

**WHEN RECORDED RETURN TO:**

Richland City Clerk's Office  
625 Swift Boulevard, MS-07  
Richland, WA 99352

**ORDINANCE NO. 2023-23**

**AN ORDINANCE OF THE CITY OF RICHLAND, WASHINGTON, AMENDING TITLE 23: ZONING REGULATIONS OF THE RICHLAND MUNICIPAL CODE AND THE OFFICIAL ZONING MAP OF THE CITY TO CHANGE THE ZONING ON 0.21 ACRES FROM MEDIUM DENSITY RESIDENTIAL (R-2) TO MEDIUM DENSITY RESIDENTIAL SMALL LOTS (R-2S); SAID PROPERTY BEING IDENTIFIED AS ASSESSOR'S PARCEL NUMBER 110984020129011, AND ADOPTING THE FINDINGS AND CONCLUSIONS OF THE RICHLAND HEARING EXAMINER AS THE FINDINGS AND CONCLUSIONS OF THE RICHLAND CITY COUNCIL.**

**WHEREAS**, on May 8, 2023, the Richland Hearing Examiner held a duly advertised open-record public hearing to consider a petition from Seana Mortensen to change the zoning of the property hereafter described in Section 2 and identified as Assessor's Parcel Number 110984020129011; and

**WHEREAS**, following the May 8, 2023 open-record public hearing, the Richland Hearing Examiner issued an 11-page written recommendation to the Richland City Council that concluded with a favorable recommendation to approve the requested rezone; and

**WHEREAS**, the Richland City Council has considered the written recommendation of the Richland Hearing Examiner and the record created during the May 8, 2023 open-record public hearing; and

**WHEREAS**, as required by RMC 19.20.030, the Richland City Council conducted a closed-record decision hearing on September 19, 2023 and has considered the totality of the record.

**NOW, THEREFORE, BE IT ORDAINED** by the City of Richland as follows:

Section 1. It is hereby found, as an exercise of the City’s police power, that the best land use classification for the land described below is Medium Density Residential Small Lot (R-2S) when consideration is given to the interests of the public.

Section 2. Said property, depicted in **Exhibit A**, attached hereto and incorporated by this reference, is more particularly described as follows:

LOT 11, BLOCK 129 OF THE PLAT OF RICHLAND

HAVING AN AREA OF 9,571 SQUARE FEET, 0.21 ACRES, MORE OR LESS.

Section 3. Such property is rezoned from Medium Density Residential (R-2) to Medium Density Residential Small Lot (R-2S).

Section 4. Richland Municipal Code Title 23 and the Official Zoning Map of the City, as adopted by Section 23.08.040 of said Title, are hereby amended by amending Sectional Map No. 12, which is one of a series of maps constituting said Official Zoning Map of the City of Richland, as shown on the attached **Exhibit B**, and bearing the number and date of passage of this Ordinance, and by this reference made a part of this Ordinance and of the Official Zoning Map of the City.

Section 5. The findings of fact and conclusions of the Richland Hearing Examiner as provided in the Richland Hearing Examiner’s August 17, 2023 written recommendation, attached hereto as **Exhibit C**, are hereby adopted as the findings of fact and conclusions of the Richland City Council.

Section 6. The City Clerk is directed to file with the Auditor of Benton County, Washington, a copy of this Ordinance and the attached amended Sectional Map No. 12, duly certified by the City Clerk as a true copy.

Section 7. This Ordinance shall take effect the day following its publication in the official newspaper of the City of Richland.

Section 8. Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 9. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including but not limited to the correction of scrivener’s errors/clerical errors, section numbering, references, or similar mistakes of form.

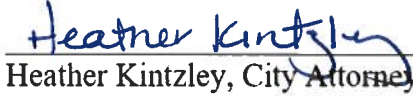
**PASSED** by the City Council of the City of Richland, Washington, at a regular meeting on the 3<sup>rd</sup> day of October, 2023.

  
Terry Christensen Mayor

Attest:

  
Jennifer Rogers, City Clerk

Approved as to Form:

  
Heather Kintzley, City Attorney

First Reading: September 19, 2023  
Second Reading: October 3, 2023  
Date Published: October 8, 2023

# Exhibit A to Ordinance No. 2023-23

## Vicinity Map

Item: 521 Smith Ave, Short Plat & Rezone  
Applicant: Alan & Seana Mortensen  
File #: SP2023-106 & Z2023-104

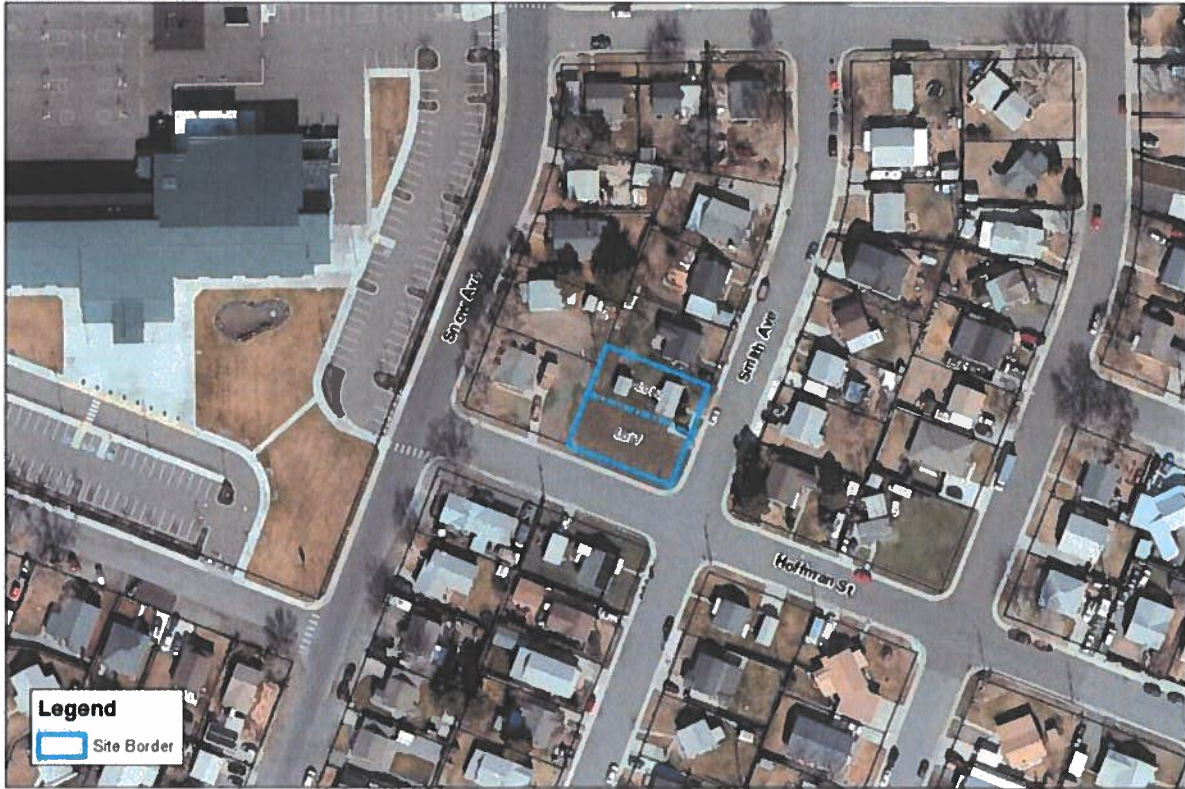




Exhibit B to Ordinance No. 2023-23; Passed 10 03 23  
R-2 to R-2S Zoning

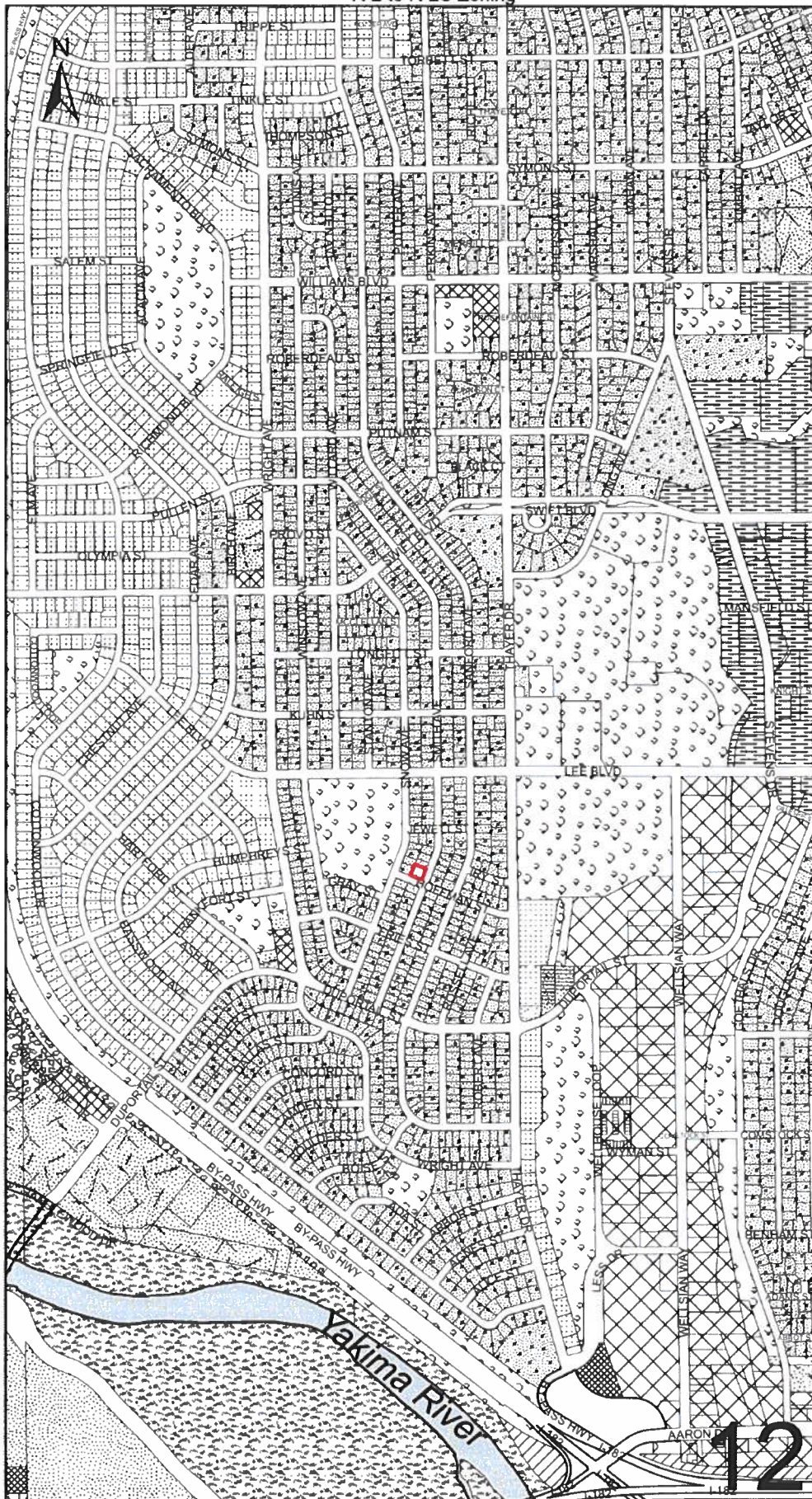


Exhibit C to Ordinance No. 2023-23

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

Regarding the Application to *Rezone* a )  
 single parcel from R-2 (Medium Density ) **File No. Z2023-104**  
 Residential) to R-2S (Medium Density )  
 Residential Small Lot), which is consistent )  
 with the Comprehensive Plan’s Medium ) **FINDINGS OF FACT,**  
 Density Residential (MDR) land use ) **CONCLUSIONS AND**  
 designation assigned to the site, submitted ) **RECOMMENDATION**  
 by )  
 )  
**ALAN & SEANA MORTENSEN (PROPERTY )**  
**OWNERS), )**  
 )  
 Applicants )  
 )  
 (*Location: 521 Smith Avenue, about one block east of )*  
*Marcus Whitman Elementary School, on Parcel No. )*  
*1109844020129011) )*

**I. SUMMARY OF RECOMMENDATION.**

The applicants and property owners for the parcel at issue, Alan and Seana Mortensen, can meet their burden of proof to demonstrate that their requested rezone merits approval.

The site is now designated as suitable for Medium Density Residential land uses under applicable provisions of the City’s Comprehensive Plan. Under City zoning codes, there are two zoning classifications that are deemed “Medium Density Residential”, either the R-2 or R-2s zone. The site is now zoned R-2. The pending application would rezone the site to the other available Medium Density Residential zoning district found in current City codes, specifically, the R-2S zone, which approval is subject to “special requirements” provided in RMC 23.18.020(A).

This requested rezone does not approve any development activity on the site. As with all development proposals, City Development Regulations, including without limitation

**FINDINGS OF FACT, CONCLUSIONS AND  
RECOMMENDATION OF APPROVAL FOR  
MORTENSEN REZONE APPLICATION –  
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1 subdivision codes, will apply to any specific projects that may eventually be proposed on the  
2 site. The same applicant is pursuing an application to subdivide their property into two  
3 roughly equal lots, which is subject to a separate review and approval by the Hearing  
4 Examiner, under File No. SP2023-106. If this rezone is denied, the proposed land division  
5 would be null and void.

6 Because applicant's only vest to zoning and development regulations in effect at the  
7 time of a complete application for a land use proposal, the applicant has assumed all risk  
8 associated with pursuing approval of a subdivision that is dependent on the Council's  
9 legislative discretion to approve or deny this requested rezone. This Recommendation should  
10 not be read to create any expectation or assumption on the applicant's part that applicable  
11 law mandates approval of their requested rezone. It does not. To the contrary, the City  
12 Council holds full discretion and authority to reach its own decisions regarding site-specific  
13 rezones. For example, in this matter, City codes include at least two zoning designations that  
14 are considered Medium Density Residential, the requested R-2S zone, and the R-2 zone,  
15 which is already assigned to the applicants' parcel.

16 In any event, for reasons explained below, the Hearing Examiner respectfully  
17 recommends that the City Council approve the applicants' pending request to rezone their  
18 parcel from R-2 to the R-2S zoning district.

## 19 **II. BACKGROUND and APPLICABLE LAW.**

20 In this matter, the Hearing Examiner has jurisdiction to conduct an open record public  
21 hearing on the site-specific rezone application at issue and is directed to issue a written  
22 recommendation for consideration and final action by the Richland City Council. *See*  
23 Richland Municipal Code (RMC) 19.20.010(D)(identifies "site-specific rezones" as Type  
24 IIIA permit applications); RMC 23.70.210(A)("The hearing examiner shall conduct an open  
25 record public hearing as required by RMC Title 19 for a Type IIIA permit application."); and  
26 RMC 19.20.030(granting jurisdiction to Hearing Examiner to conduct public hearing and  
issue recommendation to City Council); RMC 19.25.110(authority for Examiner actions,  
including conditions of approval on applications or appeals); and RCW 35A.63.170(state  
statute regarding hearing examiner system).

27 The applicant bears the burden of proof to show that its application conforms to the  
28 relevant elements of the city's development regulations and comprehensive plan, and that  
29 any significant adverse environmental impacts have been adequately addressed. RMC  
30 19.60.060.

31 Finally, Washington Courts apply three basic rules when reviewing appeals of rezone  
32 applications: (1) there is no presumption favoring the rezone request; (2) the proponent of a

33 **FINDINGS OF FACT, CONCLUSIONS AND  
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1 rezone must demonstrate that there has been a change of circumstances since the original  
2 zoning, PROVIDED if a proposed rezone implements the policies of a comprehensive plan,  
3 a showing of changed circumstances is usually not required<sup>1</sup>; and (3) the rezone must have a  
4 substantial relationship to the public health, safety, morals, or general welfare. *Woods v.*  
5 *Kittitas County*, 162 Wn.2d 597 (2007), citing *Citizens for Mount Vernon*, 133 Wn.2d 861,  
6 at 875 (1997); *Parkridge v. City of Seattle*, 89 Wn.2d 454, 462 (1978).

### 7 III. QUESTIONS PRESENTED.

8 For purposes of the pending rezone application, the central questions presented are:

9 A. Whether the requested rezone implements applicable policies of the City's  
10 Comprehensive Plan, and/or whether there has been a change of circumstances since the  
11 current R-2 zoning was adopted for the site?

12 *Short Answer:* Yes to both. The site is already designated for Medium Density  
13 Residential uses in applicable provisions of City's Comprehensive Plan. While the  
14 site is already zoned R-2, one of the two zones available for properties designated for  
15 Medium Density Residential uses, demand for additional housing and lands on which  
16 to build new homes has increased significantly since the site was first zoned R-2,  
17 especially on sites where urban infrastructure and amenities are readily available to  
18 serve the future residents. The rezone would effectuate the Comprehensive Plan, and  
19 modify zoning in a manner that addresses a change in circumstances. Specifically,  
20 the requested R-2S zone is a Medium Density Residential zone that would enable the  
21 property owners to divide their parcel and make use of a vacant part of land with  
22 another dwelling unit. The applicants are pursuing a separate application to subdivide  
23 their property into two lots, which would be allowed under R-2S zoning standards.  
24 This proposal is consistent with current city policies and goals that encourage "infill"  
25 as a way to address ever-increasing demand for a variety of residential housing  
26 options in the City of Richland.

18 B. Whether the rezone bears a substantial relationship to the public health, safety,  
19 morals, or general welfare?

20 *Short Answer:* Yes, because the rezone is consistent with the City's Comprehensive  
21 Plan, and any future, project-specific proposal will have to meet city development  
22 regulations, including SEPA, subdivision codes, traffic impact reviews, public  
23 infrastructure concurrency reviews, and payment of any impact fees in effect at the  
24 time of an application. Vacant, undeveloped, Residential-designated property in an

24 <sup>1</sup> *Save Our Rural Env't v. Snohomish County*, 99 Wn.2d 363, 370-71 (1983); *Henderson v. Kittitas County*, 124 Wn. App.  
25 747, 754 (Div. III, 2004); *Bjarnson v. Kitsap County*, 78 Wn. App. 840, 846 (Div. III, 1995).



1 area already served with adequate transportation and utility infrastructure is not  
2 consistent with state and local policies that encourage residential development in  
3 designated urban growth areas, like those in the Richland City limits. The proposed  
4 rezone is an effort to expedite development potential for the site, as shown in the  
5 applicant's proposed two-lot residential subdivision for the property. The current R-  
6 2 zoning designation applied to the site is no longer the best zone for the specific  
7 parcel, nor is it in the public interest to ignore an opportunity for infill development  
8 on the site.

#### 6 IV. RECORD.

7 Exhibits entered into evidence as part of the record, and an audio recording of the  
8 public hearing, are maintained by the City of Richland, and may be examined or reviewed by  
9 contacting the City Clerk's Office.

9 Public notices regarding the application and public hearing were mailed, posted, and  
10 published as required by city codes prior to the public hearing, which occurred on May 8,  
11 2023. (*Staff Report, page 10; Exhibit 4*).

11 **Hearing Testimony:** Only City Planner, Kyle Hendricks, and one of the applicants,  
12 Seanna Mortenson, asked to present testimony under oath during the public hearing.

13 **Exhibits:** The Development Services Division Staff Report for the requested Rezone,  
14 including a recommendation of approval, was provided to the Examiner in the week before  
15 the hearing. The Staff Report, and the following Exhibits, were all accepted into the Record  
16 in their entirety without modification:

- 16 1. Rezone Application Materials
- 17 2. Zoning map
- 18 3. Application to divide parcel into two residential lots (short plat)
- 19 4. Public Notices & Affidavits
- 20 5. Agency comments
- 21 6. (Post-hearing submittal, requested by the Examiner) – Revised Condition of Approval  
22 for proposed land division, requiring ADA frontage improvements on the applicant's  
23 corner lot, and addressing driveway standards for proposed new lot (to be consistent  
24 with similar development proposals throughout the City), from Mr. Hendricks to the  
25 Examiner.

22 The Examiner visited the road network and vicinity of the proposed rezone on two  
23 occasions in the period following the public hearing, to personally observe site conditions,  
24 the types of uses and residential housing in the area, specific driveway access issues  
25 presented, and other considerations at issue in this rezone and the associated land division

25 **FINDINGS OF FACT, CONCLUSIONS AND**  
26 **RECOMMENDATION OF APPROVAL FOR**  
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request. The Examiner is fully advised on matters at issue herein, including without limitation applicable law, application materials, and relevant comprehensive plan provisions.

## V. FINDINGS OF FACT.

Based upon the record, the undersigned Examiner issues the following Findings of Fact.

### *Application, Site Location and Conditions.*

1. In this application, the applicants and property owners, Alan and Seana Mortensen, request a rezone of a parcel of property from Medium Density Residential (R-2) to R-2S, another medium density residential classification, known as Medium Density Residential Small Lot. (*Ex. 1, Application materials; Staff Report*).

2. The Mortensen's property is a single parcel, about 9,600 sq.ft. in size, assigned Benton County Tax Parcel No. 1109844020129011, located at 521 Smith Avenue, in the City of Richland, about one block east from Marcus Whitman Elementary School, with Carmichael Middle School and Richland High School a relatively flat, short (less than one mile) distance away to the east/northeast. The site is located a reasonable distance from the City's Central Business District, approximately 3/4 of a mile to the east. (*Staff Report; Site visit; Application materials*).

3. An aerial view/map found on page 2 of the Staff Report, highlighting the applicants' parcel in blue, is republished below.



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1  
2 4. The illustration shown above shows the applicants' parcel as it might appear if the  
3 rezone is approved, and the applicants' separate application for a short plat – which is not  
before the City Council – is later approved.

4 5. The Comprehensive Plan Land Use Map shows the Mortensen's parcel is designated  
5 for Medium Density Residential uses and developments. (*Staff Report, page 5, see Figure 2,*  
*Comp. Plan Land Use Map for area where the applicants' parcel is located*).

6 6. There is no dispute that the R-2 and R-2S zoning designations are the two zoning  
7 classifications that are deemed "Medium Density Residential" in the City's municipal code.  
8 (*See RMC 23.18.010(C) and (D)*). The City's code describes the two zones as follows:

9 *The medium-density residential (R-2) is a residential zone classification permitting a*  
10 *higher density of population including the establishment of duplex dwellings and*  
11 *providing for these single-and two-family residences a high degree of protection from*  
12 *hazards, objectionable influences, building congestion and lack of light, air and privacy.*  
*Certain essential and compatible public service facilities and institutions are permitted*  
*in this district. This zoning classification is intended to be applied to some portions of the*  
*city that are designated medium-density residential (5.1 to 10 dwellings per acre) under*  
*the city of Richland comprehensive plan. (RMC 23.18.010(C)).*

13 *The medium-density residential small lot (R-2S) is a residential zone classification*  
14 *permitting a higher density of population, encouraging small lot development conducive*  
15 *to energy conservation and to other factors contributing to the production of affordable*  
16 *housing, and including the establishment of duplex dwellings and providing for these*  
17 *one- and two-family residences a high degree of protection from hazards, objectionable*  
18 *influences, building congestion and lack of light, air and privacy. Certain essential and*  
*compatible public service facilities and institutions are permitted in this district. This*  
*zoning classification is intended to be applied to some portions of the city that are*  
*designated medium-density residential (5.1 to 10 dwellings per acre) under the city of*  
*Richland comprehensive plan. (RMC 23.18.010(D)).*

19 7. The rezone parcel is mostly flat and is not within the City's Shoreline jurisdiction.  
20 The Staff Report explains that the site is not subject to any special Critical Areas  
21 requirements; that this application is exempt from SEPA review; and that no agencies offered  
any comments regarding the applicants' rezone application. (*Staff Report, page 10*).

22 8. The Staff Report confirms that notices regarding the proposed rezone and associated  
23 two-lot land division application were mailed, posted, and published in accord with City  
24

25 **FINDINGS OF FACT, CONCLUSIONS AND**  
26 **RECOMMENDATION OF APPROVAL FOR**  
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1 practices, with notices mailed to all owners of properties within 300-feet of the applicants'  
2 parcel.<sup>2</sup>

3 9. RMC 23.18.020(A) imposes “special requirements” that apply to any application to  
4 rezone land to the R-2S zoning classification, and reads as follows:

5 In order to assure consistency with the purpose of the R-2S district, as stated in  
6 RMC 23.18.010(D), and further to avoid potential negative and undesirable effects that may  
7 result from the higher density of development afforded in an R-2S zone, the following special  
8 requirements and provisions shall apply:

9 1. Any application for reclassification of land to R-2S shall be accompanied by an  
10 application for preliminary plat approval submitted in accordance with RMC 24.12.010.  
11 In addition, the following information shall be submitted with the application for  
12 preliminary plat:

- 13 a. A street landscaping plan showing the location and type of landscaping proposed;  
14 b. Information showing the location, dimensions and character of recreational  
15 facilities and/or open space, including paths and trails; and  
16 c. Utilization of curvilinear, cul-de-sac and/or loop streets or other appropriate  
17 design solutions to assist in modulating the interface of the residential buildings with  
18 the streets.

19 2. The planning commission and city council may, in keeping with the intent of this  
20 section, impose requirements and conditions on the approval of the preliminary plat or  
21 zoning reclassification as deemed appropriate. These conditions may include, but are not  
22 limited to, architectural design parameters, screening and buffering treatments, and  
23 supplemental open space and/or recreational facility requirements. Compliance with  
24 these conditions shall be demonstrated precedent to final plat and/or building permit  
25 approval as appropriate.

26 3. A combined front yard setback configuration and street-facing residential architectural  
elevation may be repeated continuously on no more than five lots before a different  
combination must be utilized. Regardless of the street facing architectural elevation, a  
front yard setback configuration may be repeated on no more than 10 lots before a  
different setback configuration must be utilized. The administrative official may approve  
variations to this requirement which, in his judgment, accomplish the intent of avoiding  
a monotonous interface of the residential buildings with the streets, or are necessary due  
to constraints or unique characteristics of the site. This requirement shall be satisfied at  
the time of building permit application. [*\*Note by Examiner: This requirement is*

22 <sup>2</sup> While notice requirements for a short plat are not the same as those for full subdivision, this proposal was  
23 subject to the same notice requirements for a full subdivision, i.e. a preliminary plat or subdivision, which  
24 requires notices mailed to owners of properties within 300-feet of the site. (See RMC 24.12.045 for notice  
25 requirements for Preliminary Plat, and RMC Chapter 24.13 RMC, where no such notice requirement is imposed  
26 for a Short Plat).

1 *inapplicable, as the parcel at issue would only be divided into two lots, not five or more*  
2 *as this section addresses].*

3 10. Because the associated land division proposed in connection with this rezone request  
4 is for only two lots, Staff determined that a short plat application is the proper procedure.<sup>3</sup> A  
5 short plat is typically decided by the Planning Manager as the administrator, but since this is  
6 combined with a rezone request, staff determined that the hearing examiner should be the  
7 administrator for the associated short plat application. *(Staff Report, page 8).*

8 11. To eliminate any uncertainty that the full intent and purpose of the special  
9 requirements for applications seeking to rezone land to the R-2S zoning classification, the  
10 Examiner applied approval criteria for a full-subdivision, not simply that for a short-plat, in  
11 consideration of the associated land division (short plat) application.

12 12. This matter was subject to a full public hearing, following public notices and ads  
13 consistent with those for a full subdivision. In other words, the review process for the  
14 associated 2-lot land division satisfies all relevant requirements for “an application for  
15 preliminary plat approval submitted in accordance with RMC 24.12.010” [see mandatory  
16 language in RMC 23.18.020(A)(1), addressed above].

17 13. While the requested rezone is fully consistent with the City’s Comprehensive Plan  
18 land use designation assigned to the parcel, changed circumstances also support the requested  
19 rezone from the R-2 to R-2S zone. Since original zoning was adopted, demand for new  
20 residential lots throughout the City of Richland has increased, especially in areas already  
21 served by nearby schools, adequate utilities, roads, and other urban services. The current R-  
22 2 zone does not serve a useful purpose at this site, because sufficient vacant and readily  
23 developable land is available for a future residential unit, in accord with City policies that  
24 encourage infill.

25 14. The Examiner concurs with the opinion of staff and finds that the proposed R-2S  
26 zoning with its associated permitted residential land uses and types of housing, is compatible  
with the vicinity and that the site’s proximity to existing schools in the area, well-built  
roadways, utilities, and recreational amenities in the area, and that its location should make a  
future residential unit on the site convenient for future residents. *(Site visits).*

15. Through the public comment and hearing process, no one submitted any comments,  
evidence, or legal authority that would serve as a basis to seriously question or deny this  
requested rezone. The Examiner undertook additional research, and conducted several site

<sup>3</sup> RMC 24.13.010, captioned “Permission and procedure to plat,” reads as follows: “When an owner or  
subdivider desires to subdivide a parcel of land so as to produce not more than a total of nine lots, none of which  
has been subdivided by short subdivision within a period of five years, it may be done in the following manner.”



1 visits to the area, to ensure that the associated 2-lot land division could satisfy special  
2 requirements imposed on applications for an R-2S zoning designation.

3 16. Because staff deemed the application to be consistent with the City's Comprehensive  
4 Plan, which already designates the rezone site as suitable for medium density residential land  
5 uses, and the City's plan was analyzed in an environmental impact statement at the time of  
6 its adoption, the pending application is categorically exempt from SEPA review as provided  
7 in WAC 197-11-800(6)(c). (*Staff Report; Official notice from record of previous rezone  
8 matters re: City SEPA process(es) undertaken when current Comprehensive Plan was  
9 adopted and amended*).

10 17. The record does not include any evidence that the requested R-2S zone could allow  
11 for any uses that would be incompatible with surrounding uses.

12 18. The Staff Report's analysis of this application stands un rebutted. The requested  
13 rezone is consistent with land use policy goals in the City's Comprehensive Plan. (*Staff  
14 Report, pages 5-6*).

15 ***Public services and utilities are adequate and readily available to serve the site.***

16 19. As part of the review process, City staff confirmed that, adequate utilities, including  
17 without limitation water, sewer, stormwater, and electricity, are in place and/or readily  
18 available, some with connections needed, but all with adequate capacity, to serve the parcel  
19 that is at issue in this matter. (*Staff Report, page 8, 9*).

20 ***Consistency with City Codes and Comprehensive Plan.***

21 20. As explained elsewhere in this Recommendation, the rezone site is already designated  
22 as "MDR" i.e. medium density residential, in applicable parts of the City's Comprehensive  
23 Plan, and the request is to reclassify the applicants' single parcel from one available MDR  
24 zone (R-2) to another, specifically the R-2S zone.

25 21. Standing alone, the requested rezone conforms to the Comprehensive Plan, because  
26 the plan already identifies the property as suitable for medium density residential uses. There  
is nothing in this record to justify holding the property as an R-2 zoned site, as might be the  
case if certain unique uses are needed in the immediate area in order to best serve the public  
interest.

***General findings.***

22. The requested rezone bears a substantial relationship to the public health, safety, and  
general welfare. The requested rezone is appropriate in the context of adjacent properties.

**FINDINGS OF FACT, CONCLUSIONS AND  
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1 23. The Development Services Division Staff Report, prepared by Mr. Hendricks,  
2 includes a number of specific findings and explanations that establish how the underlying  
3 application satisfies provisions of applicable law and is consistent with the city's  
4 Comprehensive Plan and zoning regulations. Except as modified in this Recommendation,  
all Findings contained in the Staff Report are incorporated herein by reference as Findings of  
the undersigned-hearing examiner.

5 24. Any factual matters set forth in the foregoing or following sections of this  
6 Recommendation are hereby adopted by the Hearing Examiner as findings of fact and  
incorporated into this section as such.

## 7 VI. CONCLUSIONS.

8  
9 Based upon the record, and the Findings set forth above, the Examiner issues the  
following Conclusions:

10 1. The applicant met its burden to demonstrate that the requested rezone conforms to,  
11 and in fact implements objectives of, the City's Comprehensive Plan. *Findings; Staff Report.*

12 2. The applicant met its burden to demonstrate that the requested rezone bears a  
13 substantial relationship to the public health, safety, or welfare.

14 3. The Staff Report and testimony in the record demonstrate that the proposed rezone  
15 will not require new public facilities and that there is capacity within the transportation  
16 network, the utility system, and other public services, to accommodate all uses permitted in  
the R-2S zone requested herein.

17 4. The rezoned site will not be materially detrimental to uses or property in the  
18 immediate vicinity of the subject property. In fact, the rezone will help facilitate additional  
19 but limited residential development on the property, thereby implementing City goals and  
policies, including without limitation those that seek to encourage infill development and to  
provide a variety of lifestyles and housing opportunities.

20 5. While the pending rezone application is categorically exempt from formal SEPA  
21 review, the record demonstrates that the potential for adverse impacts is very unlikely. And,  
22 after public notices issued for the application, no one spoke or submitted any written  
comments opposing the pending rezone request.

23 6. As required by RMC 19.50.010(C), the transportation system is sufficient to  
24 accommodate the type of development envisioned with the proposed rezone. The  
surrounding road network is fully functional, and no transportation concurrency problems are

25 FINDINGS OF FACT, CONCLUSIONS AND  
26 RECOMMENDATION OF APPROVAL FOR  
MORTENSEN REZONE APPLICATION -  
FILE NO. Z2023-104

GARY N. MCLEAN  
HEARING EXAMINER FOR THE CITY OF RICHLAND  
CITY HALL - 625 SWIFT BOULEVARD  
RICHLAND WASHINGTON 99352

likely to arise as a result of the rezone for the site. Development regulations, including without limitation those detailing frontage improvements, driveway access, impact fees, setbacks, and the like, will apply to any future project built on the site.

7. Based on the record, the applicants demonstrated that their rezone application merits approval, meeting their burden of proof imposed by RMC 19.60.060.

8. Approval of this rezone will not and does not constitute, nor does it imply any expectation of, approval of any permit or subsequent reviews that may be required for development or other regulated activities on the site of the subject rezone.

9. Any finding or other statement contained in this Recommendation that is deemed to be a Conclusion is hereby adopted as such and incorporated by reference.

### VII. RECOMMENDATION.

Based upon the preceding Findings and Conclusions, the Hearing Examiner recommends that the Mortensen Rezone application (File No. Z2023-104) to reclassify a 9,600 sq.ft. site from its current R-2 zone to another Medium Density Residential (MDR) land use designation, specifically the R-2S zoning district, which is consistent with the Comprehensive Plan's MDR land use designation assigned to the area, should be **APPROVED**.

ISSUED this 17<sup>th</sup> Day of August, 2023



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Gary N. McLean  
Hearing Examiner