

CITY OF KENNEWICK HEARING EXAMINER

IN THE MATTER OF	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
SUB-2024-0013	)	CONDITIONS OF APPROVAL AND
DESERTSAND, LLC Preliminary Plat	)	DECISION
	)	
	)	

THIS MATTER having come on for hearing in front of the City of Kennewick Hearing Examiner on April 15, 2025, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, and Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. This is application is a request for a 14.23-acre Preliminary Plat consisting of 153 lots and 3 tracts. The project will consist of single-family residences.
2. The proposal is located 11292 W Clearwater Avenue. Parcel Number 1-0188-4BP-5063-024.
3. Legal Description: See Exhibit 2
4. Property Owner: N44 DESERTSAND, LLC; 4618 S Reed Street; Kennewick, WA 99337
5. Applicant: Knutzen Engineering; Attn: Paul Knutzen; 5401 Ridgeline Drive, Suite 160; Kennewick, WA 99338
6. Engineer: Same as Above
7. Approval Criteria:
 - 7.1. Comprehensive Plan – Land Use
 - 7.2. KMC Title 18 – Zoning
 - 7.3. KMC Title 17 – Subdivisions
 - 7.4. KMC Section 5.56 – Public Works Construction Standards
 - 7.5. Washington State Environmental Policy Act
8. Preliminary Plat Key Application Processing Dates:

8.1. Pre-Application/Feasibility Meeting	N/A
8.2. Application Submittal	December 9, 2024
8.3. Determination of Completeness Issued	January 7, 2025
8.4. Notice of Application	January 7, 2025
8.5. Property Posting Sign	January 7, 2025
8.6. City Department Review Meeting	N/A
8.7. SEPA Threshold Determination Issued	February 24, 2025
8.8. SEPA Appeal Period Ends	March 10, 2025

8.9. Date of Published Notice of Public Hearing March 30, 2025

8.10. Date of Posting Hearing Notice On-Site March 24, 2025

8.11. Date of Mailed Notice of Public Hearing March 24, 2025

8.12. Public Hearing Date April 14, 2025

9. Preliminary Plat:

9.1. The proposed Preliminary Plat, SUB-2024-0013, is a request to subdivide 14.23 acres into 153 lots and 3 tracts. The applicant is proposing the subdivision be developed in 3 phases.

9.2. A Preliminary Plat is the first step in subdivision process for subdivisions with more than nine (9) lots and is an approval for overall lot layout and compliance with land use regulations. A Final Plat is required for preliminary plats and is the last phase in the subdivision process and must be recorded prior to the creation of individual lots.

9.3. Proposed plats are subject to the processing requirements of KMC 17.10 – Platting and the design requirements of KMC 17.20 – Design and Construction. Final plat approval is based on the Preliminary Plat conditions of approval. A civil permit with a detailed review of street, utility and stormwater construction standards, and street and utility construction or bonding for incomplete work is required prior the final plat approval.

10. Property History:

10.1. The City annexed the property on January 4, 1995 by adopting Ordinance 3603. On April 18, 2023 the property's zoning was changed from Commercial, Community (CC) to Residential, High (RH) by adopting Ordinance 6018.

11. Density/Lot Size:

11.1. Per the Table of Residential Development Standards (KMC 18.12.010 A.2) the maximum density for the RH Zone is 27 units per acre. The minimum lot size proposed is 1,800 SF, the largest lot is 7,554 SF and the average lot size is 2,413 SF. The proposed density for the development is 10.8 units/acre.

12. Setbacks:

12.1. The applicant has not proposed any deviations from the required setbacks. The RH Zone has the following setback requirements:

12.1.1. Front: 15-feet

12.1.2. Garage: 20-feet

12.1.3. Side: 5-feet

12.1.4. Rear: 15-feet

13. Traffic:

13.1. The City's traffic engineer has reviewed the applicant's Traffic Impact Analysis. Specific conditions of approval for road construction requirements and traffic impact fees have been submitted by the Traffic Engineering Division, see Exhibit 9.

13.2. Traffic Impact Fees for single-family dwellings are due at the time the building permit is issued or at the closing of sale if a Recording of Covenant is provided.

13.3. A mid-block pedestrian crossing is required between W 9th Place and W Clearwater Avenue. A right turn lane into the development off of W Clearwater Avenue is required.

Additionally, a Secondary Emergency Vehicle Access is required during the construction of the development, see Exhibit 10.

14. Storm Water:

- 14.1. Residential sub-divisions shall be designed to the standards in the Storm Water Management Manual for Eastern Washington (SMMEW) and COK Standard Specification Section 5-9, see Exhibit 8.

15. Streets & Utilities:

- 15.1. The developer will be required to construct the proposed roads, sidewalks, streetlights, storm drainage, and designate sidewalk and utility easements all in conformance with the latest City of Kennewick (COK) Standard Specifications and details, see Exhibit 8.

16. Critical Areas:

- 16.1. The site had areas that were mapped as slopes greater than 15%. Mass grading has taken place and the slopes no longer exist. The applicant submitted a Preliminary Geotechnical Investigation Report, the development is subject to the recommendations of that report, see Exhibit 4.
- 16.2. No other critical areas are designated on-site.
- 16.3. A cultural resource survey was submitted; no known historic properties or artifacts are anticipated to be disturbed. The Washington State Historic Preservation Officer should be notified if an artifact is discovered.

17. Grading:

- 17.1. Grading of the site was permitted by a previously approved Grading Permit. Additional site preparation will be subject to the recommendations of the

18. Parks:

- 18.1. The proposed development is subject KMC Chapter 3.90, which establishes a park impact fee. The applicant may submit proposals for credit toward the park impact fees pursuant to KMC 3.90.080. The proposed development is within Service Area 1 and is subject to the park impact fees listed in KMC 3.90.160 for Single-Family Units. Park impact fees are due prior to issuance of the Certificate of Occupancy.

19. Common Area Maintenance:

- 19.1. A maintenance agreement for common open space, tracts, private streets, and shared driveways will be required to be approved by the City Attorney and recorded against the property. Per KMC 18.45.100, a Homeowner's/Property Owner Association are required for maintenance and management of open space, tracts, common areas, and private roads.

20. Schools:

- 20.1. The Kennewick School District provided a comment letter stating that the development is within the busing zones of Desert Hills Middle School, Amon Creek Elementary and Kamiakin High School. Additionally, the letter states that the Kennewick School District has the capacity to add students at all levels and at the three schools, see Exhibit 16.

21. Kennewick Irrigation District:

- 21.1. The proposed development is within the boundary of the Kennewick Irrigation District (KID) but is designated non-irrigable, see Exhibit 11.

22. Bonneville Power Administration:

- 22.1. The Bonneville Power Administration (BPA) will need to approve activities that take place within the easement. An existing BPA transmission line runs through the northeast corner of the site, see Exhibit 14.

23. Surrounding Property:

- 23.1. To the west is property zoned Commercial, Community (CC) and vacant property/open space in the City of Richland. To the north there is additional vacant/open space land in the City of Richland. The property to the east is vacant and zoned CC and RH. The RH property does have current subdivision applications for it. The property to the south is zoned CC and has either commercial development or is vacant.

24. Provisions for Public Health, Safety, and Welfare:

- 24.1. Staff Comment: It is Staff's opinion that appropriate provisions have been made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, public sidewalks, utility easements and other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation areas, playgrounds, schools and school grounds, and the proposed subdivision has considered all other relevant facts and other planning features that assure safe walking conditions for students who walk to and from school.

25. Comprehensive Plan:

- 25.1. The Hearing Examiner finds that this request is consistent with and generally conforms to the City's Comprehensive Plan, and it will implement, goals and policies of the Comprehensive Plan. Particularly the following:

25.1.1. CRITICAL AREAS AND SHORELINE GOALS + POLICIES:

- 25.1.1.1. GOAL 1: "Protect the public and personal property from the effects of landslides, steep slope failures, erosion or flooding."
- 25.1.1.2. POLICY 1: "Continue to classify, designate and protect geologically hazardous areas in the critical areas ordinance."
- 25.1.1.3. GOAL 2: "Protect the unique environment of the critical areas and shoreline."
- 25.1.1.4. POLICY 1: "Protect critical areas and the shoreline using the Critical Areas Ordinance and the Shoreline Master Plan."
- 25.1.1.5. POLICY 2: "Use Best Available Science (BAS) to protect critical areas and shorelines and their environmental functions."
- 25.1.1.6. GOAL 3: "Regulate or mitigate activities in or adjacent to critical areas or the shoreline to avoid adverse environmental impacts."
- 25.1.1.7. Hearing Examiner Finding: The applicant submitted critical areas studies, future development will be subject to the recommendations of the studies and KMC Chapter 18.62 – Critical Areas – Geologically Hazardous Areas.

25.1.2. RESIDENTIAL GOALS + POLICIES:

- 25.1.2.1. RESIDENTIAL GOAL 2: "Provide appropriate public facilities supporting residential areas."

25.1.2.2. POLICY 1: "Ensure provision of parks, schools, drainage, transit, water, sanitation, infrastructure, and pedestrian in new residential developments."

25.1.2.2.1. Hearing Examiner Finding: The proposed development will be connected to City water and sewer utilities.

25.1.2.3. RESIDENTIAL GOAL 3: "Promote a variety of residential densities with a minimum density target of 3 units per acre as averaged throughout the urban area."

25.1.2.4. POLICY 1: "Establish and implement maximum densities in the City's residential zoning categories."

25.1.2.4.1. Hearing Examiner Finding: The proposed development has a density of 10.8 units/acre, which is a density greater than the majority of the housing developments in the City.

25.1.3. HOUSING GOALS + POLICIES:

25.1.3.1. GOAL 1: "Support and develop a variety of housing types and densities to meet the diverse needs of the population."

25.1.3.1.1. Hearing Examiner Finding: The development will consist of small lot single-family residence (townhomes) and standard single-family residences. Both of these housing types have the potential to meet the needs of the City's population.

26. An open record public hearing after due legal notice was held on April 14, 2025.

27. The following exhibits were entered into the record at the hearing:

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| 27.1. | Ex. 1. | Staff Report |
| 27.2. | Ex. 2. | Legal Description |
| 27.3. | Ex. 3. | Draft Pre Plat Drawing |
| 27.4. | Ex. 4. | Geotechnical Engineering Report |
| 27.5. | Ex. 5. | Traffic Impact Analysis |
| 27.6. | Ex. 6. | SEPA Determination |
| 27.7. | Ex. 7. | Notice of Public Hearing Affidavit, Mailing List and Notice |
| 27.8. | Ex. 8. | Public Works Comments |
| 27.9. | Ex. 9. | Traffic Engineering Division Comments |
| 27.10. | Ex. 10. | Traffic, Planning and GIS Plat Comments |
| 27.11. | Ex. 11. | Kennewick Irrigation District Comments |
| 27.12. | Ex. 12. | Benton Clean Air Agency |
| 27.13. | Ex. 13. | State of Washington Department of Ecology Comments |
| 27.14. | Ex. 14. | Bonneville Power Administration Comments |
| 27.15. | Ex. 15. | Benton County Assessor's Comments |
| 27.16. | Ex. 16. | Kennewick School District Comments |

28. Appearing and testifying at the hearing on behalf of the applicant was Robert McLeod. Mr. McLeod testified that he was the agent authorized to appear and speak on behalf of the applicant and property owner. Mr. McLeod advised that they had reviewed the staff report and agreed with all the representations contained within the staff report and had no objection to any of the proposed conditions of approval. He further testified that no variances would be required in order to construct a normal single family residence with accessory structures. He did indicate that the townhomes will have a zero lot line setback as planned.
29. No member of the public was present at the hearing.
30. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted the authority to render this decision.
2. As conditioned, this project is consistent with the Kennewick Comprehensive Plan and the Kennewick Municipal Code.
3. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, the Hearing Examiner **APPROVES** the application for the SUB-2024-0013 Subject to the following Conditions of Approval.

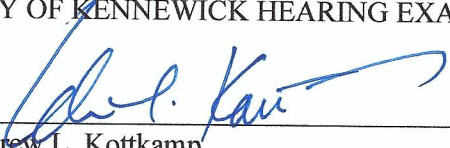
IV. CONDITION OF APPROVAL

1. Comply with City of Kennewick regulatory controls, policies and codes, including the Single-family Residential and Multi-Family Design Standards.
2. All fees required by the City shall be paid prior to the approval of the final plat.
3. The development shall be in conformance with the Preliminary Plat Drawing shown in Exhibit 3 and comments in Exhibit 10.
4. Execute a written agreement to the satisfaction of the City Attorney which will allow the City to make arrangements for maintenance of the common areas, open spaces, private roads, access driveways, and landscaped areas should the Homeowner's Association fail or refuse to maintain these areas. The arrangement must be recorded prior to the first building permit being issued.
5. Comply with the Public Works memorandum dated January 14, 2025 (Exhibit 8).
6. Comply with Traffic Engineering Division Conditions dated January 24, 2025 (Exhibit 9).
7. Comply with Kennewick Irrigation District letter dated January 21, 2025 (Exhibit 11).
8. Comply with the Benton Clean Air Agency Comments, dated January 7, 2025 (Exhibit 12).
9. Comply with the State of Washington Department of Ecology Comments, dated January 21, 2025
10. Comply with the Bonneville Power Administration Comments, dated January 9, 2025 (Exhibit 14).

11. Comply with the proposed critical area mitigation in the Preliminary Geotechnical Investigation Report, Clearwater North Development, dated June 30, 2023 (Exhibit 4).
12. Provide dust control method(s) such as hydro seeding for all areas of the site that are disturbed.
13. The plat is subject to applicable requirements of KMC Chapter 3.90 – Impact Fees for Parks, Open Space, and Recreation Facilities.
14. Provide a landscaping plan for the internal streets, along W Clearwater Avenue and tracts/open space. Bonding for incomplete landscaping in common areas shall be required prior to Final Plat Approval.
15. Pursuant to KMC 17.10.070, Preliminary Plat SUB-2024-0013 expires 5 years from the approval date, the City can grant an extension however an extension needs to be applied for before the Preliminary Plat expires.

Dated this 16 day of April, 2025.

CITY OF KENNEWICK HEARING EXAMINER



Andrew L. Kottkamp

Absent a timely appeal, this Decision is final¹

¹ **4.02.140: - Appeal of Final Decisions.** The Planning Director, or any interested party affected by the Examiner's written final decision, may appeal the decision to the Benton County Superior Court within 21 days. (Ord. 5321 Sec. 1, 2010)