes addressing cultural resource protections, including without limitation RCW 68.50.645, RCW 27.44.055, and RCW 68.60.055.

Public Hearing.

34. The open-record public hearing for this revised application occurred on November 17, 2021, wherein the undersigned Examiner presided, and all persons wishing to provide comments were heard, providing testimony under oath. Brief summaries of key topics raised during public testimony is provided in other parts of this Decision. The hearing was conducted using the Zoom online hearing platform, coordinated by City Staff, all in accord with proclamations and public health measures in effect at this time. The Examiner has visited the site of the proposed project on multiple occasions, and public roads leading to and from the vicinity of the proposed plat, and is familiar with the larger Badger Mountain South area from previous visits in connection with other applications over the last few years.
35. The Final Staff Report and recommendation of approval includes a number of specific findings and conditions that partially establish how the underlying plat application, as conditioned, can satisfy provisions of applicable law, be consistent with the city's Comprehensive Plan, and designed or conditioned to comply with applicable development standards and guidelines. It points out some requirements found in the LUDR that must be satisfied before any phase can be granted final plat approval.
36. Additional conditions of approval have been added by the Examiner to ensure that all staff and future developer representatives fully understand and appreciate that the burden is on the applicant to show compliance with applicable provisions of the LUDR and the Richland Municipal Code at every stage of development, whether or not such provisions are enumerated or referenced in the approved preliminary plat plans, in the staff report, or in this Decision.

Compliance with city development regulations achieves consistency with the Comprehensive Plan

37. RMC 24.04.020 explains that the purpose of the City's platting and subdivision codes is "*in furtherance of the comprehensive plan of the city*" and that such regulations contained in the city's platting and subdivision codes "*are necessary for the protection and preservation of the public health, safety, morals and the general welfare, and are designed, among other*

things, to encourage the most appropriate use of land throughout the municipality; to lessen traffic congestion and accidents; to secure safety from fire; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to promote the coordinated development of unbuilt areas; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve and restore natural beauty and other natural resources; and to facilitate the adequate provision of transportation, water, sewerage and other public uses and requirements.” The effect of this provision boils down to this: compliance with the City’s Comprehensive Plan can be established, or at least partially established, through compliance with the city’s platting and subdivision regulations found in Title 24 of the Richland Municipal Code. In this matter, a preponderance of 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, including without limitation those reflected in the LUDR for Badger Mountain South, thus implementing and complying with the City’s Comprehensive Plan. *(See Staff Report, all Findings)*. Obviously, if the proposed plat is not designed and/or conditioned to demonstrate compliance with all applicable LUDR provisions, then the application would NOT be compliant with the city’s comprehensive plan.

As Conditioned, and if developed in compliance with requirements in applicable LUDR provisions, the proposed plat will provide public benefits

38. The applicant’s submittals established 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, construction of new roads, sidewalks, an attractive street system to serve the new plat, and other features that will serve to promote health benefits of a walkable, pedestrian-friendly community.

A preponderance of evidence in the record demonstrates the proposed project, as conditioned, satisfies approval criteria.

39. The record contains a preponderance of evidence to demonstrate that, as conditioned, the proposed plat makes appropriate provisions for:
- A. The public health, safety, and general welfare: *See Final Staff Report; all Findings above; Conditions of Approval; Ex. 7, Planned Action Consistency Determination, mitigation measures; Testimony of Public Works Director re: Transportation System improvement issues.*
 - B. Open Spaces: *Findings above, Conditions of approval; Final Staff Report, including discussion on bottom of page 14.*
 - 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. *Final Staff Report, recommended Storm Water conditions; Ex. 7, mitigation measures.*

- 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 has been deemed consistent with all applicable LUDR and city standards for city roads, streets, driveways, access, circulation, transportation concurrency and the like. *Final Staff Report, proposed conditions; Testimony of Public Works Director; Ex. 12, list of transportation projects funded by impact fees to be collected in connection with this project; Ex. 7, mitigation measures; Conditions of Approval, including addressing Traffic and Streets.*
- 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, though no bus service is currently provided for the neighborhood. The transit agency was given lawful notice of the proposed plat and did not provide any comments or feedback for consideration as part of the record in this matter. *Staff Report, page 15.*
- 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. Irrigation water will continue to be available within the plat, as provided by the Badger Mountain Irrigation District. *Staff Report, pages 10 and 25; TAC recommended Domestic Water conditions on pages 18 and 19 of the Staff Report.*
- G. Sanitary systems: The City's sewer system has capacity to serve the proposed plat, and will do so. *Staff Report, at page 12 and 15, recommended Sanitary Sewer Conditions of Approval.*
- H. Parks and recreation, playgrounds, schools: The Staff Report and site plans show that the project includes provisions for new trails, green space, some park like amenities, advancing the Badger Mountain South vision with homes in close proximity to recreational venues throughout the master planned community. The Staff Report explains that the park mitigation fees will be paid for each dwelling unit constructed within the plat. School needs for future residents are adequately addressed in the LUDR for the Badger Mountain South master planned community. *Staff Report, page 15. Conditions of approval require compliance with LUDR provisions, including the 3-block proximity to parks/open space standard for homes in the NG districts, LUDR 1.F.1(c).*
- I. Planning features to assure safe walking conditions for students: The proposed plat includes walking paths and sidewalks that will adequately provide safe walking routes and conditions for school children. *Ex. 2, revised preliminary plat plans showing sidewalks and trails in the new plat.*

40. Except as modified in this Decision, all Findings, and statements of fact contained in the Final Staff Report are incorporated herein by reference as Findings of the undersigned hearing examiner.⁵

41. 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, 19.60.095, and the LUDR provisions applicable to the Badger Mountain South area, and that the public use and interest will be served by the proposed plat and associated dedications and improvements.

//

//

//

⁵ 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.

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 proposed conditions of approval as set forth in the Staff Report and as modified by the Examiner in this Decision, are reasonable, supported by the evidence, and capable of accomplishment. Additional conditions have been added to ensure that provisions of the LUDR are followed as the project moves forward.
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 site visits through the BMS community, **the undersigned Examiner APPROVES the "South Orchard" Preliminary Plat** application, subject to the Conditions of Approval set forth below and adopted herein as part of this Decision.

Decision issued: December 16, 2021.



Gary N. McLean
Hearing Examiner for the City of Richland

**CONDITIONS OF APPROVAL
FOR THE
PRELIMINARY PLAT OF SOUTH ORCHARD
FILE NO. S2021-104**

In accord with authority granted in the Richland Municipal Code, the hearing examiner grants the above-referenced preliminary plat application subject to conditions, modifications and restrictions set forth below, all found necessary to make the application compatible with the environment, and carry out applicable state laws and regulations, and the regulations, policies, objectives and goals of the city's comprehensive plan, zoning code, subdivision code, and other ordinances, policies and objectives of the city.

General Conditions:

- A. Development of the plat shall be substantially consistent with drawings provided in the Preliminary Plat maps included as part of the revised application materials (*Ex. 2*), 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, and LUDR provisions for the Badger Mountain South community where this plat is located, whether or not such provisions are enumerated or referenced in the approved preliminary plat plans, in the staff report or in this Decision; provided adjustments to road widths, sidewalk and trail dimensions shall be in accord with final reviews and determinations by the City's Public Works Director, who is authorized to exercise sound engineering judgment in such matters, and that some adjustments may constitute Minor or Major Revisions to the Preliminary Plat, as explained in Condition J, below. The burden is on the applicant to show compliance with these conditions and applicable provisions of the City's code and LUDR provisions at every stage of development, including without limitation the 1,000 foot limit on uninterrupted block lengths, and the "3-Block" proximity to a park, mini park, or other type of open space standard for houses in the BMS-NG District. (*LUDR Sec. 7.B.2 and Sec. 1.F.1(c)*).

- H. The preliminary plat can be developed in 4 (four) phases, as identified in the application materials and depicted on revised plan sheets included in Ex. 2, subject to compliance with all final conditions herein.
- I. Final Covenants, Conditions and Restrictions (CCRs) for each phase of this plat shall be submitted with the final plat application for each phase, and shall be recorded prior to the final plat. The CCRs are subject to review and approval of the Planning Manager and City Attorney to ascertain if the documents are sufficient to assure compliance with these Conditions of Approval, SEPA Mitigation measures, and LUDR provisions. At a minimum, the CCRs shall include provisions for repair, maintenance and performance guarantee of any tracts, private parks or open space, landscaping, facilities, utilities or amenities which are private and commonly owned by the homeowners of the plat, and clearly explaining that the City of Richland is not responsible for enforcement of private CCRs. Language shall also be included in the CCRs that require notification to the City of Richland Planning Manager of any amendments to the CCRs, and that the City shall have the authority to object to any modification that is inconsistent with any condition lawfully placed upon the subdivision by the City of Richland.
- J. ***Process for Review of Potential Minor or Major Revisions to this Preliminary Plat.*** Revisions to an approved preliminary plat are reviewed under RMC 19.20.010, with minor revisions reviewed as a Type I application (see RMC 19.20.010(A)(5)), which requires approval by the Director; and major revisions reviewed as a Type III application requiring approval by the Hearing Examiner (See RMC 19.20.010(C)(1)).

As provided in RMC 19.20.030, a Type I application does not require public notice, but public notice must be issued regarding any decision to approve a Type I application, which is then subject to appeal before the Hearing Examiner; and all Type III applications require full public notice of such application, an open record hearing, and a decision by the Hearing Examiner.

Because this application and others in the BMS community have generated significant public comments generally expressing concerns that some requirements, conditions, or expectations for prior BMS developments were modified or abandoned, or the timing of some requirements has been changed, it is in the public interest for this preliminary plat approval and future BMS projects to provide a clear condition explaining the sorts of revisions that will require a Type I or Type III review and approval, subject to application fees and filing requirements as determined by the Director or his/her designee.

For this preliminary plat, “Major Revisions” shall include proposed changes in primary access points or increase in the number of peak hour vehicle trips, expansion of site area, increase in the number of lots, elimination of or substantial change to a required transportation system improvement, substantial expansions of environmental impacts, or substantive changes to any finding of fact or condition of approval in the Decision approving the preliminary plat.

“Minor Revision” shall include proposed changes that the Director determines to be minor but still within the scope of the original preliminary plat approval. Minor revisions can include, without limitation: changes to the boundaries and lots within phases of the preliminary plat; changes in the timing of construction of road improvements mandated in the BMS Master Agreement, the LUDR, or these Conditions of Approval, if deemed to be in the public interest by the Public Works Director; technical engineering items and details, unless the proposed detail modifies or eliminates features specifically required as an element of approval; minor changes in lot or tract lines or dimensions, with no change in density; minor changes to street alignment or utility design; minor changes to street, sidewalk, or trail dimensions, based on site conditions, sound engineering judgement, or public safety considerations; reduction in the number of lots approved, as long as the modification meets any minimum density requirement; minor changes to clarify notations on the face of the plat; a change to a condition of approval that does not modify the intent of the original condition; and reconfiguration of

any designated park, trail, open space, or recreation areas, provided, that no reduction in overall area occurs.

- K. ***Right of Way Permit for Construction Traffic.*** Based on compelling testimony and evidence contained in the record for projects in the BMS master planned community that demonstrated a need for specific conditions to reduce the impacts of construction-related traffic that will move through surrounding neighborhood streets as the new plat is developed and homes are constructed therein, and under authority granted in development regulations found in the Richland Municipal Code, including without limitation RMC Chapter 12.08 (Right of Way Permits) and the purpose and intent of erosion, dust, traffic, pedestrian-safety and water-pollution control regulations set forth in other provisions of the RMC, the following Condition shall be satisfied prior to issuance of any clearing and grading, building, demolition, or other construction permit associated with development of or within the new plat that the Public Works Director determines is likely to have a material impact on any segment(s) of the city's existing public street network that will be used to obtain access to and from the plat-development site(s):

The applicant is required to apply for a Right of Way Permit before the issuance of any grading, building, demolition, or other construction permit associated with development of or within the new plat that the Public Works Director determines is likely to have a material impact on any segment(s) of the city's existing public street network that will be used to obtain access to and from the plat-development site(s). In some cases, more than one Right of Way Permit may be required, such as one for hauling and one for construction work within the right of way. A Right of Way Permit issued under this Condition is intended to regulate activity within the city right of way, and is required of any person who performs construction-related work within existing or proposed city rights-of-way, easements, or on city-owned infrastructure, including without limitation the following:

- a) Designated truck hauling routes.
- b) Truck loading and unloading activities.
- c) Hours of construction and hauling.
- d) Continuity of pedestrian facilities.
- e) Temporary traffic control and pedestrian detour routing for construction activities.
- f) Street sweeping and maintenance during excavation and construction.
- g) Location of construction fences.
- h) Parking for construction workers.
- i) Construction vehicles, equipment, and materials in the right of way.
- j) All other construction activities as they affect the public street system.

In addition, the applicant shall submit for review and approval by the Public Works Director a plan for providing pedestrian access on existing public streets that are impacted during construction of this project (if any). Access on such existing public streets shall be provided at all times during the construction process, except when specific construction activities such as shoring, foundation work, and construction of frontage improvements prevents access. General materials storage and contractor convenience are not reasons for preventing access along streets, sidewalks or other portions of the city street system surrounding the new plat.

- L. ***Inadvertent Discovery Plan Required.*** Based on unrebutted comment letters from DAHP and the Confederated Tribes of the Umatilla Indian Reservation, before commencement of any ground disturbing activities in connection with development of this proposed plat, the applicant shall submit a proposed Inadvertent Discovery Plan (IDP) for review and approval by the Planning Manager, which

shall be consistent with state codes and regulations regarding cultural resources. The proposed IDP should be developed in consultation with DAHP and tribal officials who provided comments in the record for this matter. A copy of an approved IDP, subject to updates and additional provisions or mandatory contacts that may be imposed by the City's Planning Manager, including current names and contact numbers, must be provided to all contractors and be available on-site for reference throughout all phases of the development process that might involve ground disturbance work. If ground-disturbing activities uncover or reveal objects that might appear to be protected resources during the course of construction, then all activity will cease that could cause further disturbance to such items, until notifications are made to appropriate parties, as detailed in the approved IDP and as may be mandated by the City's Planning Manager. This Condition may be satisfied with an IDP that is consistent with DAHP guidance on the topic, but must include current names and contact numbers. For instance, in an effort to standardize language and to be consistent with state law, the Department of Archaeology and Historic Preservation offers the following text relating to the inadvertent discovery of human skeletal remains to be used in the development of inadvertent discovery protocols⁶:

**Inadvertent Discovery of Human Skeletal Remains on
Non-Federal and Non-Tribal Land in the State of Washington
(See RCW 68.50.645, RCW 27.44.055, and RCW 68.60.055)**

"If ground disturbing activities encounter human skeletal remains during the course of construction, then all activity will cease that may cause further disturbance to those remains. The area of the find will be secured and protected from further disturbance until the State provides notice to proceed. The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible. The remains will not be touched, moved, or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains."

M. Whether restated or discussed elsewhere in these Conditions of Approval or this Decision, each and every of the mitigation conditions provided in Ex. 7, the Planned Action Consistency Determination issued for this revised application on November 3, 2021, are incorporated herein by reference as individual Conditions of Approval adopted by the Hearing Examiner for this preliminary plat.

Conditions Derived from the Final Staff Report:

1. Street names are not reviewed or vested until construction plans are submitted for review. The street names included on the pre-plat may not be approved or available during the construction plan review process.

⁶ Available on the DAHP website, at: <https://dahp.wa.gov/archaeology/human-remains/recommended-inadvertent-human-remains-discovery-language>

2. If any of the small tracts have the potential to one day become building lots, utility stubs should be provided to them to avoid the need to cut new streets.
3. Any future storm drainage tracts will be dedicated to the city for ownership. The “Tract Note” on sheet C001 of the pre-plat should be amended to include this.
4. 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.
5. A copy of the construction drawings shall be submitted for review to the appropriate jurisdictions by the developer and his engineer. All required comments/conditions from all appropriate reviewing jurisdictions (e.g.: Benton County, any appropriate irrigation districts, other utilities, etc.) shall be incorporated into one comprehensive set of drawings and resubmitted (if necessary) for final permit review and issuance. 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.
6. 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.
7. 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 final plat acceptance.
8. 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.
9. All plan sheets involving construction of public infrastructure shall have the stamp of a current Washington State licensed professional engineer.

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

Design Standards:

11. Public improvement design shall follow the following general format:
 - a) All materials and workmanship shall be in conformance with the latest revision of the City of Richland Standard Specifications and Details, Public Infrastructure Design Guidelines and the current edition of the State of Washington Standard Specifications for Road, Bridge, and Municipal Construction. Please confirm that you have the latest set of standard specs and details by visiting the City's web page.
 - b) Fire hydrant location shall be reviewed and approved by the City Fire Marshal.
 - c) All utilities shall be extended to the adjacent property (properties) at the time of construction.
 - d) 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.
 - e) 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.
 - f) All public improvements shall comply with the State of Washington and City of Richland requirements, standards and codes.
 - g) All public streets shall meet design requirements for sight distance (horizontal, vertical and intersectional).
 - h) The final engineered construction plans shall identify locations for irrigation system, street lighting, gas service, power lines, telephone lines, cable television lines, street trees and mailboxes. All electrical appurtenances such as transformers, vaults, conduit routes, and streetlights (including their circuit) need to be shown in the plan view.
 - i) The contractor shall be responsible for all public infrastructure construction deficiencies for a period of one year from the date of the letter of acceptance by the City of Richland.
 - j) 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.
12. If the City Fire Marshal requires a secondary emergency vehicle access, it shall be included in the construction plan set and be designed to the following standards:
 - 2-inches compacted gravel, minimum (temp. SEVA only).
 - 2% cross-slope, maximum.
 - 5% slope, maximum. Any access road steeper than 5% shall be paved or be approved by the Fire Marshal.
 - Be 20-feet in width.
 - Have radii that are accommodating with those needed for City Fire apparatus.
13. Secondary emergency vehicles accesses (SEVA's) shall be 20-feet wide, as noted. Longer secondary accesses can be built to 12-feet wide with the approval of the City of Richland Fire Marshal; however, turn-outs are required at a spacing acceptable to the Fire Dept. Temporary SEVA's shall be constructed with 2-inches of compacted gravel, at a minimum. Permanent SEVA's shall be paved with 2-inches of asphalt over 4-inches of gravel, at a minimum.

Survey Monument Destruction:

14. All permanent survey monuments existing on the project site shall be protected. If any monuments are destroyed by the proposed construction, the applicant shall retain a professional land surveyor to replace the monuments and file a copy of the record survey with the City.
 - a. No survey monument shall be removed or destroyed (the physical disturbance or covering of a monument such that the survey point is no longer visible or readily accessible) before a permit is obtained from the Department of Natural Resources (DNR). WAC 332-120-030(2) states “It shall be the responsibility of the governmental agency or others performing construction work or other activity (including road or street resurfacing projects) to adequately search the records and the physical area of the proposed construction work or other activity for the purpose of locating and referencing any known or existing survey monuments.” (RCW 58.09.130).
 - b. Any person, corporation, association, department, or subdivision of the state, county or municipality responsible for an activity that may cause a survey monument to be removed or destroyed shall be responsible for ensuring that the original survey point is perpetuated. (WAC 332-120- 030(2)).
 - c. Survey monuments are those monuments marking local control points, geodetic control points, and land boundary survey corners. (WAC 332-120-030(3)).
 - d. When a monument must be removed during an activity that might disturb or destroy it, a licensed Engineer or Land Surveyor must complete, sign, seal, and the file a permit with the DNR.
 - e. 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 South Orchard preliminary plat is subject to the City’s traffic impact fee program (RMC 12.03), subject to payment of all such impact fees in an amount as established by the City of Richland at the time of each building permit application. The program includes street and intersection improvements sufficient to mitigate the off-site impacts of this project. The developer of this proposed project may receive credit for construction of the improvements listed in RMC 12.03.
16. Projects either completed and occupied or approved for future development within Badger Mountain South have resulted in traffic generation that requires an update to the Badger Mountain South Traffic Impact Analysis as identified in Exhibit B, Section 5.3 of the Master Development Agreement. **Final plat approval will not be granted for ANY phase of this project until the Badger Mountain South Traffic Impact Analysis is updated and accepted by the Public Works Director and other necessary approvals are accomplished to effectuate, amend, or mandate compliance with the approved TIA, as determined by the City Attorney (i.e., possible amendment to portions of the BMS Master Agreement, the LUDR, or other legal instruments).**
17. This project will create impacts to three intersections that **shall be mitigated** with intersection improvements.
 - a. The Gage/Reata intersection improvements shall include the construction of a roundabout designed for the 2040 anticipated full build-out traffic volumes. This intersection should be completed with the phase of construction that connects Gage Boulevard to Reata Road.

- b. The Gage/Morningside intersection improvements shall include a roundabout or mini roundabout to account for both on-site and planned off-site future peak traffic volumes related to development traffic from the west. These intersection improvements shall be completed along with the phase that constructs the Gage/Morningside intersection.
 - c. The Road A/Reata Road intersection improvements shall include a westbound right turn lane from Reata onto Road A, and a southbound right turn lane from Road A onto Reata. These intersection improvements shall be completed along with the phase that constructs the Road A/Reata Road intersection.
18. The Gage Blvd./Road N intersection is anticipated as needing a roundabout when future development continues the extension of Gage Blvd. to the north. Adequate right-of-way shall be provided at this intersection for the anticipated roundabout.
 19. The developer shall conduct a preliminary design of Gage Blvd. and Road A (horizontal and vertical alignment) to a point at least 500-feet offsite to the north, or to its next northerly intersection, whichever is further, to confirm the most appropriate alignment. These designs shall be completed concurrent with phase 1.
 20. Gage Blvd., Road A and Road N will be classified as “Major Collectors”.
 21. On-street parking and driveway accesses for single family lots will not be permitted onto Major Collector streets.
 22. Morningside Parkway as designed on this proposed pre-plat will be classified as a Minor Collector.
 23. The curves at the south end of Road A need to be designed with a centerline radius compliant with a major collector, per AASHTO design guidelines. The applicable street section for Road A shall include a separated pathway for the full length of Road A, as detailed in the LUDR for a 2-lane arterial collector.
 24. Sheet C002 identifies a road section with a median, however it is not clearly identified where that road section is intended to be within the pre-plat. Medians shall not interfere with left-turning movements at intersections. The developer shall obtain approval from the City’s Traffic Engineer for all median designs.
 25. Lots fronting on Gage Blvd. shall take access from a rear alley easement. Single family residential driveway access to Gage Blvd. will not be permitted.
 26. The City anticipates an update to the LUDR in the near future that will revise the standard street cross sections throughout Badger Mountain South. The developer is requested to consult with Public Works regarding the anticipated cross section changes and to utilize them in anticipation of the LUDR update being completed. Alternatively, this project shall utilize street cross section designs in the LUDR as it exists at the time of infrastructure permitting.
 27. Road “A” shall be constructed full-width at the time that the phase which constructs the lots adjacent to Road A is developed. The full road section (curb, gutter, sidewalk, and pathway) shall be constructed on both sides at that time.
 28. Reata Road is currently a Benton County road in this area. Staff at the City and Benton County have begun a process to transfer this right of way to City jurisdiction. If this process is not completed all intersections with Reata Road must be reviewed and approved by Benton County. If the process is

completed as proposed by City and County staff, the intersection designs will be reviewed and approved by the City.

29. A note will be included on the face of the final plat stating that no driveways will be allowed directly onto Reata Road with the exception of Lot 1. Proposed driveways from Lot 1 onto Reata Road will need to be approved by the City of Richland Traffic Engineer and Benton County Public Works.
30. A ten-foot public utility easement adjacent to the Reata Road frontage shall be provided on the face of the final plat.
31. 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.).
32. 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-foot of separation between driveway and/or pedestrian ramp transitions.
33. 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 cross-slopes less than 2%. Crosswalks crossing thru-streets shall have cross-slopes less than 5%. The road profile shall be designed to accommodate this.
34. The vision-clearance triangle shall be shown on all corner lots (including access easements that serve multiple homes) on both the construction plans and the final plat document, in accordance with RMC Chapter 12.11.020. If the intersection is in or within 500-feet of a curve, it will have to be evaluated per AASHTO guidelines. The assumed speeds for sight triangle evaluation are 35 mph for Major Collectors, 30 mph for Minor Collectors and 25 mph for local streets. This information shall be designed by the engineer of record and supplied to the surveyor of record for inclusion into the final plat document.
35. All private roads shall be constructed to provide for adequate fire truck & solid waste collection truck access & turnaround movements.
36. The proposed 18-foot “rear alley” easements shall be private access ways which are for the use and benefit of the homeowners that abut said roads and are to be maintained by the adjacent property owners and/or the HOA. The City of Richland accepts no maintenance responsibility for these rear alley easements.
37. All intersections of private shared driveways and alleys with City streets shall be standard commercial driveway drops constructed to City standards.
38. 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 construction plans and the final plat. All signage will be installed by the developer prior to final platting.
39. All roads shall be constructed to provide for adequate fire truck & solid waste collection truck access & turnaround movements. Homes whose sole access is the proposed “rear alley easement” road section may have to place their garbage cans at locations acceptable to City solid waste collection vehicles.

40. 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:

41. Any grading operations that take place near or over the top of the existing domestic water main shall ensure that adequate cover remains over the water main to protect it from breakage or freezing. It shall be the responsibility of the developer to re-install any water mains that have too little (or too much) cover over them as a result of grading operations, or that will result in this water main being in a building lot. This water main needs to be within the roadway whenever possible. The existing main shall be exposed and surveyed at multiple locations as part of the grading permit application.

42. In accordance with municipal code, domestic water mains shall be extended to the adjoining properties adjacent to the preliminary plat, provided they are in the correct pressure zone.
43. If the homes within this preliminary plat are required to install residential fire sprinkler systems, the sprinkler systems shall be the flow-through type in compliance with the City's cross connection control program.
44. 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. This may require looping of the watermain from off-site locations or oversizing of the main where needed.
45. The fire hydrant layout shall be approved by the City Fire Marshal.
46. Domestic water mains shall be extended to adjoining properties adjacent to the preliminary plat, where appropriate.
47. 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. 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:

48. 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.
49. This preliminary plat may receive City sanitary sewer service only after completion of a new sewer pump station and required improvements to the existing Dallas Road sewer pump station are completed. The developer shall update the Badger South subarea sewer service plan to reflect current planning assumptions for the development and complete the sewer system design and construction required to

serve this project. If the developer constructs capacity beyond the needs of this project it will be eligible for a latecomer agreement per Richland Municipal Code.

50. 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.
51. Sanitary sewer shall be extended to the adjoining properties adjacent to the preliminary plat, where appropriate and where grade allows.

Storm Water:

52. 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 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.
53. 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.
54. If any existing storm drainage or ground water seepage drains onto the proposed site, said storm drainage shall be considered an existing condition, and it shall be the responsibility of the property developer to design a system to contain or treat and release the off-site storm drainage.
55. 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").
56. Any proposed storm drainage retention facilities within the boundary of the proposed preliminary plat shall not adversely affect neighboring properties.
57. 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.

58. As per RMC chapter 24.20.070 and the City of Richland's Comprehensive Stormwater Management Plan, the storm drainage system installed as part of this plat may need to be oversized to handle the additional flow from future developments in the vicinity. The storm drainage system for this development, both its conveyance and retention / infiltration components, shall be designed to effectively manage runoff from upstream properties that can be anticipated to convey stormwater onto this property because of a pre-development runoff condition, or as a result of flows discharged that are in excess of the design storm from the upstream property. Additionally, as this property is upslope of developed properties the stormwater system shall include provisions for possible discharge of runoff onto downslope properties from storms in excess of the design storm as described above. Those provisions may be required to include off-site downslope conveyance facilities and/or flowage easements allowing for the conveyance of stormwater to and across downslope properties.
59. The amount of post-development storm runoff from the proposed site shall comply with RMC Chapter 16.06.
60. Stormwater collection pipes shall be extended to the adjoining properties adjacent to the plat, where appropriate and where grade allows.
61. 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.
62. The developer shall consider the long-term appearance of the storm basin, particularly if it will occupy a prominent location in the development. The City's typical storm pond maintenance practices consist of semi-annual vegetation trimming and silt and debris removal. If the pond location is deemed by City staff as being in a prominent location the developer shall design and install fencing and/or landscaping to mitigate the pond's visible character for the surrounding properties. If the City requires this type of treatment to the pond site, the developer may propose landscaping treatments consistent with the development and establish maintenance responsibilities to remain with 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 unless the developer intends to maintain an irrigated pond site. At a minimum the landscaping plan should be consistent with the City's intended maintenance standard as described above.
63. 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:

64. 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.

65. 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 rights-of-way 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 final platting.
66. 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.
67. 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.
68. 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.
69. The final plat shall include notes identifying all common areas including the private streets and tracts and acknowledging the ownership and maintenance responsibility by the homeowner’s association. A note shall be added to the face of the final plat that states: “The proposed rear alley easements shall be private roadways which are for the use and benefit of the homeowners that abut said roads and are to be maintained by the adjacent property owners or the HOA. The City of Richland accepts no maintenance responsibility for rear alley easements”.
70. A note shall be added to the face of the plat that states: “The private rear alley easements within this plat are fire lanes and parking is restricted. The required no-parking signs shall be installed by the developer where applicable.”
71. All landscaped areas within the plat that are in the public Right of Way shall be the responsibility of the property owners to maintain.
72. A one foot “No access / screening easement” will be required along the Reata Road, Gage Blvd., and “Road A” Right of Ways.
73. The intended use and ownership of all tracts within the plat shall be noted on the final plat.
74. Property with an unpaid L.I.D. assessment towards it must be paid in full or segregated per Richland Municipal Code 3.12.095.
75. Any restricted parking areas shall be indicated on the final plats.
76. Future construction shall meet the sustainability standards contained in Section 12 of the LUDR and with the design requirements established within Sections 3 and 8 of the LUDR.

77. Note #3, as shown on sheet C001 of Exhibit 2, is not valid and shall not appear on any subsequent final plat(s). All lots shall be designed to meet setback requirements of the applicable BMS zoning district(s).
78. *Building Types.* Consistent with LUDR Sec. 1.G(5), and Sec. 7.B(5)(a)(2 and 3), the face of the final plat documents for all phases of the project must identify the building type(s) that will be allowed on each lot, and demonstrate that there will be two building types per block for all blocks of the proposed plat that are within the BMS-NC and BMS-NG Districts.
79. This project shall utilize street cross-section designs as proposed in the LUDR amendments (CA2021-108) by NorAm and their engineer in a separate code amendment application, so long as such amendments are recommended by the Planning Manager and the Public Works Director.
80. Street names will be reviewed when construction drawings are submitted to the Public Works Department. When construction drawings are submitted, please include two (2) street name options for each of the new street segments and the City will review to determine acceptable street names.
81. Final plats shall include addressing [brackets] placed on all lots and tracts adjacent to all public road frontages.
82. Pursuant to LUDR Section 1.G(5), final plats shall identify housing types allowed on each lot.
83. All rights-of-way shall include public pedestrian facilities and edge-type features as shown in Section 6 of the LUDR.

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.