

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

Regarding the Application to *Rezone* a 366- )  
acre portion of a 495-acre parcel from AG )  
(Agriculture) to Public Parks and Facilities )  
(PPF), which is fully consistent with )  
Comprehensive Plan’s Developed Open )  
Space (DOS) land use designation assigned )  
to the area, submitted by )  
)  
**CITY OF RICHLAND,** )  
)  
Applicant )  
\_\_\_\_\_ )

**File No. Z2023-107**

**FINDINGS OF FACT,  
CONCLUSIONS AND  
RECOMMENDATION**

**I. SUMMARY OF RECOMMENDATION.**

The City of Richland, as the property owner and applicant in this matter, can meet its burden of proof to demonstrate that its requested rezone merits approval.

The site is now designated as Developed Open Space under applicable provisions of the City’s Comprehensive Plan, but it is currently zoned AG (Agriculture), meaning the current outdoor recreational uses on the site may be inconsistent with general agricultural reserve purposes, and proposals to establish new recreational uses on the site might be discouraged or more complicated under current zoning. The pending application would rezone the site to Public Parks and Facilities (PPF), to more easily implement the intent and purpose of lands designated for Developed Open Space purposes.

This requested rezone does not approve any development activity on the site. As with all development proposals, City Development Regulations will apply to any specific projects that may eventually be proposed on the site.

**FINDINGS OF FACT, CONCLUSIONS AND  
RECOMMENDATION RE: CITY OF RICHLAND  
APPLICATION TO REZONE A PROPERTY  
LOCATED AT 3229 TWIN BRIDGES ROAD FROM  
THE “AG” ZONE TO THE “PPF” ZONING  
DISTRICT – FILE NO. Z2023-107**

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

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## II. BACKGROUND AND APPLICABLE LAW.

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

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

Finally, Washington Courts apply three basic rules when reviewing appeals of rezone applications: (1) there is no presumption favoring the rezone request; (2) the proponent of a rezone must demonstrate that there has been a change of circumstances since the original zoning, PROVIDED if a proposed rezone implements the policies of a comprehensive plan, a showing of changed circumstances is usually not required<sup>1</sup>; and (3) the rezone must have a substantial relationship to the public health, safety, morals, or general welfare. *Woods v. Kittitas County*, 162 Wn.2d 597 (2007), citing *Citizens for Mount Vernon*, 133 Wn.2d 861, at 875 (1997); *Parkridge v. City of Seattle*, 89 Wn.2d 454, 462 (1978).

## III. QUESTIONS PRESENTED.

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

A. Whether the requested rezone implements policies of the City’s Comprehensive Plan, and/or whether there has been a change of circumstances since the current AG (Agriculture) zoning was adopted for the site?

*Short Answer:* Yes to both. The site is already designated for Developed Open Space uses in the City’s Comprehensive Plan, and the rezone would effectuate that Comprehensive Plan and eliminate a perceived nonconformity that currently exists between such Plan, current recreational uses, and anticipated future park and recreational uses of the site. The requested PPF zone allows for some recreational uses that may not currently allowed outright in the AG

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

1 zone, and there are many undeveloped acres of land in the rezone area that would be easier  
2 to develop for park and recreation uses after the rezone is approved. Staff is seeking approval  
of this rezone to bring the property's zoning into closer alignment with the City's  
Comprehensive Plan.

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

5 *Short Answer:* Yes, because the rezone is fully consistent with the City's Comprehensive  
6 Plan, and any future, project-specific proposal will have to meet city development  
7 regulations, including SEPA, traffic impact reviews, public infrastructure concurrency  
8 reviews, and payment of any impact fees in effect at the time of an application. The proposed  
rezone appears to be an effort to make it easier to review and approve future park and  
recreational uses of the site.

9 **IV. RECORD.**

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

12 Public notices regarding the application and public hearing were mailed, posted, and  
13 published as required by city codes prior to the public hearing. (*Staff Report, page 10; Exhibit 3*).

14 **Hearing Testimony:** City Planner, Kyle Hendricks, was the only person who asked to present  
15 testimony under oath during the public hearing. The Examiner conducted the public hearing using a  
16 hybrid format, with the Examiner appearing via an online communication platform, coordinated by  
city staff, and Staff appearing from the City Council chambers. Staff confirmed that no one else was  
in the hearing room, or online, to participate in the hearing.

17 **Exhibits:** The Development Services Division Staff Report for the requested Rezone,  
18 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:

- 19
- 20 1. Rezone Application Materials;
  - 21 2. Lease Agreements, and amendments to lease, between the City and operator of an off-road  
22 vehicle park on a portion of the rezone site;
  - 23 3. Public Notices & Affidavits; and
  - 24 4. Agency Comments, with none objecting or raising questions that would serve as a basis to  
deny the requested rezone.

25 The Examiner has visited the road network and vicinity of the proposed rezone on multiple

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1 occasions over the past few years in connection with other applications, and is fully advised on matters  
2 at issue herein, including without limitation adjacent developments and land uses, applicable law,  
3 application materials, and relevant comprehensive plan provisions.

### 4 V. FINDINGS OF FACT.

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

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

7 1. Since 1967, the City of Richland has owned a large piece of property (about 495-acres) west  
8 of Twin Bridges Road, east of Beardsley Road, north of State Route 240, and south of Horn Rapids  
9 Road. (*Testimony of Mr. Hendricks; Staff Report*). The entire area has been zoned Agricultural (AG)  
10 since that time.

11 2. Since 2007, the City has allowed use of some of the property – all located north of SR 240 –  
12 as an off-road recreational vehicle (ORV) park under terms of a lease agreement with the ORV park  
13 operator. (*Ex. 2*).

14 3. Consistent with rezone applications processed by the City in the last several years, where  
15 Planning staff seek to update zoning maps to implement and eliminate inconsistencies with the City’s  
16 Comprehensive Plan, staff recently submitted an application to rezone about 366 acres of City-owned  
17 land – all located north of SR 240 – from AG to PPF, Public Parks and Facilities, to better implement  
18 provisions of the Comprehensive Plan, which designates the area as Developed Open Space. (*Ex. 1,*  
19 *application; Staff Report*). The current AG zoning is not the most appropriate zone for areas of the  
20 City where parks and recreational uses, i.e. Developed Open Space, are or might be located.

21 4. The proposed rezone site is generally located at 3229 Twin Bridges Road, comprised of  
22 rolling hills, covering about 366 acres of the larger 495 acres in the parcel where it is situated, Benton  
23 County Parcel No. 118081000002001. A majority of the rezone site is developed open space  
24 consisting of off-road recreational vehicle racing tracks and a paintball facility. (*Staff Report, page*  
25 *4*).

26 5. The application materials explain the rezone request as follows:

“Rezone a portion of parcel 1-18081000002001 (Richland Off Road Vehicle Park) from  
Agriculture to Parks & Public Facilities to bring the property into conformance with the  
Comprehensive Land Use Plan designation of Developed Open Space and current use as  
an off-road vehicle park. The property is owned by the City of Richland and leased to  
operators in support of an off-road vehicle park and other supportive uses.” (*Ex. 1,*  
*Application form, Applicant’s description of request*).

6. RMC 23.30.010(A) explains that the “parks and public facilities district (PPF) is a special use  
classification intended to provide areas for the retention of public lands necessary for open spaces,

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1 parks, playgrounds, trails and structures designed for public recreation and to provide areas for the  
2 location of buildings and structures for public education, recreation and other public and semi-public  
3 uses. This zoning classification is intended to be applied to those portions of the city that are  
4 designated as developed open space and public facility under the city of Richland comprehensive  
5 plan.

6 7. There is no dispute that the property at issue is currently designated for Developed Open  
7 Space uses in the City's Comprehensive Plan. This application would eliminate the site's  
8 nonconformity with the City's Comprehensive Plan, by replacing the current AG zone with the PPF  
9 zone, which is expressly intended for portions of the city designated as developed open space in the  
10 City's Comprehensive Plan. (See RMC 23.30.010(A), discussed above). Thus, the requested rezone  
11 is consistent with and will implement policies in the City's Comp. Plan.

12 8. Changed circumstances also support the requested rezone from the AG to the PPF zone.  
13 Since its annexation into and coming under ownership by the City of Richland. The subject site was  
14 annexed into the City in 1967. (Staff testimony during public hearing). As was the case with many  
15 large, vacant properties annexed into the City decades ago, the land was zoned for Agricultural uses,  
16 now identified as the "AG" zoning district. In or about 2007, the City entered into Lease Agreements,  
17 which have been amended, allowing for the off-road recreational vehicle races and activities, among  
18 other uses, on the site, which have generated economic value to the City. (Ex. 2, Lease Agreements  
19 and amendments; Staff Report, pages 4 and 11). The Staff Report explains that the site's location is  
20 appropriate for PPF zoning, primarily because the intent of "developed open space" – like that at issue  
21 in this rezone request – is to provide ample opportunities for outdoor recreational activities that  
22 residents can enjoy, including possible new park facilities in the rezoned area. (Staff Report, page 5).  
23 The PPF zoning designation should make it easier to develop unused acreage on the site for various  
24 park and recreation purposes. (Staff testimony during public hearing).

25 9. The Examiner concurs with the opinion of staff and finds that the proposed PPF zoning with  
26 its associated permitted land uses is compatible with other uses in the vicinity as well as current uses  
on the site.

10 10. Through the public comment and hearing process, no one submitted any comments, evidence,  
11 or legal authority that would serve as a basis to deny this requested rezone.

12 11. Because staff deemed the application to be consistent with the City's Comprehensive Plan,  
13 which already designates the rezone site as suitable for Developed Open Space land uses, and the  
14 City's plan was analyzed in an environmental impact statement at the time of its adoption, the pending  
15 application is categorically exempt from SEPA review as provided in WAC 197-11-800(6)(c). (Staff  
16 Report, page 10; Official notice from record of previous rezone matters re: City SEPA process(es)  
17 undertaken when Comprehensive Plan was adopted and amended).

18 12. The record does not include any evidence that the requested PPF zone could allow for any  
19 uses that would be incompatible with surrounding uses.

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1 13. The Staff Report’s analysis of this application stands un rebutted. No one submitted written  
2 evidence or provided public testimony through the public hearing process that questioned or opposed  
3 the proposed rezone. The requested rezone is fully consistent with land use policy goals in the City’s  
4 Comprehensive Plan. (*Staff Report, pages 5-6*).

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

6 14. As part of the review process, City staff confirmed that, except for sewer, adequate utilities,  
7 including without limitation water, irrigation, and electricity, are in place and/or readily available to  
8 serve the parcel that is at issue in this matter. (*Staff Report, pages 7-8*). Future development projects  
9 may need to propose appropriate engineering measures to connect with current City sewer lines or  
10 comply with sewage treatment regulations associated with future uses on the site that might require  
11 such services.

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

13 15. As explained elsewhere in this Recommendation, the rezone site is already designated as  
14 “Developed Open Space” in the City’s Comprehensive Plan, and the request is to eliminate the AG  
15 classification for the site and replace it with the PPF, Public Parks and Facilities zone, which is a  
16 better fit for the types of uses currently on portions of the site, and should also serve to make it simpler  
17 for new park and recreational projects to be developed on unused acreage.

18 16. Standing alone, the requested rezone conforms to the Comprehensive Plan, because the plan  
19 already identifies the property as suitable for Developed Open Space uses. There is nothing in this  
20 record to justify holding the property as an AG zoned site, as might be the case where certain unique  
21 uses are needed in the immediate area in order to best serve the public interest.

22 ***General findings.***

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

25 18. The Development Services Division Staff Report, prepared by Mr. Hendricks, includes a  
26 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 Recommendation, all Findings contained in the Staff Report  
are incorporated herein by reference as Findings of the undersigned-hearing examiner.

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

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VI. CONCLUSIONS.

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

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

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

3. The rezoned site will not be materially detrimental to uses or property in the immediate vicinity of the subject property. In fact, the rezone may serve as a boost for new park and recreational development options on the property.

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

5. As required by RMC 19.50.010(C), the transportation system is sufficient to accommodate the type of development envisioned with the proposed rezone. The surrounding road network is fully functional, and no transportation concurrency problems are likely to arise as a result of the rezone for the site. Development regulations, including without limitation those detailing frontage improvements, access, roadway improvements, traffic mitigation, setbacks, and the like, will apply to any future project built on the site.

6. Based on the record, the applicant demonstrated its rezone application merits approval, meeting its burden of proof imposed by RMC 19.60.060.

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

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

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**FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATION RE: CITY OF RICHLAND APPLICATION TO REZONE A PROPERTY LOCATED AT 3229 TWIN BRIDGES ROAD FROM THE “AG” ZONE TO THE “PPF” ZONING DISTRICT – FILE NO. Z2023-107**

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**VII. RECOMMENDATION.**

Based upon the preceding Findings and Conclusions, the Hearing Examiner recommends that the City’s application (File No. Z2023-107) to reclassify an approximately 366-acre site from its current AG (Agriculture) zone to the PPF (Public Parks and Facilities) zoning district, which is consistent with the Comprehensive Plan’s land use designation assigned to the area, should be **APPROVED.**

ISSUED this 30<sup>th</sup> Day of January, 2024



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Gary N. McLean  
Hearing Examiner

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