

EXHIBIT 11

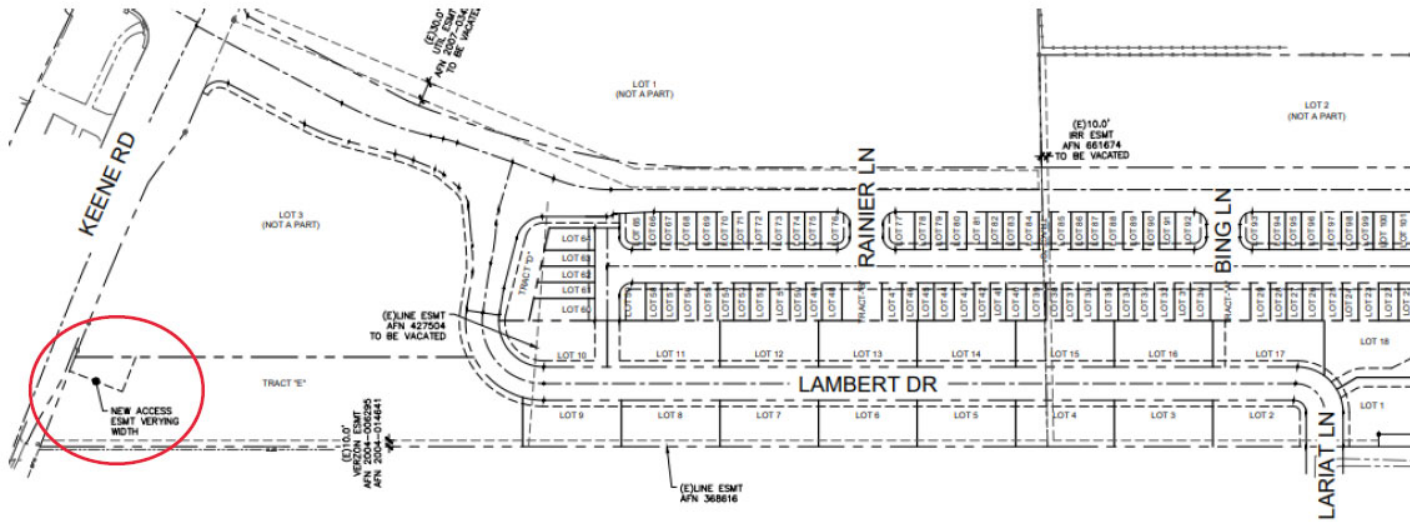
Stevens, Mike

From: DAlessandro, Carlo
Sent: Thursday, July 13, 2023 5:05 PM
To: Hendricks, Kyle; Reathaford, Jason
Cc: Stevens, Mike; Whittier, John
Subject: RE: Columbia Valley Property Holdings Rezone App

Kyle,

I think the issue is a misunderstanding of Condition 2. Public Works has already performed the engineering analysis and established the driveway location on Keene that the lot can take access from. The intent of Condition 2 is to say that since we have already pre-approved a driveway location to serve the lot on Keene, no subsequent driveways will be permitted on Keene to access the lot since no other location can be justified through our engineering analysis. The access would be taken from Keene as shown in the PUD documents (red circles on maps below). Phase 1 of the development will also include an access easement across the storm pond tract to enable the access. There is no intent to now disallow this access. We do not support removing the condition and would ask the applicant, with this additional clarification, to consider not proposing to remove the condition.





Carlo D'Alessandro, PE
 Transportation and Development Manager
 625 Swift Blvd., MS-26 | Richland, WA 99352
 (509) 942-7461

From: Hendricks, Kyle <khendricks@ci.richland.wa.us>
Sent: Thursday, July 13, 2023 11:45 AM
To: Reathaford, Jason <JReathaford@CI.RICHLAND.WA.US>; DAlessandro, Carlo <cdalessandro@CI.RICHLAND.WA.US>
Cc: Stevens, Mike <mstevens@CI.RICHLAND.WA.US>; Whittier, John <jwhittier@CI.RICHLAND.WA.US>
Subject: FW: Columbia Valley Property Holdings Rezone App

Hello,
 See below. What are Public Works thoughts?

This is in regard to the rezone application (AG/SAG to C-2) at 2155 Keene Rd Z2023-106 (Terraces at Queensgate).

It would be helpful if someone from Public Works could be in attendance at the Hearing Examiner Special Meeting tomorrow July 14th, 1pm-5pm. This item appears to be the first item on the agenda.

Thank you,



Kyle Hendricks
 Planner
 625 Swift Blvd., MS-35 | Richland, WA 99352
 (509) 942-7683

From: Rick Simon <rpsimon60@gmail.com>
Sent: Wednesday, July 12, 2023 8:30 PM

To: Hendricks, Kyle <khendricks@ci.richland.wa.us>
Cc: Stevens, Mike <mstevens@CI.RICHLAND.WA.US>
Subject: Columbia Valley Property Holdings Rezone App

[EXTERNAL EMAIL] Exercise caution before clicking links or opening attachments.

Hello Kyle,

I wanted to give you a heads up - at the Hearing Examiner meeting, we'll be asking the Examiner to delete your proposed condition #2:

2. The location/establishment of driveways for Parcel 3 have been pre-approved as a result of The Terraces at Queensgate PUD project. Additional and/or relocated driveways onto Parcel 3 will not be allowed.

The basis for that is the language in Section 10(f) of the first amendment to the development agreement, which specifically states

Access from future development onto Keene Road and/or the future Queensgate Drive shall be subject to road approach review and/or permits from the City, which review may include review of commercially reasonable site distances from existing intersections, including the intersection of Keene Road/Queensgate Drive.

Condition #2 takes away the potential for a driveway onto Keene Road, which is contrary to the development agreement. This seems to me to be a detail that should get reviewed at the project stage and Public Works can determine if a proposal for a driveway meets traffic safety standards. We don't want to give up that potential at this point. If you agree, then perhaps you could delete this condition at the hearing. But in any case, we plan to ask the Examiner to remove that language. Thanks.

[Rick Simon](#)

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EXHIBIT 12

PROPOSED AMENDMENTS TO STAFF'S RECOMMENDED CONDITIONS OF APPROVAL

Agreement with Condition #2:

Initially we had some concerns regarding the potential for driveway access from Keene Road. With the explanation from staff, our concerns are relieved but would like the email from Mike Stevens to Rick Simon, dated July 14, 2023, to be entered into the record, as it clarifies the intent of the condition.

Re-word Condition #19:

We propose condition #19 to be re-worded. We agree with the concept that commercial buildings should be oriented away from Country Ridge but in the event there are multiple buildings built on site, the orientation of buildings located farthest away from Country Ridge doesn't need to be restricted.

19. ~~Development shall be oriented to the east, towards Queensgate Drive or Keene Road and away from the Country Ridge property boundary. Any building located on or near the western setback line of the site must be oriented away from Country Ridge. If there are multiple buildings constructed on site, buildings located on the eastern half of the site may be oriented towards the west.~~

Clarify Condition #20:

We want to clarify that the 204 foot setback we propose applies to buildings, not to other improvements such as access or parking fields.

20. A building setback measuring 204' shall be provided between the Country Ridge Estates and future commercial development to provide the buffer established within Contract 92-10, Ordinance 2022-03, and PUD2022-101.

Clarify Condition #22:

The intent of the condition we proposed for blocking vehicle headlights was to offer protection to Country Ridge for vehicles entering the site from Keene Road and so propose the following clarification:

22. Landscaping, screening or combination thereof shall be placed to block vehicle headlights from shining onto the adjacent residential properties for vehicles entering or exiting the site from Keene Road

Clarify Condition #23:

Finally, we propose a clarification to identify that the open space between the commercial site and Country Ridge includes only Tract E.

23. ~~The open space tract~~ Tract E located along the western boundary of the site shall be reserved for storm drainage facilities and landscaping. Other possible improvements permitted on this site would be limited to walking or bicycle trails and possible park furniture such as benches, picnic tables or gazebos.

EXHIBIT 13



DEVELOPMENT SERVICES DEPARTMENT

MEMORANDUM

TO: Gary McClean, Hearings Examiner

FROM: Mike Stevens, Planning Manager

DATE: July 28, 2023

SUBJECT: Z2023-106

At the conclusion of the July 14, 2023, public hearing for rezone application No. Z2023-106, City staff requested additional time to review the requested changes to Conditions of Approval Nos. 19, 20, 22 and 23 as proposed by the applicant. City staff has reviewed the proposed changes and offers the following:

Subsection 10.j of Contract No. 92-10 indicates that *“The process of implementing the comprehensive plan may result in some minor deviations to the plan, such as adjustments in zoning boundary lines. Such deviations may be acceptable if they are deemed minor in nature and consistent with Items a through j as listed above.”*

As a result, the question(s) to be answered is whether or not the requested zoning change is “minor in nature and consistent with Items a through j.”

City staff contend that the main issue needing to be resolved is that of the required buffer. Language contained in Item a is quite specific as it reads: *“A buffer area of Low-density residential development designated along the westerly property boundary of the Site, adjacent to the Country Ridge property line and zoned for R-1-12. The buffer would provide for two tiers of single-family residential lots separated by a road corridor, providing for an overall density not to exceed three (3) lots per acre (inclusive of such road corridor). A Planned Unit Development may be utilized to achieve a density average consistent with this agreement. These lots would meet all R-1-12 zoning standards, and such lots adjoining the adjacent Country Ridge development shall be laid out with their rear yards facing the Country Ridge property line.”*

The PUD submitted for Revised Lot 4 (Terraces At Queensgate South) extends south from its boundary with Keene Road approximately 2,200 linear feet. It was demonstrated through the creation of The Terraces at Queensgate South (Terraces) that two (2) tiers of single-family residential lots separated by a road corridor can be accomplished within a width of 204' (each tier being 75' in width separated by a 54' road corridor). However, the northern portion of Revised Lot 4, to be known henceforth as Tract E is not intended to be developed with two tiers of residential lots and a separating roadway, rather, Tract E is intended to be used for stormwater runoff as it is located in the lowest portion of the site and is topographically consistent with this intent. The width of Tract E is only 145', not 204' as was approved for the portion of Revised Lot 4 located

south of Tract E, which contains adequate width for two tiers of residential development separated by a road corridor (204').

City staff informed the developer early on that the intent of Tract E as a stormwater swale was consistent with the intent of item a as it was a required part of the Terraces residential development. However, staff has been clear with the developer that the distance between Country Ridge and any future commercial development must be consistent with item a in regard to the width and intent of the buffer area, which is to separate commercial development from residential development.

The applicant's current proposal of having a 145' buffer width with Tract E, plus a 59' building setback does not take into consideration other commercial development activities which could have a negative impact to the residents of Country Ridge. Staff contend that activities and/or commercial uses that would not be subject to the 59' building setback could include things such as parking lots, light standards, loading/unloading zones for semi-trucks, large trash containers and other uses or activities which Item a intended to be separated from the Country Ridge neighborhood via the required buffer.

City staff offers the following changes to Conditions of Approval Nos. 19, 20, 22 and 23.

19. Any building located on or near the western buffer line of the site must be oriented away from Country Ridge. If there are multiple buildings constructed on site, buildings located on the eastern half of the site may be oriented towards the west.
20. A distance measuring 204' shall be provided between the eastern property boundary of Country Ridge Homeowners Association (Benton County Parcel # 121984020001019) and future commercial development to provide the buffer established within Contract 92-10, Ordinance 2022-03, and PUD2022-101. Parking and drive access for commercial use is prohibited within the buffer, but landscaping, stormwater drainage improvements, fencing and or other screening subject to review and approval by the Administrator is allowed.
22. Landscaping, screening, or combination thereof shall be placed to block vehicle headlights from shining onto the adjacent residential properties for vehicles entering or exiting the site.
23. Tract E of the Terraces at Queensgate South PUD, along with an additional 59' located along the western boundary of the rezone site comprises the 204' buffer, and shall be reserved for storm drainage facilities, landscaping, fencing and/or other screening subject to review and approval by the Administrator. Other possible improvements permitted within the required buffer area would be limited to walking or bicycle trails and possible park furniture such as benches, picnic tables or gazebos.

EXHIBIT 14

Begin forwarded message:

From: Mark Fickes <mfickes@hnw.law>
Subject: RE: Z2023-106 Terraces Rezone
Date: July 28, 2023 at 3:50:58 PM PDT
To: "Stevens, Mike" <mstevens@CI.RICHLAND.WA.US>, "Gary McLean (McLeanLaw@me.com)" <McLeanLaw@me.com>
Cc: Rick Simon <rpsimon60@gmail.com>, Peter Harpster <pharpster@aqtera.com>, Michael Froehlich <mfroehlich@mmclegal.net>

Mr. Examiner:

While we appreciate the City's recommendation to keep the record open for another 2 weeks, as the attorney for the Applicant, we would request that the record be closed and that the 10-day time for the Examiner to make his recommendation commence today. Additional delay has the potential to prejudice the Applicant, and keeping the record open for additional legal debate about what an old Development Agreement means is not appropriate. The factual and legal record has been fully developed at the July 14, 2023 Hearing.

As presented at the Hearing, the Applicant continues to object to Staff's proposed Conditions of Approval numbers 20-23. As set forth in Section 2.3 of the Applicant's Memorandum in Support of Rezone, a 204' buffer from any commercial use simply is **NOT** required by the Development Agreement. A 204' building setback was not part of the application or the proposed Concomitant Agreement with the City, but was volunteered prior to the Hearing as compromise to the Country Ridge HOA to provide

some additional separation from future commercial uses. If Staff's position now is any commercial use whatsoever of what should be C-2 zoned property along a large section of the site (the western 59 feet) should be prohibited (even parking and access), the Applicant requests the Examiner to eliminate Staff's proposed Conditions 20 and 23 altogether, and simply recognize that additional development conditions, if any, can be evaluated at the project stage and shouldn't be imposed on the Applicant now. The Applicant should be able to use the rezoned site consistent with City commercial development regulations currently in effect.

At this stage, the interested parties have different legal opinions on what the 2010 Development Agreement means, which expressly stated that "the process of implementing the comprehensive plan may result in minor deviations to the plan such as adjustments in zoning boundary lines." This rezone application is legally required to be approved. The residential PUD approved by this Examiner already implemented the "separation" between County Ridge and future commercial uses consistent with the Development Agreement. While the PUD was 204' wide in places and narrower along Tract E (the stormwater tract), this wasn't legally required. Based on current City development regulations, a PUD with two rows of residential lots with a 28' private road could be completed in a 146' wide parcel of property (basically the same width as Tract E in the approved PUD).

The Applicant and Staff agree on revised approval Condition 19 set forth in Staff's attached 7/28/2023 letter, but the Applicant continues to object to duplicative and inappropriate Conditions 20 and 23 for the reasons set forth above. Condition 22 should be modified consistent with the Applicant's original request at the hearing or eliminated altogether as its not required by this non-project rezone, and can await site design or SEPA review at the project stage.

Respectfully Submitted this 28th day of July, 2023.

Mark E. Fickes



Mark E. Fickes, Attorney

p. 509.248.6030 f. 509.453.6880

mfickes@hnw.law

405 E. Lincoln Avenue, Yakima, WA 98901

halversonNW.com

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have received this communication in error, please immediately notify the sender by return email, and delete the original message and all copies from your system. Thank you.
Halverson Northwest Law Group P.C.

From: Stevens, Mike <mstevens@CI.RICHLAND.WA.US>
Sent: Friday, July 28, 2023 11:34 AM
To: Gary McLean (McLeanLaw@me.com) <McLeanLaw@me.com>
Cc: Rick Simon <rpsimon60@gmail.com>; Peter Harpster <pharpster@aqtera.com>;
Mark Fickes <mfickes@hnw.law>; Michael Froehlich <mfroehlich@mmclegal.net>
Subject: Z2023-106 Terraces Rezone

Mr. McClean,

As you recall, near the end of the public hearing for rezone application No. Z2023-106 (Terraces Rezone), a representative for the applicant team (Rick Simon) presented a written exhibit (attached – Amendments to Staff Recommended Conditions) requesting modification to several of the staff’s proposed conditions of approval. You allowed the City two (2) weeks in which to review the modifications and respond back to you in writing.

City staff have prepared its response explaining its position and reasoning to not approve the applicant’s proposed changes to the original conditions of approval and have also revised the conditions to demonstrate compliance with the City’s position (Terraces Memo-Development Services Department).

This new document is being provided to you, the applicant, and the legal representative from the Country Ridge HOA at this time. City staff requests that you allow an additional two (2) week period for review and response by the applicant and Country Ridge HOA.

Sincerely,



Mike Stevens
Planning Manager
625 Swift Blvd., MS-35 | Richland, WA 99352
(509) 942-7596

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External

Begin forwarded message:

From: Michael Froehlich <mfroehlich@mmclegal.net>

Subject: RE: Z2023-106 Terraces Rezone

Date: August 10, 2023 at 9:10:39 PM PDT

To: 'Mark Fickes' <mfickes@hnw.law>, "Stevens, Mike" <mstevens@CI.RICHLAND.WA.US>, "Gary McLean (McLeanLaw@me.com)" <McLeanLaw@me.com>

Cc: Rick Simon <rpsimon60@gmail.com>, Peter Harpster <pharpster@aqtera.com>

Mr. Examiner,

Following the hearing on July 14 our committee for Country Ridge HOA was able to review the "Proposed Amendments to Staff's Recommended Conditions of Approval" that was introduced last minute by Mr. Simon at the hearing. We were able to redline their suggestions with something that would be acceptable to the HOA and I think clarifies our, and the City staff's position, where needed. See attached. I'm hopeful that you will agree with the City Staff, as we agree with the July 10 City Staff Report that stated that 204' would be the required **minimum** buffer distance to meet the conditions of the Contract 92-10 and Ordinance 2022-103 and that no commercial activities or ancillary services be within that buffer.

To reiterate my oral argument, what Aqtera and the developer are proposing with this rezone is inconsistent with the city's adopted comprehensive plan, which shows a strip of 'low density residential' that is at least 200' feet wide. A 59' reduction in the 204' setback equates to a 30% reduction, which is far from minimal, RMC 19.60.095(A)

requires a finding that development must be consistent with the adopted comprehensive plan, that finding cannot factually be made in this situation.

Finally, it would appear to me that split zoning would be a logical way to approve their C-2 zoning change for the portion of the parcel that allows for such under the adopted comprehensive plan. If split zoning is not allowed, it seems like the developer will need to pursue a boundary line adjustment to add the 59' back to Track E or the developer can seek to amend the comprehensive plan.

Sincerely,

Michael A. Froehlich, Attorney
Miller, Mertens & Comfort, PLLC
1020 N. Center Parkway, Suite B
Kennewick, WA 99336
Phone: (509) 374-4200
Fax: (509) 374-4229

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From: Mark Fickes <mfickes@hnw.law>

Sent: Friday, July 28, 2023 3:51 PM

To: Stevens, Mike <mstevens@CL.RICHLAND.WA.US>; Gary McLean
(McLeanLaw@me.com) <McLeanLaw@me.com>

Cc: Rick Simon <rpsimon60@gmail.com>; Peter Harpster <pharpster@aqtera.com>;
Michael Froehlich <mfroehlich@mmclegal.net>

Subject: RE: Z2023-106 Terraces Rezone

Mr. Examiner:

While we appreciate the City's recommendation to keep the record open for another 2 weeks, as the attorney for the Applicant, we would request that the record be closed and that the 10-day time for the Examiner to make his recommendation commence today. Additional delay has the potential to prejudice the Applicant, and keeping the record open for additional legal debate about what an old Development Agreement means is not appropriate. The factual and legal record has been fully developed at the July 14, 2023 Hearing.

As presented at the Hearing, the Applicant continues to object to Staff's proposed Conditions of Approval numbers 20-23. As set forth in Section 2.3 of the Applicant's Memorandum in Support of Rezone, a 204' buffer from any commercial use simply is **NOT** required by the Development Agreement. A 204' building setback was not part of the application or the proposed Concomitant Agreement with the City, but was

volunteered prior to the Hearing as compromise to the Country Ridge HOA to provide some additional separation from future commercial uses. If Staff's position now is any commercial use whatsoever of what should be C-2 zoned property along a large section of the site (the western 59 feet) should be prohibited (even parking and access), the Applicant requests the Examiner to eliminate Staff's proposed Conditions 20 and 23 altogether, and simply recognize that additional development conditions, if any, can be evaluated at the project stage and shouldn't be imposed on the Applicant now. The Applicant should be able to use the rezoned site consistent with City commercial development regulations currently in effect.

At this stage, the interested parties have different legal opinions on what the 2010 Development Agreement means, which expressly stated that "the process of implementing the comprehensive plan may result in minor deviations to the plan such as adjustments in zoning boundary lines." This rezone application is legally required to be approved. The residential PUD approved by this Examiner already implemented the "separation" between County Ridge and future commercial uses consistent with the Development Agreement. While the PUD was 204' wide in places and narrower along Tract E (the stormwater tract), this wasn't legally required. Based on current City development regulations, a PUD with two rows of residential lots with a 28' private road could be completed in a 146' wide parcel of property (basically the same width as Tract E in the approved PUD).

The Applicant and Staff agree on revised approval Condition 19 set forth in Staff's attached 7/28/2023 letter, but the Applicant continues to object to duplicative and inappropriate Conditions 20 and 23 for the reasons set forth above. Condition 22 should be modified consistent with the Applicant's original request at the hearing or eliminated altogether as its not required by this non-project rezone, and can await site design or SEPA review at the project stage.

Respectfully Submitted this 28th day of July, 2023.

Mark E. Fickes



Mark E. Fickes, Attorney

p. 509.248.6030 f. 509.453.6880

mfickes@hnw.law

405 E. Lincoln Avenue, Yakima, WA 98901

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Halverson Northwest Law Group P.C.

From: Stevens, Mike <mstevens@CI.RICHLAND.WA.US>

Sent: Friday, July 28, 2023 11:34 AM

To: Gary McLean (McLeanLaw@me.com) <McLeanLaw@me.com>

Cc: Rick Simon <rpsimon60@gmail.com>; Peter Harpster <pharpster@aqtera.com>;

Mark Fickes <mfickes@hnw.law>; Michael Froehlich <mfroehlich@mmclegal.net>

Subject: Z2023-106 Terraces Rezone

Mr. McClean,

As you recall, near the end of the public hearing for rezone application No. Z2023-106 (Terraces Rezone), a representative for the applicant team (Rick Simon) presented a written exhibit (attached – Amendments to Staff Recommended Conditions) requesting modification to several of the staff's proposed conditions of approval. You allowed the City two (2) weeks in which to review the modifications and respond back to you in writing.

City staff have prepared its response explaining its position and reasoning to not approve the applicant's proposed changes to the original conditions of approval and have also revised the conditions to demonstrate compliance with the City's position (Terraces Memo-Development Services Department).

This new document is being provided to you, the applicant, and the legal representative from the Country Ridge HOA at this time. City staff requests that you allow an additional two (2) week period for review and response by the applicant and Country Ridge HOA.

Sincerely,



Mike Stevens

Planning Manager

625 Swift Blvd., MS-35 | Richland, WA 99352

(509) 942-7596

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External

PROPOSED AMENDMENTS TO STAFF'S RECOMMENDED CONDITIONS OF APPROVAL

Clarify Condition #20:

20. A setback measuring 204' shall be provided between the eastern property boundary of Country Ridge Homeowners Association (Benton County Parcel # 121984020001019) and future commercial development to provide the buffer established within Contract 92-10, Ordinance 2022-03, and PUD2022-101. Development within said setback shall comply with all R1-12 zoning requirements. Parking and access for the adjoining commercial use is prohibited within the setback, but landscaping, fencing and or other screening is allowed.

Clarify Condition #22:

22. Landscaping, screening or combination thereof shall be placed to block vehicle headlights from shining onto the adjacent residential properties for vehicles entering or exiting the site.

Clarify Condition #23:

23. Tract E along with 59' located along the western boundary of the site comprises the 204' setback, and shall be reserved for storm drainage facilities and landscaping. Other possible improvements permitted on this site would be limited to walking or bicycle trails and possible park furniture such as benches, picnic tables or gazebos.

EXHIBIT 16

From: "Gary N. McLean" <mcleanlaw@me.com>
Subject: Final Response from the Applicant -- Re: Z2023-106 Terraces Rezone Application
Date: August 15, 2023 at 11:48:52 AM PDT
To: Mike Stevens <mstevens@ci.richland.wa.us>

Mike —

Please forward/transmit this item to the Applicant representative(s) and the neighboring HoA representative from the public hearing.

This short message is to confirm that the record for this matter has been held open to allow for responses to materials from the applicant during the hearing, from City Staff, and then any follow-up responses from the applicant and the Country Ridge HoA, and mentioned in your request to me which appears below.

Specifically, your request to allow an additional two (2) week period for review and response by the applicant and Country Ridge HOA was granted, by message the morning of your request, on July 28th — allowing for review and responses from the applicant and the C.R. HoA by no later than August 11th, which was two weeks from the date of your request. Later in the day on July 28th, Mr. Fickes submitted a response, on behalf of the applicant, offering information responding to Staff's memo, and generally objecting to holding the record open any further. After regular hours on August 10th, Mr. Froehich submitted a response, on behalf of the Country Ridge HoA.

Because the applicant bears the burden of proof in this matter, it is appropriate to hold the record open to allow the applicant to have the last word, and submit any reply to the August 10th response from the HoA. Upon receipt — the record will be closed. Unless they need additional time, the applicant's final response/reply should be submitted to your email by no later than close of business this Friday, August 18th.

Please ask all parties — as in every proceeding — to direct correspondence meant for the Hearing Examiner to your City email address, and you will retain the record and transmit it to me.

Thank you.

Gary N. McLean
Hearing Examiner

On Jul 28, 2023, at 11:36 AM, Gary N. McLean <mcleanlaw@me.com> wrote:

Request granted. If either party needs additional time, please ask that they put such request in writing to you.

Sent from my iPhone

On Jul 28, 2023, at 11:33 AM, Stevens, Mike <mstevens@ci.richland.wa.us> wrote:

Mr. McClean,

As you recall, near the end of the public hearing for rezone application No. Z2023-106 (Terraces Rezone), a representative for the applicant team (Rick Simon) presented a written exhibit (attached – Amendments to Staff Recommended Conditions) requesting modification to several of the staff's proposed conditions of approval. You allowed the City two (2) weeks in which to review the modifications and respond back to you in writing.

City staff have prepared its response explaining its position and reasoning to not approve the applicant's proposed changes to the original conditions of approval and have also revised the conditions to demonstrate compliance with the City's position (Terraces Memo-Development Services Department).

This new document is being provided to you, the applicant, and the legal representative from the Country Ridge HOA at this time. City staff requests that you allow an additional two (2) week period for review and response by the applicant and Country Ridge HOA.

Sincerely,

<image001.png>

Mike Stevens
Planning Manager
625 Swift Blvd., MS-35 | Richland, WA 99352
(509) 942-7596

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<Terraces Memo-Development Services Department.pdf>
<Amendments to Staff Recommended Conditions.docx>

EXHIBIT 17

RE: Z2023-106 Terraces Rezone

Mr. Examiner,

On behalf of Columbia Valley Property Holdings, I have the following four comments to enter into the record:

1. My understanding from the conclusion at the public hearing on July 14th was that you left the record open for staff to consider and comment on information that the applicant team presented at the hearing and then to provide the applicant an opportunity to respond to staff comments. The public comment portion of the hearing was closed at that time. Yet, correspondence from the Country Ridge HOA was entered into the record on August 10th, contrary to your instruction.
2. Split zoning of the property is neither desirable nor practical for either the applicant nor the City and should be avoided, especially in light of the Terraces at Queensgate South PUD approval that established the width of Tract E at 145'.
3. The Country Ridge HOA insists that a 204' separation is mandated under the provisions of the development agreement. It is not. Two hundred four feet is the distance of the two tiers of residential lots separated by a road corridor that was approved through the Terraces at Queensgate South PUD project. Mr. Stevens acknowledged at the hearing on July 14th that a configuration of two tiers of lots and road could be accomplished within a narrower (176') strip of property. Two tiers of lots with a narrow private road and with shallow building envelopes could be accomplished within 146' and would meet the requirement of the development agreement. A 204' separation between Country Ridge and the commercial tract is simply not required.
4. The point that is lost with the focus on the 204' buffer width is that the 145' open space area that we are proposing provides a superior buffer compared to two tiers of residential lots with a road. The 145' open space area, together with all of the mitigation measures included in both the development agreement and the further mitigation offered in our application provides a buffer that is superior to two tiers of residential lots.

Respectfully Submitted,

Rick Simon