



NOTICE OF DECISION

PURSUANT TO RICHLAND MUNICIPAL CODE SECTION 19.60.080, NOTICE IS HEREBY GIVEN THAT ON JANUARY 21, 2022 THE CITY OF RICHLAND HEARING EXAMINER ISSUED A DECISION APPROVING THE SITE PLAN REVIEW OF QUARRY NORTH THE BOB APARTMENTS (CITY FILE NO. M2021-107):

**DESCRIPTION
OF ACTION:**

Site Plan Review application for the development of an approximately 7.2-acre site, with five (5) multi-family residential buildings containing up to 192 dwelling units, a clubhouse, swimming pool, and covered parking structures together with associated parking and landscaping areas.

SEPA REVIEW:

The City of Richland is lead agency for the proposal under the State Environmental Policy Act (SEPA) and has issued a determination of non-significance (DNS) for this project after utilizing the optional DNS process in WAC 197-11-355.

APPROVED:

The Site Plan Review Application has been approved.

PROJECT LOCATION:

The project site is located at 703 Columbia Park Trail and is zoned C-LB (Commercial-Limited Business). The property is described as Assessor's Parcel Nos. 125981000011001 and 125981000015000 located in Section 25, Township 9 North, Range 28 East, W.M., Benton County, WA.

Mike Stevens,
Planning Manager

January 27, 2022
Date

A full text of the Hearing Examiner's decision can be viewed at:

<https://www.ci.richland.wa.us/departments/development-services/planning/land-use>

The Hearing Examiner's decision regarding this site plan review 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**

Regarding an Application for Type II)
Site Plan Approval to develop property)
located in the C-LB Zone with five (5))
multi-family residential buildings for up)
to 192 dwelling units and associated)
facilities and improvements, submitted)
by)

File No. M2021-107

NICK WRIGHT,
Applicant,

**FINDINGS OF FACT,
CONDITIONS OF APPROVAL AND
DECISION**

*(The site is located at 703 Columbia Park Trail, on property
recently rezoned to C-LB (Commercial-Limited Business) on
Benton County Parcel Nos. 125981000011001 and
125981000015000)*

I. SUMMARY OF DECISION.

The applicant has met its burden of proof to demonstrate that its application merits approval, subject to conditions. This Decision is limited in scope to Site Plan approval under RMC 19.20.010(B)(3), allowing for development of the project site that is now zoned C-LB (Commercial-Limited Business) with 5 (five) multi-family residential buildings for up to 192 dwelling units, and associated facilities and improvements described in the revised site plan application materials. Future development or construction activities on any portion of the approved site plan will require compliance with then-applicable city development regulations for any aspect of such project, including without limitation those addressing building codes, grading, stormwater management, fire-flow/hydrant placement, utility infrastructure, transportation/traffic, impact fees, and the like.

**FINDINGS OF FACT, CONDITIONS OF
APPROVAL AND DECISION RE: QUARRY NORTH
APARTMENTS SITE PLAN IN THE C-LB
(COMMERCIAL-LIMITED BUSINESS) ZONE –
FILE NO. M2021-107**

GARY N. MCLEAN
HEARING EXAMINER FOR THE CITY OF RICHLAND
CITY HALL – 505 SWIFT BOULEVARD
RICHLAND, WASHINGTON 99352

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II. QUESTION PRESENTED.

Whether the pending application for Site Plan approval satisfies the approval criteria set forth in applicable city codes and regulations, particularly RMC 23.48.010, 19.60.060, and 19.60.095?

Short Answer: Yes, subject to appropriate conditions of approval.

III. RECORD, EXHIBITS, REVIEW PROCESS.

Exhibits entered into evidence as part of the record, and an audio recording of the two public hearings held on this application are maintained by the City of Richland and may be examined or reviewed by contacting the City Clerk’s Office.

Hearing Testimony:

The following individuals presented testimony under oath at the duly noticed public hearing for the original application, held on November 8, 2021:

1. Mike Stevens, Planning Manager for the City of Richland. Mr. Stevens summarized the Staff Report and highlighted deficiencies in the application materials and proposed site plan that caused him to recommend the application should be remanded to the applicant for modifications (including without limitation setbacks, and clarity on building placement) to comply with applicable city development regulations. In response to public comments, he explained that the proposed apartments will be required to meet city height limits for such buildings, and that city lighting regulations already meet “dark sky” standards.
2. Nathan Michiela, project engineer, appeared as the applicant’s representative, agreed that setbacks shown on the proposal and other details could be corrected, questioned whether parking requirements for a recreation club should be applied, but agreed that he would rather hold the record open to allow for revisions and consideration at a future public hearing rather than denial as proposed.
3. Mike O’Neill, local resident, lives across the irrigation canal along Charbonneau Drive, to the south of the applicant’s project, expressed concerns that the project might impact views he currently enjoys.

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4. Teddy Chow, local resident, lives near Mr. O’Neill and shares his same concerns; also expressed concerns about lighting, and the need for dark-sky lighting standards; and noted that apartments in the area tend to have cars parked along surrounding roads, so he is concerned that parking from this apartment project might spill out onto Columbia Park Trail.

On the record during the initial public hearing, the Hearing Examiner continued the matter and held the record open, setting this application (with anticipated revisions from the applicant and a revised Staff Report) for consideration at a second public hearing on December 13, 2022.

The following individuals presented testimony under oath at the continued public hearing for the revised application, held on December 13, 2021:

1. Mike Stevens, summarized his modified Staff Report, and new recommendation of approval, subject to conditions. He noted that previous concerns about parking standards for a recreation club were not applicable to this project, and identified parking requirements that will be applied instead; that the applicant has revised the proposed site plan in manner that shows general compliance with city development standards, including setbacks; that transportation system and stormwater requirements addressed in a new memo from Public Works staff, included in the record as Exhibit 7, should be included as conditions of approval; and that building heights must comply with city code requirements.

2. Nick Wright, the applicant, appeared on his own behalf, accepted revised Staff Report and all recommended conditions without requests for modifications.

Exhibits: The Development Services Division Initial Staff Report, dated November 8, 2021, with its recommendation to remand the matter; and the modified Staff Report, dated December 13, 2021, with a recommendation of approval subject to conditions, based on revisions made by the applicant, were each provided to the Examiner in the week before the two hearings. The two Staff Reports, and the following Exhibits, were all accepted into the Record:

- 1. Original Site Plan Application materials;
- 2. Public Notice and confirmation materials;
- 3. SEPA DNS & Environmental Checklist;
- 4. Agency Comments;
- 5. Public Comments, written comments received before first hearing;
- 6. REVISED Site Plan;

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1 7. Public Works Department Memorandum (2 pages), with detailed comments
2 regarding the pending Site Plan application, dated November 23, 2021, with
3 recommended conditions addressing transportation and stormwater issues.

4 8. Written public comment from Vicki Wright, an email dated Nov. 23. 2021,
5 added with revised staff report, during second night of hearing.

6 The Examiner visited the road network and vicinity of the requested Site Plan
7 approval on previous occasions in connection with other projects, and is fully advised on
8 matters at issue herein, including without limitation applicable law, application materials, and
9 relevant codes.

10 **IV. FINDINGS OF FACT.**

11 Based upon the record, the undersigned Examiner issues the following Findings of
12 Fact. All statements of fact found in previous or following sections of this Decision are
13 incorporated herein as Findings of Fact supporting this Decision.

14 ***Background.***

15 1. In 2020, the applicant in this matter, served as the property owner's representative in
16 a public review process to rezone the property addressed in this application from C-2 to C-
17 LB, at the time known as the "Tapteal Rezone" application, under File No. Z2020-103.
18 Following an open record public hearing process, the Hearing Examiner issued a
19 recommendation for approval of the requested rezone to the Richland City Council in
20 September of 2020, which approved the rezone in October of 2020, upon passage of
21 Ordinance 36-20.

22 2. In late August of 2021, the applicant, Nick Wright, submitted application materials
23 seeking Site Plan approval for his proposal to develop the same "Tapteal Rezone" site that is
24 now located in the C-LB zoning district with 5 (five) multi-family residential buildings for
25 up to 192 dwelling units and associated improvements and facilities. (*Ex. 1, original
26 application materials*).

3. The application materials and Staff Reports refer to the applicant's proposed
apartment project as both the "Quarry North" or "The Bob" apartments. For purposes of this
Decision, use of either term refers to the same project, in its entirety, and without phasing,
because the application materials did not identify phases or separate names for various parts
of the overall project.

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2 ***Site Plan approval required for this project.***

3 4A. Under RMC 23.48.020(B), Site Plan approval is required for projects that propose
4 construction of any multiple family dwelling or dwellings containing an aggregate of 20 or
5 more dwelling units in an R-3 – multiple-family residential, or C-LB – limited business
6 district. Thus, there is no dispute that the applicant’s current proposal requires Site Plan
7 approval before it can move forward.

8 4B. The purpose of the Site Plan approval process is to, among other things, facilitate
9 project design that is compatible with adjacent land uses and is in keeping with the physical
10 constraints of the project site. (RMC 23.48.010).

11 4C. For any project requiring a site plan approval as identified in RMC 23.48.020, like
12 the applicant’s proposal to construct buildings with 20 or more multifamily dwelling units in
13 the C-LB zoning district, a site plan shall be submitted to the hearing examiner for review
14 and approval as a Type II permit application as defined in RMC 19.20.030. A site plan and
15 application form shall be submitted to the administrative official, showing the following
16 information:

- 17 A. Boundaries and dimensions of the property;
- 18 B. Location and width of boundary streets;
- 19 C. Dimensions, location and number of dwelling units for each existing or proposed structure on
20 the site;
- 21 D. Roadways, walkways, off-street parking, and emergency vehicle access;
- 22 E. Fencing and landscaping, showing location, type, dimensions and character; and
- 23 F. Location, dimensions and character of recreational facilities and open space.
- 24 G. The site plan shall be drawn in a concise and accurate manner, and of an appropriate scale for
25 clarity in review. Copies shall be submitted in a number determined by the administrative official
26 to be appropriate and sufficient.
- 27 H. Where a multiple-family development is proposed to be constructed in phases, the site plan
28 shall include all phases, regardless of size, in the proposed development. After a site plan
29 providing for phased development has been approved by the hearing examiner, no further
30 approval is required so long as each phase of development conforms to the approved site plan.
(RMC 23.48.030, re: Site plan application requirements; NOTE: this application did not request
31 approval to be developed in phases).

32 ***Jurisdiction; Hearing Examiner approval required for this Site Plan and any subsequent
33 “Major Revisions” thereof.***

34 5A. The Hearing Examiner has jurisdiction to conduct an open record public hearing and
35 issue a Decision regarding the pending application for Site Plan approval. This jurisdiction

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1 is based upon RMC 23.48.030, which mandates that for any project requiring a site plan
2 approval as identified in RMC 23.48.020, a site plan shall be submitted to the hearing
3 examiner for review and approval as a Type II permit application as defined in
RMC 19.20.030. This requirement is restated in RMC 19.20.010(B)(3), where “Site Plan
approvals or major revisions thereof” are expressly designated as Type II permit applications.

4 5B. To eliminate any confusion going forward, the Hearing Examiner finds and concludes
5 that this Site Plan, for a multi-family residential project in the C-LB zone, may not be
6 modified or revised in a manner that constitutes a “major revision” without following the
7 Type II permit application process that requires review and approval by the Hearing
8 Examiner. (*RMC 19.20.010(B)(3); RMC 23.48.020 and .030, discussed above*).

9 5C. Given the level of detail mandated for any Site Plan application submitted for review
10 and approval by the Examiner (*See RMC 23.48.030, re: Site plan application requirements,*
11 *discussed above*), and the broad discretion and authority granted to the Examiner to condition
12 a proposed Site Plan to protect the public health, safety and welfare or otherwise bring a
13 proposed development into compliance with the purpose and intent of the City’s zoning
14 regulations found in Title 23 RMC (*See RMC 23.48.040, discussed below*), the Examiner
15 finds and concludes that the following list includes, but is not limited to, the types of changes
16 that shall be deemed a “major revision” to this approved Site Plan, necessitating review and
17 approval by the City’s Hearing Examiner:

- 18 i. Modification in building use;
- 19 ii. Any increase in the size, height, or building footprint for any building shown on the Site
20 Plan, or significant change in location for any building shown on the approved Site Plan,
21 as determined by the Planning Manager;
- 22 iii. Modification in the number, size, location or arrangement of off-street parking spaces, or
23 loading areas, provided additional parking spaces may be included in the project if
24 accomplished in a manner that is consistent with applicable city codes and design
25 requirements, as determined by the Planning Manager;
- 26 iv. Change in the number, size or location of access points to adjacent public streets;
- v. Change in location of city utility lines or storm drainage facilities, except as approved by
the Public Works Director and Planning Manager, to ensure that such changes achieve
utility and stormwater service objectives without necessitating significant changes to
other aspects of the approved Site Plan;
- vi. Change in location of any existing or proposed utility and/or access easements;
- vii. Change in location, type or size of landscaping materials proposed to be installed on site
in the Final Landscaping Plan for the site, which is subject to review and approval by the

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1 Planning Manager prior to issuance of any building or other city permit required for
development of the site;

2 viii. A proposed phasing of development, because no phasing plan was included in the
3 application;

4 ix. Any change that, in the opinion of the City's SEPA Responsible Official, would
significantly increase any adverse impacts or undesirable effects of the Site Plan.

5 x. Any other change that would cause the site plan to not meet a minimum requirement or
6 design standard contained in the city's development standards.

7 ***Approval Criteria, Burden of Proof, Conditions of Approval.***

8 6. Land uses that are otherwise permitted in a zoning district shall not be denied through
9 the site plan review process unless such uses cannot meet the development and/or
10 performance standards required for the use. *RMC 23.48.010*. So, to obtain site plan approval
for a multi-family project in the C-LB zone, the applicant must demonstrate that its project
can meet city development and performance standards for such use.

11 7. The burden of proof rests with the applicant, and any decision to approve or deny a
12 Site Plan application must be supported by a preponderance of evidence. *RMC 19.60.060*
and *Hearing Examiner Rules of Procedure, Sec. 3.08*.

13 8. A Site Plan application must be supported by proof that it conforms to the applicable
14 elements of the city's development regulations, comprehensive plan and that any significant
15 adverse environmental impacts have been adequately addressed. (*RMC 19.60.060*;
16 *substantially repeated in RMC 19.60.095(A)(B) and (E)*). In addition, Type II applications
17 must be supported by findings and conclusions that the request is beneficial to the public
18 health, safety and welfare and is in the public interest (*RMC 19.60.095(C)*); and that the
19 development does not lower the level of service of transportation facilities below a certain
level, unless improvements or strategies are made concurrent with development or a financial
commitment is in place to complete the required improvements within six years of approval
of the development (*RMC 19.60.095(D)*).

20 9. RMC 23.48.040 provides the Hearing Examiner with broad authority to impose
21 conditions of approval on Site Plan applications, where it reads: "*Site plan approvals may be*
22 *made subject to any condition(s) which the hearing examiner determines to be necessary to*
23 *protect the public health, safety and welfare or otherwise bring a proposed development into*
24 *compliance with the purpose and intent of this title. Such conditions may include but are not*
limited to increased setbacks, and buffers, including landscaping, fences and walls;
restrictions on the type and location of outdoor lighting; surfacing of parking areas and

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1 driveways; the installation of stormwater drainage facilities; the construction and location
2 of service roads and alleys; the points of vehicular ingress or egress; the regulation of the
3 time and type of various activities; vibration, noise, odors or similar nuisances, and the type,
4 size and location of signs.”

5 ***Application, Location, Density, Public Notice, and Review.***

6 10. The applicant’s original Site Plan application materials were submitted in late August
7 of 2021. (*Ex. 1*). The applicant’s proposed multi-family residential apartment project would
8 be constructed on property now addressed as 703 Columbia Park Trail, on Benton County
9 Parcel Nos. 125981000011001 and 125981000015000, all of which is now within the City’s
10 C-LB zoning district.

11 11. The City’s land use table shows that the C-LB zone permits “apartment, condominium
12 (3 or more units).” (*RMC 23.22.030*). Again, although apartment projects with 3 or more
13 units are permitted in the C-LB zone, Site Plan approval is first required for projects that
14 propose construction of any multiple family dwelling or dwellings containing an aggregate
15 of 20 or more dwelling units in the C-LB zoning district. (*RMC 23.48.020(B)*).

16 12. The applicant’s property is approximately 7.4-acres in size, or about 322,444 sq.ft.
17 (*Original Staff Report, page 3; Revised Staff Report, page 2; Calculation by the Examiner*
18 *based on 1 acre = 43,560 sq.ft*). With up to 192 residential units, the applicant’s proposal is
19 well-within applicable density limits of 1.5 units per 1,500 sq.ft. (*Original Staff Report, page*
20 *5, noting that RMC 23.22.040 provides a maximum residential density of 1 dwelling unit for*
21 *every 1,500 square feet of land; and 322,444 sq.ft / 1,500 sq.ft. = 214.96*).

22 13. Following an initial review of the application materials, Staff issued a combined
23 notice of application, SEPA threshold determination (Optional Determination of Non-
24 Significance process), and notice of hearing, by posting the property, mailing notices to
25 property owners within 300 feet of the project site, and publication in the Tri-City Herald
26 newspaper, on or about October 1st and 6th. (*Original Staff Report, pages 7-8; Ex. 2, notices*
and confirmation materials). Following consideration of the application materials, which
included a Cultural Resources Survey report for the property as well as a completed SEPA
environmental checklist, Staff issued a SEPA DNS for the project, which was not challenged
through the course of the public hearing process or otherwise. (*Ex. 3, Environmental*
Checklist and SEPA DNS, issued on November 3, 2021).

14. As explained in the Original Staff Report, and in Mr. Stevens’ credible testimony
during both nights of the public hearing for this matter, the original illustrations and notes on
the proposed Site Plan for this project failed to show compliance with applicable setbacks
and performance standards, including without limitation building setbacks and height limits.

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(Revised Staff Report, page 3; Original Staff Report, page 10).

Public Hearing.

15. As noted above, the public hearing based upon the original application materials occurred on November 8, 2021, using the Zoom online hearing platform coordinated by City Staff, at which time City Staff, the applicant’s project engineer, and several local residents all provided sworn testimony and comments. Mr. Stevens, the City’s Planning Manager, could not recommend approval of the requested Site Plan, given deficiencies noted in his Original Staff Report and explained during the first night of the public hearing. (*Testimony of Mr. Stevens*). The applicant’s engineer acknowledged that the original Site Plan drawings failed to show compliance with applicable front, side, and rear yard setbacks, among other things, but questioned the Original Staff Report where it sought to apply parking standards that would apply to a recreational club facility maintained by a nonprofit organization. (*Testimony of Mr. Michiela*). Local residents expressed concerns about their views across the property, lighting, traffic, and possible parking issues. (*Testimony of Mr. O’Neill, Mr. Chow, and Ex. 8, Ms. Wright’s written summary of hearing comments that she attempted to make while using a bad internet connection*).

16. Rather than issuing a Remand order after the first night of hearing, the Examiner held the record open and continued the public hearing to December 13th, announcing such continuance on the record before closing the first night’s hearing. The Examiner encouraged the applicant to make revisions to the proposed Site Plan to demonstrate compliance with applicable City development regulations and performance standards.

17. In the days before the continuation of the hearing, the Examiner received the Revised Staff Report, dated December 13, 2021, which included a copy of the applicant’s Revised Site Plan (*Ex. 6*), and formal written comments from the Public Works Department, requesting conditions to address transportation and stormwater management issues (*Ex. 7*). The Revised Staff Report recommended approval of the revised Site Plan, subject to appropriate conditions of approval.

18. The Examiner reopened the public hearing for this matter on the evening of December 13, 2021, using the Zoom hearing platform, where City Staff (Mr. Stevens), and the applicant, Nick Wright, provided sworn testimony, and a local resident, Mr. O’Neill appeared again, but did not have any additional comments. Mr. Wright accepted the Revised Staff Report and proposed conditions of approval without changes. Mr. Stevens explained new details on the face of the revised Site Plan, and additional conditions of approval that served as his basis for changing his recommendation from remand to approval, subject to conditions.

19. Given that the issue has arisen with similar development projects in the City, Mr.

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1 Stevens requested that the Examiner consider adding language to conditions of approval that
2 would eliminate confusion as to what might be deemed a minor or major revision to this Site
3 Plan, if it is approved, given that City codes specify that “Site Plan approvals or major
4 revisions thereof” are expressly designated as Type II permit applications (*See RMC*
5 *19.20.010(B)(3)*), and RMC 23.48.070 indicates that some sort of Administrative site plan
6 modifications might be available for “minor” revisions. The Examiner researched relevant
7 codes, policies, and prior decisions for development proposals, in order to craft language in
8 the Conditions of Approval to clarify the types of possible “minor” revisions that could be
9 reviewed and approved administratively, as opposed to “major revisions” to an approved Site
10 Plan that would require a full Type II permit review process and a decision by the Hearing
11 Examiner. Again, RMC 23.48.030 mandates that for any project requiring a site plan
12 approval as identified in RMC 23.48.020 [includes multifamily residential projects with more
13 than 20 units in the C-LB zone], a site plan shall be submitted to the hearing examiner for
14 review and approval as a Type II permit application as defined in RMC 19.20.030. So, to
15 allow major revisions to a Site Plan using an administrative process, after the Site Plan has
16 been approved by the Hearing Examiner following a full public hearing process, would not
17 be in the public’s interest, as it could occur without substantially similar public notice and
18 hearing procedures that the City Council deemed necessary and appropriate for approval of
19 such projects.

20. Given legitimate public comments expressing concerns about the potential for glare
or other “fugitive lighting” emanating from the new project onto adjacent properties, Mr.
Stevens credibly explained that City lighting codes are consistent with “dark-sky” lighting
standards. The applicant’s project is conditioned to require compliance with applicable city
development and performance standards, including without limitation the Outdoor Lighting
Standards found in Chapter 23.58 of the Richland Municipal Code.

Transportation and access issues.

21. Access into the site will be directly from the Columbia Park Trail right-of-way.
Columbia Park Trail is classified as a “minor arterial” roadway. A preliminary traffic impact
review by the Richland Transportation Engineer (John Deskins) determined that Columbia
Park Trail contains sufficient capacity to accommodate the highest traffic-generating land
uses permitted in the requested C-LB zone without lowering the roadway’s level of service
(LOS) below level D. The Transportation Engineer’s review indicated that a 100-foot deep
deceleration lane may be required for site development. In terms of access, the site benefits
from nearly direct access to highway SR-240. Commercial, office, and high-density
residential uses are appropriately applied in higher-impact areas such as sites near busy
roadways and other transportation facilities. (*Original Staff Report, on page 9*). To address
traffic and transportation concerns associated with this development proposal, the Public
Works Department submitted a detailed memorandum recommending specific conditions of

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1 approval that have been included as part of this Decision. (Ex. 7; Conditions of Approval).

2 **Parking.**

3 22. On the subject of parking, the Revised Staff Report on page 3 acknowledges that
4 parking mandates for recreational club facilities maintained by a nonprofit organization do
5 not apply to this private project proposal. Local residents expressed legitimate concerns that
6 the new apartment project might result in cars parking on surrounding streets, outside the
7 development site, a problem noted in connection with similar projects. City codes mandate
8 at least 1.5 off-street parking spaces per standard dwelling unit. (See Original Staff Report,
9 discussion on pages 10 and 11, citing RMC 23.54.020(A)). The face of the Revised Site Plan
10 document (Ex. 6) provides the following calculations for off-street parking spaces,
11 demonstrating that the project will exceed minimum parking requirements for the proposal.

9 PARKING REQUIRED:

10 1.5 STALLS PER DWELLING UNIT
11 192 DWELLING UNITS
12 1.5*192 = 288 PARKING STALLS REQUIRED

11 PARKING PROVIDED:

12 16 ACCESSIBLE STALLS
13 32 GARAGE STALLS
14 251 STANDARD STALLS
15 299 TOTAL STALLS PROVIDED

16 23. The Examiner expressly finds and concludes that city codes provide sufficient legal
17 authority to impose off-street parking requirements for this and other multi-family residential
18 projects in the C-LB zone that exceed minimum parking standards, including without
19 limitation broad discretion provided in RMC 23.48.040, referenced in Finding 9 above. Even
20 without such authority or condition, the applicant's current proposal exceeds any minimum
21 parking requirements by 11, with 299 instead of just 288 off-street parking stalls. So, to
22 ensure that the project is and will remain fully compliant with the purpose and intent of Title
23 23 of the Richland Municipal Code, and to protect the public health, safety and welfare, the
24 applicant's Site Plan is specifically conditioned to include at least 299 off-street parking
25 stalls, as proposed in the applicant's Revised Site Plan (Ex. 6).

22 **Landscaping.**

23 24. RMC 23.54.140 provides the landscaping requirements which must be met in order
24 to approve a Site Plan permit request. Provided the landscaping is installed and completed as

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1 is currently proposed, the proposed landscaping plan meets all of the various requirements
2 contained within RMC 23.54.140. (*Original Staff Report, page 11*). Because the original
3 landscape plan materials included as part of Exhibit 1 were not revised to be consistent with
4 the Revised Site Plan (*Ex. 6*), Conditions of Approval have been added by the Examiner to
5 require the applicant to submit a final landscape plan for review and approval by the Planning
6 Manager, that incorporates changes to be substantially consistent with the Revised Site Plan.

7 ***Utility Availability.***

8 25. The City has domestic water, sewer and electrical power lines in place within
9 reasonable proximity to serve the site and has adequate capacity to supply the proposed
10 project. (*Original Staff Report, utility discussion on pages 8, 9*).

11 ***SEPA.***

12 26. While the city's code does not provide for appeals of SEPA threshold determinations
13 to the City's Hearing Examiner, as is the case in many Washington jurisdictions, the standards
14 for how and when a Washington court would overturn a SEPA threshold determination, such
15 as the DNS issued for this proposal, are worthy of consideration. To successfully overturn a
16 SEPA DNS, a challenger must present actual evidence of probable significant adverse
17 impacts of the Project. *Boehm v. City of Vancouver*, 111 Wn.App. 711, 718-719, 47 P.3d 137
18 (2002). A "clearly erroneous" standard applies when reviewing SEPA threshold
19 determinations made by local and state governmental entities, such as the DNS issued for this
20 project. *King Cty. v. Washington State Boundary Review Bd. for King Cty.*, 122 Wn. 2d 648,
21 661, 860 P.2d 1024 (1993). A challenged DNS may be reversed if, although there is evidence
22 to support it, the reviewing authority is left with the definite and firm conviction that a
23 mistake has been committed. *See Norway Hill Pres. & Prot. Ass 'n v. King County Council*,
24 87 Wn.2d 267, 274, 552 P.2d 674 (1976). In reviewing a SEPA threshold determination, a
25 reviewing authority must first determine whether "environmental factors were considered in
26 a manner sufficient to amount to prima facie compliance with the procedural requirements of
SEPA." *Sisley v. San Juan County*, 89 Wn.2d 78, 84, 569 P.2d 712 (1977) (quoting *Juanita
Bay Valley Com. v. Kirkland*, 9 Wn. App. 59, 73, 510 P.2d 1140 (1973)).

27. Procedural determinations by the City's SEPA responsible official, like the SEPA
DNS threshold determination made for this proposal, shall be entitled to substantial weight
in any subsequent proceedings. Such deference is mandated by Washington caselaw,
including *Anderson v. Pierce County*, 86 Wn. App. 290 (1997) (holding that substantial
weight is accorded to agency threshold determinations), and is required by *WAC 197-11-
680(3)(a)(viii)* ("Agencies shall provide that procedural determinations made by the
responsible official shall be entitled to substantial weight."), which provision is adopted by
reference as part of the City's municipal code. (*RMC 22.09.200*).

25 FINDINGS OF FACT, CONDITIONS OF
26 APPROVAL AND DECISION RE: QUARRY NORTH
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1 28. By operation of WAC 197-11-545 (re: Effect of no comment after SEPA notice), if a
2 consulted agency does not respond with written comments within the time periods for
3 commenting on environmental documents, the lead agency may assume that the consulted
4 agency has no information relating to the potential impact of the proposal as it relates to the
5 consulted agency's jurisdiction or special expertise; further, lack of comment by other
6 agencies or members of the public on environmental documents within the applicable time
7 period shall be construed as lack of objection to the city's environmental analysis.

8 29. In the end, the proposed Site Plan has been conditioned to ensure that it will be
9 developed in compliance with applicable city development requirements and performance
10 standards, and specific conditions of approval, all of which are reasonable and capable of
11 accomplishment. If constructed, operated, and maintained in compliance with this Decision,
12 the proposed Site Plan should not result in any probable, significant, adverse environmental
13 impacts on surrounding properties, residents, or businesses.

14 30. As part of the Environmental documents included in the record for this application, a
15 Cultural Resources Report, dated September 10, 2020, was prepared for the property and
16 includes an Executive Summary that explains: "After conducting surface and subsurface
17 inventory of the project, no cultural resources were identified. RLR [Archaeology and
18 Cultural Resource consultants] finds no historic properties affected and recommends that this
19 project proceed." (*"A Cultural Resources Review and Inventory of the proposed Taptal
20 Rezone and Apartment Construction, Richland, Benton County, Washington"*, included with
21 *Original Staff Report, electronic copy of file materials, part of Ex. 1, application materials,
22 on PDF pages 32-63; emphasis added*).

23 ***Views across a neighboring property are not protected by city codes or Washington
24 caselaw.***

25 31. Some local residents raised general view loss concerns, like views across the
26 applicant's property. These concerns do not serve as a basis to reject the proposal. There is
no dispute that Richland city codes do not provide protection for general views from one
property onto another.

32. In Washington, a person has no property right in the view across their neighbor's land.
A constitutionally protected property interest exists when a plaintiff demonstrates that he or
she possesses a "legitimate claim of entitlement" under the law. *Bd. of Regents of State Colls.
v. Roth*, 408 U.S. 564, 577, 92 S. Ct. 2701, 33 L. Ed. 2d 548 (1972). Here, the Richland
Municipal Code does not grant adjoining property owners a claim of entitlement in the
protection of their views; the code does not require the city to deny a permit or other project
application that might impair private views of lands beyond a landowner's property

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1 boundaries. Thus, any potential constitutional due process claims alleging view loss should
2 fail.

3 33. The criteria for approval of a Site Plan does not include analysis of views of the
4 proposed development from adjacent properties, nor do City regulations protect the views
5 from adjacent properties other than any view protection that may result from compliance with
6 applicable building height limits, setback requirements, and other bulk and density standards
7 for the property.

8 34. Washington case law is very clear that there is no view protection in common law;
9 nor are general views from a neighbor's property onto an adjoining property protected in City
10 Codes at issue in this matter. See *Asche v. Bloomquist*, 132 Wn. App. 784, 133 P.3d 475,
11 2006 Wash. App. LEXIS 434 (Div. II, 2006); and *Durland v. San Juan County*, 182 Wn.2d
12 55, 340 P.3d 191 (2014).

13 ***Street improvements mandated by RMC 12.10.010.***

14 35. RMC 12.10.010, captioned "Street improvements for new construction," reads as
15 follows: *A. Whenever a building permit application is made for construction of a new
16 residential or commercial structure within the city, the person seeking such permit shall also
17 make application for a permit as provided for under this chapter, and as a portion of such
18 construction there shall be built street improvements on all sides of such property that may
19 adjoin property dedicated as a public street right-of-way, in conformance herewith, and such
20 street improvements shall extend the full distance that such property is sought to be occupied
21 as a building site for residential or commercial construction, or as parking area for
22 commercial construction, that may adjoin property dedicated as a public street right-of-way.
23 "Street improvements" shall include all elements needed to complete the street in
24 conformance with city standards, including but not limited to grading of land, subgrade
25 preparation, crushed rock base, asphalt paving, curbs, gutters, sidewalks, storm drainage,
26 and street light improvements. (Emphasis added).*

36 36. RMC 12.10.035, captioned "Sidewalks for new or improved streets", provides as
37 follows: "*Whenever any street is constructed or improved in any area of the city zoned
38 residential or commercial, whether such construction be by local improvement or otherwise,
39 as a part of such construction or improvement there shall be included therein, on both sides
40 of any such street that may abut on previously developed property, sidewalks, curbs, and
41 gutters constructed in conformity with requirements of this chapter*" [...]. The pending
42 application is for a property located in a Commercial, i.e. C-LB zone.

43 37. A site plan for a large multi-family residential project, such as this, must be and is
44 hereby conditioned to fully comply with RMC Chapter 12.10, regarding installation of street

1 improvements. The Public Works Director has authority to waive or modify otherwise
2 applicable street system improvements, subject to a determination issued in accord with RMC
3 12.10.050. It appears as though the Transportation Engineer’s memorandum (*Ex. 7*)
4 constitutes the detailed list of transportation system improvements that will be required as
5 part of this Site Plan approval, so they have been included as conditions of approval. (*Ex. 7*).

6 ***As conditioned, the application satisfies approval criteria for Site Plan Review.***

7 38. Except for deficiencies regarding setbacks and other details noted in the Original Staff
8 Report, the Original Staff Report provides a credible summary of Comprehensive Plan and
9 Zoning Code provisions that apply to this proposed Site Plan, and how the application
10 complies with, or can be conditioned to, satisfy such requirements. The Revised Staff Report
11 provides a credible summary of modifications that the applicant has made to its proposed Site
12 Plan, as shown in *Exhibit 6*, to satisfactorily address deficiencies that prevented Staff from
13 recommending approval of the original site plan proposal. The Public Works memorandum
14 (*Exhibit 7*) credibly supplements the record with specific transportation system
15 improvements and stormwater management requirements needed to address site specific
16 conditions and impacts. The Public Works recommendations were not rebutted during the
17 continued public hearing, and the applicant accepted all proposed conditions without requests
18 for changes. (*Testimony of Mr. Wright, on second night of hearing*).

19 39. Based on the entire record, the Examiner finds and concludes that the applicant’s
20 Revised Site Plan application demonstrates general conformance with the City’s
21 comprehensive plan, zoning and development regulations, subject to appropriate conditions
22 of approval.

23 40. The record includes a preponderance of evidence that which establish that, subject to
24 appropriate conditions of approval, the proposed project satisfies all 5 approval criteria
25 contained for a Type II permit, found in RMC 19.60.095, which reads as follows:

26 A. The development application is consistent with the adopted comprehensive
plan and meets the requirements and intent of the Richland Municipal Code. *See
all findings above, and in the Staff Report; Staff Report, portions explaining how
the project is designed or can be conditioned to meet performance standards and
special requirements for residential uses in the C-LB zone; Conditions of
Approval, to ensure the project will be constructed in compliance with applicable
provisions of the City’s Comprehensive Plan and development regulations.*

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

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1 *resulted in issuance of a DNS for the project, which was not questioned or*
2 *appealed. Conditions of Approval are included to ensure that the project will*
3 *not result in adverse impacts on surrounding properties, uses, and residents, all*
4 *of which are reasonable and capable of accomplishment.*

5 C. The development application is beneficial to the public health, safety and
6 welfare and is in the public interest. *As conditioned, the project should*
7 *adequately protect and benefit the public health, safety and welfare and be in the*
8 *public interest. Modifying Conditions of Approval without a full Type II review*
9 *process would not be in the public interest.*

10 D. The development does not lower the level of service of transportation facilities
11 below the level of service D, as identified in the comprehensive plan; provided,
12 that if a development application is projected to decrease the level of service
13 lower than level of service D, the development may still be approved if
14 improvements or strategies to raise the level of service above the minimum level
15 of service are made concurrent with development. For the purposes of this
16 section, “concurrent with development” means that required improvements or
17 strategies are in place at the time of occupancy of the project, or a financial
18 commitment is in place to complete the required improvements within six years
19 of approval of the development. *See discussion in the initial Staff Report*
20 *regarding transportation analysis, and Public Works comments with proposed*
21 *conditions in Exhibit 7, and Conditions of Approval addressing transportation*
22 *system improvements that will be required as part of this development to comply*
23 *with city concurrency requirements and the like.*

24 E. Any conditions attached to a project approval are as a direct result of the
25 impacts of the development proposal and are reasonably needed to mitigate the
26 impacts of the development proposal. *The conditions of approval for this project*
 are based on the evidence in the record, supported by applicable law, and fully
 capable of accomplishment.

41. Approval of this Site Plan will not and does not constitute, nor does it imply any
 expectation of, approval of any administrative, quasi-judicial, or other permit or subsequent
 reviews that may be required for construction or other activities on any portion of this site
 plan.

V. CONCLUSIONS OF LAW.

1. Based on the record, and all findings provided above and in the Staff Report, the
 Examiner concludes that the applicant’s Site Plan application merits approval, subject to

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1 conditions of approval as recommended by City staff and modified herein.

2 2. As conditioned below, the site plan makes adequate provision for the public health,
3 safety, and welfare, and will be in the best interest of the citizens of the city and in accordance
4 with the height, setback, and other performance standards for the project.

5 3. The record includes a preponderance of evidence to establish that the applicant has
6 met its burden of proof to show that its application conforms to the relevant elements of the
7 city's development regulations and comprehensive plan, and that any significant adverse
8 environmental impacts have been adequately addressed. (*RMC 19.60.060; substantially
9 repeated in RMC 19.60.095(A)(B) and (E)*).

10 4. The application is designed, or can be conditioned, in a manner that is beneficial to
11 the public health, safety and welfare and is in the public interest (*RMC 19.60.095(C)*).

12 5. As conditioned, the site plan will not lower the level of service of transportation
13 facilities, and/or will include improvements or strategies made concurrent with development.
14 (*RMC 19.60.095(D)*).

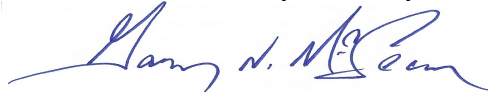
15 6. All buildings to be constructed as identified in this site plan must be designed or
16 conditioned to be consistent with standards and regulations that apply to properties located
17 in the City's C-LB zoning district.

18 7. Any statement found in any other section of this Decision that is deemed to be a
19 Conclusion of Law is hereby adopted as such and incorporated herein by this reference.

20 **VI. DECISION.**

21 Based upon all Findings, Conclusions, and Conditions of Approval (a copy of which
22 is attached hereto and incorporated as part of this Decision), the Quarry North "The Bob"
23 Apartments project application for a Site Plan, File No. M2021-107, is hereby APPROVED,
24 subject to conditions.

25 ISSUED this 21st Day of January, 2021

26 

Gary N. McLean
Hearing Examiner

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**CONDITIONS OF APPROVAL
FOR THE
QUARRY NORTH / “THE BOB” APARTMENTS
FILE NO. S2021-107**

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In accord with authority granted in the Richland Municipal Code, including without limitation RMC 23.48.040 (“Site plan approvals may be made subject to any condition(s) which the hearing examiner determines to be necessary to protect the public health, safety and welfare...”), the hearing examiner approves the above-referenced Site Plan application subject to conditions, modifications and restrictions set forth below, all deemed necessary to protect the public health, safety and welfare, to make the application compatible with surrounding conditions and uses, and to fully implement the regulations, policies, objectives and goals of the city’s comprehensive plan, zoning code, and other ordinances, policies and objectives of the city.

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General Conditions:

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- A. **Final Plan Sheets to be submitted within 180 days of this Decision:** The plan sheets included in this application are incomplete and marked as “Not for Construction”. Given this deficiency, the property shall be developed in substantial conformance with the revised Site Plan (*Ex. 6*), with the initial landscaping plans and other plan sheets included in the record as part of *Ex. 1* modified to conform with these Conditions of Approval and Site Plan revisions made in *Ex. 6*, subject to final review and approval of the Planning Manager before submittal of any building, grading, or other permit application required by the City for any aspect of this project. To satisfy this condition, the applicant must submit proposed final site plan sheets (to include, without limitation, complete landscaping and planting plans in compliance with all requirements in RMC 23.54.140, transportation and frontage improvement details, and stormwater system details) that are fully consistent with *Ex. 6* and these Conditions of Approval, for review and approval by the Planning Manager, within 180 days of the date this Decision is issued. For good cause, the Planning Manager may extend this deadline an additional 180 days. The Final Site Plan sheets, as approved by the Planning Manager, shall be retained by the City in appropriate property files, and shall control all aspects of development on the site. Notwithstanding language in any other findings, codes, or policies, any revisions or modifications to the Final Site Plan for this project shall only occur in accord with these Conditions;
- B. **Process for Review of Potential Minor or Major Revisions to this Site Plan.** Revisions to an approved Site Plan are reviewed under RMC 19.20.010, with minor revisions reviewed as a Type I application (see RMC 19.20.010(A)(6)), which requires approval by the Director; and major revisions reviewed as a Type II application requiring approval by the Hearing Examiner (see RMC 19.20.010(B)(3)).

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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 II applications require full public notice of such application, an open record hearing, and a decision by the Hearing Examiner.

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1 Because this Site Plan has been approved following input and analysis based upon a public review
2 and hearing process, and previous Site Plan projects may have been modified in significant aspects
3 from the approved Site Plan without public notice and review, it is in the public interest for this
4 Site Plan approval and future Site Plans to provide a clear condition explaining the sorts of
5 revisions that will require a Type I or Type II review and approval, subject to application fees and
6 filing requirements as determined by the Director or his/her designee.

7 For this Site Plan, “*Major Revisions*” shall include, but not be limited to the following:

- 8 i. Modification in building use;
- 9 ii. Any increase in the size, height, or building footprint for any building shown on the Site
10 Plan, or significant change in location for any building shown on the approved Site Plan,
11 as determined by the Planning Manager;
- 12 iii. Modification in the number, size, location or arrangement of off-street parking spaces, or
13 loading areas, provided additional parking spaces may be included in the project if
14 accomplished in a manner that is consistent with applicable city codes and design
15 requirements, as determined by the Planning Manager;
- 16 iv. Change in the number, size or location of access points to adjacent public streets;
- 17 v. Change in location of city utility lines or storm drainage facilities, except as approved by
18 the Public Works Director and Planning Manager, to ensure that such changes achieve
19 utility and stormwater service objectives without necessitating significant changes to
20 other aspects of the approved Site Plan;
- 21 vi. Change in location of any existing or proposed utility and/or access easements;
- 22 vii. Change in location, type or size of landscaping materials proposed to be installed on site
23 in the Final Landscaping Plan for the site, which is subject to review and approval by the
24 Planning Manager prior to issuance of any building or other city permit required for
25 development of the site;
- 26 viii. A proposed phasing of development, because no phasing plan was included in the
application;
- ix. Any change that, in the opinion of the City’s SEPA Responsible Official, would
significantly increase any adverse impacts or undesirable effects of the Site Plan.
- x. Any other change that would cause the site plan to not meet a minimum requirement or
design standard contained in the city’s development standards.

“*Minor Revisions*” shall exclude all proposed changes that would constitute a “Major Revision”
as listed above, but include: proposed changes that the Planning Manager determines to be truly
minor and still in substantial compliance with the Site Plan approval; technical engineering items
and details unless the proposed detail modifies or eliminates features specifically required as an

1 element of approval; minor changes to internal pedestrian paths, driveway alignments, or utility
2 designs; reduction in the number of residential units approved, as long as the modification meets
any minimum density requirement; minor changes to clarify notations on the Site Plan; and minor
changes to facilitate final stormwater system design requirements.

- 3 C. ***Site Plan Approval void if complete permit applications are not submitted within 12 months of***
4 ***issuance of this Decision.*** Complete applications for all permits needed to develop the property as
5 provided on the Site Plan must be submitted to the City for review by appropriate officials within 12
6 months of issuance of this Decision, unless extended for up to 12 months by the Planning Manager for
good cause following a written request from the applicant explaining reasons for such extension and
any progress made to pursue the project. Failure to satisfy this timeline shall void this Site Plan
approval and require a new application.

7 ***Technical Conditions.***

8 1. Upon completion of final construction for all aspects of the approved project depicted on the Site
9 Plan, the applicant shall prepare and submit true and correct as-built drawings for the entire Site Plan to
10 the Planning Manager, for their review and approval. The approved as-built drawings shall be retained in
11 the Department's Site Plan Review File and any associated property files. Submittal of the as-built
drawings must occur prior to any request for issuance of final certificate(s) of occupancy for the property
or any buildings thereon, and shall clearly indicate the locations of all structures, parking spaces,
landscaping, signage, and stormwater management features.

12 2. No buildings shall be constructed upon the property that are not included as part of this site plan
13 review application.

14 3. The maximum height of garages 1, 2 & 3 shall be 18' as defined by the Richland Municipal Code.

15 4. The maximum height of garages 5, 6 & 7 shall be 15' as defined by the Richland Municipal Code.

16 5. The maximum height of Apartment Building No. 4 shall be 36' as defined by the Richland
17 Municipal Code.

18 6. ***Stormwater Management.*** Stormwater runoff shall be maintained and treated in a manner
19 consistent with all Richland Municipal Code requirements. The Richland Municipal Code Ch. 16.06
20 requires that newly developed commercial properties design a storm retention system that will contain the
21 runoff from at least a City of Richland design storm (a 25-year, 24-hour storm event). A component of
22 typical stormwater design is to allow for an event larger than the design storm to safely overflow downhill
23 / downstream (an "emergency" overflow). Typically, this downstream runoff volume is limited to a 10-
year, pre-developed storm event. Given the topography of the site and surrounding properties, the finite
volume of the Columbia Park Trail roadside storm swales, and the sensitive nature of the USACE wetland
property to the north, the storm system for this project shall be designed to contain a larger than typical
storm event. This can be accomplished by designing the on-site system to contain a 100-year storm event
or developing an alternative system that uses an off-site location for stormwater management. The City
owns nearby property that may be available for use as part of a stormwater management system. Final

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1 Stormwater system design details shall be included in the applicant's proposed Final Site Plans, as
2 addressed in Condition A, above.

3 7. A 6-foot striped shoulder on the south side of Columbia Park Trail can be used for a bike lane.

4 8. A center left-turn lane shall be constructed to provide for westbound left turns into the western
5 driveway of this development. This will require some road widening and re-striping across the frontage of
6 the project and additional widening and tapering to the west and east of the project.

7 9. The roadside swale cross-section shall be designed to capture, contain and percolate a city
8 standard 25-year design storm.

9 10. 5-foot wide separated sidewalk (pedestrian pathway) shall be installed across the entire frontage
10 of the project. The appropriate location for this walk is behind the current roadside swale. This sidewalk
11 shall have an ADA-compliant connection to existing pedestrian facilities on either side of the project.

12 11. An off-site 5-foot pedestrian pathway shall be installed along the south side of Columbia Park
13 Trail to connect to the existing sidewalk near the Steptoe roundabout, approximately 240-feet to the east
14 of the subject property. If necessary, this pedestrian linkage may be accomplished by fitting the pathway
15 between the railroad bridge supports.

16 12. All building permit application(s) shall specify precise setbacks for each building respective to
17 distances from the nearest property line(s) and the nearest building on the site.

18 13. *Parking.* To ensure that the project is and will remain fully compliant with the purpose and intent
19 of Title 23 of the Richland Municipal Code, and to protect the public health, safety and welfare, the
20 applicant's Site Plan is specifically conditioned to include at least 299 off-street parking stalls, as proposed
21 in the applicant's Revised Site Plan (*Ex. 6*).

22 14. This Site Plan approval shall be null and void if any condition enumerated herein is not satisfied.

23 15. The Site Plan shall not be developed in phases, but as a single project, and no certificates of
24 occupancy shall be issued for any buildings on the site until transportation system improvements required
25 by this Decision and all parking stalls reflected on the Site Plan are constructed and receive City approval.

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

17 17. The applicant shall comply with all professional report conclusions and recommendations
18 submitted in connection with the Site Plan and engineering reviews, as approved and/or amended by the
19 City.

20 18. The applicant shall be responsible for consulting with state, federal, and other agencies or entities
21 with jurisdiction (if any) for applicable permit or other regulatory requirements. Approval of this Site Plan
22 does not limit the applicant's responsibility to obtain any required permit, license or approval from a state,
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1 federal, or other regulatory body. Any conditions of regulatory agency permits, licenses, or approvals shall
2 be considered conditions for this project.

3 19. The Site Plan shall comply with all applicable provisions of the Richland Municipal Code,
4 whether or not such provisions are enumerated or referenced in the Site Plan, in the staff report or in this
5 Decision; provided adjustments to street system improvements required by RMC Ch. 12.10 shall be in
6 accord with final reviews and determinations by the City's Public Works Director, who is authorized to
7 exercise sound engineering judgment in such matters. The burden is on the applicant to show compliance
8 with these conditions and applicable provisions of the City's code and development regulations at every
9 stage of development.
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1 **Notice of Rights to Request Reconsideration or**
2 **Appeal This Decision**

3 ***Reconsideration –***

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

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

13 ***Appeal –***

14 As provided in RMC 19.20.030, this Type II project permit Decision is subject to judicial appeal. The hearing
15 examiner’s decision regarding this Site Plan application shall be final, subject to judicial appeal in the time and
16 manner as provided in RMC 19.70.060 and Ch. 36.70C RCW (*Except in the event of legal authority providing
17 for a different appeal process, the city’s final decision on an application may be appealed by a party of record
18 with standing to file a land use petition in Benton County superior court. Such petition must be filed within 21
19 days of issuance of the decision, as provided in Chapter 36.70C RCW*).

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

25 **FINDINGS OF FACT, CONDITIONS OF**
26 **APPROVAL AND DECISION RE: QUARRY NORTH**
APARTMENTS SITE PLAN IN THE C-LB
(COMMERCIAL-LIMITED BUSINESS) ZONE –
FILE NO. M2021-107

GARY N. MCLEAN
HEARING EXAMINER FOR THE CITY OF RICHLAND
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RICHLAND, WASHINGTON 99352