

CITY OF KENNEWICK HEARING EXAMINER

IN THE MATTER OF

PRD-2024-0001

Canyon View Estates

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**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
CONDITIONS OF APPROVAL AND
DECISION**

THIS MATTER having come on for hearing in front of the City of Kennewick Hearing Examiner on March 10, 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 was an application for a Planned Residential Development consisting of 53 single-family lots, 3 open space tracts, one lot with 21 multi-family structures (126 units) and a community building on 29.5 acres.
2. The proposal is generally located SE of the US 395 and Ridgeline Drive Interchange. Parcel Nos. 1-2189-100-0002-000.
3. Legal Description: See Exhibit 2
4. The property owner is Canyon View Estates, LLC c/o Chad Bagley 1418 E Saint Helens Street Pasco, WA 99301
5. The applicant is PBS Engineering and Environmental Attn: Scott Shumaker 400 Bradley Boulevard, Suite 106 Richland, WA 99352
6. Engineer: See Finding of Fact #5.
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:	September 25, 2024
8.3. Determination of Completeness Issued:	October 3, 2024
8.4. Notice of Application:	October 3, 2024
8.5. Property Posting Sign:	October 3, 2024
8.6. City Department Review Meeting:	January 8, 2025
8.7. SEPA Threshold Determination Issued:	January 9, 2025
8.8. SEPA Appeal Period Ends:	January 23, 2025
8.9. Date of Published Notice of Public Hearing:	February 16, 2025
8.10. Date of Posting Hearing Notice On-Site:	February 21, 2025
8.11. Date of Mailed Notice of Public Hearing:	February 20, 2025
8.12. Public Hearing Date:	March 10, 2025

9. Hearing Examiner Findings:

9.1. Planned Residential Development:

9.1.1. Planned Residential Development Permit, PRD-2024-0001, has a single-family residential component and a multi-family component to it. No deviations were requested from the development regulations. The applicant has requested a 5 percent density bonus, resulting in eight additional lots.

9.1.2. Approval of the Planned Residential Development is required prior to approval of the Preliminary Plat Application due to requesting multi-family housing in a single-family zoning district.

9.1.3. The purpose of Planned Residential Developments (KMC 18.45) is to encourage imaginative design and the creation of permanent open space by permitting greater flexibility in zoning requirements than generally permitted by Kennewick's development standards. The specific setback, lot size, height limits, and other dimensional requirements can be waived if the Development Standards listed in KMC 18.45.050 and the Open Space Standards in KMC 18.45.060 are met.

9.2. Preliminary Plat:

9.2.1. A preliminary plat has not been formally submitted. The conceptual drawing consists of 54 lots and a 6.6-acre open space area

9.3. Property History:

9.3.1. The property was annexed and zoned Residential, Low (RL) in September 2014 by adopting Ordinance 5567.

9.4. Density/Lot Size:

9.4.1. Per the Table of Residential Development Standards (KMC 18.12.010 A.2) there is no maximum density for the RL Zone, only a minimum lot size of 7,500 SF. The PRD development standards in KMC 18.45.050(4) allow a 20 percent density increase. The applicant is proposing a 5 percent density increase, which is 8 units. The allowed number of units is 171, and the applicant has proposed 179.

9.5. Setbacks:

9.5.1. No setback deviations were requested. The following standard setbacks for the Residential, Low (RL) will be applicable to the project:

- 9.5.1.1. Front: 15-feet
- 9.5.1.2. Garage: 20-feet
- 9.5.1.3. Side: 5-feet
- 9.5.1.4. Rear: 15-feet

9.6. Traffic:

9.6.1. 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 14).

9.7. Storm Water:

9.7.1. The development is subject to the storm water requirements in City of Kennewick Standard Specification Section 5-9 and Storm Water Management Manual for Eastern Washington (SMMEW), (see Exhibit 13).

9.8. Streets & Utilities:

9.8.1. The developer will be required to provide construction of public 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 13).

9.9. Critical Areas:

9.9.1. The site has areas designated as erosion hazard areas and slopes greater than 15%. The applicant submitted a Geotechnical Engineering Report, the development is subject to the recommendations of that report, (see Exhibit 8).

9.9.2. The project site is classified as a Fish and Wildlife Habit Conservation Area pursuant to KMC 18.63.010. Additionally, it is identified as Benton County Shrub Steppe within the Washington Department of Fish and Wildlife's (WDFW) Priority Habitat and Species Program. WDFW recommends that a 2:1 mitigation ration be applied to lands that are converted from Shrub Steppe Habitat, (see Exhibit 15).

9.9.3. The applicant submitted a critical area report for the proposal. The report states that the site contains 29.5 acres of shrub-steppe, (see Exhibit 7). Off-site mitigation will be required for 24.5 acres of the site. The remaining 5 acres will be enhanced on-site and subject to the mitigation planning instructions contained in the critical area report. Mitigation for shrub-steppe conversion must be approved prior to disturbing the designated area.

9.10. Grading:

9.10.1. Grading will be reviewed once a Preliminary Plat Application is submitted and/or prior to ground work starts.

9.11. Parks:

9.11.1. No City parks are proposed. The Preliminary Plat Application will be subject to Park Impact Fees.

9.12. Common Area Maintenance:

9.12.1. The applicant is proposing 6.6 acres of open space, which is 22.3% of the site. The applicant has submitted a landscaping plan for the development's proposed open space, that is not subject to the shrub steppe enhancement plan in the critical area report. A maintenance agreement for common open space, 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.

9.13. Schools:

9.13.1. The Kennewick School District will provide comments once the preliminary plat is submitted.

9.14. Kennewick Irrigation District:

9.14.1. The proposed development is outside the boundary of the Kennewick Irrigation District (KID) Boundary, the district has reviewed the project and submitted comments, (see Exhibit 18).

9.15. Bonneville Power Administration:

9.15.1. An existing transmission line runs across the northern third of the site. The Bonneville Power Administration (BPA) requires that land use application be submitted, in addition to acquiring a land use application, (see Exhibit 16).

9.16. Williams:

9.16.1. Williams will require an encroachment permit for the proposed development in its gas line easement, (see Exhibit 17).

9.17. Surrounding Property:

9.17.1. All adjacent properties to the site are vacant and undeveloped. The properties to the north, east and south are zoned either Residential, Medium or Residential, Low. The property to the west are in unincorporated Benton County. Residential development has been proposed directly to the north, but no construction has started. The Hearing Examiner finds that the proposed Planned Residential Development will be harmonious with the surrounding properties.

9.18. Comprehensive Plan:

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

9.18.1.1. **CRITICAL AREAS AND SHORELINE GOALS + POLICIES:**

9.18.1.1.1. **GOAL 1:** "Protect the public and personal property from the effects of landslides, steep slope failures, erosion or flooding."

9.18.1.1.2. **POLICY 1:** "Continue to classify, designate and protect geologically hazardous areas in the critical areas ordinance."

9.18.1.1.3. **GOAL 2:** "Protect the unique environment of the critical areas and shoreline."

9.18.1.1.4. **POLICY 1:** "Protect critical areas and the shoreline using the Critical Areas Ordinance and the Shoreline Master Plan."

9.18.1.1.5. **POLICY 2:** "Use Best Available Science (BAS) to protect critical areas and shorelines and their environmental functions."

9.18.1.1.6. **POLICY 3:** "Preserve and protect anadromous fish, and threatened, endangered and candidate species as identified by federal and state agencies."

9.18.1.1.7. **GOAL 3:** "Regulate or mitigate activities in or adjacent to critical areas or the shoreline to avoid adverse environmental impacts."

9.18.1.1.8. **Hearing Examiner Finding:** Future development will be subject to the recommendations of the submitted critical areas report and KMC Chapter 18.62 – Critical Areas – Geologically Hazardous Areas and Chapter 18.63 – Critical Areas – Fish and Wildlife Habitat Conservation Areas.

9.18.1.2. **RESIDENTIAL GOALS + POLICIES:**

9.18.1.2.1. **RESIDENTIAL GOAL 1:** "Provide for attractive, walkable, and well-designed neighborhoods, with differing densities and compatible with neighboring areas."

9.18.1.2.2. **Hearing Examiner Finding:** The proposed Planned Residential Development has open space and walking paths for the residents to use. Additionally, multi-family and single-family residential is proposed.

9.18.1.2.3. **RESIDENTIAL GOAL 2:** “Provide appropriate public facilities supporting residential areas.”

9.18.1.2.4. **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.”

9.18.1.2.5. **POLICY 1:** “Establish and implement maximum densities in the City’s residential zoning categories.”

9.18.1.2.6. **Hearing Examiner Finding:** The proposed development has a 5% higher density pursuant to the requirements of the Planned Residential Development Regulations.

9.18.1.3. **HOUSING GOALS + POLICIES:**

9.18.1.3.1. **GOAL 1:** “Support and develop a variety of housing types and densities to meet the diverse needs of the population.”

9.18.1.3.2. **Hearing Examiner Finding:** The development will consist of multi-family housing and standard single-family residences. Both types of housing have the potential to provide needed housing for of the City’s population.

10. An open record public hearing after due legal notice was held on March 10, 2025.

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

11.1. Ex. 1 Staff Report

11.2. Ex. 2 Legal Description

11.3. Ex. 3 PRD Plan for Canyon View Estates

11.4. Ex. 4 Development Schedule

11.5. Ex. 5 Phasing and Open Space Diagram for Canyon View Estates

11.6. Ex. 6 Landscape Plan for Canyon View Estates

11.7. Ex. 7 Critical Areas Report and Mitigation Options

11.8. Ex. 8 Geotechnical Engineering Study

11.9. Ex. 9 Traffic Impact Analysis

11.10. Ex. 10 Applicant’s Response to comments

11.11. Ex. 11 SEPA Determination

11.12. Ex. 12 Notice of Public Hearing Affidavit, Mailing List and Notice

- 11.13. Ex. 13 Public Works Memorandum
- 11.14. Ex. 14 Traffic Engineering Division Memorandum
- 11.15. Ex. 15 State of Washington Department of Fish and Wildlife
- 11.16. Ex. 16 Bonneville Power Administration
- 11.17. Ex. 17 Williams
- 11.18. Ex. 18 Kennewick Irrigation District
- 11.19. Ex. 19 Washington State Department of Transportation
- 11.20. Ex. 20 Benton Clean Air Agency
12. Appearing and testifying at the hearing on behalf of the applicant was Scott Shumaker. Mr. Shumaker testified that he was the agent authorized to appear and speak on behalf of the applicant and property owner. Mr. Shumaker indicated that in his review of the Staff Report, Exhibit 4 had the old phasing plan and the new phasing plan is set forth in Exhibit 5. He had no objection to any of the remainder of the Staff Report. Mr. Shumaker also testified that he had reviewed the proposed Conditions of Approval and that the applicant had no objection to any Conditions of Approval.
13. No member of the public testified at the hearing.
14. 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 PUD 2024-0001 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 future preliminary plat shall match the PRD Plan for Canyon View Estates, (Exhibit 3).

4. Comply with the Public Works memorandum dated October 3, 2024 (Exhibit 13).
5. Comply with Traffic Engineering Division Conditions dated October 15, 2024 (Exhibit 14).
6. Comply with Kennewick Irrigation District letter dated December 18, 2024 (Exhibit 18).
7. Comply with the Bonneville Power Administration Comments, dated October 4, 2024 (Exhibit 16).
8. Comply with the State of Washington Department of Fish and Wildlife Comments, dated December 20, 2024 (Exhibit 15).
9. Comply with Williams Comments, dated December 19, 2024 (Exhibit 17).
10. Comply with the Washington State Department of Transportation Comments, dated October 17, 2024 (Exhibit 19).
11. Comply with the Benton Clean Air Agency Comments, dated December 16, 2024 (Exhibit 20).
12. Comply with the proposed critical area mitigation in the Critical Areas Report dated 12/4/24 and the comments from the WDFW dated 12/20/24. The applicant shall provide 5 acres of onsite enhanced mitigation. Off-site mitigation shall be calculated at a 2:1 mitigation ratio. A \$3,500 per acre cash deposit, payable to the Benton and Franklin Conservation Districts, shall be required as a replacement for physical mitigation completed by the applicant. The size and location of all proposed mitigation must be reviewed by the City prior to earthwork being done in the designated shrub-steppe critical areas. The City, WDFW and the applicant must approve any proposed alternative critical area mitigation protection plans.
13. Each phase shall have its corresponding pedestrian paths and open space completed at the time of that phase's final plat approval.
14. The Ridgeline Drive, Street 1 and open space landscaping shall be planted as shown on the proposed landscape plan.
15. Pursuant to KMC 18.45.080(2) & (3), the PRD expires 7 years from the date of approval from the Hearing Examiner. Requests for extensions must be in writing and received by the Community Planning Department prior to expiration of the PRD approval.

Dated this 18 day of March, 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)