

1. CALL TO ORDER:

- a. Roll Call/Pledge of Allegiance

2. CONSENT AGENDA: All matters listed within the Consent Agenda have been distributed to each member of the Kennewick Planning Commission for reading and study. They are considered routine and will be enacted by the one motion of the Commission with no separate discussion. If separate discussion is desired, that item may be removed from the Consent Agenda and placed on the regular agenda by request.

- a. Approval of the Minutes dated May 15, 2017
- b. Approval of Agenda
- c. Motion to enter Staff Report(s) into Record

3. PUBLIC HEARING:

- a. Zoning Ordinance Amendment (ZOA) 17-03 KMC 18.24 Sign Code Update
- b. Zoning Ordinance Amendment (ZOA) 17-01, proposing bonding improvements to Binding Site Plans.
- c. Zoning Ordinance Amendment (ZOA) 17-04 Park Fees Mixed Use

4. VISITORS NOT ON AGENDA:**5. OLD BUSINESS:****6. NEW BUSINESS:****7. REPORTS, COMMENTS, OR DISCUSSION OF COMMISSIONERS AND STAFF:****8. ADJOURNMENT:**

**KENNEWICK PLANNING COMMISSION
MAY 15, 2017
MEETING MINUTES**

CALL TO ORDER

Chairman Pacheco called the meeting to order at 6:30 p.m.

Commissioner Hawley led the Pledge of Allegiance.

Recorder Melinda Didier called the roll and found the following:

Present: Commissioners Rob Rettig, Fraser Hawley, Clark Stolle, Charles Torelli, and Chairman Ed Pacheco

Excused: Commissioner Anthony Moore and Vice Chairman Victor Morris

Unexcused: None

Staff Present: Greg McCormick, AICP Community Planning Director, Anthony Muai, Senior Planner, Wes Romine, Development Services Manager, and Melinda Didier, Administrative Assistant/Recorder.

CONSENT AGENDA

- a. Approval of Minutes dated April 17, 2017
- b. Approval of Agenda
- c. Motion to enter Staff Reports into the Record

Commissioner Stolle moved to accept the consent agenda. Commissioner Torelli seconded the motion. The motion carried unanimously.

PUBLIC HEARINGS

Chairman Pacheco opened the public hearing at 6:33 p.m. for Change of Zone (COZ) #17-02, which proposes to change approximately 2.9 of land acres generally located at 4086 W. 10th Avenue from Residential, Suburban (RS) to Residential, Manufactured Home (RMH).

Mr. Romine gave a brief overview of the staff report and presented a Power Point of the staff report. Mr. Romine announced that the Planning Commission reviewed this Change of Zone at the April 17, 2017 Planning Commission meeting; the recording equipment malfunctioned, and the record was incomplete so that is the reason it is before the Planning Commission again tonight. Staff recommends that the Planning Commission concur with the findings and conclusions contained in staff report COZ #17-02 and recommend to City Council approval of the request.

Questions from Planning Commissioners of staff:

20'-width ingress/egress to the property is wide enough for emergency vehicle turn-around.

Testimony of Applicant or Applicant's Representative:

Adam Hunkapillar
4008 W. 19th Ave.
Kennewick 99338

Explored possibilities of RMH zoning during feasibility review meeting; address concerns, a traffic self-study showed 33 trips per day; self-storage facilities have lowest traffic trip counts; modern facilities are gated and secured; current zone would have higher usage and traffic counts than requested zone; only applying for a zone change at this time and meets criteria.

Testimony in favor:

None

Testimony neutral or against:

Paul Garelo
4219 W 7th Ave
Kennewick 99336

Questions about Russian olive trees on property line with 4" private irrigation line; wants concern addressed about KID line; has four horses, wants to maintain and keep horses; wants secure fence to protect people and horses; lived at this address for 23 years.

Linda Porter
4202 W. 10th Avenue
Kennewick

Still opposed to zone change; 20' wide entrance not sufficient; 1000 existing storage units on Union Street, 3-4 blocks away; RMH zone outdated zone, has lost its importance; when property is purchased look into how it's zoned; applicant tried to sell property for over 1 year; has not improved or maintained it; does middle income area need more storage units; rural area please consider carefully.

Staff final comments:

Regarding Russian olive trees and damage to irrigation pipes - applicant might be willing to work with property owner on that; we have commercial design standards for mini-storages; regarding Ms. Porter's comments – 20' needs radius so vehicles can turn in and out of; city doesn't get involved with buying/selling or price of properties.

Further questions from Planning Commissioners of staff:

None

Public Testimony for COZ #17-02 closed at 6:54 p.m.

Chairman Pacheco asked for a motion.

Commissioner Torelli moved to concur with the findings and conclusions in staff report COZ 17-02 and forward a recommendation to City Council of APPROVAL of the request. Commissioner Rettig seconded the motion.

Planning Commission discussion: questions included if the RMH zoning allows stick-built residential housing in addition to manufactured housing and mini-storages.

The motion passed unanimously on a roll call vote.

Chairman Pacheco opened the public hearing at 6:57 p.m. for proposed changes to the Critical Areas and Shorelines section of the Land Use Element in the Comprehensive Plan.

Mr. Muai gave a brief overview of the staff report and presented a Power Point of the staff report. He said that the Staff Report page 1 and 2 was excluded from the original packet, and entered it into record as Exhibit 1. Staff recommends that the Planning Commission concur with the findings and conclusions contained in the staff report and recommend to City Council approval of the request.

Questions from Planning Commissioners of staff: questions included if City maps including the Comprehensive Plan map are available to the public on-line as well as in person at City Hall.

Testimony of Applicant or Applicant's Representative:

City of Kennewick is applicant and testimony is staff report.

Testimony in favor:

None

Testimony neutral or against:

None

Staff final comments:

None

Further questions from Planning Commissioners of staff:

None

Public Testimony for changes to Critical Areas and Shorelines section of the Comprehensive Plan closed at 7:04 p.m.

Chairman Pacheco asked for a motion.

Commissioner Torelli moved to concur with the findings and conclusions in the staff report and forward a recommendation to City Council of APPROVAL of the request. Commissioner Stolle seconded the motion.

Planning Commission discussion:

None

The motion passed unanimously on a roll call vote.

VISITORS NOT ON AGENDA:

None

OLD BUSINESS:

None

NEW BUSINESS:

None

REPORTS, COMMENTS, OR DISCUSSION OF COMMISSIONERS AND STAFF:

Chairman Pacheco announced that he will not be present for the June 5th and June 19th Planning Commission meetings. Commissioner Hawley said he will not be present for the June 5th Planning Commission meeting.

ADJOURNMENT:

The meeting was adjourned at 7:07 p.m.



STAFF REPORT

SIGN CODE UPDATE

Date: June 6, 2017

To: City of Kennewick Planning Commission

From: Community Planning Department, Anthony Muai-AICP, Planner

BACKGROUND

In 2015 the Supreme Court of the United States heard *Reed v. Town of Gilbert*. This case dealt with the regulation of signs by a local jurisdiction, Gilbert, AZ. The Town of Gilbert had a sign code that required permits for signs, but provided a variety of exemptions depending on the content of the sign. These were divided into 3 categories: Political Signs, Temporary Directional Signs, and Ideological Signs.

Temporary Directional Signs were defined to include signs that directed the public to a church or other qualifying event that was temporary in nature. Temporary Directional Signs could be six square feet in size and could be displayed 12 hours before and 1 hour after the event.

Political signs were defined as signs designed to influence the outcome of an election and could be up to 32 square feet in size and displayed during the political season.

After being cited for violating of the rules for Temporary Directional Signs, a local church challenged the code as violating their freedom of speech. The case eventually made it to the Supreme Court of the United States. The Supreme Court held that a sign regulation which "on its face considers the message on a sign to determine how it will be regulated, is 'content based.'" A content based regulation is subject to strict scrutiny analysis which is the highest constitutional hurdle. It requires the municipality to show that the content based restrictions further a compelling governmental interest and are narrowly tailored to that end. In this case the sign code treated political signs more favorably than temporary directional signs and the town was unable to show a compelling governmental interest. They could not show that directional signs posed a greater threat to safety, or aesthetics than ideological or political signs.

The primary takeaways of the *Reed* case are that local sign regulations must be content-neutral and that a sign code will be subject to "strict scrutiny" judicial review if it applies different standards based on: a sign's content (i.e. what is written or portrayed on the sign); the purpose of the sign; or who is putting up the sign. The generalized rule is: if you have to read what the sign says to determine whether it complies with the sign code, then the sign code is impermissibly content-based.

As a result the Town of Gilbert's sign code was found to be in violation of the First Amendment and many jurisdictions throughout the country, including Kennewick, have been examining their signs codes and making revisions to them to address this common issue.

PROPOSAL

Staff has prepared a draft of from the existing sign code that has been modified to remove any regulations that are based on the content of the sign. Regulations have also been added to address deficiencies created from removing content-based regulations. These new regulations address time, place, size and duration.

These changes will mainly affect portable signs, which included temporary signs and election signs.

- There will be no limit on the length of time they may be displayed.
- They will not be permitted on, or affixed to, City property, including the right-of-way.
- There will be limitations to the height, width, area and quality of construction and installation which will be determined by zoning.
- The total number of portable signs allowed on a parcel will be based on total area of all portable signs on the property. (i.e. total square footage in residential zones cannot exceed 16 square feet, therefore a property could have two 2'x4' (8 sq. ft.) portable signs since the combined area of both signs would equal 16 sq. ft. or any other number of signs so long as the combined total square footage is equal to or less than 16 sq. ft.)

Also being proposed is the addition of a "Substitution Clause" which will allow signs containing noncommercial speech to be placed anywhere commercial signs are allowed, subject to the same regulations as commercial signs, and a "Severability Clause" that states that if one provision or section is declared invalid, the invalidity will not affect the validity of the remaining portions of the code.

FINDINGS

1. The proposed revisions to KMC 18.24: Signs will bring Kennewick's sign regulations into conformance with *Reed* case.
2. The proposed revisions have been sent to the Washington State Department of Commerce for review as required under RCW 36.70A.106 on May 2, 2017. Acknowledgement that Kennewick was granted expedited review and met the Growth Management Act notice to state agency requirements in 36.70A.106 was received on May 17, 2017.
3. A Determination of Non-Significance was issued for this proposal on May 17, 2017. The appeal period expired on May 31, 2017.
4. Notice of the public hearing on the proposed amendments was published in the Tri-City Herald on May 21, 2017.

CONCLUSION

By removing content-based regulations from the City's sign code, Kennewick will be in compliance with the ruling that came from *Reed v. Town of Gilbert* and ultimately free speech rights guaranteed by the First Amendment.

RECOMMENDATION

Planning Staff recommends that the Planning Commission concur with the proposed changes, findings and conclusions and recommend approval to City Council.

EXHIBITS

Exhibit 1: Proposed amendments to 18.24: Signs

CHAPTER 18.24

SIGNS

SECTION:

18.24.010: Purpose
 18.24.020: Definitions
 18.24.030: Sign Table
 18.24.040: General Provisions
 18.24.050: Regulation by Sign Type
 18.24.060: Administration
 18.24.070: Permit Applications
 18.24.090: Change In Use
18.24.100: Substitution
18.24.110: Severability

18.24.010: Purpose: The purpose of this Chapter is to improve business in Kennewick; increase the City's attractiveness; promote a business person's right to identify their business through reasonable and effective methods; encourage the design and placement of signs in a manner which promotes the noticeability of Kennewick's scenic views and emphasizes Kennewick's street-side landscaping; minimize the dangerous conflicts between unregulated signage and traffic-control devices; minimize the distraction to motorists, bicyclists, and pedestrians from signs because of their shape, motion and competition for attention; and promote and protect the health, safety, property values, and general welfare of the citizens of Kennewick. (Ord. 5180 Sec. 1, 2007)

18.24.020: Definitions:

~~(1) “Auxiliary Sign.” Auxiliary sign is a sign that provides information such as direction, time and temperature displays, hours of operation, or warning; auxiliary signs are intended for the convenience of the public. An auxiliary sign may include the business name and/or logo, but may not include its product or services.~~

(21) “Awning.” Awning is a covering structure that projects horizontally from, and is attached to a building. An awning provides protection from the weather for persons or properties underneath it.

(32) “Awning Sign.” Awning sign is a non-illuminated or illuminated sign which is usually painted or screen printed onto the surface of an awning and which does not extend vertically or horizontally beyond the limits of the awning.

(43) “Banner Sign.” Banner sign is a sign made of lightweight material such as cloth, paper or flexible plastic with or without a rigid frame.

(54) “Business.” Business means any person, partnership, association, corporation, joint venture, or similar group whether operating for profit or not, and any governmental agency.

(65) “Canopy.” Canopy is an ornamental or protective roof-like structure that may be attached or detached from the main building and usually providing protection from the elements to objects or people underneath. Structures over gas pump islands and over entrances of theaters or hotels are both examples of canopies.

(76) “Common Ownership.” Common ownership means groups of two (2) or more businesses when such businesses are located on one or more parcels of land or share public parking or maintenance facilities or when they conduct advertising on a regular basis; or when they function as a single entity in practical or business matters.

~~(8) —“City, State, Federal, and Community Sponsored Events.” City, State, Federal, and Community Sponsored Events are nonprofit events or activities open to the public and associated with common interests or characteristics of the community. Examples of such events are: the elections, Water Follies, Benton Franklin Fair and Rodeo, Little League Baseball, 4th of July parades or celebrations, and the like.~~

~~(9) —“Construction Sign.” Construction sign is a sign installed in conjunction with construction or remodeling of a building.~~

(407) “Copy.” Copy is the medium by which the message or idea of a sign is communicated.

~~(11) —“Development Sign.” Development sign is a sign, which through symbols or names identifies a development. Signs advertising residential or commercial properties “For Sale” or that identify an apartment complex, are examples of development signs.~~

~~(128) “Directional Sign.” Directional sign is an off-premise sign that directs attention by name and/or logo to a business, group of businesses, or a business area.~~

(139) “Electronic Message Sign or Center.” Electronic message sign or center is a sign on which differing copy is shown through an electronic or electrically controlled device, which may also display time and temperature or other messages.

~~(1410) “Freestanding Sign.” Freestanding sign is a single or multiple face sign attached to or supported by columns, uprights, braces, standards, or other type of base in or on the ground and not attached to the building. Freestanding signs are anchored to the ground in accord with the International Building Code. The method of anchoring may need to be confirmed by a professional engineer, as determined by the Building Inspector.~~

~~(a) —“Temporary, Freestanding Sign.” Temporary, freestanding signs are signs which can be moved from structure to structure, or site to site, and which are not anchored to the ground in accord with the International Building Code. Examples of such signs are “grass-hopper” signs, sandwich board/A-frame signs, small price signs, and similar portable signs.~~

~~(b) —“Permanent, Freestanding Sign.” Permanent, freestanding signs are anchored to the ground in accord with the International Building Code. The method of anchoring may need to be confirmed by a professional engineer, as determined by the Building Inspector.~~

(4511) “Graphic Sign.” Graphic sign is a window sign or a sign, which is an integral part of a building's facade. The sign may be painted, carved, or permanently imbedded.

(4612) “Integrated.” Integrated means a sign in which all elements of the sign are incorporated into a single design, but including attachments or projections not part of a single motif.

~~(4713) “Mobile Sign.” Mobile sign is any sign mounted on a vehicle, trailer, or boat; or fixed or attached to a device for the purpose of transporting from site-to-site. This definition includes all vehicles placed or parked for the purpose of drawing attention to a service, product, object, person, organization, institution, business, event, location or~~

~~message, but not signs~~ Signs or lettering installed on vehicles, trailers or boats operating during the normal course of business are not considered mobile signs.

~~(1814)~~ “Monument Sign.” Monument sign is a freestanding sign, not over six feet high and attached to the ground for a minimum of 66 percent of the length of the sign.

~~(19) —“Off-Premises Signs.” Off-premises signs are signs that advertise a service, product, object, person, organization, institution, business, event, location or message that is not available on the property upon which the sign is located. This includes mobile signs if their placement constitutes an off-premises sign.~~

~~(2015)~~ “Pictorial Sign.” Pictorial sign is a sign that conveys the service, product, or activity of a site without words, company or product emblem, or numbers or letters. Pictorial signs display a message through color, shape, and spatial relations, and are appropriate in context and taste with recognized standards of the community. Colored neon tubing and murals are examples of appropriate medium for display of a pictorial sign.

~~(21) —“Political Sign.” Political sign is a sign promoting or publicizing candidates for public office or issues that are to be voted upon in a primary, general, or special election.~~

~~(2116)~~ “Temporary Portable, Freestanding Sign.” Temporary Portable, freestanding signs are is a signs which can be moved from structure to structure, or site to site, and is not designed to be permanently attached to a building or permanently and which are not anchored to the ground in accord with the International Building Code. Examples of such signs are “grass-hopper” signs, sandwich board/A-frame signs, small price signs, pennants and other similar portable signs. Banner signs are specifically excluded from this definition.

~~(22) —“Product Sponsored Sign.” Product-sponsored sign is a sign, which identifies, displays or attracts attention to a product sold or available, but may or may not identify the on-site organization, institution, person, object, business service or event.~~

~~(2317)~~ “Projecting Sign.” Projecting sign is a sign, other than a wall sign, which is attached to and projects more than eighteen inches (18”) from a structure, usually in a perpendicular manner. Projection defined as the distance by which a sign extends over public property or beyond the building line.

~~(2418)~~ “Readerboard Sign.” Readerboard sign is a sign on which copy is designated so that it can be changed manually. It usually consists of a panel on which individual letters or pictorials are mounted, or displayed.

~~(2519)~~ “Rooftop Sign.” Rooftop sign is a sign erected over or on the roof of a building, and is wholly or partially supported by the building.

~~(2620)~~ “Sign.” Sign is any object, device, display, structure or part thereof, situated indoors or out which is used to identify, display, advertise, direct or attract attention to an object, person, organization, institution, business, product, service, event, location or message by any means including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images.

~~(2721)~~ “Sign Area.” Sign area is the smallest circle(s), triangle(s) or rectangle(s), which will enclose the individual actual sign face. The supporting structure, which does not contain any part of the sign face, is not included in this definition. If a sign has back-to-back display faces, the area of only one face will be considered the sign area. If a sign has more than one face, all areas, which can be viewed simultaneously will be considered the sign area.

~~(2822)~~ “Sign Height.” Sign height is the distance from the grade, or the top of the curb of the nearest street to the top of the sign or any projection thereon, whichever is higher.

~~(2923)~~ “Street Frontage.” Streets, alleys, or public rights of way parallel to the property line used to compute the area of the sign(s) intended to be located in such a manner to have primary exposure on that street or right of way.

~~(30) “Subdivision Directional Sign.” Subdivision directional sign is a sign advertising the direction to a subdivision by naming the subdivision and furnishing a directional arrow.~~

~~(31) “Temporary Sign.” Temporary sign is a sign intended for use for a short period of time. Examples of such signs include: grand opening signs, open house signs, special sale signs, sandwich board/A-frame signs, small price signs, pennants, and other similar signs. Banner signs are specifically excluded from this definition.~~

~~(3224)~~ “Wall Sign.” Wall sign is a sign mounted parallel to a building facade or vertical building surface, which does not extend beyond the edge of any wall or surface to which it is mounted. Wall signs project no more than eighteen inches (18”) from the surface.

~~(3325)~~ “Window Sign.” Window sign is a sign located on or within three feet of a window of a building, and visible from the exterior of a building. Window signs are graphic signs unless they qualify as auxiliary signs. (Ord. 5180 Sec. 1, 2007)

18.24.030: Sign Table:

~~(1) Signs located in Commercial, Industrial and Public Facility districts, other than the CBD zoning district shall comply with the applicable standards of Table A.~~

~~(2) Signs located in the CBD zoning district shall comply with the applicable standards of Table B.~~

~~Table A does not apply to the CBD zoning district. See Table B for CBD district sign regulations.~~

SIGN TABLE A

Sign Type	Maximum Height	Maximum Sign Area Per Sign	Maximum Permitted Number of Signs	Special Considerations
Freestanding single business	60'	Based on height of sign 0'-30' ht. up to 150 sq. ft. 31'-50' ht. up to 300 sq. ft. 51'-60' ht. up to 400 sq. ft.	Two per frontage	
Freestanding group of businesses	60'	90 sq. ft. per business or the same maximum area per freestanding sign as the single business requirement, whichever is	Based on frontage 0'-200' = Up to 2 signs 201' - 400' = Up to 4 signs 401'-600' = Up to 5 signs over 601' = Up to 6 signs	

		greater.		Grandfather all existing signs prior to passage of ordinance
Wall	Not beyond the top or ends of wall	25% of applicable wall area	See 18.24.040(1)	
Projecting	Not more than 5" above or beyond the attaching wall	75 square feet or 1/2 frontage whichever is greater	See 18.24.040(1)	
Graphic-window	Maximum building height	33% of applicable wall area or applicable window area		
Pictorial	Maximum building height	33% of applicable wall area		
Awning	18' or two stories	25% of available wall area		
Banner	None	None	See 18.24.060.2(i)	
Off premises (existing)	30'	125 square feet	See 18.24.050(7)	Grandfather existing off premises signs except bill boards
Temporary Portable	None See 18.24.050(6)	None See 18.24.050(6)	See 18.24.050(6)	
Rooftop		See 18.24.050(13)	One	Grandfather existing signs prior to passage of ordinance

SIGN TABLE B

Sign Type	Maximum Height	Maximum Sign Area Per Sign	Maximum Permitted Number of Signs	Special Considerations
Freestanding single business	13'	32 square feet*	One	* Per sign face
Freestanding group of businesses	13'	64 square feet*	One	

Wall	Not beyond the top or ends of wall	25% of applicable wall area	N/A	Grandfather all existing signs prior to passage of ordinance
Projecting	10'	24 square feet*	One	
Graphic-window	Maximum building height	33% of applicable wall area or applicable window area	N/A	
Pictorial	Maximum building height	33% of applicable wall area	N/A	
Awning	8'	25% of available wall area	One	
Banner	None	None	N/A	
Off-Premises (existing)	Prohibited	N/A	N/A	Grandfather existing off-premises signs except bill boards
Temporary Portable	None See 18.24.050(6)	None See 18.24.050(6)	See 18.24.050(16)	
Rooftop	Prohibited	N/A		Grandfather existing signs prior to passage of ordinance

(Ord. 5434 Sec. 9, 2012) Ord. 5180 Sec. 1, 2007)

18.24.040: General Provisions:

(1) Number: Each permitted use within a commercial or industrial district may have a total of two (2) freestanding signs per street frontage and any combination but not to exceed four (4) of the following signs: projecting, wall, graphic, or pictorial. ~~Auxiliary signs are permitted if the combined square footage of such auxiliary signs does not exceed the allowed total of the user's other permitted signs. Auxiliary signs located on windows or entirely within a structure are permitted without limitation.~~

(2) Area, Height, and Lighting: Sign area, height, and lighting are regulated by the standards contained in Table A.

(23) Structure: The structural components of signs are regulated by the currently adopted edition of Uniform Sign Code.

(34) Electrical: The electrical components of signs are regulated by the currently adopted edition of the National Electric Code. All electrical signs must bear the U.L. label.

(45) Illumination: The illumination of signs must be shielded, shaded, reduced or directed so that the light remains on the property and does not constitute a nuisance by distracting pedestrians and motorists. Strobe or strobe-like devices are prohibited from use where they are visible from the exterior of a building or location. Illumination of outdoor signs must comply with Chapter 15.26 KMC.

(56) Maintenance: All signs shall be maintained in a state of security and repair. If a sign is not so maintained, it must be removed or repaired within 30 days of notification by the Department. The owner, his agents, or assigns, are responsible for such maintenance and compliance with this Section.

(67) Sight Obstructions: All signs must be in conformance with Chapter 13.12 and Section 18.27.060 of the Kennewick Municipal Code (view obstruction and clearance triangle).

(78) Removal: When a business or business site is vacated, the applicable freestanding, wall, projecting, auxiliary, and street signs face must be removed within thirty (30) days of notification by the Department.

(89) Freestanding: All freestanding signs must be integrated. (Ord. 5180 Sec. 1, 2007)

18.24.050: Regulation by Sign Type:

(1) Awning Signs: Awning copy is exempt from this Section if no more than 100% of the maximum, available freestanding sign area is used for such copy. If more than 100% is used for the awning copy, then the other sign or signs for which the business is entitled must be reduced by an area equal to that exceeding 100% of the available freestanding sign area.

~~(2) Commercial and Industrial Development/Sale Signs: Signs advertising commercial or industrial sites or properties "For Sale" or "For Rent" must be placed wholly on the applicable property and may not exceed 32 square feet in sign area. The height of such signs are limited to 10 feet overall. Any such sign greater than 16 square feet in area must obtain a building permit and be installed to the approval of the Building Inspector.~~

~~(3) Construction Signs: Construction signs are allowed until occupancy of the applicable building or completion of the structure or remodeling, whichever occurs first.~~

~~(4) Directional Signs: Direction signs may be permitted in "C" or "I" zones after approval of a Land Use Permit for a Conditional Use in accord with Section 18.42.100. The criteria for approval for such land use permits for conditional uses (variances) will be as follows: The business, group of businesses or business area must not have arterial street frontage available for free-standing signage; special circumstances are necessary because of the location, size, shape or topography of the property of the business, group of businesses or business area to provide it with signage privileges typical of other properties in the vicinity or zoning district; the design of the directional sign can be conditioned to account for aesthetics, lighting, safety, compatibility with surrounding properties, and other factors necessary to meet the purpose (18.24.010) of this Chapter. Directional signs shall be further conditioned by the following:~~

~~(a) The directional sign must be located as close to the business, group of businesses, or business area as is practical.~~

~~(b) — A single business is limited to one directional sign. Groups of businesses and business areas are limited to two directional signs.~~

~~(c) — The preferred means to implement directional signage shall be ground mounted or monument style signs. In cases where this is impractical, the maximum height is limited to 20 feet.~~

~~(d) — Directional signs shall be limited to a maximum area of 32 square feet.~~

~~(e) — If applicable the directional signs shall further the goals and guidelines of any adopted neighborhood or sub-area plan and/or overlay zone.~~

(25) Electronic Message Signs or Centers: Electronic message signs or centers are regulated per its applicable sign type, i.e., freestanding or wall-mounted.

~~(6) — Existing Off Premises Signs in all Districts: All existing off premises signs installed in conjunction with a building permit as of the effective date of the ordinance codified herein are considered conforming, except billboards which are considered nonconforming. Such signs must be brought into full compliance with provisions of Section 18.24.040 herein for height, area, lighting, structural, and electrical regulations and Sign Table “A” of this Chapter. All existing off premises temporary portable signs not installed with a building permit must be brought into full compliance with this Chapter within 180 days of notification by the Department.~~

~~(7) — Off Premise Signs for Community Sponsored Events. Off Premise signs associated with community sponsored events on property other than the event site shall be exempt from this Chapter but must be approved by the Department of Planning for sight visibility and structural safety. Such signs are allowed for no more than 14 days prior to the event and must be removed within three days of the conclusion of the event season.~~

~~(8) — Signs For City, State, Federal and Community Sponsored Events: Signs associated with City, State, Federal or community sponsored events shall be exempt from this Chapter but must be placed to not obstruct sight visibility and be structurally safe.~~

~~(a) — Such signs must be removed within seven days following the event. It is the responsibility of the candidate and campaign chairmen to remove political signs, and event chairman in the case of nonpolitical events.~~

~~(b) — Event signs are not allowed on public property or buildings, sidewalks, public roads, utility poles, or public facilities. However event signs will be allowed in the space between the curb and sidewalk provided there is no traffic visibility obstruction, and the abutting owners' permission has been granted.~~

~~(9) — Product Sponsored Signs: All outdoor product sponsored signs must devote at least 75% of the sign area to the on-site business.~~

(10) Prohibited Signs: Except as provided elsewhere, the following signs are prohibited in all districts: ~~off premises signs, except as provided in subsection 18.24.050(7) above; off premises~~ mobile signs; abandoned signs; signs imitating or resembling official traffic or government signs or signals; signs attached to trees, utility poles, public benches, light poles or any other public property or right of way; and other signs not permitted by this Chapter. Signs on public transit benches and shelters and on and within public transit vehicles, when installed in conformance with a City franchise, are exempt from this Chapter.

~~(311)~~ Readerboard Signs: Readerboard signs are regulated per applicable sign type, i.e., freestanding or wall-mounted. Portable reader board signs are regulated as ~~temporary portable~~ signs and a building permit is required for each location.

~~(12) — Residential Properties — Development/Sale Signs: Signs advertising residential properties “For Sale,” “Rent,” or “Sold” must be placed wholly on the applicable~~

~~property, and shall not exceed eight square feet in sign area. The height of such signs is limited to eight feet. If the property is not on an arterial street, a single directional sign may be placed at the nearest arterial with the permission of the owner upon whose property the directional sign is placed, and the directional sign can be no larger than six square feet. Any manufactured home park or multi-family residence containing at least five living units may have one freestanding sign per abutting street frontage, which shall not exceed 10 feet in height, or 32 square feet in area and must not move or give the illusion of movement. All development signs in residential areas shall be lit only by existing surrounding lights or by lights shining directly onto the sign. Signage in the single-family subdivisions and multi-family developments must be in conformance with Chapter 18.24.~~

(13) Schools Public and Quasi-public Uses in Residential Zoning Districts' Signs: Schools Public and Quasi-public Uses located in any Residential zoning district shall be allowed the following signs:

- (a) One (1) freestanding sign per public street frontage that does not exceed sixteen (16) feet in height and a maximum of forty (40) square feet in area; and
- (b) One (1) wall sign per street facing building façade that does not exceed fifty (50) square feet in size. Each school facility is permitted one (1) electronic message center that can either be incorporated into an allowed freestanding or wall-mounted sign.

~~(14)~~ Rooftop Signs: Rooftop signs are only allowed in CG, CC, IL, or IH zoning districts after approval of a land use permit for conditional uses in accord with 18.42.110 KMC. The criteria for approval of such land use permits for conditional uses will be based on the following:

- (a) The property requesting the rooftop sign must not have street frontage available for freestanding signage;
- (b) Wall signs would be inadequate because of restricted visibility from arterial street frontage;
- (c) Any approved rooftop sign must be consistent with the sign table.

~~(15)~~ Signs Advertising a Group of Businesses: A group of two or more businesses when located on one land parcel of common ownership or abutting land parcels so as to function as if of common ownership, which are located along a major or minor arterial as designated on the comprehensive plan, shall comply with Sign Table A of this Chapter to determine allowed freestanding signage along said arterial frontage.

~~(16) Subdivision Directional Signs: Signs may display the direction to a subdivision by naming the subdivision and furnishing a directional arrow. The sign may not display the name of a realtor or developer, and must be removed within 24 months of its installation. The sign area is limited to 16 square feet, and sign height is limited to six feet overall height. The location of such signs must be approved by the City, and any subdivision utilizing such signs is limited to a maximum of three of these directional signs.~~

~~(17) Temporary Portable Signs: Portable signs are subject to the following requirements: Temporary signs are allowed for a maximum of 60 days within any calendar year. They may be placed for no more than 20 consecutive days and they must be removed for 30 days.~~

- ~~(a) There is no limitation on the length of time that a portable sign may be displayed;~~

- (b) Portable signs are not permitted to be placed on or affixed to any City property;
- (c) Portable signs are not allowed to be placed in the right-of-way;
- (d) Portable signs located in residential zones are subject to the following limitations:
 - (i) Max height: 3 ft.;
 - (ii) Max width: 2 ft.;
 - (iii) Max area: 4 sq. ft.;
 - (iv) Max number of signs: Unlimited, provided total area of all signs does not exceed 16 sq. ft.;
 - (v) Must be installed securely in the ground;
- (e) Portable signs located in commercial, industrial and all other zones are subject to the following limitations:
 - (i) Max height: 4 ft.;
 - (ii) Max width: 3 ft.;
 - (iii) Max area: 12 sq. ft.
 - (iv) Total number of signs: Unlimited provided the total area of all portable signs does not exceed 32 sq. ft.;
 - (v) Must be professionally crafted
- (f) Banners are specifically exempt from this Section. (Ord. 5559 Sec. 1, 2014; Ord. 5180 Sec. 1, 2007)

18.24.060: Administration:

- (1) Administration of this Chapter is the responsibility of the Department of Planning. The owners, their assign, or agents are responsible for compliance with the requirements contained in this Chapter.
- (2) All signs must comply with the requirements of this Chapter. All sign owners must obtain a building permit prior to installation, with the exception of the following:
 - (a) Exempt signs as listed in:
 - (i) Home occupations and signs for family day care homes.
 - (ii) Subsection 18.24.050(8): City, State, Federal and community sponsored events.
 - (iii) Subsection 18.24.050(12): Residential properties development/sale signs.
 - (iv) Subsection 18.24.050(15): Subdivision directional signs.
 - (b) Signs four square feet or less in area.
 - (c) Development and "For Sale" or "For Rent" signs.
 - (d) Changing sign copy, when such change consists of re-lettering, replacing or changing the sign face, repainting, cleaning, or other similar and nonstructural changes.
 - (e) Seasonal and holiday decorating within an appropriate holiday season.
 - (f) Official public notices or signs relating to an emergency.
 - (g) National, State or local governmental unit flags.
 - (h) Construction signs.
 - (i) Banners.
 - (j) Window signs.
 - (k) Auxiliary signs.

- (f) Signs that are required by law.
- (mg) Signs installed in conjunction with new structure; provided that the construction of the structure is regulated by a current building permit, and the sign complies with this Chapter.
- (h) Governmental Signs: Any sign, posting, or notice placed, installed, or required by law by a city, county, state or federal governmental agency carrying out its responsibility to protect the public health, safety, and welfare, including, but not limited to, the following:
 - (i) Emergency and warning signs necessary for public safety or civil defense;
 - (ii) Traffic signs erected and maintained by an authorized public agency;
 - (iii) Signs required to be displayed by law;
 - (iv) Signs directing the public to points of interest; and
 - (v) Signs showing the location of public facilities.
- (n) ~~Signs relaying information or warning such as “No Trespassing,” “No Dumping,” “Private,” provided such signs do not exceed 16 square feet in area.~~ (Ord. 5180 Sec. 1, 2007)

18.24.070: Permit Applications: Applications for building permits for signs shall contain the name of the sign owner and user of the sign; address of the property in which the sign is located; location of the sign structure on such property; drawings of the sign showing design, dimensions, structural calculations and method of lighting, if applicable, and other pertinent information necessary to ensure compliance with this Chapter. Fees for freestanding, wall, projecting, awning and rooftop signs shall be in accord with the fee schedule of the International Building Code; fees for all other signs will be twenty dollars (\$20.00). (Ord. 5180 Sec. 1, 2007)

18.24.090: Change in Use: Any change in building use or classification requiring submittal of a land use permit for site plan approval, KMC 18.42.110; or any new sign structure installation will be cause of applicable signage to conform with provisions of this Section. Copy modifications are exempt. (Ord. 5180 Sec. 1, 2007)

18.24.100: Substitution: Signs containing noncommercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs.

18.24.110: Severability: If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word in this code is declared invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of the sign code.



COMMUNITY PLANNING DEPARTMENT

STAFF REPORT AND RECOMMENDATION TO
THE PLANNING COMMISSION

FILE No: ZOA 17-01/AMD 2017-00827

Public Hearing Date: June 5, 2017

Request: Amend Chapter 17.12 (Binding Site Plans) of the Kennewick Municipal Code (KMC) to provide an option for bonding or placing another type of acceptable surety in lieu of construction of public improvements.

Applicant: City of Kennewick

Staff Contact: Gregory McCormick - AICP, Community Planning Director

Background:

Staff has maintained a list of code revisions either as directed by City Council or areas of the code staff has identified during the course of administering the code that are either outdated, inconsistent or are incorrect. This particular code revision came to light during a binding site plan (BSP) process that the Kennewick Irrigation District (KID) was involved in; the issue being KID had submitted a BSP application to the City of Kennewick for processing. The BSP involved the construction of a cul-de-sac and extension of utilities to serve the new lots being created by the BSP; because of state law regulating irrigation districts KID is not able to spend public dollars on infrastructure that is not tied to the function of an irrigation district. Therefore KID requested that a surety be allowed in order for the binding site plan to move forward and be recorded. Upon recordation the lots are created and can be sold.

Currently, the subdivision and short subdivision provisions of the KMC allow for some level of bonding public improvements. In order to facilitate the binding site plan process, the City entered into a development agreement with the KID in order to move the process forward. Once the development agreement was finalized by the City Council a surety was put into place for the required public improvements and the BSP was finalized. Not including a surety provision in the BSP chapter of the KMC appears to be an oversight as there are no compelling reasons that BSPs be treated any differently than other subdivision processes (plats and short plats).

Requested KMC Amendments:

The proposed revision to the Kennewick Municipal Code (KMC) would add a new section to KMC 17.12 to include KMC 17.12.055 – Construction of Improvements. The specific amendment includes:

17.12.055: Construction of Improvements: Prior to final binding site plan approval:

- (1) All public rights-of-way must be improved and utilities installed to the minimum requirements of this code and the binding site plan. Improvements may be greater than the minimum requirements, subject to approval of the Public Works Director.
- (2) All required infrastructure improvements must be substantially completed as approved by the Public Works Director. Minor improvements consisting only of sidewalks and landscaping where applicable, or similar improvements, as determined solely by the Public Works Director may be secured by a bond.
- (3) In lieu of completion of these minor improvements, prior to recording of the binding site plan, a bond issued by a licensed corporate surety or two individual sureties or other approved surety must be provided, to the full amount of the cost of such work multiplied by 125%, as estimated or approved by the Public Works Director, including construction inspection costs, but in no case less than \$2,000.00.
- (4) All or a portion of security will be released upon acceptance of the improvements by the Public Works Director, or upon substitution of another guarantee or approved bond or security.
- (5) If, after two years, all improvements are not so improved, the City will cause the improvements to be provided in accord with the approved plans, and the costs thereof must be paid by the bonding company, or out of the savings account assignment or other security.
- (6) In lieu of the bond, a cash bond, a certified check, an irrevocable letter of credit, or other surety approved by the City Manager and City Attorney, equal to the cost of improvement multiplied by 125% may be posted. In addition, the City may require security up to two years against any defect in workmanship or materials in the installation of the improvements.
- (7) Improvements must be designed and certified by a registered civil engineer prior to the acceptance.
- (8) All city utility and street improvements must be constructed and approved by the Public Works Director prior to the issuance of a building permit for any structure within the binding site plan.

Staff Analysis of Proposal & Discussion:

As previously stated, KMC Chapters 17.10 (Platting) and 17.13 (Short Plats) provide for the placement or bond in lieu of completing public improvements. It has been a past practice to allow this for binding site plans as well, even though not explicitly allowed by the KMC. This code revision addresses the omission in the KMC and provides this option for all subdivision actions.

Staff has included the entire Chapter 17.12. as an attachment to the staff report, providing the entire context of the proposed amendment.

Regulatory Controls and Policies

- Kennewick Municipal Code – Title 18: Zoning
- Kennewick Comprehensive Plan

Findings of Fact

1. The purpose of the proposed amendments is to clarify, correct, or implement City Council direction; and
2. The City fulfilled the State Environmental Policy Act requirements by issuing a Declaration of Non-significance (DNS) on April 17, 2017; and
3. Notice of the proposed code revision was sent to the Washington State Department of Commerce on March 30, 2017 consistent with the requirements of RCW 36.70A.106; and
4. The City received confirmation of receipt from the Washington State DOC on March 30, 2017 and assigned Material ID # 23548.

STAFF RECOMMENDATION:

Based on the above analysis of this request, staff recommends the Planning Commission forward a recommendation of APPROVAL to City Council.

Exhibits:

- A-1 KMC 17.12 – Binding Site Plans
- A-2 WA State Environmental Policy Act (SEPA) – Determination of Nonsignificance
- A-3 WA State Department of Commerce – Confirmation Letter

Exhibit A-1
KMC 17.12 – Binding Site Plans

CHAPTER 17.12

BINDING SITE PLANS

SECTION:

17.12.010: Purpose of Binding Site Plans

17.12.020: Plat Administrator

17.12.030: Application

17.12.035: Expiration

17.12.040: Alteration

17.12.045: Alteration Procedure

17.12.050: Vacation

17.12.055: Construction of Improvements

17.12.060: Recording and Enforcement

17.12.070: Roads and Rights-of-Way

17.12.080: Plat Map

17.12.090: Notice of Filing

17.12.010: Purpose of Binding Site Plans:

(1) The purpose of the Binding Site Plan is to establish an alternative procedure of land division in lieu of other provisions of Title 17. The intent of the binding site plan process is to promote orderly and efficient community growth consistent with the provisions of RCW 58.17.035. The division of property by the binding site plan process may only be used for the following:

(a) Division of land for the sale or lease of commercial, industrial or other non-residentially zoned property;

(b) The division of land for the purposes of leasing space for manufactured homes, travel trailers or other recreational vehicles so long as the site plan complies with all other applicable regulations; and

(c) The division of land involving improvements constructed or to be constructed that will be one or more condominiums or owned by an association or other legal entity.

(2) Binding Site Plans will not be approved unless appropriate provisions and dedications of public right-of-ways, utilities, and easements are made to meet infrastructure provisions per City standards. City may require a development agreement to be in place for the property for future development. (Ord. 5415 Sec. 16, 2012: Ord. 5280 Sec. 1, 2010)

17.12.020: Plat Administrator: The Plat Administrator ("Administrator") will summarily approve, conditionally approve, or disapprove proposed binding site plans (Ord. 5415 Sec. 17, 2012: Ord. 5280 Sec. 1, 2010)

17.12.030: Application: All binding site plan applicants must submit a completed and signed application including the following:

(1) A required number of copies and one reproducible copy of a binding site plan map prepared by or under the direct supervision of a professional land surveyor licensed by the State of Washington, in accord with Section 17.12.080;

(2) A title report dated no later than 60 days prior to the date of application showing the name of anyone with an interest in the land being subdivided;

(3) Preliminary engineering plans including, but not limited to, water, sewer, streetlights, roads, storm drainage and sidewalks;

(4) A filing fee in accord with the adopted fee schedule; and

(5) A SEPA checklist consistent with the provisions of KMC 4.08.510(2). (Ord. 5645 Sec. 1, 2016; Ord. 5415 Sec. 18, 2012; Ord. 5280 Sec. 1, 2010)

17.12.035: Expiration: Expiration of permits and applications under this Chapter shall be determined as provided under KMC 4.12.075. (Ord. 5469 Sec. 1, 2012)

17.12.040: Alteration: When any person desires the alteration of an approved binding site plan or portion thereof, an application shall be filed with the City on forms provided by the City. The application must include the signatures of a majority of the owners of the lots, tracts, parcels, sites or divisions in the division or portion to be altered and include a list of all owners within the division. If the division is subject to restrictive covenants, which were filed at the time of the approval of the division and the alteration would result in the violation of a covenant, the application must be signed by all parties subject to the covenants. (Ord. 5415 Sec. 19, 2012; Ord. 5280 Sec. 1, 2010)

17.12.045: Alteration Procedure:

(1) Upon receipt of a completed application, the Administrator shall notify all owners of property within the binding site plan and as provided in KMC 4.12.090.

(2) Any proposed modification which would amend conditions established administratively shall be circulated to affected agencies for review and comment. An amended decision or amended conditions of approval may be required based on comments received from affected agencies.

(3) The Administrator may waive formal processing if it is determined that the proposed modification would not have a substantial impact on adjacent properties or conditions of approval. This process shall not apply to amending site plans or conditions thereof established by a hearing body that would constitute a change of condition. Alterations may be approved by the Administrator, if the Administrator determines that the public use and interest will be served by the alteration. (Ord. 5415 Sec. 20, 2012)

17.12.050: Vacation: A binding site plan may be vacated by the Administrator in accord with KMC Chapter 17.16. (Ord. 5415 Sec. 21, 2012; Ord. 5280 Sec. 1, 2010)

17.12.055: Construction of Improvements: Prior to final binding site plan approval:

(1) All public rights-of-way must be improved and utilities installed to the minimum requirements of this code and the binding site plan. Improvements may be greater than the minimum requirements, subject to approval of the Public Works Director.

(2) All required infrastructure improvements must be substantially completed as approved by the Public Works Director. Minor improvements consisting only of sidewalks and landscaping where applicable, or similar improvements, as determined solely by the Public Works Director may be secured by a bond.

(3) In lieu of completion of these minor improvements, prior to recording of the binding site plan, a bond issued by a licensed corporate surety or two individual sureties or other approved surety must be provided, to the full amount of the cost of such work multiplied by 125%, as estimated or approved by the Public Works Director, including construction inspection costs, but in no case less than \$2,000.00.

(4) All or a portion of security will be released upon acceptance of the improvements by the Public Works Director, or upon substitution of another guarantee or approved bond or security.

(5) If, after two years, all improvements are not so improved, the City will cause the improvements to be provided in accord with the approved plans, and the costs thereof must be paid by the bonding company, or out of the savings account assignment or other security.

(6) In lieu of the bond, a cash bond, a certified check, an irrevocable letter of credit, or other surety approved by the City Manager and City Attorney, equal to the cost of improvement multiplied by 125% may be posted. In addition, the City may require security up to two years against any defect in workmanship or materials in the installation of the improvements.

(7) Improvements must be designed and certified by a registered civil engineer prior to the acceptance.

(8) All city utility and street improvements must be approved by the Public Works Director prior to issuance of a building permit for any structure within the binding site plan.

17.12.060: Recording and Enforcement: All approved binding site plans must be recorded with the Benton County Auditor. The lots, parcels, or tracts created through this procedure are legal lots of record. All provisions, conditions, and limitations on the binding site plan are binding on the owner, purchaser, or any other person acquiring a lease or other interest of any lot, parcel, or tract created pursuant to the binding site plan. Any sale, transfer, or lease of any lot, tract, or parcel created pursuant to the binding site plan, without a binding site plan approval, is a violation of RCW 58.17 and this Title. It may be restrained by injunction in accord with Section 17.04.900. (Ord. 5415 Sec. 22, 2012: Ord. 5280 Sec. 1, 2010)

17.12.070: Roads and Rights-of-Way: The City Engineer will review each application to determine if there is or may be a need for public access through or abutting a proposed binding site plan. If such a need does or may exist, he may recommend that any approval be conditioned upon the dedication of right-of-way and the construction of needed streets to city standards. If the proposed binding site plan abuts an existing right-of-way, the City Engineer may recommend that additional right-of-way be dedicated to obtain one-half the required width of the street as established by any street plan and that the right-of-way be improved to city standards. (Ord. 5415 Sec. 23, 2012: Ord. 5280 Sec. 1, 2010)

17.12.080: Plat Map: The binding site plan must be filed for record in the County Auditor's office. The conditions of approval must be recorded and the auditor's file number listed on the face of the binding site plan. The binding site plan must be of the entire contiguous tract and must include the following:

- (1) The parent parcel tax ID number;
- (2) Street address designated by the City;
- (3) The name of the plat, property owners and boundaries of abutting property;
- (4) A completed survey showing the boundaries of the parent parcel and the proposed parcel(s), and a description of all monuments set;
- (5) The legal description of the boundary of the proposed lot/plat(s);
- (6) The location of all existing structures to remain, existing septic tanks, drain fields and wells with dimensions shown to new proposed lot lines;
- (7) The location of roads, utilities, easements, or rights-of-way proposed for the binding site plan;
- (8) Any dedication must be shown on the face of the record survey;
- (9) Notarized signatures of all parties, having an interest in the land agreeing to the division of property and the dedication of any rights-of-way or easements;
- (10) All existing and planned intersection locations and widths to include public and private roadway intersections, driveways, and recorded access easements for roadways shall be shown for a distance of 300 feet from the plat edges along any adjacent roadways. The City Traffic Engineer may consider exceptions to this requirement;

(11) Approval of certificates as shown below:

(a) Owner's Certificate:

I/We (owner's name) of (Company name, if owned by a company), hereby certify that we are the owners of the tract of land described hereon, and that we have caused said land to be surveyed and the lots created as shown on this record survey and a binding site plan and that the street right-of-way and the utility easements are hereby dedicated to the use of the public.

Signature

Date

(b) Land Surveyor's Certificate:

I, (surveyor's name), a registered land surveyor, hereby certify that the binding site plan as shown hereon is based on an actual field survey of the land described and that all corners and dimensions are correctly shown and that said record survey is staked on the ground as indicated hereon.

Signature

Date

(c) Treasurer's Certificate:

I hereby certify that the taxes on the land described hereon have been paid to and including the year ____.

Tax Parcel Number

Benton County Treasurer

Date

(d) Irrigation District Certificate:

(i) Non-Irrigable Lands (Dry) – Certificate: This land is within the Kennewick Irrigation District boundaries, but is not assessed at this time and the irrigation easements are approved as shown.

Signature

Title

Date

(ii) Irrigable Lands – Certificate: The irrigation assessments on the land described hereon are paid through the year _____. The irrigation right-of-way and easements as shown hereon are hereby approved and the completed irrigation water distribution system has been installed or provision made for its installation.

Signature

Title

Date

(e) Public Utility District Certificate:

The utility easements are hereby approved by Benton Public Utility District No. 1.

Signature

Title

Date

(f) City of Kennewick Plat Administrator's Certificate:

The binding site plan is hereby approved by and for the City of Kennewick, Benton County, Washington.

City of Kennewick File Number

Signature

Title

Date

(g) Auditor's Certificate:

Filed for record this __ day of (Month), (Year), at __ minutes past __ and recorded in volume __ of surveys, page __, at the request of _____.

Benton County Auditor

Fee number

Index Number

(12) A vicinity map; and Title of the map saying "Binding Site Plan and the City's official file number." (Ord. 5415 Sec. 24, 2012: Ord. 5280 Sec. 1, 2010)

17.12.090: Notice of Filing: Notice of filing of a binding site plan adjacent to or within one mile of another municipal boundary, must be given to the appropriate municipal official. Notice of such filing located adjacent to the right-of-way of any existing or proposed state or federal highway, must be given to the State Department of Transportation. Notice of the filing may be given to any other agency deemed prudent by the City. (Ord. 5280 Sec. 1, 2010)

Exhibit A-2
SEPA – Determination of Nonsignificance



CITY OF KENNEWICK
DETERMINATION OF NON-SIGNIFICANCE

FILE/PROJECT NUMBER:

DESCRIPTION OF PROPOSAL: Amend Kennewick Municipal Code (KMC) Binding Site Plan Chapter (KMC 17.12) to specifically allow bonding or placing other surety for incomplete public improvements as approved by the Public Works Director.

PROPOSER: City of Kennewick, Community Planning Department

LOCATION OF PROPOSAL, INCLUDING STREET ADDRESS, IF ANY: Amendments to the KMC apply city-wide.

LEAD AGENCY: City of Kennewick

DETERMINATION: The City of Kennewick has determined that this proposal does not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) will not be required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the City. This information is available to the public on request. Application for other required permits may require further review under SEPA procedures.

☒ There is no comment period for this DNS.

☐ This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS.

☐ This DNS is issued under 197-11-340(2); the City will not act on this proposal for fifteen days from the date below. Comments must be submitted by _____. After the review period has elapsed, all comments received will be evaluated and the DNS will be retained, modified, or withdrawn as required by SEPA regulations.

RESPONSIBLE OFFICIAL: Gregory McCormick, AICP

POSITION/TITLE: Community Planning Director

ADDRESS: 210 W 6th Ave., P.O. Box 6108, Kennewick, WA 99336

PHONE: (509) 383-4463

☐ Changes, modifications and /or additions to the checklist have been made on the attached Environmental Checklist Review.

This DNS is subject to the attached conditions:

☒ No conditions.

☐ See attached condition(s).

Date: April 17, 2017

Signature: _____

Appeal: An appeal of this determination must be submitted to the Community Planning Department within fourteen (14) calendar days after the date issued. This appeal must be written and make specific factual objections to the City's threshold determination. Appeals shall be conducted in conformance with Section 4.12.090(9) of the Kennewick Municipal Code and the required fees pursuant to the City's adopted Fee Schedule shall be paid at time of appeal submittal.

Copies of this DNS were mailed to:

- Dept. of Ecology
- WA Dept of Fish & Wildlife
- WSDOT
- Yakama Nation
- CTUIR
- Project File

Exhibit A-3
WA State Dept of Commerce:
Acknowledgement Letter



STATE OF WASHINGTON

DEPARTMENT OF COMMERCE

1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

March 30, 2017

Greg McCormick
Planning Director
City of Kennewick
Post Office Box 6108
Kennewick, Washington 99336

Dear Mr. McCormick:

Thank you for sending the Washington State Department of Commerce (Commerce) the following materials as required under RCW 36.70A.106. Please keep this letter as documentation that you have met this procedural requirement.

City of Kennewick - Proposed amendment to allow bonding of unfinished public improvements such as sidewalks, required landscaping, etc. related to binding site plans. These materials were received on March 30, 2017 and processed with the Material ID # 23548.

We have forwarded a copy of this notice to other state agencies.

If this submitted material is an adopted amendment, then please keep this letter as documentation that you have met the procedural requirement under RCW 36.70A.106.

If you have submitted this material as a draft amendment, then final adoption may occur no earlier than sixty days following the date of receipt by Commerce. Please remember to submit the final adopted amendment to Commerce within ten days of adoption.

If you have any questions, please contact Growth Management Services at reviewteam@commerce.wa.gov, or call Dave Andersen (509) 434-4491 or Paul Johnson (360) 725-3048.

Sincerely,

Review Team
Growth Management Services



STAFF REPORT

Date: June 12, 2017

To: City of Kennewick Planning Commission

From: Lisa Beaton, City Attorney

PROPOSAL

On January 3, 2017, Council extended a 180-day moratorium on the imposition of park mitigation fees on mixed use development currently required by KMC 18.42.140(3) and KMC 17.100. The park mitigation fee found at KMC 17.100 utilizes the assessed value of the parcel that would have been dedicated to calculate the fee – in this instance mixed-use development is allowed on property that is zoned commercial. As a result, the application of the park mitigation fee to mixed use development results in a fee that is cost prohibitive; this is contrary to Council's goal to encourage mixed use development. Council directed staff to complete research and provide options. A work plan was adopted as a part of the moratorium.

On May 9, 2017, staff presented legal research results and provided options to amend KMC 17.100 and KMC 18.42. The authority to require dedication of land for park purposes or a fee in lieu of dedication is found at RCW 82.02.020 and RCW 58.17.110. Case Law interpreting RCW 82.02.020 as it applies to mitigation fees in lieu of dedication of land require that if a fee is imposed in lieu of dedication, the City must demonstrate the amount of the fee is directly related to the value of the land the City could require the developer to dedicate. *Trimen v. King County*, 124 Wash.2d 261 (1994); *Vintage Construction v. City of Bothell*, 83 Wash.App. 605 (1996). As long as Kennewick continues to impose a "mitigation" fee in lieu of dedication of park land, we must comply with RCW 82.02.020 and case law interpreting that statute, therefore, our fee calculation must continue to factor in the assessed value of the land.

Most cities in Washington have moved to a Park Impact Fee system under RCW 82.02.050 as it is easier to administer and more predictable for the developer. The Parks Department is working with a consultant to review the City's park plan and develop a park impact fee proposal. During the interim, the park mitigation fees will continue to apply. The proposed code amendments which are the subject of this public hearing are intended to be an interim measure until a park impact fee system can be implemented. Based upon Council discussion, staff has prepared code amendments to KMC 17.100 and KMC 18.42 which will exempt mixed use development from the imposition of a park mitigation fee.

Ordinance 5697 amends KMC 18.42.140: Mixed Use Site Plan:

- (3) All mixed-use plans shall run with the land unless modified as approved by the City. **Mixed used developments containing residential units are exempt from either dedicating land for park purposes or paying a park fee in lieu of dedication.** ~~Park fees or park land dedication shall be required according to KMC 17.100.010.~~ All other applicable regulations in the Kennewick Municipal Code shall apply. (Ord. 5262 Sec. 1, 2009)

Ordinance 5696 amends KMC 17.100.010: Dedication of Land for Park Purposes:

- (2) In the event that the property proposed to be subdivided is insufficient in size to provide for adequate recreational facilities for the residents in the proposed division, park fees in lieu of dedication of park land will be required unless other measures which will reasonably protect the public's need for adequate recreational areas can be agreed upon between the subdivider and the City. Park fees in lieu of dedication of park land will be calculated with a formula based on area of park land to be dedicated, average number of units per acre, and the current assessed value of the property. **Mixed use developments that contain residential units are exempt from either dedicating land or paying a fee in lieu of dedication.**

Staff has prepared the draft ordinances which are attached to this staff report.

CONCLUSION

The proposed amendments will further Council's goal to encourage mixed use development and are consistent with state law. Further, the amendments are intended to be an interim measure until a park impact fee system can be implemented.

RECOMMENDATION

Staff recommends that the Planning Commission concur with the proposed change and recommend approval to City Council.

EXHIBITS

Draft Ordinances.

CITY OF KENNEWICK
ORDINANCE NO. 5696

AN ORDINANCE RELATING TO DEDICATION OF LAND FOR PARK
PURPOSES AND AMENDING SECTION 17.100.010 OF THE KENNEWICK
MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, DO ORDAIN AS
FOLLOWS:

Section 1. Section 17.100.010 of the Kennewick Municipal Code, be, and the same hereby is,
amended to read as follows:

17.100.010: Dedication of Land for Park Purposes:

(1) The City will require the dedication of land for park purposes as a condition of approval for any division or redivision that will be used for residential purposes. The adopted Comprehensive Plan, and adopted Comprehensive Parks and Recreation Plan, will be used as the basis for determining the location and size of a proposed park site. The requirement for dedication of land will be based on the following:

- (a) That the land will assist in serving the park and recreation needs of the residents within the proposed division;
- (b) That the amount and location of land to be dedicated will bear a reasonable relationship to the use of the open area and recreational facilities by the future inhabitants of the division;
- (c) Dedication of land for neighborhood parks and playgrounds will be based on the ratio of one acre of land for every three hundred thirty-four (334) persons in the proposed division, using the average population per dwelling unit, as shown in the City Comprehensive Plan;
- (d) Dedications will be examined as a system in relationship to the current network of parks within the City. Park location and size for dedications should be reviewed in terms of benefitting the system and be able to integrate into the network, promoting connectivity and multi-modal access.

(2) In the event that the property proposed to be subdivided is insufficient in size to provide for adequate recreational facilities for the residents in the proposed division, park fees in lieu of dedication of park land will be required unless other measures which will reasonably protect the public's need for adequate recreational areas can be agreed upon between the subdivider and the City. Park fees in lieu of dedication of park land will be calculated with a formula based on area of park land to be dedicated, average number of units per acre, and the current assessed value of the property. Mixed use developments that contain residential units are exempt from either dedicating land or paying a fee in lieu of dedication.

(3) In the event that the City does accept the dedication of an area for park purposes, that dedication may include the designation of the name for the park in honor of a deceased individual of good character.

(4) If dedication of park land is not possible, the City will accept the following proposals in exchange for credit towards the amount of required park land to be dedicated. All proposals submitted to obtain credit towards park fees and park land dedication shall be designed

and constructed to the satisfaction of, and be approved by the City. The following proposals may be accepted for review for the specified credit ratio:

- (a) 1/3 credit towards park land dedication for the following considerations:
 - (i) Dedication of natural open space that is not suitable for development (i.e. steep slopes, critical areas, etc.).
 - (ii) Development of a landscaped stormwater tract. A landscaping plan shall be submitted for review. Landscaping shall meet the satisfaction of the Planning Official.
 - (iii) Development of a stormwater tract or critical area that can be used for passive recreation.
- (b) One-half credit towards park land dedication for the following considerations:
 - (i) Dedication of natural open space where an all-weather multi-use trail system is constructed by the developer to City specifications.
 - (ii) Development of a private park that serves the residents of the development. (Ord. 5696 Sec. 1, 2017; Ord. 5540 Sec. 1, 2014; Ord. 5280 Sec. 1, 2010)

Section 2. This ordinance shall be in full force and effect five days from and after its passage, approval and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this ____ day of _____, 2017, and signed in authentication of its passage this ____ day of _____, 2017.

Attest:

STEVE C. YOUNG, Mayor

TERRI L. WRIGHT, City Clerk

ORDINANCE NO. 5696 filed and recorded
in the office of the City Clerk of the City of
Kennewick, Washington this ____ day of
_____, 2017.

Approved as to Form:

LISA BEATON, City Attorney

TERRI L. WRIGHT, City Clerk

DATE OF PUBLICATION_____

CITY OF KENNEWICK
ORDINANCE NO. 5697

AN ORDINANCE RELATING TO LAND USE PERMITS AND AMENDING
SECTION 18.42.140 OF THE KENNEWICK MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 18.42.140 of the Kennewick Municipal Code, be, and the same hereby is, amended to read as follows:

18.42.140: Mixed Use Site Plan:

(1) Single Mixed-Use Project (Vertical and Horizontal). A mixed-use project that is either vertical or horizontal and contained within a single building and single parcel shall be reviewed through the Site Plan process.

(2) Multiple Building/Multiple Site Mixed-Use Development Projects. If the project is horizontally-integrated on more than one parcel and/or in more than one building, a Mixed-Use Master Site Plan is required to ensure that the buildings are functionally and physically integrated.

(a) Mixed-Use Master Site Plan Requirements. Initial development of a multiple building mixed use site or phased development of a mixed use site shall require submittal and approval of a Mixed Use Master Plan. The following requirements shall apply:

(i) Required components. Mixed-Use Master Site Plans shall contain the following:

- A. All submittals according to the Site Plan requirements.
- B. Mapping and written description of all proposed uses and use types.
- C. A maintenance agreement between the City and the property owner's association.
- D. If applicable, description of proposed future phasing.
- E. Written description of proposal's consistency with transportation and other service requirements.
- F. Compliance with the City's land use plan and policies.
- G. A parking plan with written descriptions and graphics describing how residential and non-residential uses can provide sufficient and coordinated parking to avoid impacts to adjacent off-site residential.

(ii) Approval Criteria. Approval or approval with conditions shall be granted upon findings that:

- A. The Master Site Plan and associated conditions of approval ensure future development will meet all applicable criteria of this chapter;
- B. If phasing is proposed, the phase boundary must be outlined in the Master Site Plan. The total floor area proposed in each phase and the percentage of residential and commercial mix in each phase must also be indicated;

- C. There is or will be sufficient capacity within the transportation system and public sewer, water, police, fire, and stormwater services to adequately serve all portions of the site at the time of development; and
- D. The Master Plan is in compliance with Comprehensive Plan policies and any other relevant Sub-Area plan(s).
- (iii) Modifications. Proposed modifications to previously approved Mixed-Use Master Plans shall require review and approval by the City.
- (iv) Final Plan Approval. No single phase may contain more than 50% of the total square footage for any one major use type (commercial, office or residential) envisioned by the Master Site Plan unless 25% of the total square footage of all major use types envisioned by the Master Plan are included in the proposed phase or were included in previous phases. This requirement may be waived by the Director of Community Planning, if the applicant provides a security or other form of binding assurance that the remaining major use types contemplated in the Master Plan will be built.

(3) All mixed-use plans shall run with the land unless modified as approved by the City. Mixed used developments containing residential units are exempt from either dedicating land for park purposes or paying a park fee in lieu of dedication. Park fees or parkland dedication shall be required according to KMC 17.100.010. All other applicable regulations in the Kennewick Municipal Code shall apply. (Ord. 5697 Sec. 1, 2017; Ord. 5262 Sec. 1, 2009)

Section 2. This ordinance shall be in full force and effect five days from and after its passage, approval and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this ____ day of _____, 2017, and signed in authentication of its passage this ____ day of _____, 2017.

Attest:

STEVE C. YOUNG, Mayor

TERRI L. WRIGHT, City Clerk

ORDINANCE NO. 5697 filed and recorded
in the office of the City Clerk of the City of
Kennewick, Washington this ____ day of
_____, 2017.

Approved as to Form:

LISA BEATON, City Attorney

TERRI L. WRIGHT, City Clerk

DATE OF PUBLICATION _____