



NOTICE OF DECISION

PURSUANT TO RICHLAND MUNICIPAL CODE SECTION 19.60.080 NOTICE IS HEREBY GIVEN THAT THE CITY OF RICHLAND HEARINGS EXAMINER, ON OCTOBER 23, 2023 APPROVED THE SHORT PLAT OF 521 SMITH AVENUE (CITY FILE NO. SP2023-106) SUBJECT TO CONDITIONS CONTAINED IN THE HEARING EXAMINER REPORT (ATTACHED):

**DESCRIPTION
OF ACTION:**

Short plat subdivision of 521 Smith Avenue subdividing 9,600 square feet into two (2) lots for residential development.

SEPA REVIEW:

The above referenced action is not subject to environmental review.

APPROVED:

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

PROJECT LOCATION:

The project site is located one block east of Marcus Whitman Elementary School at the northwest corner of the Smith Avenue and Hoffman Street intersection, at 521 Smith Avenue, Richland, Washington.

APPEALS:

Appeals to the above described action may be made to the Benton County Superior Court by any Party of Record. Appeals must be filed within 21 days of issuance of this notice, which is November 13, 2023.

Mike Stevens
Planning Manager

October 24, 2023

Date



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

**FINDINGS, CONCLUSIONS AND
DECISION APPROVING
MORTENSEN SHORT PLAT
[AKA "521 SMITH AVE SHORT PLAT"]**

FILE NUMBER: SP 2023-106

OWNER/APPLICANT: ALAN AND SEANA MORTENSEN

APPLICATION: TO SUBDIVIDE ONE 9,600 SQ.FT. LOT INTO 2 (TWO) RESIDENTIAL LOTS, EACH ABOUT THE SAME SIZE AS THE OTHER.

LOCATION: 521 SMITH AVENUE, ABOUT ONE BLOCK EAST OF MARCUS WHITMAN ELEMENTARY SCHOOL, IN THE CITY OF RICHLAND, WASHINGTON

PARCEL NUMBER: BENTON COUNTY ASSESSOR PARCEL NO. 1109844020129011

REVIEW PROCESS: TYPE III DECISION BY THE HEARING EXAMINER, CONSOLIDATED WITH THE ASSOCIATED APPLICATION TO REZONE THE PROPERTY, APPROVED BY THE RICHLAND CITY COUNCIL PRIOR TO THIS DECISION

SUMMARY OF DECISION: *APPROVE*, SUBJECT TO CONDITIONS

DATE OF DECISION: OCTOBER 23, 2023

I. CONTENTS OF RECORD.

Exhibits entered into evidence as part of the record, and an audio recording of the public hearing, are maintained by the City of Richland, and may be examined or reviewed by contacting the City Clerk's Office. Public notices regarding the application and public hearing were mailed, posted, and published as required by city codes prior to the public hearing, which occurred on May 8, 2023. (*Staff Report, page 10; Exhibit 4*).

Hearing Testimony: Only City Planner, Kyle Hendricks, and one of the applicants, Seana Mortenson, asked to present testimony under oath during the public hearing. No one submitted any written comments or appeared during the public hearing to oppose the pending plat application.

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

1. Rezone Application Materials
2. Zoning map
3. Staff's Proposed findings and Decision for Application to divide parcel into two residential lots (short plat)
4. Public Notices & Affidavits
5. Agency comments
6. (Post-hearing submittal, requested by the Examiner) – Revised Condition of Approval for proposed land division, requiring ADA frontage improvements on the applicant's corner lot, and addressing driveway standards for proposed new lot (to be consistent with similar development proposals throughout the City), from Mr. Hendricks to the Examiner.
7. (Post-hearing submittal, requested by the Examiner, transmitted on October 16, 2023) – copy of Ordinance No. 2023-23, passed by the Richland City Council on October 3, 2023, approving the applicants' requested rezone of their property from Medium Density Residential (R-2) to Medium Density Residential Small Lot (R-2S).

The Examiner visited the road network and vicinity of the proposed rezone and land division on two occasions in the period following the public hearing, to personally observe site conditions, the types of uses and residential housing in the area, specific driveway access issues presented, and other considerations at issue in the applicants' rezone and associated land division request. The Examiner is fully advised on matters at issue herein, including without limitation applicable law, application materials, and relevant comprehensive plan provisions. Now that the property has been rezoned, this requested land division can be approved.

II. APPLICABLE LAW, BACKGROUND.

This application for short plat approval was filed in March of 2023, and vested under City of Richland development regulations in effect when the application materials were deemed complete, which occurred at some point on or before public notices were issued in April of this year. (*Ex. 1, Application materials; Ex. 4, public notice and confirmation materials*).

Because the applicants' land division request is for only two lots, Staff determined that a short plat application is the proper procedure.¹ A short plat is typically decided by the Planning Manager as the administrator, but since this matter was combined with a rezone application, staff determined that the hearing examiner should be the administrator for the associated short plat application. (*Staff Report, page 8*).

There is no dispute that the applicants' requested land division could not be approved and recorded until after the associated rezone application for the property received approval by the Richland City Council. The Hearing Examiner held a public hearing regarding the applicant's proposed rezone on the same evening as the hearing for this short plat/land division occurred. The Examiner issued a Recommendation of Approval for the rezone, which the City Council approved earlier this month, a copy of which was transmitted to the Examiner last week. (*See Ex. 7, Ordinance approving applicants' requested rezone*).

To eliminate any uncertainty that the full intent and purpose of the special requirements for applications seeking to rezone land to the R-2S zoning classification – as was the case here – the Examiner applied approval criteria for a full-subdivision, not simply that for a short-plat, in consideration of the associated land division (short plat) application. This matter was subject to a full public hearing, following public notices and ads consistent with those for a full subdivision. In other words, the review process for this 2-lot land division satisfies all relevant requirements for “an application for preliminary plat approval submitted in accordance with RMC 24.12.010” [*see mandatory language in RMC 23.18.020(A)(1)*].

Because applicants only vest to zoning and development regulations in effect at the time of a complete application for a land use proposal, the applicant has assumed all risk associated with pursuing approval of this short plat that was dependent on the Council's legislative discretion to approve or deny their requested rezone.

As explained in RMC 24.12.050(A), the hearing examiner shall consider any preliminary plat application and shall conduct an open record public hearing in accordance with Chapter 19.60 RMC. After the public hearing and review of materials in the record, the hearing examiner shall determine whether the preliminary plat is in accordance with the comprehensive plan and other applicable code requirements and shall either make a decision of approval or disapproval. The

¹ 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.”

same provision of the city’s code (RMC 24.12.050(A)) provides that any approval of a preliminary plat shall not be given by the hearing examiner without the prior review and approval of the city manager or her designee with respect to the engineering elements of said plat including the following:

1. Adequacy of proposed street, alley, right-of-way, easement, lighting, fire protection, drainage, and utility provisions;
2. Adequacy and accuracy of land survey data;
3. The submittal by the applicant of a plan for the construction of a system of street lights within the area proposed for platting, including a timetable for installation; provided, that in no event shall such a plan be approved that provides for the dedication of such a system of lighting to the city later than the occupancy of any of the dwellings within the subdivision.

The City’s decision criteria for preliminary plat approval are substantially similar to state subdivision mandates found in RCW 58.17.110(2)² and reads as follows:

Richland Municipal Code 24.12.053 Preliminary plat – Required findings.

The hearing examiner shall not approve any preliminary plat application, unless the approval is accompanied by written findings that:

- A. The preliminary plat conforms to the requirements of this title;*
- B. Appropriate provisions are made for the public health, safety and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school;*
- C. The public use and interest will be served by the platting of such subdivision and dedication; and*
- D. The application is consistent with the requirements of RMC 19.60.095 (addresses transportation concurrency considerations).*

And RMC 19.60.095 mandates the following additional findings:

19.60.095 Required findings.

No development application for a Type II or Type III permit shall be approved by the city of Richland unless the decision to approve the permit application is supported by the following findings and conclusions:

- A. The development application is consistent with the adopted comprehensive plan and meets the requirements and intent of the Richland Municipal Code.*
- B. Impacts of the development have been appropriately identified and mitigated under Chapter 22.09 RMC.*
- C. The development application is beneficial to the public health, safety and welfare and is in the public interest.*

² “A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that: (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) the public use and interest will be served by the platting of such subdivision and dedication. If it finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the legislative body shall approve the proposed subdivision and dedication. [.]” RCW 58.17.110(2).

D. The development does not lower the level of service of transportation facilities below the level of service D, as identified in the comprehensive plan; provided, that if a development application is projected to decrease the level of service lower than level of service D, the development may still be approved if improvements or strategies to raise the level of service above the minimum level of service are made concurrent with development. For the purposes of this section, "concurrent with development" means that required improvements or strategies are in place at the time of occupancy of the project, or a financial commitment is in place to complete the required improvements within six years of approval of the development.

E. Any conditions attached to a project approval are as a direct result of the impacts of the development proposal and are reasonably needed to mitigate the impacts of the development proposal.

The burden of proof rests with the applicant, and any decision to approve or deny a preliminary plat must be supported by a preponderance of evidence. *RMC 19.60.060 and Hearing Examiner Rules of Procedure, Sec. 3.08.* The application must be supported by proof that it conforms to the applicable elements of the city's development regulations, comprehensive plan and that any significant adverse environmental impacts have been adequately addressed. RMC 19.60.060.

The hearing examiner's decision regarding this plat application shall be final, subject to judicial appeal in the time and manner as provided in RMC 19.70.060 and Ch. 36.70C RCW (*The city's final decision on land use application may be appealed by a party of record with standing to file a land use petition in Benton County Superior Court. Such petition must be filed within 21 days of issuance of the decision.*) See RMC 24.12.050(B).

III. ISSUE PRESENTED.

Whether a preponderance of evidence demonstrates that the applicant has met its burden of proof to satisfy the criteria for preliminary plat approval as well as short plat approval?

Short Answer: Yes, subject to conditions.

Based on all the evidence, testimony, codes, policies, regulations, engineering documentation, and other information contained in the Record, the Examiner issues the following findings, conclusions and Decision approving the applicants' requested land division, subject to conditions, as set forth below.

IV. FINDINGS OF FACT.

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

Application, Site Location and Conditions.

2. In this application, the applicants and property owners, Alan and Seana Mortensen, seeking approval of their request to subdivide a parcel of property into two lots. The applicants requested

an associated rezone of their 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*).

3. 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*).

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



5. The illustration shown above shows the applicants’ parcel as it might appear if the associated rezone is approved, and this separate application for a short plat is approved.

6. The applicants’ property is mostly flat and is not within the City’s Shoreline jurisdiction. The Staff Report explains that the site is not subject to any special Critical Areas requirements; that this application is exempt from SEPA review; and that no agencies outside the City offered any comments regarding the applicants’ short plat or associated rezone application. (*Staff Report, page 10*).

7. The Staff Report confirms that notices regarding the associated rezone and this two-lot land division application were mailed, posted, and published in accord with City practices, with notices mailed to all owners of properties within 300-feet of the applicants’ parcel.³

³ While notice requirements for a short plat are not the same as those for full subdivision, this proposal was subject to the same notice requirements for a full subdivision, i.e. a preliminary plat or subdivision, which requires notices mailed

8. There is no dispute that RMC 23.18.020(A) imposes “special requirements” that apply to any application to rezone land to the R-2S zoning classification, and reads as follows:

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

1. **Any application for reclassification of land to R-2S shall be accompanied by an application for preliminary plat approval** (emphasis added) submitted in accordance with RMC 24.12.010. In addition, the following information shall be submitted with the application for preliminary plat:

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

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

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

9. Because this land division application is for only two lots, Staff determined that a short plat application is the proper procedure.⁴ A short plat is typically decided by the Planning Manager as the administrator, but since this is combined with a rezone request, staff determined that the

to owners of properties within 300-feet of the site. (See RMC 24.12.045 for notice requirements for Preliminary Plat, and RMC Chapter 24.13 RMC, where no such notice requirement is imposed for a Short Plat).

⁴ 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.”

hearing examiner should be the administrator for the associated short plat application. (*Staff Report, page 8*).

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

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

12. The Examiner concurs with the opinion of staff and finds that the applicants’ land division request (which would implement purposes of R-2S zoning) is consistent with surrounding residential land uses, types of housing, and 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 should make an additional residential unit on the site convenient for future residents. (*Site visits*).

13. 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 or land division request. The Examiner undertook additional research, and conducted several site visits to the area, to ensure that the pending 2-lot land division could satisfy special requirements imposed on applications for an R-2S zoning designation.

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

14. As part of the review process, City staff confirmed that, adequate utilities, including without limitation water, sewer, stormwater, and electricity, are in place and/or readily available, some with connections needed, but all with adequate capacity, to serve the parcel that is at issue in this matter. (*Staff Report, page 8, 9; Ex. 3, utility related findings on page 4*).

Consistency with City Codes and Comprehensive Plan.

15. The applicant’s parcel is already designated as “MDR” i.e. medium density residential, in applicable parts of the City’s Comprehensive Plan, and the recently approved R-2S zone for the property allows for the requested land division and residential development on the site. The requested land division can now be approved, after the City Council approved the applicant’s rezone. (*See Ex.7, Ordinance approving rezone, approved on Oct. 3, 2023, transmitted to the Examiner on Oct. 16, 2023*).

16. Like the recently approved rezone, the applicants’ requested land division conforms to the Comprehensive Plan, because the plan already identifies the property as suitable for medium

density residential uses. There is nothing in this record to justify denial of the requested short plat, subject to appropriate conditions of approval.

General findings.

17. The requested land division bears a substantial relationship to the public health, safety, and general welfare. The rezone and short plat are both appropriate in the context of adjacent properties, surrounding uses, and especially easily accessible public schools, parks, and infrastructure.

18. The Development Services Division Staff Report, prepared by Mr. Hendricks, includes a number of specific findings and explanations that establish how the underlying application satisfies provisions of applicable law and is consistent with the city's Comprehensive Plan and zoning regulations. Except as modified in this Decision, all Findings contained in the Staff Report, and *Ex. 3* (Staff's proposed Short Plat Findings and Decision) are incorporated herein by reference as Findings of the undersigned-hearing examiner.

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

19. The Staff Report, testimony at the public hearing, and written materials included in the Record, particularly Exs. 1 and 3, all establish that the proposed application, as conditioned, makes appropriate provisions for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school, as required in state and City subdivision codes. (*See Ch. 58.17 RCW and RMC 24.12.053*).

20. Staff's proposed Short Plat Findings, included in Ex. 3, were not rebutted through the public hearing process. Additional conditions of approval have been added to ensure that the approved land division appropriately addresses ADA frontage improvements needed for this corner-lot, and that future development includes driveway access that complies with applicant city standards requiring adequate separation from the intersection where the applicant's property is located. (*See Ex. 6, summary of Public Works conditions addressing ADA frontage improvements and driveway access*).

21. The Examiner notes that impact fees associated with this project are not subject to vesting, so the developer will be subject to payment of any impact fees (including without limitation impact fees for parks, transportation, schools, or other infrastructure needs authorized by state law) that may be adopted by the City after this plat approval but before building permit applications are submitted or other triggering events defined by City codes occur. (*See New Castle Invs. v. City of LaCenter, 98 Wn. App. 224, 237-238, 989 P.2d 569 (1999)*).

Compliance with city development regulations achieves consistency with the Comprehensive Plan

22. RMC 24.04.020 explains that the purpose of the City’s platting and subdivision codes is “*in furtherance of the comprehensive plan of the city*” and that such regulations contained in the city’s platting and subdivision codes “*are necessary for the protection and preservation of the public health, safety, morals and the general welfare, and are designed, among other things, to encourage the most appropriate use of land throughout the municipality; to lessen traffic congestion and accidents; to secure safety from fire; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to promote the coordinated development of unbuilt areas; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve and restore natural beauty and other natural resources; and to facilitate the adequate provision of transportation, water, sewerage and other public uses and requirements.*” The effect of this provision boils down to this: compliance with the City’s Comprehensive Plan can be established, or at least partially established, through compliance with the city’s platting and subdivision regulations found in Title 24 of the Richland Municipal Code. In this matter, substantial evidence in the record establishes compliance by the proposed plat (as conditioned herein) with the city’s land platting regulations that are applicable to this project, thus implementing and complying with the City’s Comprehensive Plan. (See Staff Report, and Ex. 3, all Findings).

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

Proposed plat will provide public benefits

24. The applicant’s submittals and the Staff Report establish that some aspects of the new subdivision will provide a public benefit, including without limitation, new housing inventory to accommodate a variety of lifestyles and housing opportunities, fulfilling some of the city’s goals and policies set forth in the Comprehensive Plan. (Staff Report; Testimony of Mr. Howie).

25. Except as modified in this Decision all Findings, and statements of fact contained in the Staff Report, and Ex. 3, are incorporated herein by reference as Findings of the undersigned-hearing examiner.⁵

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

26. The record contains substantial evidence to demonstrate that, as conditioned, the proposed plat makes appropriate provisions for:

- A. The public health, safety, and general welfare: *See all Findings above; Staff Report; Ex. 3, explaining how proposed land division satisfies applicable standards and codes.*

⁵ For purposes of brevity, only certain Findings from the Staff Report and the Department’s proposed findings for the pending short plat (Ex. 3) are highlighted for discussion in this Decision, and others are summarized, but any mention or omission of particular findings should not be viewed to diminish their full meaning and effect, except as modified herein.

- B. Open Spaces: *See Ex. 1, application materials, particularly Applicants' summary memo listing parks and open spaces in close proximity to the project site, and discussion in item H below.*
- C. Drainage Ways: *the project will be consistent with all applicable standards for stormwater system design, including without limitation the Department of Ecology Stormwater Management Manual for Eastern Washington. There appear to be two 12-inch catch basins 95-feet west of the site along Hoffman Street. Consistent with City development standards, any new residential unit will be connected to the City's sanitary sewer system, which has capacity to serve the project. See Ex. 3, Findings on page 4.*
- D. Streets or roads, alleys, other public ways: *the proposed plat has been reviewed by the City for compliance with applicable street system design requirements, and, subject to compliance with specific conditions of approval, can be consistent with all applicable city standards for city roads, streets, driveways, access, circulation, payment of impact fees, transportation concurrency and the like. Staff Report, Ex. 3, proposed findings regarding transportation issues; Conditions of approval.*
- E. Transit stops: *Two transit lines operated by Ben Franklin Transit are located nearby to serve residents of the proposed short plat, with one route about 770 feet east, and another about 1,450 feet way by way of using street travel. (See Ex. 3, page 3*
- F. Potable water supplies: *The new lot will receive its domestic water supply from the City of Richland. Staff confirms that adequate capacity is available within the city's water supply system to provide domestic water service to the new lot, with an 8" distribution main located within both the Hoffman St. and Smith Ave. rights of way. (Ex. 3, p. 4).*
- G. Sanitary systems: *The City's sewer system has capacity and existing facilities adjacent to the project capable of serving the proposed plat with appropriate connections. Staff Report; Ex. 3, p. 4, discussion of Sanitary Sewer system features on and near the site.*
- H. Parks and recreation, playgrounds, schools: *Site visits to the site and surrounding area confirms that there are several city parks and other recreational opportunities within about one mile of the project site. The site is located in the Richland School District. The School District did not provide any comments after receiving city notice regarding the project. Whitman Elementary School is about 200-feet away; Carmichael Middle School is about 1,300 feet away; and Richland High School is about 3,000 feet away. (Ex. 3, page 4; Site visits).*
- I. Planning features to assure safe walking conditions for students: *See new conditions addressing ADA frontage improvements; Site visits, confirming sidewalks and direct access for students that might choose to walk to surrounding schools.*

27. Based on all evidence, exhibits and testimony in the record, the undersigned Examiner specifically finds that the proposed short plat, as conditioned below, makes appropriate provisions for the considerations detailed in applicable law, including without limitation RMC 24.13.060 (Short Plat criteria), and RMC 24.12.050, .053, and 19.60.095 (Preliminary Plat criteria), and that the public use and interest will be served by the proposed plat and associated dedications and improvements.

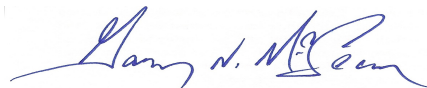
V. CONCLUSIONS OF LAW.

1. Based on the Findings as summarized above, the undersigned Examiner concludes that the proposed plat, as conditioned below can satisfy all applicable R-2S zoning and land use requirements and appropriately mitigates adverse environmental impacts. Upon reaching such findings and conclusions as noted above, the proposed land division meets the standards necessary to obtain approval by the City.
2. The conditions of approval imposed as part of this Decision are reasonable, supported by the evidence, and capable of accomplishment.
3. Any Finding or other statements in previous or following sections of this document that are deemed Conclusions are hereby adopted as such.

VI. DECISION.

Based upon the preceding Findings of Fact and Conclusions of Law, evidence presented through the course of the open record hearing, all materials contained in the contents of the record, and the Examiner's site visits to the area, the undersigned Examiner APPROVES the pending land division application, assigned File No. SP2023-106 (Mortensen Short Plat, aka 521 Smith Ave. Short Plat) subject to the following Conditions of Approval.

Decision issued: October 23, 2023.



Gary N. McLean
Hearing Examiner for the City of Richland

**CONDITIONS OF APPROVAL
FOR THE
MORTENSEN SHORT PLAT
(AKA 521 SMITH AVE. SHORT PLAT)
FILE NO. SP2023-106**

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

Conditions Added by the Hearing Examiner:

- A. This Decision expressly authorizes and approves the applicant's proposal, assigned File No. SP2023-106, to subdivide the 9,600 sq.ft. Parcel No. 1109844020129011, currently addressed as 521 Smith Ave. in the City of Richland, Washington, into 2 (two) lots, subject to compliance with the following Conditions. It is expressly understood that the approved, final short plat to be recorded with the Benton County Recorder's Office, must be designed to satisfy these Conditions of Approval and the City's R-2S zoning and development standards in effect at the time of this Decision.
- B. Development of the plat shall be substantially consistent with drawings provided in the application materials, subject to modifications necessary to comply with these conditions of approval and revisions directed by the City Engineer.
- C. Applicant shall be responsible for consulting with state and federal agencies, and tribal entities with jurisdiction (if any) for applicable permit or other regulatory requirements. Approval of a preliminary plat does not limit the applicant's responsibility to obtain any required permit, license or approval from a state, federal, or other regulatory body. Any conditions of regulatory agency permits, licenses, or approvals shall be considered conditions for this project.
- D. The final engineering plans and submittals necessary to obtain authorization from City staff to record the final short plat shall conform to all applicable provisions of the Richland Municipal Code and the Conditions of Approval herein.
- E. Development in the approved short plat shall comply with all applicable provisions of the Richland Municipal Code, whether or not such provisions are enumerated or referenced in the approved plat plans, in the staff report or in this Decision. The burden is on the applicant to show compliance with applicable provisions of the City's code and these conditions at every stage of development.
- F. ***Impact Fees*** – This project may be subject to payment of impact/mitigation fees for transportation, parks, schools, or other infrastructure needs, all in the amount, time, and manner as specified in applicable city codes and resolutions addressing such fees in effect at the time of building permit issuance.
- G. This short plat approval shall be null and void if any condition enumerated herein is not satisfied.

- H. **ADA Frontage Improvements.** Prior to recording the approved land division (short plat), ADA frontage improvements shall be completed on the corner of the lot at the intersection of Smith Ave. & Hoffman St., subject to review, approval, final inspection by the Public Works Director or designee.
- I. **Driveway access for new lot.** If the applicant chooses to place a driveway on Hoffman St, then City standards mandate that it must be at least 25' measured from the nearest boundary of the Smith Ave. right-of-way (intersection). If the applicant chooses to expand the existing driveway, along Smith Ave, then it must follow the same standard, meaning the driveway expansion must be at least 25 feet away from the Hoffman St. right-of-way (intersection). (See RMC 12.04.070, for driveway spacing requirements; and RMC 12.04.090, for driveway width standards).

Conditions derived from Staff's Proposed Short Plat Findings and Decision (Ex. 3).

1. Adequate fire protection, domestic water and sanitary sewer services need to be installed for the new parcels being created. These services shall be installed and all other necessary and required public infrastructure improvements (as required by municipal code) shall be installed prior to the short plat being approved & signed by the City Engineer. Utility information and public infrastructure requirements will be subject to the permitting requirements found in RMC 12.08. Detailed requirements can be found through the City of Richland Public Works Dept.
2. All signatures must be obtained (except for the county signatures) prior to submittal for city signatures. The short plat applicant and irrigation district shall have signed and notarized the document before the City Engineer.
3. The signature blocks need to be for City of Richland, not Benton County.
4. Note that each individual lot will be required to have separate water and sewer services extended onto the lots. Separate lots are not allowed to share services.
5. If the existing driveway is to be used by both parcels, then a shared access agreement will need to be established and recorded.
6. The existing 30-ft. sewer easement needs to be shown and documented on the short plat document.
7. The applicant shall add the following comment to the face of the plat: 'Addresses shown in brackets are subject to change by the City of Richland. Zip code: 99352'.
8. Add addressing brackets for each street frontage.
9. Add address numbers as shown in red on the attached annotated survey.

Recording.

10. The short plat cannot be recorded until the conditions of this Decision are completed and the final drawing is signed by all required agencies and parties. All recording and drafting fees are the applicant's responsibility.
11. At the time the short plat is to be recorded, all property taxes and special assessments must be paid for the entire year. If a short plat is not recorded by the end of the calendar year, then all of the next year's taxes and special assessments must be paid before it can be recorded.

12. All conditions are the landowner's/developer's responsibility, and all conditions must be completed and satisfied prior to final plat approval, unless otherwise stated herein. **Have your contractor contact Public Works at (509) 942-7500, for the permits and specifications for the necessary items listed above.** The lot configuration and easements on the survey must reflect the general layout of the applicant's drawing, as modified by this decision.

*** End of Conditions ***

NOTE – In the event of a need for clarification regarding the application or interpretation of any term or condition of approval set forth above, either the applicant or the city can invoke the jurisdiction of the Hearing Examiner to issue a written clarification of a particular term or condition, through a written request detailing the matter, and the basis for such request. Such request shall be made as a Request for Reconsideration, submitted within seven (7) calendar days of the date this Decision is issued.

Notice of Rights to Request Reconsideration or Appeal This Decision

Reconsideration –

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

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

Appeal –

The hearing examiner's decision regarding this plat application shall be final, subject to judicial appeal in the time and manner as provided in RMC 19.70.060 and Ch. 36.70C RCW (*The city's final decision on land use application may be appealed by a party of record with standing to file a land use petition in Benton County Superior Court. Such petition must be filed within 21 days of issuance of the decision*). See RMC 24.12.050(B).

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