



NOTICE OF DECISION

PURSUANT TO RICHLAND MUNICIPAL CODE SECTION 19.60.080 NOTICE IS HEREBY GIVEN THAT THE CITY OF RICHLAND CITY COUNCIL, ON MARCH 19, 2024, PASSED ORDINANCE 2024-10 REZONING APPROXIMATELY 366 ACRES OF LAND FROM AGRICULTURE (AG) TO PUBLIC PARKS AND FACILITES (PPF) (CITY FILE NO. Z2023-107):

**DESCRIPTION
OF ACTION:**

Rezoning a portion of the larger parcel, approximately 366 acres of land from Agriculture (AG) to Public Parks and Facilities (PPF).

SEPA REVIEW:

Pursuant to WAC 197-11-800(6)(C) the rezone application is exempt from SEPA review.

APPROVED:

The rezone application is approved.

PROJECT LOCATION:

3229 Twin Bridges Road.

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 April 30, 2024.



Mike Stevens,
Planning Manager

April 9, 2024
Date




Return Name and Address:
Richland City Clerk's Office
625 Swift Boulevard, MS-05
Richland, WA 99352

PLEASE PRINT OR TYPE INFORMATION:

<p>Document Title: Ordinance No. 2024-10</p>
<p>Grantor(s)(Last name first, first name, middle initials):</p> <p>1. City of Richland 2. 3. 4. Additional names on page _____ of document.</p>
<p>Grantee(s)(Last name first, first name, middle initials):</p> <p>1. Public 2. 3. 4. Additional names on page _____ of document.</p>
<p>Legal description (abbreviated: i.e., lot, block, plat or section, township, range, qtr./qtr.) All of Section 18, Township 10, Range 28 South of the south right-of-way line of Horn Rapids Rd., and east of the east right-of-way line of the former Richland Irrigation District Canal.</p> <p>Additional legal is on page <u>2</u> of document.</p>
<p>Reference Number(s) of documents assigned or released:</p> <p>Additional numbers on page _____ of document.</p>
<p>Assessor's Property Tax Parcel/Account Number: <u>(MUST HAVE 15 DIGITS)</u> 118081000002001</p> <p>Property Tax Parcel ID is not yet assigned. Additional parcel numbers on page ____ of document.</p>
<p>The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information.</p>

A CERTIFIED TRUE COPY


CITY CLERK

WHEN RECORDED RETURN TO:

Richland City Clerk's Office
625 Swift Boulevard, MS-05
Richland, WA 99352

ORDINANCE NO. 2024-10

AN ORDINANCE OF THE CITY OF RICHLAND, WASHINGTON, AMENDING TITLE 23: ZONING REGULATIONS OF THE RICHLAND MUNICIPAL CODE AND THE OFFICIAL ZONING MAP OF THE CITY TO CHANGE THE ZONING ON 366 OF 495 ACRES NORTH OF STATE HIGHWAY ROUTE 240 FROM AGRICULTURE (AG) TO PUBLIC PARKS AND FACILITIES (PPF); SAID PROPERTY BEING IDENTIFIED AS A PORTION OF ASSESSOR'S PARCEL NUMBER 1-1808-100-0002-001, AND ADOPTING THE FINDINGS AND CONCLUSIONS OF THE RICHLAND HEARING EXAMINER AS THE FINDINGS AND CONCLUSIONS OF THE RICHLAND CITY COUNCIL.

WHEREAS, on September 5, 1967, the City of Richland annexed the property that is the subject of this Ordinance into its boundaries from the Government of the United States and subsequently zoned this parcel as Agriculture; and

WHEREAS, on April 6, 2007, the City of Richland entered into a lease agreement which allowed for the use of an Outdoor Recreation Vehicle Park on said property (*see* Richland Contract No. 47-07); to date this agreement has been amended five times; and

WHEREAS, on September 11, 2023, the Richland Hearing Examiner held a duly advertised open-record public hearing to consider a petition from the City of Richland to change the zoning of the property hereafter described in Section 3 and identified as Assessor's Parcel Number 1-1808-100-0002-001; and

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

WHEREAS, the Richland City Council has considered the written recommendation of the Richland Hearing Examiner and the record created during the September 11, 2023 open-record public hearing; and

WHEREAS, as required by RMC 19.20.030, the Richland City Council conducted a closed-record decision hearing on March 5, 2024 and has considered the totality of the record.

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

Section 1. The findings of fact and conclusions of law contained in the Richland Hearing Examiner's Report dated January 30, 2024, attached hereto as **Exhibit B** and incorporated herein by this reference, are hereby adopted as the findings and conclusions of the Richland City Council.

Section 2. It is hereby found, as an exercise of the City's police power, that the best land use classification for the land described below is Public Parks & Facilities (PPF) when consideration is given to the interests of the public.

Section 3. Said property depicted in **Exhibit A**, attached hereto and incorporated by this reference, is more particularly described as follows:

ALL OF SECTION 18, TOWNSHIP 10, RANGE 28 SOUTH OF THE SOUTH RIGHT-OF-WAY LINE OF HORN RAPIDS ROAD, AND EAST OF THE EAST RIGHT-OF-WAY LINE OF THE FORMER RICHLAND IRRIGATION DISTRICT CANAL. LESS 18.73 ACRES FOR STATE HIGHWAY 11-C. RAILROAD RIGHT-OF-WAY EXCLUDING AREA SOUTH OF THE NORTH RIGHT-OF-WAY BOUNDARY OF VANTAGE HWY.

Section 4. Said portion of the property described in Section 3 herein is hereby rezoned from Agriculture (AG) to Public Parks & Facilities (PPF).

Section 5. Title 23 of the Richland Municipal Code and the Official Zoning Map of the City of Richland as adopted by RMC 23.08.040 are hereby amended by amending Sectional Map Nos. 5 and 6, which are two (2) of a series of maps constituting said Official Zoning Map of the City of Richland, as shown on the attached Sectional Map Nos. 5 and 6 bearing the number and date of passage of this Ordinance (**Exhibit A**), and by this reference made a part of this Ordinance and of the Official Zoning Map of the City of Richland.

COPY

Section 6. The City Clerk is directed to file with the Auditor of Benton County, Washington, a copy of this Ordinance and the attached amended Sectional Map Nos. 5 and 6, duly certified by the City Clerk as a true copy, together with **Exhibit B** (Richland Hearing Examiner's Report).

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

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

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

PASSED by the City Council of the City of Richland, Washington, at a regular meeting on the 19th day of March, 2024.

Theresa A Richardson

Theresa Richardson, Mayor

Attest:

Jennifer Rogers

Jennifer Rogers, City Clerk

Approved as to Form:

Heather Kintzley

Heather Kintzley, City Attorney

First Reading: March 5, 2024
Second Reading: March 19, 2024
Date Published: March 24, 2024

COPY

Benton County Auditor's Office Staff
determined that this page does not meet
their scanning requirements.

The page contained:

Exhibit A – Page 1 to ORD 2024-10
Sectional Map No. 5

Please contact the City Clerk's Office,
at the City of Richland, to obtain a
copy of this omitted page.

Benton County Auditor's Office Staff
determined that this page does not meet
their scanning requirements.

The page contained:

Exhibit A – Page 2 to ORD 2024-10
Sectional Map No. 6

Please contact the City Clerk's Office,
at the City of Richland, to obtain a
copy of this omitted page.

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Exhibit B to Ordinance No. 2024-10

Before Hearing Examiner
Gary N. McLean

**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**

COPY

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 required¹; 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

¹ *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).

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zone, and there are many undeveloped acres of land in the rezone area that would be easier 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.

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

Short Answer: Yes, because the rezone is fully consistent with the City's Comprehensive Plan, and any future, project-specific proposal will have to meet city development regulations, including SEPA, traffic impact reviews, public infrastructure concurrency 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.

IV. RECORD.

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

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

Hearing Testimony: City Planner, Kyle Hendricks, was the only person who asked to present testimony under oath during the public hearing. The Examiner conducted the public hearing using a 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.

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

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

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

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

V. FINDINGS OF FACT.

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

Application, Site Location and Conditions.

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

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

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

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

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,

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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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.

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

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

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

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

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

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

**FINDINGS OF FACT, CONCLUSIONS AND
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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.

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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
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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 30th Day of January, 2024



Gary N. McLean
Hearing Examiner

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