



NOTICE OF DECISION

PURSUANT TO RICHLAND MUNICIPAL CODE SECTION 19.60.080 NOTICE IS HEREBY GIVEN THAT THE CITY OF RICHLAND HEARINGS EXAMINER, ON JANUARY 5, 2024 APPROVED THE PRELIMINARY PLAT OF DESERT SKY – 2104 MERITAGE AVENUE (CITY FILE NO. S2023-101) SUBJECT TO CONDITIONS CONTAINED IN THE HEARING EXAMINER REPORT (ATTACHED):

**DESCRIPTION
OF ACTION:**

Preliminary plat of “Desert Sky” subdividing 38.2 acres into 221 residential lots, 8 commercial lots and 5 tracts.

SEPA REVIEW:

A Supplemental Final Environmental Impact Statement was completed for this site at the time the City adopted the subarea plan for the Badger Mountain South area in 2010. The property was annexed and the City adopted a Planned Action Ordinance (RMC 19.50). The effect of the Planned Action Ordinance is that standard SEPA review is not required, provided that any project proposed within the boundaries of the master planned community is consistent with the master plan and with the mitigation measures identified in the adopted SEPA documents/process. The above mentioned major revision is not subject to additional SEPA review according to WAC 197-11-904.

APPROVED:

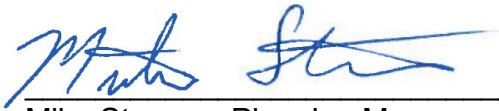
The subdivision approval is subject to conditions contained in the Hearing Examiner Decision.

PROJECT LOCATION:

The site is generally located east of Dallas Road, north of Ava Way, and west of Meritage in the Badger Mountain South master planned community, on two parcels numbered 1-29982000001002 and 1-32983000003037, in the City of Richland.

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 January 26, 2024.



Mike Stevens, Planning Manager

January 8, 2024

Date

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

Regarding an Application for)
Preliminary Plat Approval, to subdivide)
38.2 acres into 221 residential lots, 8)
commercial lots, and 5 tracts for)
pedestrian access/proposed park space,)
on a site designated as “Special District)
Commercial Mixed-Use” (BMS-SD-)
CMU) in the Badger Mountain South)
master planned community, submitted by)

File No. S-2023-101

**DECISION APPROVING
“DESERT SKY” PRELIMINARY
PLAT APPLICATION**

BRAD BEAUCHAMP

Applicant,

*(The site is generally located east of Dallas Road, north of
Ava Way, and west of Meritage in the Badger Mountain South
master planned community, on two parcels numbered
1-29982000001002 and 1-32983000003037, in the City of
Richland)*

I. SUMMARY OF DECISION.

With appropriate conditions, the application can satisfy relevant approval criteria, including without limitation the specific “intent” language for the Special District – Commercial Mixed-Use area where it is located.

II. CONTENTS OF RECORD.

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

**DECISION APPROVING “DESERT SKY”
PRELIMINARY PLAT IN THE BMS MASTER
PLANNED COMMUNITY – FILE NO. S2023-101**

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

1 **Exhibits:** *Staff Report.* City of Richland Development Services Division Staff Report
2 to the Hearing Examiner regarding the “Desert Sky” Preliminary Plat, File
3 No. S2023-101, dated November 13, 2023, with eight attached exhibits, as
4 identified and numbered on page 46 of such report.

- 5 1. Application Materials
- 6 2. Proposed Preliminary Plat, original site plan included with Staff Report
- 7 3. BMS Master Agreement Consistency Recommendation [MACR]
- 8 4. Master Agreement Consistency Determination [MACD]
- 9 5. Planned Action Consistency Determination [PACD]
- 10 6. Copies of Agency Comments
- 11 7. Public Notice and Affidavits
- 12 8. Public Comments

13 *Exhibits added to the record after original Staff Report was issued, all accepted into the
14 record or as authorized during the public hearing:*

15 9. *Revised Preliminary Plat Design*, submitted by Applicant during the public hearing
16 to address comments from Public Works staff, mostly dealing with turning radius for
17 internal street system, and Tract E ‘greenway’ access to Dallas Road corridor.

18 10. *Updated City and Agency Comments* responding to the applicant’s proposed
19 revisions to plat design, transmitted to the Examiner in weeks after the public hearing.
20 Includes revisions to conditions proposed by Public Works staff.

21 11. *Email from Applicant, acknowledging updated comments from City staff, accepting
22 same without objection or need for further comment.*

23 12. *Revised Staff Report*, incorporating updates based upon City staff comments
24 regarding Applicant’s revised plat design shown in Ex. 9, and recommending
25 Conditions of Approval consistent with those used for previous preliminary plat nearby
26 within the BMS community, transmitted to the Examiner in the first week of December.
NOTE: the Revised Staff Report was not modified to incorporate changes to Public
Works’ recommended Conditions, reflected in PW comments included as part of
Exhibit 10, so this Decision relies upon final PW conditions submitted by PW, after the
hearing and after reviewing the applicant’s revised site plan (Ex. 9) and reviewed by the
applicant, all as reflected in Ex. 10.

13. Post-hearing correspondence between Staff and Applicant, to confirm that
Applicant received copy of Revised Staff Report and accepts modifications to findings
and proposed conditions without objection or need for further comment, received by the
Examiner on January 4, 2024.

14. Hearing Examiner Decision approving Veneto Villagio preliminary plat, dated Jan.
23, 2023, on adjacent property to the South, also within the BMS master planned
community, and with most of site in the same BMS Special District (Commercial
Mixed-Use) as this pending Desert Sky proposal.

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2 **Testimony/Comments:** The following persons were sworn and provided testimony under
oath during the open-record hearing on November 13, 2023:

- 3
- 4 1. Matthew Howie, Senior Planner, for the City of Richland;
 - 5 2. Brad Beauchamp, the applicant;
 - 6 3. Ben Brink, local BMS resident, lives on lot across Meritage Avenue from
7 proposed plat in the West Vineyard community, submitted written comment
8 included as Ex. 8, expressed concerns with how commercial uses will be
located directly across street from recently built residential homes, concerns
9 about need for screening/a wall, concerns about pedestrian safety, noise, and
10 other conflicts sometimes experienced when residential uses are located near
11 commercial uses;
 - 12 4. Heather Nicholson, local BMS resident, expressed her support for the
application, sought clarification from Applicant that plat will not be a gated
community [it will not be a gated community, verified by Mr. Beauchamp];
 - 13 5. John Fetterolf, Applicant's project engineer, responded to some comments,
14 addressed topography issues, among other things;

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III. APPLICABLE LAW.

Under applicable provisions of the Richland Municipal Code (RMC), a preliminary plat application is first subject to review and approval by city staff with respect to the engineering elements of said plat, then the Hearing Examiner is responsible for conducting an open record public hearing followed by a final written Decision. A preliminary plat application is a Type III procedure. RMC 19.20.010(C)(1).

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

1. Adequacy of proposed street, alley, right-of-way, easement, lighting, fire protection, drainage, and utility provisions;
2. Adequacy and accuracy of land survey data;

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1 3. The submittal by the applicant of a plan for the construction of a system of street lights within the area proposed
2 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.

3 The City’s decision criteria for preliminary plat approval are substantially similar to
4 state subdivision mandates found in RCW 58.17.110(2)¹ and reads as follows:

5 ***Richland Municipal Code 24.12.053 Preliminary plat – Required findings.***

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

7 *A. The preliminary plat conforms to the requirements of this title;*

8 *B. Appropriate provisions are made for the public health, safety and general welfare and for such open spaces,
9 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;*

10 *C. The public use and interest will be served by the platting of such subdivision and dedication (emphasis added);
and*

11 *D. The application is consistent with the requirements of RMC 19.60.095.*

12 And, RMC 19.60.095 mandates the following additional findings:

13 ***19.60.095 Required findings.***

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

16 *A. The development application is consistent with the adopted comprehensive plan and meets the requirements
and intent of the Richland Municipal Code.*

17 *B. Impacts of the development have been appropriately identified and mitigated under Chapter 22.09 RMC.*

18 *C. The development application is beneficial to the public health, safety and welfare and is in the public interest.
(emphasis added).*

19 *D. The development does not lower the level of service of transportation facilities below the level of service D, as
20 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
21 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*

22 ¹ “A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings
23 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
24 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.
(emphasis added). 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).

place at the time of occupancy of the project, or a financial commitment is in place to complete the required improvements within six years of approval of the development. (emphasis added).

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

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

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

IV. ISSUE PRESENTED.

Whether a preponderance of evidence demonstrates that the applicant has satisfied their burden of proof to satisfy the criteria for preliminary plat approval?

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

V. FINDINGS OF FACT.

Upon consideration of the Staff Report, exhibits, public hearing testimony, follow-up research and review of applicable codes, plans, policies, controlling legal instruments, including without limitation the Badger Mountain South LUDR provisions, this Decision is now in order. Based on all the evidence, testimony, codes, policies, regulations, and other information contained in the Record, the Examiner issues the following findings, conclusions and Decision approving the pending preliminary plat application as set forth below.

1. Any statements in previous or following sections of this document that are deemed findings are hereby adopted as such. Captions should not be construed to modify the language of any finding, as they are only provided to identify some of the key topics at issue in this application.

2. Brad Beauchamp (North 44 Badger, LLC) is the applicant and owner of the parcels of property addressed in this preliminary plat application. (*Ex. 1, application materials; Staff Report, page 1).*

**DECISION APPROVING “DESERT SKY”
PRELIMINARY PLAT IN THE BMS MASTER
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1 3. The project site is part of the larger Badger Mountain South master planned community
2 and is subject to review and compliance with applicable provisions of city development
3 regulations as well as the Land Use and Development Regulations (LUDR) for the Badger
4 Mountain South master planned community.

5 4. The Badger Mountain South master planned community is intended to be a “walkable
6 and sustainable community” with a range of housing types, mixed-use neighborhoods, up to
7 5,000 dwelling units, businesses and other commercial activities, all subject to specially
8 adopted Land Use and Development Regulations (LUDR) for the area. (*LUDR, 1.A, Intent,
9 and 1.B, Purpose*).

10 5. Of special relevance to this project, there is no dispute that the property addressed in
11 this application is located in the “Special District – Commercial Mixed-Use” (BMS-SD-
12 CMU) District. (*See LUDR, Sec. 1.F, subsection 1.g; BMS map, showing Districts and
13 boundaries, with Legend, on page 2-2 of the LUDR, Sections 2.A and 2.B; Staff Report, page
14 5, Figure 2, showing project site all within Commercial Mixed-Use district; LUDR Sec. 4.C,
15 Intent and Standards for CMU District*).

16 6. On or about July 10, 2023, the city received the pending application for a Preliminary
17 Plat known as the Desert Sky project, assigned File No. S2023-101.

18 7. Following review of the application materials, City staff deemed the materials complete
19 for purposes of review and acceptance on or about the same date it mailed, posted, and
20 published Notices of the Application and Public Hearing for the matter beginning on
21 September 29th through October 8, 2023. (*Staff Report, page 31; Ex. 7, copies of notices and
22 confirmation materials*). The duly noticed public hearing for this matter occurred on
23 November 13, 2023, at which time the applicant submitted a revised preliminary plat design,
24 intended to address Public Works’ comments and how the effect of proposed conditions of
25 approval included in the original staff report might be satisfied with certain plat design
26 modifications. (*Ex. 9, Applicant’s revised plat design; Testimony of Mr. Beauchamp*).
During the hearing, Staff Requested additional time to consider and review the applicant’s
revised drawings, so the Examiner held the record open to allow for a written response, which
was transmitted to the applicant, and then the Examiner, in the first week of December. (*See
Exhibits 10, 11, and 12, Staff Comments, Applicant’s response, and copy of Revised Staff
Report, including modifications and additions to recommended conditions of approval*).

7a. While drafting this Decision, the Examiner noticed that the applicant may not have
received a copy of the Revised Staff Report, so, to assure that the applicant had a full and fair
opportunity to review and comment on such item, the City’s Senior Planner, Mr. Howie,
transmitted a true and correct copy of his Revised Staff Report on January 3, 2024, and the
applicant responded by email on the following day to confirm that he was “fine” with the
Revised document. (*Compare Applicant’s statement in Ex. 11 with documents included as
part of Ex. 10, which does not include copy of the Revised Staff Report, leaving it unclear as*

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1 to whether the applicant ever received or reviewed the Revised Staff Report). With such
2 correspondence now added into the record as Ex. 13, the record is now closed, and this
Decision is in order.

3 8. All applicant submittals, updated Staff materials, written and verbal comments from
4 current homeowners in the Badger Mountain South community, and testimony received
5 following notices issued for the public hearing, are included in the record and have been
thoroughly reviewed and considered in issuing this Decision.

6 ***Proposal.***

7 9. The applicant's proposed plat would divide a 38.2-acre site into 221 (two-hundred
8 twenty-one) residential lots, 8 (eight) commercial lots, and 5 (five) tracts for pedestrian access
9 or proposed park space purposes, with new internal streets and associated infrastructure. (*Ex.*
10 *9, revised plat design; Ex. 1, application materials; Ex. 12, Revised Staff Report*). The
11 residential lot count was reduced from the applicant's original proposal (227 residential lots),
12 that was the subject of various public notices, largely due to reconfiguration of some lots to
make roadway alignment changes necessitated by Public Works comments, and increasing
the number of commercial lots (from 5 to 8) and tracts (from 3 to 5). (*Compare original Staff
Report and Exs. 1 and 2 [application materials with original site plan] with Ex. 9, Applicant's
Revised preliminary plat design*).

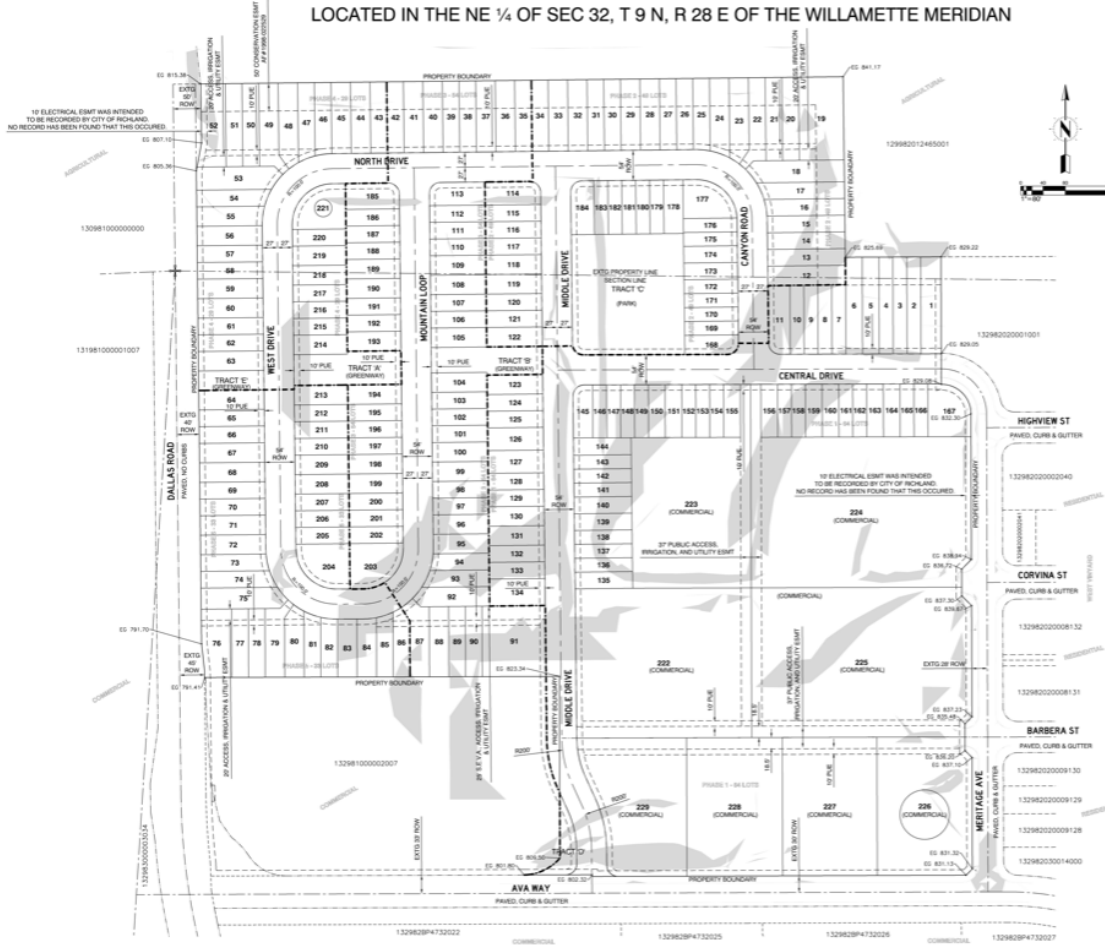
13 10. The site is generally located east of Dallas Road, north of Ava Way, and west of
14 Meritage Avenue in the Badger Mountain South master planned community, on two parcels
numbered 1-29982000001002 and 1-32983000003037, in the City of Richland, Washington.

15 11. Again, there is no dispute that the entire project is located within a Badger Mountain
16 South Special District, known as the Commercial Mixed-Use District.

17 12. The general layout for the proposed Desert Sky preliminary plat, submitted by the
18 applicant during the public hearing and included in the record as part of *Ex. 9*, is republished
below:

Desert Sky Preliminary Plat

LOCATED IN THE NE ¼ OF SEC 32, T 9 N, R 28 E OF THE WILLAMETTE MERIDIAN



13. The application materials and Staff Report analysis generally explains how the applicant's proposal seeks to provide at least 25% of developable Commercial square footage of space to 75% of any residential square footage in the proposed subdivision. (*Staff Report, particularly pages 12-15*). The Examiner commends the applicant and Staff for working together to ensure that relevant provisions of the Badger Mountain (BMS) Subarea Plan (which is an appendix to the City of Richland Comprehensive Plan), can be satisfied, subject to appropriate conditions of approval.

14. During the public hearing, Staff and Mr. Beauchamp generally acknowledged how certain findings and conditions included in another recently approved preliminary plat in the BMS community were considered during the review for this project. That prior decision, approving the preliminary plat known as Veneto Villagio, included detailed findings and a summary of controlling City planning documents and development regulations that are

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1 equally applicable to this Project. Accordingly, the unchallenged Veneto Villagio Decision –
2 particularly all findings related to how development projects in the few remaining BMS
3 Commercial Mixed Use districts must be conditioned to ensure that such projects will provide
4 at least 25% of developable Commercial square footage of space to 75% of any residential
5 square footage in the proposed subdivision – is incorporated herein by this reference as
6 findings of fact by the Examiner supporting Conditions of Approval included as part of this
7 Decision. *See Ex. 14, Hearing Examiner Decision approving Veneto Villagio preliminary*
8 *plat, dated Jan. 23, 2023, on adjacent property to the South, also within the BMS master*
9 *planned community, and with most of site in the same BMS Special District (Commercial*
10 *Mixed-Use) as this pending Desert Sky proposal). The Veneto Villagio Decision was not*
11 *appealed, so it stands as issued with respect to code interpretations and applicability of*
12 *planning documents referenced in such Decision that are relevant for this application as well,*
13 *because it was not modified by the Richland City Council via any subsequent code*
14 *amendments, or changes to BMS planning documents, including without limitation the*
15 *LUDR.*

16 15. The consistency recommendation letter for this proposal appropriately and directly
17 addresses the specific intent language for the Commercial Mixed-Use District, a Special
18 District in the BMS planning area, found in Sec. 4.C.1 of the LUDR, which applies to this
19 entire subdivision. (*Ex. 3*).

20 16. The Revised Staff Report generally explains how the pending application designates
21 sufficient space for park, plaza, trail, and open space purposes, required by various provisions
22 in the LUDR. Compliance with such provisions – by formally designating sufficient space
23 and specific locations for all required features and elements mandated by the LUDR – must
24 be accomplished on or before the time of final plat approval, provided notes on the final plat
25 may allow for certain details related to size, specific location, orientation, and final design of
26 some required project features to be subject to review and approval by the City at the time of
site plan review.

17 17. During the public hearing, an adjacent property owner, Mr. Brink, summarized his
18 concerns with this proposal, given that he now lives in a newly built single family home as
19 do others across Meritage Avenue to the east from what will be Commercial uses on the west
20 side as part of this proposed plat. The Staff Report acknowledges Mr. Brink’s concerns,
21 which were detailed in his written comment letter included in the record as *Ex. 8*, but
22 concludes that the proposed plat appears to comply with applicable provisions in the LUDR
23 for the site, so no additional conditions are recommended. During the public hearing, the
24 applicant, Mr. Beauchamp, credibly explained that most commercial buildings will be located
25 well below the elevation of the Meritage Ave. right of way, given topography on the property,
26 noting that some commercial property will be about 15-feet lower. (*Testimony of Mr.*
Beacham). The Examiner asked questions of the applicant, related to steps he might take to
minimize noise impacts on surrounding residents, including LEED related recommendations

1 for HVAC equipment commonly placed atop commercial structures. Given the merits of Mr.
2 Brink’s concerns, the Examiner finds and concludes that it is appropriate to add an additional
3 Condition of Approval to require certification(s) from a qualified professional at the time of
4 building permit/engineering plan reviews to the effect that HVAC and other major
mechanical equipment known to generate outdoor noise are specifically identified, selected,
and situated in a manner that will satisfy applicable City noise standards. *(See new language
added as Condition of Approval “I”).*

5 18. Except for portions of the Revised Staff Report (*Ex. 12*) that are in conflict with findings
6 and analysis in this Decision, and the unchallenged findings and legal analysis provided in
7 the Veneto Villagio Decision that is incorporated by reference as part of this Decision, the
8 Revised Staff Report includes a credible explanation as to how applicable notice
9 requirements, SEPA requirements, utility availability, and transportation issues are
10 satisfactorily addressed in this plat application, and how the application, as conditioned, can
satisfy all applicable approval criteria for the requested preliminary plat. Accordingly, the
Revised Staff Report findings and statements of fact are adopted herein by reference as
findings of fact.

11 19. With additional conditions of approval addressed in this Decision, the Examiner finds
12 that the proposed plat can satisfy all applicable approval criteria and would be in the public
interest.

13 **VI. CONCLUSIONS OF LAW.**

- 14 1. Based on the Findings as summarized above, the undersigned examiner concludes that
15 the proposed plat can be conditioned to satisfy applicable approval criteria, including
16 City comprehensive plan policies (the Badger Mountain Subarea Plan), the BMS
Master Agreement, and LUDR provisions.
- 17 2. Consistent with RMC 19.60.095, and subject to all Conditions of Approval set forth
18 below, the Examiner finds and concludes that: The development application is
19 consistent with the adopted comprehensive plan and meets the requirements and intent
20 of the Richland Municipal Code; and the development application is beneficial to the
21 public health, safety and welfare and is in the public interest.
- 22 3. Any finding or other statements in previous or following sections of this document that
are deemed Conclusions of Law are hereby adopted as such.

23 **VII. DECISION.**

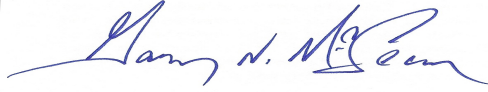
24 Based upon the preceding Findings of Fact and Conclusions of Law, evidence
25 presented through the course of the open record hearing, all materials contained in the
contents of the record, and the Examiner’s site visits to the area, the undersigned Examiner

26 **DECISION APPROVING “DESERT SKY”
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1 approves the "Desert Sky" Preliminary Plat application, subject to the attached Conditions
2 of Approval, that are incorporated herein as part of this Decision.

3 ISSUED this 5th Day of January, 2024

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6 Gary N. McLean
7 Hearing Examiner

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26 **DECISION APPROVING "DESERT SKY"**
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**CONDITIONS OF APPROVAL
FOR THE
PRELIMINARY PLAT OF DESERT SKY
FILE NO. S2023-101**

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

General Conditions, included by the Examiner based on evidence in the record, and to ensure consistency with similar preliminary plat decisions issued for projects in the Badger Mountain South community:

- A. **Plat Design, Phasing.** Development of the plat shall be substantially consistent with drawings provided in the Preliminary Plat maps included as part of the applicant's revised plat design materials (*Ex. 9*), subject to modifications necessary to comply with these conditions of approval. The Preliminary Plat may be developed in 5 (five) phases, as identified in the application materials and depicted on the revised plat plan sheets included as part of *Ex. 9*.
- B. No construction or site development activities related to the plat may be undertaken until required city approvals become effective, and the City and other regulatory authorities with jurisdiction issue applicable permits.
- C. **Process for Review of Potential Minor or Major Revisions to this Preliminary Plat.** Revisions to an approved preliminary plat are reviewed under RMC 19.20.010, with minor revisions reviewed as a Type I application (see RMC 19.20.010(A)(5)), which requires approval by the Director; and major revisions reviewed as a Type III application requiring approval by the Hearing Examiner (See RMC 19.20.010(C)(1)).

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

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

For this preliminary plat, "Major Revisions" shall include proposed changes in primary access points or increase in the number of peak hour vehicle trips, expansion of site area, increase in the number of lots, elimination of or substantial change to a required transportation system

1 improvement, substantial expansions of environmental impacts, or substantive changes to any
2 finding of fact or condition of approval in the Decision approving the preliminary plat.

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

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

20 E. Applicant shall be responsible for consulting with state and federal agencies, and tribal entities
21 with jurisdiction (if any) for applicable permit or other regulatory requirements. Approval of a
22 preliminary plat does not limit the applicant’s responsibility to obtain any required permit, license
23 or approval from a state, federal, or other regulatory body. Any conditions of regulatory agency
24 permits, licenses, or approvals shall be considered conditions for this project.

25 F. The final engineering plans and submittals necessary to obtain final approval for the plat,
26 shall conform to all applicable provisions of the Richland Municipal Code and the Conditions of
Approval herein.

G. The preliminary plat and all future development in such plat shall comply with all applicable
provisions of the Richland Municipal Code, and LUDR provisions (including the Intent for the
Special Districts that apply to the project) for the Badger Mountain South community where this
plat is located, whether or not such provisions are enumerated or referenced in the approved
preliminary plat plans, in the staff report or in this Decision; provided adjustments to road widths,
sidewalk and trail dimensions shall be in accord with final reviews and determinations by the
City’s Public Works Director, who is authorized to exercise sound engineering judgment in such
matters. The burden is on the plat applicant as well as all future development project applicants
to show compliance with these conditions and applicable provisions of the City’s code and LUDR
provisions at every stage of development within this plat.

H. *Commercial development required in the BMS-SD-CMU District.* On the face of the plat, the
applicant must identify land uses for each lot at the time of final plat approval, with calculations
for the plat confirming that the total amount of developable square footage within the plat will
provide at least 25% of developable Commercial square footage of space to 75% of any residential
square footage in the subdivision. Allowed uses shall be those listed for the Special District that

1 applies to all lots within this subdivision, as found in Sec. 2.C of the LUDR, in this case, the BMS-
2 SD-CMU district. The word “Commercial” is defined in the LUDR as “A term defining
3 workplace, office and retail use collectively.” (See LUDR, Sec. 14, Glossary). Following plat
4 approval, the burden shall be on all applicants for development proposals located within this plat
5 to demonstrate that their project will be consistent with this plat condition; provided this condition
6 shall not be read to mandate Commercial development prior to residential development within the
7 plat, because the intent and purpose of this condition is to achieve and maintain the minimum
8 25/75 Commercial/Residential ratio of developed square footage within the plat when fully built-
9 out, based on identified land uses and designated building types/sizes shown on final plat
10 documents and subsequent building permit plans or as-built submittals associated with
11 development in this plat.

12 I. *Noise considerations for Commercial projects near residential uses.* As part of building permit
13 reviews for commercial projects in this Plat, the project applicant shall submit a report from a
14 qualified acoustical consultant or mechanical engineer for review and approval by the Planning
15 Manager, certifying that the selection and placement of – i) all HVAC system equipment; ii)
16 ventilation/exhaust fans, equipment, or vents; and iii) other mechanical features of that might
17 reasonably be anticipated to generate outdoor noise exceeding typical background noise at the
18 property – will be sufficient to satisfy applicable City noise standards, particularly as heard from
19 residential properties in the vicinity. The Planning Manager shall have discretion and authority
20 to require compliance with or implementation of any HVAC/Mechanical Equipment-related best
21 management practices or monitoring protocols recommended by the qualified professional in
22 order to ensure ongoing compliance with City noise standards.

23 J. Final Covenants, Conditions and Restrictions (CCRs) for each phase of this plat shall be submitted
24 with the final plat application for each phase, and shall be recorded prior to the final plat. The
25 CCRs are subject to review and approval of the Planning Manager and City Attorney to ascertain
26 if the documents are sufficient to assure compliance with these Conditions of Approval, SEPA
Mitigation measures, and LUDR provisions. At a minimum, the CCRs shall include provisions
for repair, maintenance and performance guarantee of any tracts, private parks or open space,
landscaping, facilities, utilities or amenities which are private and commonly owned by the
homeowners of the plat, and clearly explaining that the City of Richland is not responsible for
enforcement of private CCRs. Language shall also be included in the CCRs that require
notification to the City of Richland Planning Manager of any amendments to the CCRs, and that
the City shall have the authority to object to any modification that is inconsistent with any
condition lawfully placed upon the subdivision by the City of Richland.

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

1 a material impact on any segment(s) of the city’s existing public street network that will be used
2 to obtain access to and from the plat-development site(s):

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

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

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

L. Except as modified by these Conditions, each and every of the mitigation conditions provided in
Exhibit 5, the Planned Action Consistency Determination issued for this revised application on
November 2, 2023, are incorporated herein by reference as individual Conditions of Approval
adopted by the Hearing Examiner for this preliminary plat.

M. Preliminary Plat approval shall be null and void if any condition enumerated herein is not satisfied.

***Conditions derived from the Revised Staff Report (Ex. 12) and Public Works’ revisions
included as part of Ex. 10.***

Public Works.

- 1. All final, approved plans for public improvements shall be submitted prior to pre-con on a 24” x
36” hardcopy format and also electronically. Addendums are not allowed, all information shall

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be supplied in full size (and electronic) format. When construction of the public infrastructure has been substantially completed, the applicant shall provide paper and electronic record drawings in accordance with the City’s “Record Drawing Requirements”. The electronic record drawings shall be submitted in an AutoCAD format compatible with the City’s CAD software. The final record drawings shall be submitted and approved by the City before the final punchlist inspection will be performed. All final punchlist items shall be completed or financially guaranteed prior to final platting.

2. A copy of the construction drawings shall be submitted for review to the appropriate jurisdictions by the developer and his engineer. All required comments / conditions from all appropriate reviewing jurisdictions (e.g.: Benton County, any appropriate irrigation districts, other utilities, etc.) shall be incorporated into one comprehensive set of drawings and resubmitted (if necessary) for final permit review and issuance. Any and all necessary permits that may be required by jurisdictional entities outside of the City of Richland shall be the responsibility of the developer to obtain.
3. Any work within the public right-of-way or easements or involving public infrastructure will require the applicant to obtain a right-of-way construction permit prior to beginning work, per RMC Chapter 12.08. The applicant shall pay a plan review fee based on a cost-per-sheet of engineering infrastructure plans. This public infrastructure plan review fee shall apply each time a project is submitted for review. Please visit the published fee schedule on the City’s webpage to find the current per-sheet fee. A permit fee in the amount equal to 3% of the construction costs of the work within the right-of-way or easement will be collected at the time the construction permit is issued.
4. Public utility infrastructure located on private property will require recording of a City standard form easement prior to final acceptance of the infrastructure. The City requires preparation of the easement legal description by the developer two weeks prior to the scheduled date of final platting. Once received, the City will prepare the easement document and provide it to the developer. The developer shall record the easement at the Benton County Assessor and return a recorded original document to the City.
5. A pre-construction conference will be required prior to the start of any work within the public right-of-way or easement. Contact the Public Works Engineering Division at 942-7500 to schedule a pre-construction conference.
6. The contractor and developer shall be responsible for any and all public infrastructure construction deficiencies for a period of one year from the date of the letter of acceptance by the City of Richland.
7. All plan sheets involving construction of public infrastructure shall have the stamp of a current Washington State licensed professional engineer.
8. A copy of the preliminary plat shall be supplied to the Post Office and all locations of future mailbox clusters approved prior to installation or final platting.

1 **Design Standards:**

- 2 9. Public improvement design shall follow the following general format:
- 3 A. All materials and workmanship shall be in conformance with the latest revision of the
 - 4 City of Richland Standard Specifications and Details, Public Infrastructure Design
 - 5 Guidelines and the current edition of the State of Washington Standard Specifications
 - 6 for Road, Bridge, and Municipal Construction. Please confirm that you have the latest
 - 7 set of standard specs and details by visiting the City’s web page.
 - 8 B. Fire hydrant location shall be reviewed and approved by the City Fire Marshal.
 - 9 C. All utilities shall be extended to the adjacent property (properties) at the time of
 - 10 construction.
 - 11 D. The minimum centerline finish grade shall be no less than 0.30% and the maximum
 - 12 centerline finish grade shall be no more than 10.0% for local streets. 12% can be allowed
 - 13 for local streets for short distances.
 - 14 E. The minimum centerline radius for local streets shall be 100-feet.
 - 15 F. Final design of the public improvements shall be approved at the time of the City’s
 - 16 issuance of a Right-of-way Construction Permit for the proposed construction.
 - 17 G. All public improvements shall comply with the State of Washington and City of Richland
 - 18 requirements, standards and codes.

11 10. If the project will be built in phases the applicant shall submit a comprehensive master plan for the

12 sanitary sewer, domestic water, storm drainage, electrical, street lighting and irrigation system for the

13 entire project prior to submitting plans for the first phase to assure constructability of the entire

14 project. This includes the location and size of any storm retention ponds that may be required to

15 handle runoff.

- 14 11. If the City Fire Marshal requires a secondary emergency vehicle access (SEVA), it shall be
- 15 included in the construction plan set and be designed to the following standards:
- 16 A. 2-inches compacted gravel, minimum (temp. SEVAs only).
 - 17 B. Permanent SEVA’s shall be paved with 2-inches of asphalt, minimum.
 - 18 C. 2% cross-slope, maximum.
 - 19 D. 5% slope, maximum. Any access road steeper than 5% shall be paved or be approved by the
 - 20 Fire Marshal.
 - 21 E. Be 20-feet in width.
 - 22 F. Have radii that are accommodating with those needed for City Fire apparatus.

19 Secondary emergency vehicles accesses (SEVA’s) shall be 20-feet wide, as noted. Longer

20 secondary accesses can be built to 12-feet wide with the approval of the City of Richland Fire

21 Marshal, however turn-outs are required at a spacing acceptable to the Fire Dept.

- 21 12. **SURVEY MONUMENT DESTRUCTION:**
- 22 All permanent survey monuments existing on the project site shall be protected. If any monuments
- 23 are destroyed by the proposed construction the applicant shall retain a professional land surveyor to
- 24 replace the monuments and file a copy of the record survey with the City.
- 25 A. No survey monument shall be removed or destroyed (*the physical disturbance or covering*
 - 26 *of a monument such that the survey point is no longer visible or readily accessible*) before a

1 permit is obtained from the Department of Natural Resources (DNR). (WAC 332-120-
2 030(2) and RCW 58.09.130).

3 B. Any person, corporation, association, department, or subdivision of the state, county or
4 municipality responsible for an activity that may cause a survey monument to be removed
5 or destroyed shall be responsible for ensuring that the original survey point is perpetuated.
6 (WAC 332-120-030(2)).

7 C. Survey monuments are those monuments marking local control points, geodetic control
8 points, and land boundary survey corners. (WAC 332-120-030(3)).

9 When a monument must be removed during an activity that might disturb or destroy it, a licensed
10 Engineer or Land Surveyor must complete, sign, seal and the file a permit with the DNR.

11 It shall be the responsibility of the designing Engineer to identify the affected monuments on the
12 project plans and include a construction note directing them to the DNR permit.

13 **Traffic & Streets:**

14 13. The “Desert Sky” preliminary plat is subject to the City’s traffic impact fee program (RMC
15 12.03). Since this property is included within the traffic impact fee program, and since staff
16 analysis indicates the project will create no unusual or unanticipated traffic impacts, it is exempt
17 from the SEPA-related traffic study requirement (TIA).

18 14. The proposed roundabout at the Dallas Road / Ava Way intersection shall be constructed and
19 completed before the addition of new trips generated by the development. This item shall be
20 completed and accepted by the city prior to final platting of phase 1.

21 15. The entire Dallas Road frontage shall be completed to City standards no later than the
22 development of Phase 4, which is the first phase which constructs the lots adjacent to it. The road
23 section (curb, gutter, and illumination) shall be constructed to the city’s standard “minor arterial”
24 road section. The improvements shall include the LUDR Edge Type B, which incorporates the
25 urban trail on the east side of Dallas Road. These frontage improvements will include a taper back
26 to the county’s two-lane section beginning where the City limit line crosses Dallas Road.

16 16. The Ava Way frontage shall be completed to LUDR standards with the phase the develops lots
17 adjacent to Ava Way and “Middle Drive”. These improvements will include pavement striping of
18 Ava Way across the project frontage.

19 17. A note shall be shown on the face of the final plat stating that Dallas Road is classified as an
20 “Arterial street” and Ava Way is classified as a “Collector street”. Subsequently, no driveways
21 will be allowed directly onto them. The only exception would be a shared driveway off of Ava
22 Way between lots 227 and 228. This driveway shall line up with the existing driveway on the
23 South side of Ava Way.

24 18. Pursuant to Richland Municipal Code Section 12.10.030, any private roadways constructed in this
25 development shall be designed to a city standard, as directed by the Public Works Director. This
26 includes any roadways constructed internally for the commercial parcels.

19. The proposed alignment of the public portion of “Middle Drive” places a portion of the road
corridor on property not owned by the applicant. The applicant shall obtain the necessary property

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rights from the adjacent parcel and include it in the Middle Drive right-of-way dedication at the time of final platting.

- 20. The transition points between public and private streets shall be delineated with a cement concrete driveway approved by the City Engineer.
- 21. Per Richland Municipal Code Chapter 12.01.040 and 12.01.070, the shared driveways as proposed in this pre-plat shall be built to city standards.
- 22. The existing curb returns on the west legs of both the Corvina-Meritage and Barbera-Meritage intersections shall be removed at the time of plat construction. They shall be replaced with city standard commercial concrete driveways.
- 23. The road section proposed on sheet “PP200” indicates a rolled curb. This curb style is not city standard and is not acceptable. The city has a 26-foot wide narrow street standard with offset sidewalk that shall be constructed. Because of the high driveway density typical of this type of development, the applicant shall provide adequate off-street parking to accommodate the loss of on-street parking.
- 24. The proposed grade of “North Drive” at the intersection with “Middle Drive” is over 5% (sheet “PP107”). At these grades the ADA pedestrian ramps will not be able to meet current design standards. The slope of this intersection needs to be adjusted to comply with current ADA standards. The proposed grades may also create an intersection sight-distance problem.
- 25. Pedestrian ramps shall be designed to current City Standard Details and PROWAG Standards to be compliant with federal ADA Standards. Adequate right-of-way shall be provided at corners to allow for at least 1-foot of ROW behind the concrete ped. ramp landing. Crosswalks between pedestrian ramps shall be designed to City standards. Crosswalks at stop-controlled intersections shall have cross-slopes less than 2%. Crosswalks crossing thru-streets shall have cross-slopes less than 5%. The road profile shall be designed to accommodate this.
- 26. The developer and their engineer shall demonstrate on the construction plans that all future driveway entrances, sidewalks and pedestrian ramps will meet City and ADA requirements, and also provide adequate separation between driveways and/or pedestrian ramp transitions; provided that the Public Works Director shall have discretion and authority to adopt and implement an updated design standard, authorizing curb modifications or combining depressed driveway access points for adjacent lots without a transition up to normal sidewalk in between so as to facilitate a final design that provides an adequate number of on-street parking spaces. The driveway density for this narrow lot development is unlikely to provide adequate on-street parking. It is recommended that the City’s narrow street section (26-foot width face of curb to face of curb) be used which prohibits on-street parking and provides off-street parking lot(s) within the development for the displaced spaces.
- 27. The “Tract E” Greenway shall have a city standard 12-foot wide pedestrian trail on it to allow for access to Dallas Road.
- 28. Sidewalks shall be installed along all public right-of-way frontages that building lots do not front on during construction of those phases (e.g., storm drainage ponds, parks, HOA tracts, etc.).

- 1 29. Lots 185 and 221 will be impacted by the sight-distance line required of vehicles at the Mountain
2 Loop and North Drive intersection. This impact needs to be evaluated as these two lots may be
unbuildable.
- 3 30. Show city standard vision-clearance triangles on all corner lots on both the construction plans
4 and the final plat document, in accordance with RMC Chapter 12.11.020. If the intersection is
in a curve, it will have to be evaluated per AASHTO guidelines.
- 5 31. Street names are not reviewed or vested until construction plans are submitted for review. The
6 street names included on the pre-plat are not approved at this time.
- 7 32. Any roadways narrower than 32-feet shall have parking restricted on one side, and any roads
8 narrower than 27-feet shall have parking restricted on both sides. Street signs indicating restricted
parking shall be installed prior to final platting at the developer's expense. The restricted parking
areas shall be indicated on the construction plans and the final plat.
- 9 33. All roads shall be constructed to provide for adequate fire truck & solid waste collection truck
10 access & turnaround movements.
- 11 34. If the project is to be constructed in phases, all dead-end streets longer than 150-feet that will be
12 continued later need to have temporary turnarounds built at the end of them. If the temporary
turnaround is not located within the final plat an easement with a 50-foot radius will be required.

13 **Domestic Water:**

- 14 35. The proposed preliminary plat is located within both the Tapteal III and IV water pressure zones.
15 It shall be the responsibility of the developer to extend the appropriate watermain to and through
this property to serve domestic water at the time of plat construction. These water mains shall be
sized to adequately supply domestic water and fire flows to the proposed development.
- 16 36. Any grading operations that take place near or over the top of the existing 20-inch domestic water
17 main shall ensure that adequate cover remains over the water main so as to protect it from
breakage, or freezing, or service interruption. It shall be the responsibility of the developer to re-
18 install any water mains that have too little (or too much) cover over them as a result of grading
operations, or that will result in this water main being less than ten feet from a building footprint.
19 This water main needs to be relocated to be within a roadway whenever possible. The existing
main shall be exposed and surveyed at multiple locations as part of the grading permit application
20 process.
- 21 37. No dead end water pipelines will be allowed, except as approved by the City Engineer..
- 22 38. In accordance with municipal code chapter 18.34.030, domestic water mains shall be extended to
23 the adjoining properties adjacent to the preliminary plat, provided they are in the correct pressure
zone.

1 39. The developer will be required to demonstrate that all phases are capable of delivering adequate
2 fire flows prior to construction plans being accepted for review. This may require looping of the
3 watermain from off-site locations, or oversizing of the main where needed.

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

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

13 **Sanitary Sewer:**

14 42. A 10-foot wide exclusive sanitary sewer easement shall be provided for any sewer main that is
15 outside of the public Right-of-Way. Wider easements are required for mains that are buried
16 deeper than 10-feet. If any manholes are located outside of the public Right-of-Way, maintenance
17 truck access to said structure may be required.

18 43. Sanitary sewer shall be extended to the adjoining properties adjacent to the preliminary plat, where
19 appropriate.

20 **Storm Water:**

21 44. All construction projects that don't meet the exemption requirements outlined in Richland
22 Municipal Code, Section 16.06 shall comply with the requirements of the Washington State
23 Department of Ecology issued Eastern Washington NPDES Phase II Municipal Stormwater
24 Permit. The Developer shall be responsible for compliance with the permit conditions. All
25 construction activities subject to this title shall be required to comply with the standards and
26 requirements set forth in the Stormwater Management Manual for Eastern Washington
(SWMMEW) and prepare a Stormwater Site Plan. In addition, a Stormwater Pollution
Prevention Plan (SWPPP) or submission of a completed erosivity waiver certification is
required at the time of plan submittal. The City has adopted revised standards affecting the
construction of new stormwater facilities in order to comply with conditions of its NPDES
General Stormwater Permit program. This project, and each phase thereof, shall comply with
the requirements of the City's stormwater program in place at the time each phase is engineered.
The project will require detailed erosion control plans.

45. All public storm drainage collection systems shall have their flow rate and storage capacity
designed by a professional engineer following the core elements defined in the latest editions of
the Stormwater Management Manual for Eastern Washington, the current Richland municipal
codes, the Phase II Municipal Stormwater Permit, and the City's "Public Infrastructure
Construction Plan Requirements and Design Guidelines". The storm water calculations shall be
stamped by a professional engineer and shall include a profile of the storm system showing the
hydraulic grade line. The calculations should include an accurate delineation of the contributing

1 drainage area to accurately size the stormwater facilities. Passing the storm water downhill to an
2 existing storm system will require an analysis of the downstream storm system to determine its
3 capability of accepting the storm water without being overwhelmed. The applicant's design shall
4 provide runoff protection to downstream property owners.

5 46. Comment applies to commercial property: The proposed storm drainage and grading of all areas
6 within the proposed development shall be shown on the plans (most grading and drainage plans
7 must be prepared by a licensed civil engineer). If site contains at least 1,000 sq.ft. of new asphalt,
8 and/or contains 30% or more impervious surfaces, storm drainage calculations from a licensed
9 civil engineer are required. Stormwater shall be kept on-site (on the developing property that
10 generated it). Stormwater shall not be flowed onto adjacent properties, or to the public Right-of-
11 Way, without first obtaining written permission.

12 47. Comment applies to commercial property: The private on-site storm drainage system shall be
13 designed following the core elements defined in the latest editions of the Stormwater
14 Management Manual for Eastern Washington, the current Richland municipal codes, the Phase
15 II Municipal Stormwater Permit, and the City's "Public Infrastructure Construction Plan
16 Requirements and Design Guidelines". Calculations shall be stamped by a registered
17 professional Civil Engineer. The applicant's design shall provide runoff protection to downstream
18 property owners.

19 48. If any existing storm drainage or ground water seepage drains onto the proposed site, said storm
20 drainage shall be considered an existing condition, and it shall be the responsibility of the property
21 developer to design a system to contain or treat and release the off-site storm drainage.

22 49. If there are any natural drainage ways across the proposed pre-plat, the engineered construction
23 plans shall address it in accordance with Richland Municipal code 24.16.170 ("Easements-
24 watercourses").

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

51. Prior to or concurrent with the submittal of the first phase the developer shall provide a
Geotechnical report including the percolation rate of the soils in the area of any storm retention
ponds. If the project constructs a storm retention pond then the engineer will need to
demonstrate that the pond will drain itself within 72 hours after the end of a storm event, and not
have standing water in it longer than that. Engineering solutions are available for retention
ponds that do not percolate within 72 hours.

52. The amount of post-development storm runoff from the proposed site shall be in compliance with
RMC Chapter 16.06.

53. The parcel occupied by the stormwater basin shall be identified as a separate parcel or tract on
the final plat and shall be dedicated to the City stormwater utility. The design of the basin shall
include access features meeting the city's needs for maintenance.

54. The developer shall consider the long-term appearance of the storm basin, particularly if it will
occupy a prominent location in the development. The City's typical storm pond maintenance

1 practices consist of semi-annual vegetation trimming and silt and debris removal. If the pond
2 location is deemed by City staff as being in a prominent location the developer shall design and
3 install fencing and/or landscaping to mitigate the pond's visible character for the surrounding
4 properties. If the City requires this type of treatment to the pond site the developer may propose
5 landscaping treatments consistent with the development and establish maintenance
6 responsibilities to remain with the development. These maintenance responsibilities shall be
7 noted on the final plat. Basins designed as detention and evaporative basins need to include
8 plantings that will tolerate or thrive in standing water. Planting designs for areas not routinely
9 exposed to water shall include plants that will thrive without irrigation unless the developer
10 intends to maintain an irrigated pond site. At a minimum the landscaping plan should be
11 consistent with the City's intended maintenance standard as described above.

- 12 55. The developer shall be responsible for landscaping the storm pond and for its maintenance and
13 the plantings through the one-year infrastructure warranty period. At 11 months after the final
14 acceptance date the developer shall clean the storm system and basin of all accumulated oil,
15 sediment, and debris. After this maintenance is completed and inspected the City will begin
16 routine maintenance of the system and basin. The developer shall replace any plantings that
17 have failed to survive the warranty period. The developer shall also perform trimmings required
18 to control weeds in excess of 18-inches in height for the 12-months following the date of final
19 plat acceptance.

20 **Final Platting / Project Acceptance Requirements:**

- 21 56. When the construction is substantially complete a paper set of "record drawings" shall be
22 prepared by a licensed surveyor and include all changes and deviations. Please reference the
23 Public Works document "RECORD DRAWING REQUIREMENTS & PROCEDURES" for a
24 complete description of the record drawing process. All final punchlist items shall be completed
25 or financially guaranteed prior to recording of the final plat.
- 26 57. Public utility infrastructure located on private property will require recording of a City standard
form easement prior to acceptance of the infrastructure and release of a certificate of occupancy.
The City requires preparation of the easement legal description by the developer two weeks prior
to the scheduled date of final acceptance. Off-site ("third party") easements or right-of-ways for
City infrastructure are the responsibility of the developer to obtain. Once received, the City will
prepare the easement document and provide it to the developer. The developer shall record the
easement at the Benton County Assessor and return a recorded original document to the City prior
to application for final occupancy.
58. Any off-site easements or permits necessary for this project shall be obtained and secured by the
applicant and supplied to the City at the time of plat construction and prior to final plat acceptance.
59. Ten-foot wide public utility easements will be required on the final plat along both sides of all
right-of-ways and road corridors within the proposed plat. They will also be required where the
plat is adjacent to an existing right-of-way.
60. The vision-clearance triangle needs to be shown on all corner lots on the final plat document, in
accordance with RMC Chapter 12.11.020. If the intersection is in a curve, it will have to be

1 evaluated per AASHTO guidelines. This information may need to be designed by the engineer
of record and supplied to the surveyor of record for inclusion into the final plat document.

2 61. The final plat shall include notes identifying all common areas including any private streets and
3 tracts and assigning the ownership and maintenance responsibility. A note shall be added to the
4 face of the final plat that states: *“The private roads are for the use and benefit of the property
owners that abut said roads, and are to be maintained by the owners. The City of Richland
accepts no maintenance responsibility for private roads”*.

5 62. All landscaped areas within the plat that are in the public Right of Way shall be the
6 responsibility of the property owners to maintain.

7 63. A one-foot “No access / screening easement” will be required along both the Dallas Road and Ava
8 Way Right of Ways. The only exception would be for a shared driveway off of Ava Way between
lots 227 and 228.

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

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

11 **Addressing**

12 66. Street names will be reviewed when construction drawings are submitted to the Public Works
13 Department. When construction drawings are submitted, please include two (2) street name options for
each of the new street segments and the City will review to determine acceptable street names.

- 14 a. When selecting street names for review please note that the following are not acceptable
15 names: West Dr, North Dr, Central Dr, Mountain Lp, Middle Dr & Canyon Rd.
b. Please reference RMC 12.01.060 to determine acceptable street designations.

16 67. Please add addressing brackets [] on all lots and tracts.

17 **WSDOT Conditions**

18 68. The subject property is in the vicinity of Interstate 82 (I-82) and the Dallas Road (Exit 104) interchange
19 and within the Badger Mountain South (BMS) subarea. I-82, including the interchange, is a fully-
20 controlled limited access facility, Highway of Statewide Significance (HSS), and part of the National
Highway System (NHS). It is to the benefit of the city, county, and state to preserve this interchange’s
safety and efficiency.

21 69. WSDOT acknowledges the plat condition that requires the proponent to implement the mitigation
22 measures identified in the latest project traffic impact analysis (TIA). WSDOT reviewed and concurred
23 with this TIA in its letter to the city dated March 17, 2022. Of particular concern to the WSDOT are the
24 impacts and necessary improvements to the Exit 104 ramp terminals. As outlined in the study, the
25 developer is required to construct a traffic signal or roundabout at both ramp terminals by the year 2025.
WSDOT strongly urge the city and developer to not underestimate the time and effort involved in gaining
approval for projects on the Interstate system. In order to avoid any potential delays, the developer must

26 **DECISION APPROVING “DESERT SKY”
PRELIMINARY PLAT IN THE BMS MASTER
PLANNED COMMUNITY – FILE NO. S2023-101**

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

1 begin coordinating these projects with WSDOT at this time. It is also important to note, all work must
2 follow current WSDOT and FHWA design documentation and approval processes and the state’s preferred
3 alternative for intersection control is the roundabout.

3 **Planning (modified by the Examiner), re: Middle Drive alignment.**

4 70. The applicant has depicted part of the public “Middle Drive” right-of-way on the neighboring, westerly
5 parcel (APN: 1-32981000002007). Within 60-days of preliminary plat approval, Applicant shall provide
6 correspondence to the Planning Manager demonstrating that talks are ongoing between the landowner of
7 this neighboring property regarding the incorporation of some of their property into the applicant’s plat
8 layout, providing an update and projected timeline regarding securing property rights needed to develop
9 Middle Drive as shown in the approved preliminary plat design. Prior to final plat approval for any phase
10 of this preliminary plat, the Middle Drive right-of-way area, including necessary easements and roadway
11 shall be dedicated to the City of Richland. At that time, applicant shall submit all necessary legal
12 instruments and approvals needed from affected parties. In the event the applicant is unable to obtain
13 property rights required to develop “Middle Drive” as depicted on the preliminary plat plans (Ex. 9), the
14 applicant may pursue a Revision to this preliminary plat, to be processed as a Minor or Major Revision as
15 determined by the Director in accord with the Condition of Approval detailing the Process for Review of
16 Potential Minor or Major Revisions to this Preliminary Plat. (See Condition C, above).

1
2 **Notice of Rights to Request Reconsideration or**
3 **Appeal This Decision**

4 ***Reconsideration –***

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

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

20 ***Appeal –***

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

26 **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.