



Agenda

RICHLAND PLANNING COMMISSION MEETING NO. 7-2014

Richland City Hall - 505 Swift Boulevard - Council Chamber

WEDNESDAY, July 23, 2014

7:00 p.m.

COMMISSION MEMBERS: James Utz, Chair; Carol Moser, Vice-Chair; Debbie Berkowitz; Marianne Boring; Clifford Clark; Stanley Jones; Kent Madsen; Amanda Wallner and James Wise

LIAISONS: Rick Simon, Planning and Development Services Manager
Phil Lemley, City Council

Regular Meeting, 7:00 p.m.

Welcome and Roll Call

Approval of the Agenda

Approval of May 28, 2014 & June 25, 2014 Meeting Minutes

Public Comments

Public Hearing Explanation

New Business – Public Hearings

1. APPLICANT: SMI GROUP XV, LLC. (SUP 2014-100 & S2014-102)*

Request: APPROVAL OF A SPECIAL USE PERMIT TO DEVELOP A SINGLE FAMILY RESIDENTIAL PROJECT IN THE BUSINESS RESEARCH PARK DISTRICT AND FOR THE SUBDIVISION OF 1.58 ACRES INTO 9 SINGLE FAMILY RESIDENTIAL LOTS.

Location: AT THE NORTHEAST CORNER OF SMARTPARK STREET AND FERMI DRIVE.

2. APPLICANT: CITY OF RICHLAND (Z2014-101)

Request: ZONING TEXT AMENDMENTS – REVISIONS TO SECTIONS 23.38.070, 23.18.040, 23.38.020, 24.04.030 AND 24.12.010 OF THE RICHLAND MUNICIPAL CODE CONCERNING REQUIREMENTS ASSOCIATED WITH FENCING, ASSESSORY BUILDING AND HOUSE SETBACKS, SUBDIVISION APPLICATION REQUIREMENTS AND SIZE REQUIREMENTS FOR REQUIRED COMMERCIAL LANDSCAPING TREES.

Location: CITYWIDE

***Quasi-Judicial Hearing**

Communications

Commission/Staff/Liaison Comments

Adjournment of Regular Meeting

Planning Commission Workshop Meeting, Wednesday, August 13, 2014

Planning Commission Regular Meeting – Wednesday, August 27, 2014

THIS MEETING IS BROADCAST LIVE ON CITYVIEW CHANNEL 192 AND ON WWW.CI.RICHLAND.WA.US/CITYVIEW

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MINUTES

RICHLAND PLANNING COMMISSION MEETING No. 6-2014

Richland City Hall – 550 Swift Boulevard – Council Chamber

WEDNESDAY, June 25, 2014

7:00 PM

Call to Order:

Chairman Utz called the meeting to order at 7:00 PM

Attendance:

Present: Commissioners Berkowitz, Boring, Jones, Madsen, Wallner, Wise, Vice-Chair Moser and Chairman Utz. Also present were City Council Liaison Phil Lemley, Development Services Manager Rick Simon, Senior Planner Aaron Lambert and Recorder Pam Bykonen. Commissioner Clark's absence was excused.

Approval of Agenda:

Chairman Utz presented the June 25, 2014 meeting agenda for approval.

The agenda was approved as presented.

Approval of Minutes

Chairman Utz presented the meeting minutes of the May 28, 2014 regular meeting for approval.

A motion was made by Commissioner Jones and seconded by Commissioner Boring to approve the meeting minutes of the May 28, 2014 regular meeting as written.

Commissioner Berkowitz requested several amendments to the minutes.

Chairman Utz reminded all that the video of the meeting was available for review.

After additional discussion, the minutes were tabled to allow for further review.

A revised set of minutes will be provided at the July meeting.

Public Comment

Chairman Utz opened the public comment period at 7:12 PM. With not one wishing to speak, he closed the public comment at 7:12 PM.

PUBLIC HEARING

Public Hearing Explanation: **Ms. Bykonen** explained the public hearing notice and appeal process and asked Commissioners to identify any conflicts of interest, ex-parte contact or any other appearance of fairness issues.

Commissioner Boring disclosed her association with the wireless industry with no objections.

New Business

**1. APPLICANT: AMERICAN TOWER CORPORATION (SUP2014-101)
APPROVAL OF A SPECIAL USE PERMIT TO AUTHORIZE CONSTRUCTION
OF A 100 FOOT TALL WIRELESS COMMUNICATIONS FACILITY WITH
ASSOCIATED GROUND EQUIPMENT AT 2373 JERICHO ROAD**

Mr. Lambert presented the staff report and showed several aerial photographs to illustrate the location of the proposed tower at 2373 Jericho Road. The property was annexed in 2012 and zoned commercial with a variety of other zones surrounding the proposed site. A Special Use Permit is required due to the height of the proposed tower which exceeds the limit by twenty feet. **Mr. Lambert** discussed the difference in coverage and level of service as related to the height of the tower which was designed to allow for future co-location of antennas with other cell providers. The generator and other necessary equipment would be contained in a building so screening of the ground equipment would not be needed. The Federal Aviation Administration did not require a strobe and City criteria were met.

Chairman Utz opened the public hearing at 7:25 PM.

The following people spoke in support of the American Tower Corporation Special Use Permit (SUP2014-101):

Applicant, Derrick Budig, 2607 S. Southeast Blvd, Spokane

Generally, stating that:

- An eighty foot tower was allowable in Zone C-3, Commercial.
- AT&T customer complaints and system performance issues triggered the need for better coverage and to maximize data services.
- The benefit of the 100' tower would be to eliminate several shorter towers.
- A site outside the city would not provide the needed service.

The following people spoke against the American Tower Corporation Special Use Permit (SUP2014-101):

Alan Joseph, P.O. Box 6848P/P.O. Box 257, Olympia
Martin Pitney, 1131 Appaloosa Way
Debra Schulz, 1119 Appaloosa Way
Patricia L. Johnson, 2621 Quarter Horse Way
Richard Bond, M.D., 2621 Quarter Horse Way
David Ashley, 2450 Saddle Way
Linda Estes, 2500 Saddle Way
Mary Billings, 1116 Country Ridge Drive
Susan Goetz, Saddle Way
Don Volkman, 2612 Saddle Way

Generally, the individuals who spoke against the American Tower Corporation Special Use Permit (SUP2014-101) cited the following reasons:

- Negative impact on neighboring communities and quality of life.
- Depreciation of property values, specifically residential properties.
- Concern over possible health hazards of electromagnetic radiation for nearby residents and walking/bike path users of all ages.
- The tower could be located on Badger Mountain or outside of the city.
- Poor aesthetics and obstruction of views in a residential area.
- Inadequate notification of the associated property owners.
- There was concern that additional equipment would be added to the monopole and/or a strobe might be required in the future.
- Degradation of the visual and auditory environment.

Chairman Utz closed the public hearing at 7:54 PM.

Discussion:

Vice-Chair Moser asked how public notice was determined. **Mr. Lambert** explained the notification requirements that were followed which included Benton County parcel records within a 300' radius from the site and a legal ad in the Tri-City Herald. Notification was sent to the Country Ridge Homeowner's Association.

Vice-Chair Moser requested additional information on health risks. **Mr. Lambert** stated that, since 1996, a federal regulation precluded local jurisdictions from using health risks as a reason to deny this type of application.

Commissioner Jones asked about distance from the proposed site to the nearest residential property. **Mr. Lambert** reported a distance of 200 feet.

Commissioner Madsen inquired about elevations of the tower and nearby residences in regards to the line of sight. **Mr. Lambert** explained that a visual analysis was not required at this time and the height was measured from the pole location.

Commissioner Wise asked the applicant if the tower was built to withstand high winds. **Mr. Budig** informed all that the proposed tower structure and foundation was engineered to accommodate local wind and ice.

Commissioner Wise cited his experience and addressed the concern of radiation by stating his understanding that the distance from the emitting source allowed any radiation to burn off to the point of no concern. He also discussed the visual aspect of the proposed tower and since it would not block the view, considered it to be minimal.

Commissioner Boring felt the issue boiled down to choosing between a single 100' multi-user tower and three or more 80' towers.

Commissioner Jones stressed that moving the tower probably wasn't feasible due to the need for a line of sight with transmissions.

Commissioner Berkowitz asked if the single tower would fill all of the needs in this area. **Mr. Budig** pointed out that the growth of data was ongoing and the need was driven by capacity. Some areas, such as the location near Home Depot, have covenants that further restrict tower heights.

Commissioner Berkowitz shared her sympathy with residents whose views might be disrupted, but views were not protected by code.

Commissioner Wallner inquired about the capacity of a 100' tower for future use and if there might still be a need to add towers in the future. **Mr. Budig** reported that the number of carriers dictated the equipment requirements. He reported that there were three to four main carriers and the proposed tower could accommodate at least three of them.

Chairman Utz clarified that the Badger Mountain location was not feasible and there was no need for a light on a 100' tower regardless of the number of antennas. **Mr. Budig** confirmed that the tower installation was required where the people and developments were in order to serve their needs. The Federal Aviation Administration did not require a light for a 100' tower, so unless the tower was extended, no light was necessary.

Chairman Utz asked if the more streamlined 'flagpole' style tower might be an option as opposed to the triangular tower structure in the proposal. **Mr. Budig** stated that the canister type of tower had additional restrictions that would not best serve their need. He also reminded those in attendance that they had considered several locations and were following the current code.

Chairman Utz discussed the need for continued work on the notification process and reminded all that the code stood as it was. The Planning Commission was not authorized to change the code and suggested that staff review this topic.

Vice-Chair Moser requested information on the agricultural zone near the site. **Mr. Lambert** explained the background of the zones surrounding the site. He reported that the tower would still be allowed even if the property currently zoned Agricultural had been zoned as Residential.

Vice-Chair Moser asked for clarification on the code regarding the allowance of an additional 15 foot antenna with an 80 foot tower. **Commissioner Boring** pointed out page two of the Supplemental Report and stated that the code allowed antennas to protrude above the allowed eighty foot parent structure by fifteen feet, so the request is for an exception of five feet.

Commissioner Wise asked for additional visual analysis. **Mr. Budig** stated they could provide the visuals if necessary.

A motion was made by Commissioner Madsen and seconded by Commissioner Jones to concur with the findings and conclusions set forth in Staff Report (SUP2014-101) and approve the request for special use permit to allow for construction of a 100 foot tall monopole wireless communications support structure in a C-3 zoning district subject to conditions 1-8.

Discuss the motion:

Commissioner Wise commented that the decision came down to the visual impacts of the proposed structure, which he believed would not be offensive.

Commissioner Wise proposed an amendment to the motion to request that the applicant create a visual simulation of the appearance of the tower from selected points in the Country Ridge neighborhood to demonstrate its view impact.

The motion died for lack of a second.

Vice-Chair Moser commented that the Country Ridge neighborhood was fortunate to have a great view, but the permission was already in place for an 80 foot tower, plus an additional 15 foot antenna without a special use permit. Since the difference was only 5 feet and her preference was for a single structure rather than multiples, she supported the motion.

Chairman Utz agreed with Vice-Chair Moser and although there was a desire for an improved process for tower structures in residential areas, this single tower still seemed a better choice to multiple towers.

THE MOTION CARRIED 8-0.

**2. APPLICANT: NOR AM INVESTMENTS, LLC (BSP2014-100)
APPROVAL OF A BINDING SITE PLAN TO DIVIDE 73.5 ACRES INTO 40
COMMERCIAL LOTS, TOGETHER WITH PRIVATE ROADWAYS AND COMMON
PARKING AREAS WITHIN THE BADGER MOUNTAIN SOUTH MASTER PLANNED
COMMUNITY, SOUTH OF AVA WAY AND EAST OF DALLAS ROAD**

Mr. Simon presented the staff report for a binding site plan for the Veneto Villaggio development in the Badger Mountain South planned community. The proposal included a variety of lot sizes in a commercial mixed use area with parking areas, wineries, vineyards and an outdoor amphitheater. Binding site plans are a method of property division reserved for commercial/industrial properties that provides the developer with a higher level of flexibility.

Chairman Utz opened the public hearing at 8:35 PM.

Applicant, Todd Sawin, AHBL/Nor Am Investments: Mr. Sawin thanked the Planning Commission and staff for their work on the project. He expressed excitement over the progress being made with the construction of The Country Mercantile and The Vineyard underway.

Chairman Utz closed the public hearing at 8:36 PM.

Discussion:

Commissioner Boring pointed out a Lot 41 and Tract B in the provided reports and asked for correction. **Mr. Sawin** confirmed that Lot 41 should have been labeled 'Tract B' and noted the correction.

Commissioner Berkowitz asked about the land use districts regarding single-family structures and the neighborhood collector street. **Mr. Sawin** explained that the intent of the targets in the Land Use and Development Regulations were intended as maximums, rather than minimums. **Mr. Simon** displayed Section 2, explaining that multi-family usage would be permitted and single-family would not. The applicant called out single-family use, but since the Land Use and Development Regulations do not allow for single-family use, the applicant would need to return to the Planning Commission for that allowance. **Mr. Sawin** explained that they would prefer to keep the single-family dwelling lots in the proposal because they were expected to sell more easily, but they would strike them if it was necessary for the approval of the binding site plan.

Vice-Chair Moser asked how this situation would be handled if a hearings examiner were reviewing the request. **Mr. Simon** believed there would be a finding that single-family residential usage was not currently permitted by the Land Use and Development Regulations, but the other uses were. **Vice-Chair Moser** stated the need to remain consistent with the Land Use and Development Regulations.

Vice-Chair Moser inquired about Road A which was not designated by the Land Use and Development Regulations and asked if there were any conflicts. **Mr. Simon** referred to the overall conceptual master plan which allowed for minor amendments. Road A was not identified in the original plan, as the best location had not been determined; however, it needed to be included in the plan.

Chairman Utz asked if private roads were included in the Land Use and Development Regulations. **Mr. Simon** reported that it did include provisions for private roads.

A motion was made by Commissioner Madsen and seconded by Commissioner Boring to concur with the findings and conclusions set forth in Staff Report (BSP2014-100) and approve the binding site plan for Veneto Villagio subject to the conditions of approval set forth in the Technical Advisory Committee Report dated June 19, 2014.

Discuss the motion:

An amending motion was made by Commissioner Berkowitz and seconded by Vice-Chair Moser to request that the master agreement consistency recommendation remove the reference to single-family structures in this district.

Commissioner Wallner asked if the single-family reference was removed, would the applicant be able to accomplish their task. **Mr. Simon** apologized for the confusion and reported that, while copies were not currently available, the Land Use and Development Regulations were updated in April, 2014 to allow single-family use. The new amended version of the Land Use and Development Regulations would be available soon.

The amending motion was withdrawn.

THE MOTION CARRIED 8-0.

**3. APPLICANT: CITY OF RICHLAND (Z2014-101)
ZONING TEXT AMENDMENTS – REVISIONS TO SECTIONS 23.38.070, 23.18.040,
23.38.020, 24.04.030 AND 24.12.010 OF THE RICHLAND MUNICIPAL CODE
CONCERNING REQUIREMENTS ASSOCIATED WITH FENCING, ASSESSORY
BUILDING AND HOUSE SETBACKS, SUBDIVISION APPLICATION
REQUIREMENTS AND SIZE REQUIREMENTS FOR REQUIRED COMMERCIAL
LANDSCAPING TREES**

Mr. Lambert gave a PowerPoint presentation explaining the code amendments as outlined in the staff report.

Chairman Utz opened the public hearing at 9:05 PM.

Kaelynn Sant, 1668 April Loop: Ms. Sant displayed a map of her residence, explained how they would like to utilize their property, ensured that the vision triangle was not affected and requested approval of the proposed changes.

Chairman Utz closed the public hearing at 9:10 PM.

Discussion:

Commissioner Wise agreed that it made good sense to use the property in the manner described and asked if changing the code was necessary or could the Board of Adjustment handle such requests. **Mr. Lambert** stated the code amendment was the best way to handle these items and shared the difficulty and/or impossibility of writing a staff report that could support such a variance. **Commissioner Wise** expressed concern over a blanket code change as opposed to a case by case approach.

Chairman Utz reviewed his concern over fire safety when structures were allowed to occupy the space between the residence and the property line. **Mr. Lambert** did not have additional information from the fire department and agreed that a shed could be located next to the property line in neighborhoods without protective covenants. He offered to follow up with additional information.

Commissioner Berkowitz agreed with Commissioner Wise and suggested a ten foot rather than a five foot setback.

A motion was made by Commissioner Wallner and seconded by Commissioner Moser to concur with the findings and conclusions set forth in Staff Report (Z2014-101) and recommend to the City Council approval of the proposed zoning and subdivision code revisions as found in Exhibit 1.

Discuss the motion:

First Amending Motion:

An amending motion was made by Commissioner Wise and seconded by Commissioner Berkowitz to remove the setbacks from the motion to handle them separately.

Commissioner Boring suggested an amendment that would allow the five foot setback with a stipulation that there must be ten feet of right of way behind the curb since the property line and the curb were not the same boundary.

Commissioner Berkowitz stated her observation that twenty feet from the street side of the curb seemed sufficient.

Mr. Lambert pointed out that his initial draft was worded in a similar manner; however Chairman Utz mentioned the possibility of Low Impact Development improvements. The city average was 5-7 feet and property lines were considered a stable reference point.

The first amending motion failed 2-5, with Commissioner Madsen abstaining. Commissioners Boring, Jones, Wallner, Vice-Chair Moser and Chairman Utz voted against.

Second Amending Motion:

An amending motion was made by Chairman Utz and seconded by Commissioner Madsen to remove the item regarding the six foot reduction due to the access concern.

Commissioner Boring and Chairman Utz briefly discussed the permitting, fire safety and drainage requirements for a shed.

A motion was made by Commissioner Madsen and seconded by Commissioner Berkowitz to table the agenda item pending further review.

The motion to table passed 7-1 with Commissioner Wallner voting against.

Communications:

Mr. Simon

- Reminded the Commissioners that a workshop would be held on July 9th.

Commissioner Madsen

- Commented on the nice appearance and progress of the nearby hotel.
- Offered kudos to the City for Cool Desert Nights, a great event with 750 cars and 20,000 people in attendance.

Commissioner Boring

- Expressed disappointment for not looking to the upcoming agenda items and incorporating them into the City tour the previous week.

Vice-Chair Moser

- Thanked the City for the tour.

Commissioner Berkowitz

- Reported that the old Land Use and Development Regulations were still posted on the City website.
- Expressed her belief that the Tapteal Greenway Association was coerced into signing the agreement with the city which included the Rachel Road extension. She explained that Scott Woodward was not allowed to make his presentation to

Council and wanted to share the history of the Association. They worked for five years to raise funds and created a coalition with four state agencies to raise mitigation money to purchase part of Amon Basin for the community. Just as they were finishing up the details, they were told of a roadway across the basin which would be consistent with the Regional Transportation Plan (Central Boulevard). Due to the road, the project lost \$225,000 of \$300,000 wetlands mitigation funds. They retained about \$1.3 million from another agency and were only short \$225,000. Tapteal Greenway managed to raise \$40,000 in one month, but time was running out and the City presented them with six options. One was to accept a debt to cover the deficit. Commissioner Berkowitz stated that they paid back far more to the city with their contributions of additional land, time and effort.

Commissioner Madsen

- Commented on the hotly debated Amon Preserve/Rachel Road issue and commended Mr. Woodward for the admirable job presenting and gaining support. He also expressed his personal feelings and value of the preserve to the City and appreciated all of the wonderful effort put into it by the Tapteal Greenway Association.
- Expressed surprise that a copy of the signed agreement was never provided and pointed out that individuals chose to spend their time talents and dollars on the preserve with full knowledge that a road was slated for that area. The Transportation Improvement Plan had been in place for years with the Rachel Road extension on it without comment from residents.
- Believed there should still be a way to bridge the issue without destroying the preserve. It was an uncomfortable process and situation, but coercion or not, the agreement was made.

Commissioner Jones

- Shared that he felt bullied by the volume and manner of the Tapteal Greenway discussion.

Commissioner Wise

- Suggested the need for a more proactive citizen involvement process.

Commissioner Wallner

- Appreciated the effort made to locate the cell tower in the requested location because there was a need for cell service in that area.

Chairman Utz

- Requested the updated Land Use Regulations.
- Agreed that a better process was needed for public input.
- Reminded all that the Transportation Improvement Plan is a planning document rather than a 'doing' document. He added the saying: If we fail to plan, we plan to fail.

- Requested that the Commissioners work the process to the best of their combined abilities.

ADJOURNMENT:

The June 25, 2014 Richland Planning Commission Regular Meeting 6-2014 was adjourned at 9:38 PM. The next regular meeting of the Planning Commission will be held on July 23, 2014.

PREPARED BY: Penny Howard, Recorder, Planning and Development

REVIEWED BY:

Rick Simon, Secretary
Richland Planning Commission



MINUTES
RICHLAND PLANNING COMMISSION MEETING No. 5-2014
Richland City Hall – 550 Swift Boulevard – Council Chamber
WEDNESDAY, May 28, 2014
7:00 PM

Call to Order:

Chairman Utz called the meeting to order at 7:00 PM

Attendance:

Present: Commissioners Berkowitz, Boring, Clark, Jones, Madsen, Wallner, Wise, Vice-Chair Moser and Chairman Utz. Also present were City Council Liaison Phil Lemley, Public Works Director Pete Rogalsky, Transportation and Development Manager Jeff Peters, Development Services Manager Rick Simon, Senior Planner Aaron Lambert and Recorder Pam Bykonen.

Approval of Agenda:

Chairman Utz presented the May 28, 2014 meeting agenda for approval.

The agenda was approved as written.

Approval of Minutes

Chairman Utz presented the meeting minutes of the April 23, 2014 regular meeting for approval.

A motion was made by Commissioner Boring and seconded by Commissioner Madsen to approve the meeting minutes of the April 23, 2014 regular meeting as written.

Commissioner Berkowitz requested clarification in the minutes to reflect her absence.

Commissioner Jones requested the inclusion of a point of order made during Mr. Woodward's comments.

Vice-Chair Moser suggested the inclusion of Ken Harper's comments in regard to the point of order.

A motion to amend the minutes was made by Commissioner Jones and seconded by Commissioner Madsen to include the above items.

AMENDMENT CARRIED 9-0.

MOTION CARRIED 9-0.

Public Comment

Chairman Utz asked for public comment on any item not on the agenda. He pointed out that any comments on the Transportation Improvement Program (TIP) should occur during this portion of the meeting.

A question was raised about the presence of a Council member during the public comment period due to the potential of comments related to the ongoing Clearwater Creek closed record hearing. After some discussion, it was determined that separating the Clearwater Creek issues from the Transportation Improvement Program would be extremely difficult. Council Liaison Lemley decided to remain in the meeting.

The following people spoke against the Rachel Road extension in the Transportation Improvement Plan:

Robert Benedetti, 400 Broadmoor Street
Jim Deatherage, 8907 West 6th Avenue, Kennewick
Nancy Doran, 1516 Johnston Avenue
Scott Woodward, 480 Columbia Park Trail
Therese Howe, 2777 Rue Court
Darren Merrill, 2909 Kentbrook for Heidi Eden, 134 Rachel Road
Dirk Peterson, 2107 Rainier Avenue
Karen Sowers, 227 Sitka Court
Laura Caslin, 8720 West Falls Avenue, Kennewick
Laurie Ness, 2253 Davison Avenue
Bobbie Bull, 1928 Meadows Drive North
Kathy Dechter, 113 Bebb Court
Paula Butterworth, 97004 East Clover Road, Kennewick
Tom McClelland, 39507 East Ridgecrest Drive
James Noyce, 9419 Vincenzo Drive, Pasco
Chuck Wojnowski, 223 Lasiandra Court
David Orcutt, 2632 Eastwood Avenue
Mike Lilga, 317 Fuller Street
Pamela Woodward, 480 Columbia Park Trail
Alexandra Amonette, 1939 Marshall Avenue
Brad Evans, 3605 South Bermuda Road
Dorthea Ferris-Narum, 224 High Meadows Street
David Harvey, 1931 Harris Avenue
Patrick Paulson, 2253 Davison Avenue
Arthur Klym, 10411 South 952 PR SE, Kennewick

Generally, the individuals who spoke against Rachel Road being included in the TIP cited the following reasons:

- Construction of Rachel Road across the preserve area would significantly damage the preserve and eliminate important wildlife habitat;

- The preserve is a valuable natural area, unique in the Tri-Cities, containing rich habitat, great opportunities for education and supports a widely used trail system;
- The value of protecting the preserve is more important than the value that would be gained from the construction of Rachel Road;
- People are willing to spend a couple of extra minutes travelling to their destination, knowing that the preserve has been protected;
- The Kennewick School District could consider other options for the location of a future elementary school;
- Tapteal Greenway has spent considerable time and resources in securing the Amon Preserve and want the City to honor its agreement that called for the preservation of the Amon Preserve;
- Rachel Road should be eliminated or routed away from the preserve to maintain the integrity of the preserve.

The following people spoke in support of the Rachel Road extension in the Transportation Improvement Plan:

Dave Bond, Kennewick School District Superintendent, 3509 West 38th Avenue, Kennewick

Jeff Losey, Home Builders Association of Tri-Cities, 10001 West Clearwater Avenue, Kennewick

Renee Brooks, Home Builders Association of Tri-Cities, 1201 West 14th Avenue, Kennewick

Generally, individuals speaking in favor of Rachel Road remaining in the TIP indicated that:

- The School District has depended upon the City's planning documents in making decisions for future school sites and that Rachel Road is necessary in order for the school site within the Clearwater Creek subdivision to be viable;
- Rachel Road had been included in the City's transportation plans for many years and that an east-west collector street in this portion of the City is needed to support future growth in the area;
- The City has an obligation to implement its longstanding plans as others have made decisions in reliance on those plans.

PUBLIC HEARING

Public Hearing Explanation: Ms. Bykonen explained the public hearing notice and appeal process and asked Commissioners to identify any conflicts of interest, ex-parte contact or any other appearance of fairness issues.

New Business

1. APPLICANT: CITY OF RICHLAND (M2014-101) AMENDMENTS TO THE CITY OF RICHLAND TRANSPORTATION IMPROVEMENT PROGRAM 2015-2020.

Mr. Rogalsky explained the state-wide Six-Year Transportation Improvement Program which is primarily used for financial planning between several levels of government and as a high level planning tool and not as a construction commitment. He discussed connectivity issues for motorized and non-motorized traffic, safety and quality of life. **Mr. Rogalsky** reviewed the following priority levels within the Transportation Improvement Program: Highest Priority, fully or partially funded, including the Duportail/Stevens Corridor; Second Priority, without funding, but identified as priorities in the City's Strategic Plan, including Swift Boulevard and Columbia Park Trail; Third Level Priority, emerging needs that are unfunded, including arterial collector streets in South Richland and non-motorized connectivity projects.

Mr. Rogalsky spoke optimistically about location flexibility for the Rachel Road extension and commented that school districts base their expansion plans on the City's traffic/connectivity plan and that additional work was required before the location of Rachel Road would be finalized. Using the document camera, he showed a map of the Collector/Arterial System and further described the background, topographical challenges and design features of that system. **Mr. Rogalsky** pointed out that when the Amon Creek Preserve was developed and funded, all parties were aware of the City's plan, including financial participation that was in part a means of securing the roadway feature through the preserve area. He reported the benefits of connectivity as protecting the quality of life for residents and fulfilling the City's commitment to provide adequate infrastructure for community growth.

Discussion:

Commissioner Moser inquired if the connector street between Queensgate Drive and Market Road would alleviate congestion from Badger Mountain South. **Mr. Rogalsky** confirmed that it would. **Commissioner Moser** discussed a segment of Rachel Road, located in the county, with driveways emptying directly onto it and wondered if those homeowners would be notified regarding the impact of an arterial collector street. **Mr. Rogalsky** confirmed that it was in the county and existed prior to the City's plan.

Commissioner Moser asked if the letter, mentioned by Mr. Benedetti, was received and wondered why it was not addressed by City Council. **Mr. Rogalsky** reported that the City Council received the letter. **Commissioner Moser** requested that the proposed neighborhood areas be pointed out on the displayed map; **Mr. Rogalsky** did so.

Referring to page 18 of the Transportation Improvement Program, **Commissioner Berkowitz** requested a status of the Logston Boulevard extension and if it still was needed with the Robertson Road extension. **Mr. Rogalsky** reported that a contract was

recently awarded for the Robertson Road extension so the Logston Road extension could probably be removed from the Transportation Improvement Program. He reported that the Logston Road extension had been redefined and did not use the corridor that would have gone through a wetland.

Commissioner Berkowitz liked the idea of a Queensgate pedestrian and bike path and asked if it would have any impact on wetlands. **Mr. Rogalsky** reported that the project was funded, but not designed and, like all such projects, would undergo an environmental review. **Commissioner Berkowitz** requested that the path avoid the wetlands and if the Commission could see the review when available. **Mr. Rogalsky** stated that the review would be published and reviewed through the public notice process.

Commissioner Berkowitz asked if Jubilee Street was on the Transportation Improvement Program last year and requested information on project impacts to Lawless Park. **Mr. Rogalsky** stated that Jubilee Street had not been on the Transportation Improvement Program and informed all that each project would undergo the normal design review process, public process and review.

Commissioner Wise discussed Transportation Improvement Program revisions made in an effort to reduce the carbon footprint and asked for a general status. **Mr. Rogalsky** had seen no state or federal requirements to change the Transportation Improvement Program process, but those elements were embedded in their planning efforts. **Commissioner Wise** suggested a yearlong 'time out' on road building in order to study other cities and interact with community groups. **Mr. Rogalsky** welcomed the suggestion and stated that it was a matter of prioritizing budgets and goals. He thought it could be a productive recommendation to Council that they leverage the public interest and energy in this issue to drive it to the best result and use some of our resources to assist. **Mr. Rogalsky** stated that it was reasonable to leverage the intensity and energy brought out by this new development now to come up with a good answer.

Chairman Utz suggested expanding the notes, but since video was readily available, they did not need to capture all. **Commissioner Berkowitz** disagreed, maintaining that the minutes were all that would be available for aging information.

Commissioner Boring inquired if it was possible to create the extension in a way that would avoid the wetlands area. **Mr. Rogalsky** responded that they could, the organization had been and were currently working to preserve the wetlands portion of the preserve and may find the opportunity to elevate the roadway and provide paths beneath it.

Commissioner Boring reminded everyone that the Kennewick School District was there serving Richland students. She also reminded everyone that there have been other situations where the City worked hard to save wetlands in other areas of the city.

Commissioner Boring does not want the preserve impacted, but there needed to be a balance including weighing the benefits of having homes near schools.

Commissioner Madsen requested what the exact boundary of the preserve, how it related to Leslie Road and suggested creating a connection at Reata Road rather than Rachel Road. He expressed his belief that the parties involved ought to be able to find a workable solution for all.

Commissioner Clark requested clarification on collector streets and anticipated traffic. **Mr. Rogalsky** discussed the design details of an urban collector street as 36 feet of pavement with concrete sidewalks on both sides and the rural design of 32 feet of pavement with shoulders and a separate asphalt pedestrian path. Unique or challenging sites allowed for creative design. He reported that arterials were designed for 10,000 or more trips per day and 5,000 or more trips per day on collector streets.

Commissioner Clark asked if removing the Rachel Road project from the Transportation Improvement Program, as in a time out, would impact its funding or priority. **Mr. Rogalsky** did not believe it made a lot of sense to fund a study of a project that was no longer in the Transportation Improvement Program, but was open to the suggestion made by Commissioner Wise.

Commissioner Berkowitz noted that any road in that general area would have an impact on the preserve and expressed concern over the connections in the Hayden Homes' plat proposal. **Mr. Rogalsky** reminded all that plat conditions include a study that provides some flexibility to the alignment within the plat. He stated that there was nothing in the Transportation Improvement Program that secures a right of way or enforces a design and encouraged her to review the plat design documents which address that concern.

Commissioner Berkowitz expressed her surprise that the Kennewick School District was not aware of the previous years' recommendation by the Planning Commission to drop the Rachel Road extension from the Transportation Improvement Program and associated controversy. She spoke to an earlier statement that Public Works would avoid an arterial in an existing neighborhood and suggested that, while it wasn't a built environment, it was a dedicated environment with a preserve. **Commissioner Berkowitz** also expressed her concern for affecting the peace and quiet of the preserve by adding roads and stated that she believes the issue comes down to a judgment of value. **Mr. Rogalsky** stated that there must be some miscommunication because Rachel Road was not the primary Badger Mountain South access point, but it did not make sense to assume that no one out of 5,000 new homes would use that road.

Commissioner Moser commented on her concern, beginning in 2005, that although the Planning Commission recommended the removal of the Rachel Road extension last year, the City Council was the final decision maker and voted to keep the project in the plan. She also noted the passion of community members and the commitment to finding

a common solution for this issue. **Commissioner Moser** spoke about context sensitive design which involves working with groups of people to find an acceptable alternative and suggested that as the urban boundary expands there would be an elevated need to work more closely with community partners.

Commission Moser also shared her concern that the voice of the advisory role of the Planning Commission would soon be lost due to a plan to institute a hearings examiner. She stated that thoughtful consideration that incorporated the voice of the public may be lost if that happened.

Commission Moser commented that there was no proven need for the extension and suggested there was still time to plan. She was elated to hear staff say they were willing to work to a better solution. **Commission Moser** stated that it still seemed incomprehensible to build a road through a natural open space, but there was probably a way. She hoped the Kennewick School District and Benton County were prepared to assist with funding. She asked the Kennewick School District why they would put in a big grassy field where there was a wonderful opportunity to use the preserve as an educational tool, suggesting they think outside the box. **Commissioner Moser** entitled the decision as a 'destiny shaper' that would affect residents for years to come.

Commissioner Madsen shared his impression that City staff was very interested in and cares about this issue and still wants to see the boundaries of the preserve to gain a better visual of the proposal. He suggested that a road needn't go through the heart of the preserve; rather it might be at the tail end or edge of it. He desired clarity of the rationale behind dropping Rachel Road off the Transportation Improvement Program and reminded all that the Tapteal Greenway Association and the City Council signed an agreement that included a road through the preserve.

Mr. Rogalsky saw no value in removing Rachel Road from the Transportation Improvement Program because that would also remove it from the visibility of funding agencies. He suggested that it remain for funding purposes while a best possible solution is determined.

Chairman Utz reminded all that the Transportation Improvement Program is a planning document rather than a 'doing' document. He thanked all in attendance and suggested spending time and resources as needed to explore options that take all parties into account, including a no build option.

Commissioner Wise thanked the Kennewick School District and suggested that they may find a better school site. He also voiced concern that low-level frequency noise from the train tracks will have a negative impact on the school.

A motion was made by Commissioner Madsen and seconded by Commissioner Jones to concur with the findings and conclusions set forth in the staff report

(M2014-101) and forward a recommendation to City Council to approve the 2015-2020 Six-Year Transportation Improvement Program.

Discuss:

First Amending Motion:

Commissioner Clark proposed and Commissioner Berkowitz seconded an amendment to the motion to delete the Rachel Road collector from the TIP and direct staff to initiate a public process to seek an acceptable option for the right of way prior to putting it back into the TIP.

Discuss the motion:

Discussion ensued on the verbiage of the amendment.

Commissioner Moser asked if there were a funding source to work with citizen groups if removed from the Transportation Improvement Program. **Mr. Rogalsky** stated that there was no budget for the proposal, but Council could direct staff if desired.

Commissioner Jones discussed the risk of removing a project from the Transportation Improvement Program and stated that budget cycles, deadlines and a study process of the available project options were included within the Transportation Improvement Program. **Mr. Rogalsky** informed all that when a public road is built, there is an analysis process on a varied scale, but the obvious level of public interest would suggest the appropriateness of a broader based study.

Commissioner Wise recommended a 'freeze' rather than removal of the project and an enhanced study involving all of the interest groups.

Commissioner Moser believed their recommendation to Council should include a citizens' advisory committee so the voice of the community is not lost.

Commissioner Berkowitz recommended a study be done within the year.

Commissioner Jones reminded all that because the City budget was very tight, it wasn't likely that the study would be completed within a year.

Chairman Utz agreed with Commissioner Jones and suggested the recommendation be worded in line with the process rather than a timeframe.

Commissioner Clark wanted to ensure that the recommendation to City Council includes the concerns and recommendations of the public.

Commissioner Berkowitz reminded all that the Tapteal Greenway continues to put resources into the preserve and that it could be a lost investment.

Chairman Utz clarified his position that while he was neither for nor against the road at this point in time, there had not been sufficient studies to make a final decision.

THE FIRST AMENDING MOTION FAILED 1-8.

Commissioners Boring, Clark, Jones, Madsen, Wallner, Wise, Vice-Chair Moser and Chairman Utz voted against.

Second Amending Motion:

Commissioner Moser proposed and **Commissioner Berkowitz** seconded an amendment to the motion to recommend that Council instruct staff to initiate a broad based study process to determine the best option available for the right-of-way location. Such study shall:

- Include context sensitive design
- Include a “no build” option
- Include a citizens advisory committee that would consist of stakeholders from all various interests
- The study should receive a high priority for funding
- No work on Rachel Road will be initiated until the study has been completed.

THE SECOND AMENDING MOTION CARRIED 8-1.

Commissioner Jones voted against.

THE MOTION CARRIED 9-0.

Chairman Utz thanked all for their time, effort and energy.

A motion was made by **Commissioner Boring** and seconded by **Vice-Chair Moser** to move Item Number 2 under New Business – Public Hearings, City of Richland Z2014-101 to the next meeting in June.

THE MOTION CARRIED UNANIMOUSLY BY VOICE VOTE.

Communications:

Mr. Simon

- Reminded the Commissioners that there would be a City Tour at 6PM on June 18th rather than the usual workshop.

Commissioner Berkowitz

- Requested a work plan schedule for the remainder of 2014.

ADJOURNMENT:

The May 28, 2014 Richland Planning Commission Regular Meeting 5-2014 was adjourned at 11:00 PM. The next regular meeting of the Planning Commission will be held on June 25, 2014.

PREPARED BY: Penny Howard, Recorder, Planning and Development

REVIEWED BY:

Rick Simon, Secretary
Richland Planning Commission



STAFF REPORT

TO: PLANNING COMMISSION

PREPARED BY: AARON LAMBERT

FILE NO'S.: SUPS2014 -100 (Special Use Permit) / S2014-102 (Pre-Plat)

MEETING DATE: JULY 23, 2014

GENERAL INFORMATION:

APPLICANT: SMI Group XV, LLC.

REQUEST: SPECIAL USE PERMIT AND PRELIMINARY PLAT
APPROVAL REQUESTS TO SUBDIVIDE 1.58 ACRES INTO
NINE SINGLE FAMILY LOTS.

LOCATION: NORTHEAST CORNER OF SMARTPARK STREET AND
FERMI DRIVE, NORTH OF STEVENS CENTER AND EAST
OF STEVENS DRIVE.

REASON FOR REQUEST

The applicant is requesting preliminary plat approval to allow for development of a 9-lot subdivision which is from a portion of a 24.82 acre parcel. The application is submitted pursuant to the procedures set forth in Richland Municipal Code (RMC) Title 23 Zoning and Title 24 Plats and Subdivisions.

FINDINGS AND CONCLUSIONS

Staff has completed its review of the request for special use permit and preliminary plat approval and, subject to the conditions set forth in the Technical Advisory Committee Report dated February 18, 2014.

Findings of Fact:

1. The Richland Comprehensive Land Use Plan designates the site as Business Research Park (B-RP).

2. The B-RP land use category is intended to provide for a variety of office and research and development facilities in a planned business park setting, including residential land uses.
3. The Richland Comprehensive Plan includes goals and policies encouraging a variety of housing types and non-traditional residential land uses with a balanced distribution of residential uses and densities located throughout the urban growth area.

Conclusion of Law:

1. **The proposed preliminary plat is consistent with and would provide for development of the subject parcel in conformance with the density and type of land use envisioned in the land use element of the adopted comprehensive plan. The proposal is also consistent with several goals and policies related to provision of a variety of housing types and densities throughout the City.**

Findings of Fact:

4. The site is zoned Business Research Park (B-RP) which allows for the development of multiple family attached as well as detached single family housing provided that the density requirements for the district are met and that no more than 15% of the total developed area with the B-RP zone is dedicated to residential uses. Residential developments must meet standards for setbacks, landscaping and are subject to the issuance of a special use permit and if subdividing must meet all platting requirements.
5. Minimum density in the B-RP zone is 6 units per acre.
6. The gross density of the proposed subdivision is approximately 5.70 dwelling units per acre. When rounding up to 6 as is permitted when calculating density, the application meets the minimum density requirement.
7. The average density required in the B-RP zone is 8 units per acre. The overall residential density within the B-RP zoning district is nearly 15 units per acre.

	Acreage	Units	Units/Acre
SMI Group XV, LLC Pre-Plat	1.58	9	5.7
Sienna Sky	6	40	6.7
University Condos	5	52	10.4
Innovation Center Apartments	5	160	32.0
	17.58	261	14.8

8. The B-RP zone has no minimum lot size requirement. The smallest lot proposed is 6,263 SF; the largest lot is 7,831 SF for a proposed average lot size of 6,674 SF.

9. Richland Municipal Code (RMC) 23.28.030 permits residential uses in the B-RP zoning district subject to the issuance of a Special Use Permit (SUP).
10. RMC 23.46.020 through 23.46.060 sets for the procedural and legal provisions for review of requests for special use permits.
11. A five acre park/open space is located adjacent to and north of the site which provides a buffer from the medium industrial uses operating to the north of the property. The park/open space is private and was developed on leased property by the Developer of the Sienna Sky residential project to the east to offset park impact fees. While not accessible to the proposed developed the space will provide a buffer from future industrial development immediately adjacent to the site.

RMC 23.28.020(b)(11) Requires that Benton County Emergency Services (BCES) be consulted to determine any known hazards that may pose a threat to residential uses and to prepare a response plan if necessary. BCES was consulted and prepared a response, see Exhibit 10. Staff is recommending as found in the TAC conditions that a note be recorded on the face of the plat and with the private Codes, Covenants and Restrictions that provides notice that the subdivision is in the vicinity of industrial uses and technical hazards. The specific language will be reviewed and approved by the City and BCES.

12. The proposed residential development will provide for use of the property in a manner compatible with the surrounding zoning and land uses and in accordance with the purpose and intent of the underlying Business Research Park zoning district.

Conclusion of Law:

2. **The proposed subdivision is consistent with the City's zoning regulations and special use permit requirements for the underlying B-RP zoning district.**

Findings of Fact:

13. The project is exempt from SEPA (State Environmental Policy Act) review as it falls within the flexible threshold for a categorical exemption as adopted by the City in RMC 22.09.090(A) as provided for in Washington State Administrative Code (WAC) 197-11-800(1)(b)(i), 20 dwelling units.
14. RMC 24.12.053 sets forth standards for review of preliminary plats that require the Planning Commission to consider whether appropriate provisions are made for the public health, safety and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalk and other planning features that assure safe walking conditions for students who only walk to and from school.
15. The plat will be served by City Water and Sewer and will have a private street with sidewalks to be constructed against the public right-of-way.

16. The City requires dedication of park land or payment of fees in lieu of land dedication based on standards set forth in RMC Chapter 22.12.
17. As conditioned, park fees would be paid in compliance with RMC Chapter 22.12 prior to issuance certificates of occupancy for new homes within the proposed subdivision.
18. The project is located within the boundaries of the Richland School District and the Ben Franklin Transit District. These agencies were given an opportunity to review and comment on the proposal as part of the City's Technical Advisory Committee review process.
19. RMC Chapters 24.16 and 24.20 specify design and improvement standards and for subdivisions including those for streets, easements, blocks and lots, utilities and other improvements that must be met in order for a preliminary plat to be approved.
20. City staff has reviewed the proposed plat and determined that as conditioned the proposed subdivision would be served by public & private streets, electrical power, domestic water, sewer, separate source of irrigation water, storm water drainage, and fire protection in a manner that is consistent with City design & development improvement standards or consistent with the criteria to allow for deviations from those standards as set forth in RMC Chapters 24.16 and 24.20.

Conclusion of Law:

3. **The proposed project conforms with the development standards for preliminary plats as set forth in RMC Chapters 24.16 and 24.20.**

Findings of Fact:

21. The project is exempt from the State Environmental Policy Act (SEPA) review in accordance with the exemption provisions found in RMC 22.09.090(A) as supported by WAC 197-11-800(1)(b)(i). Specifically, the flexible threshold for categorical exemptions is established at projects with 20 or more dwelling units. The preliminary plat is proposing fourteen dwelling units.

Conclusions of Law:

- 5. Pursuant to Chapter 22.09 of the RMC (State Environmental Policy Act), this project is exempt from SEPA review.**

RECOMMENDATIONS

1. Staff recommends the Planning Commission concur with the findings and conclusions set forth in the Staff Report and that the Planning Commission approves Special Use Permit number SUP2014-100, subject to the conditions of approval set forth in the Technical Advisory Committee Report dated February 18, 2014.
2. Staff recommends the Planning Commission concur with the findings and conclusions set forth in the Staff Report and that the Planning Commission recommends approval of the preliminary plat of the SMI Group XV, LLC, City file number S2014-102, subject to the conditions of approval set forth in the Technical Advisory Committee Report dated February 18, 2014.

EXHIBITS

1. Supplemental Information
2. Technical Advisory Committee Report
3. Notice of Application & Public Hearing
4. Vicinity Map
5. Aerial Photo
6. Preliminary Plat Map
7. **Site Photos**
8. Proposed building elevations
9. Preliminary Plat Application
10. Benton County Emergency Services Letter
11. Public Comment(s)
12. RMC 23.46 Special Use Permits
13. RMC 23.28 Business Zoning Districts

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EXHIBIT (1)

SUPPLEMENTAL INFORMATION

DESCRIPTION OF PROPOSAL

The proposed preliminary plat would allow for development of 1.58 acres of a 24.82 acre parcel into 9 single family residential lots. The remaining acreage will remain undeveloped at this time. Proposed lot sizes range in size from 6,263 to 7,831 square feet with an average lot size of 6,674 square feet. Each unit will be on its own individual lot and access will be from a private street with connections to Smartpark Street and Fermi Drive. A homeowner's association will be required to be created to maintain landscaping and the private access drive.

GENERAL INFORMATION

PROJECT SURVEYOR: WORLEY SURVEYING SERVICE, INC. P.S.

ANNEXATION DATE: 1965

COMPREHENSIVE PLAN: BUSINESS RESEARCH PARK

ZONING: BUSINESS RESEARCH PARK (B-RP)

SITE DATA

Size: 1.58 acres.

Physical Features: The site is located on the northeast corner of Smartpark Street and Fermi Drive. The site is nearly level excluding small dirt piles that may be associated with neighboring construction in the past. The site has been disturbed and is partially covered in grasses such as cheat grass, rabbit brush and Russian thistle.

Access: The site has frontage on both Smartpark Street and Fermi Drive and as proposed will have a private through street to access all 9 lots. As conditioned the lots will not have direct driveway access to said streets. Fermi Drive is a private road and will remain so. On July 15th, 2014 the City Council approved the dedication of Smartpark Street as a public right-of-way.

SURROUNDING ZONING AND LAND USES

The site is surrounded on the east, west and south by B-RP zoning and is bordered to the north by medium industrial (I-M) zoning. The eastern border of the site contains attached single family housing in the form of duplexes. A portion of a 5 acre private park is found to the north of the site while the south and west borders are Smartpark

Street and Fermi Drive with the property across these roads remaining undeveloped. See the aerial photo known as Exhibit 5 for more detail.

ANALYSIS

Compliance with the Comprehensive Plan and Zoning: The Richland Comprehensive Land Use Plan designates the site as Business Research Park (B-RP). The B-RP designation is intended to provide for a variety of office and research and development facilities in a planned business park setting. Limited residential uses may be permitted if demonstrated to be compatible with the primary permitted uses. Subject to compliance with the specific regulations of the B-RP zoning district and the recommended conditions of approval, development of the site with the proposed residential use will be in compliance with and implement the City's adopted Comprehensive Plan.

RMC Chapter 23.46 sets forth the criteria for which special use permits may be conditioned with respect to, setbacks, building heights, design, etc. (see Exhibit 12). Staff has proposed no additional requirements other than those found in RMC Chapter 23.28.020, Business performance standards and special requirements (see Exhibit 13) as reflected in the recommended conditions of approval.

The setbacks that will be applied to the future homes as found in RMC 23.28.040(2a-c) are as follows: Front yard to living area and/or side of garage - 10 feet, Front yard to garage door - 20 feet, Front yard to covered porch and/or deck - 10 feet, Side yard – 5 feet & Rear yard – 10 feet. The maximum building height is 50 feet.

The development site is 1.58 acres and when combined with the adjacent 6 acre Sienna Sky residential project is still under the 10 acre gross maximum allowed in a single area within the B-RP zone. The combined acreage for all residential development in the B-RP zone is less than the maximum 15% allowed for the entire district. The proposed residential use also constitutes less than 15% of the Applicant's ownership within the B-RP zone.

RMC Section 23.28.020(B)(11) requires consultation and project review by the Benton County Emergency Services (BCES) Department for any proposed residential uses. BCES has reviewed the proposal and provided a comment letter (see Exhibit 10). Staff is recommending as found in the TAC conditions that a note be recorded on the face of the plat and with the private Conditions, Covenants and Restrictions that provides notice the subdivision is in the vicinity of industrial uses and technical hazards. The specific language will be reviewed and approved by the City and BCES.

Compatibility with Surrounding Land Uses: The proposed residential development is located on the northern periphery of the B-RP zone. In general the uses permitted in the surrounding B-RP zoning district to the south and west are anticipated to be compatible with the proposed plat. The existing attached duplexes to the east are clearly compatible.

Issues of compatibility are most apparent between the site and the adjacent industrially zone (I-M) land and facilities to the north. That area was previously part of the Department of Energy's 3000 Area and is now owned by the Port of Benton and known as the Richland Industrial Center. The Sienna Sky development to the east constructed a 5 acre park/open space that spans the north property line from Fermi Drive to Sienna Sky's eastern border. The proposed development is not a party to the agreement that established this park/open space nor will the residents have legal access to it as currently understood by the City. This space however does provide for a form of buffer between the industrial uses and the proposed development.

Access/Transportation: The primary access point to the site will be from Smartpark Street with a secondary access to Fermi Drive. The private access road will be constructed by the Developer and maintained by a Home Owner's Association. Smartpark Street will be paved with a final lift of asphalt to bring it up to City standards. Frontage improvements will be provided along the Smartpark street frontage.

The nearest transit route is found along George Washington Way nearly a half mile away to the east.

Utilities: Conditions of approval will require infrastructure improvements and utilities to be extended to serve the site. Domestic water, sanitary sewer and electrical facilities have all been determined to have capacity to serve the proposed development subject to those recommended conditions of approval. An engineered storm water system will also be required to be developed to handle the anticipated run-off related to project development. The determination for the stormwater system will be made by the Public Works Department.

State Environmental Policy Act (SEPA): The project is exempt from the State Environmental Policy Act (SEPA) review in accordance with the exemption provisions found in RMC 22.09.090(A) as supported by WAC 197-11-800(1)(b)(i). Specifically, the flexible threshold for categorical exemptions is established at projects with 20 or more dwelling units (see below). The preliminary plat is proposing fourteen dwelling units.

RMC 22.09.090 Flexible thresholds for categorical exemptions.

The city of Richland establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(b) based on local conditions:

A. For residential units in WAC 197-11-800(1)(b)(i), 20 dwelling units.

Park Dedication or Payment of Fees-in-lieu-of: RMC Chapter 22.12 requires that when property is subdivided, the developers either dedicate parkland to the City or pay a fee in lieu thereof. A recommended condition of approval would require payment of park impact fees to meet the provisions of City code.

CONCLUSION

As conditioned, the proposed preliminary plat of SMI Group XV, LLC. conforms to the Richland Municipal Code and the Comprehensive Plan for the subject area and will provide for development of the property in a manner that is compatible with the existing and proposed surrounding land uses. The preliminary plat also conforms to the requirements of the City's platting regulations, and therefore the request should be conditionally approved.

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EXHIBIT (2)



MEMORANDUM

COMMUNITY DEVELOPMENT DEPARTMENT

Development Services Division

TAC MEETING SUMMARY

MEETING DATE: February 18, 2014

PROJECT: Preliminary Plat of SMI Group XV, LLC

LOCATION: Northeast Corner of Smart Park Street and Fermi Drive

ATTENDEES: City of Richland;
Judy Garcia & Jason Reathaford, Civil & Utility Engineering
Jeff Peters, Transportation
Kelly Hill, Energy Services
Jim Jordan & Rick Shively, Fire Dept.
Aaron Lambert, Development Services

DEVELOPMENT SERVICES COMMENTS:

Planning Department

1. Easements shall be provided for all franchise utilities as dictated by the Public Works Department and the franchise utilities.
2. A formal easement shall be established for the private drive providing access to the 9 lots.
3. No direct vehicle access is permitted from the lots directly to Fermi Drive or Smartpark Street. Driveways shall access from the private drive.
4. Easements and infrastructure shall be installed as required by franchised utilities in the City.
5. In accordance with RMC 23.28.020(B)(2)(b) the subject lots shall be part of a common maintenance program such as a Home Owner's Association with attached conditions, covenants and restrictions to be approved by the city at the time of development and recorded by deed to run in perpetuity to the individual properties.
6. Setbacks for the future home shall be in accordance with RMC 23.28.040 as follows: Front yard to living area and/or side of garage - 10 feet, Front yard to garage door - 20 feet, Front yard to covered porch and/or deck - 10 feet, Side yard – 5 feet & Rear yard – 10 feet

7. A landscaping plan shall be developed and approved by the City prior to approval of the final plat. The plan shall be consistent with the landscaping provided at the adjacent plat of Sienna Sky. It is acknowledged that at the time of planting the required landscaping will not be the same size as those at Sienna Sky due to the difference in plant maturity.
8. Required landscaping shall be installed in accordance with the approved plan and prior to the issuance of a Certificate of Occupancy for each individual home.
9. A note shall be provided on the face of the final plat and additionally included with the private Codes, Covenants and Restrictions that provides notice the subdivision is in the vicinity of industrial uses and technical hazards as determined by Benton County Emergency Services (BCES). The specific language will be reviewed and approved by the City and BCES.

RICHLAND FIRE DEPARTMENT:

1. Emergency Vehicle Access: Unobstructed fire lanes shall be maintained throughout the project.
 - a. Drawings indicate a 20 to 24 feet width for the access drive. Roadways or in this instance access drives less than 36 feet road width requires parking restrictions to permit an unobstructed roadway width of not less than 20 feet for Fire Department access. "No Parking Fire Lane" signs shall be provided for all roads less than 32 feet wide as follows:
 - I. No parking is permitted on either side of the roadway/driveway if width is less than 26 feet curb to curb.
 - II. No parking on one side of the roadway/driveway if width is less than 32 feet in width, curb to curb.Due to the proposed width of roadways, parking will only be available in the driveways at each residence.
 - b. Roadway turn radius shall not be less than 32 feet for the inside curb radius, and not less than 52 feet for the outside curb radius from Smartpark Street and Fermi Drive to the access drive. Deviations to this may be approved by the Fire Department.
2. Street names and designations shall meet City requirements.
 - a. Street name signs shall be installed at all intersections.
3. Fire Hydrants: Fire hydrants capable of delivering the required fire flow shall be installed and operational before start of combustible construction. Hydrants shall be installed per City specifications at locations approved by this Department.
 - a. Spacing of fire hydrants along residential area streets must be within the maximum allowable 600 feet travel distance between hydrants. Fire hydrants may be required to meet this requirement.
 - b. Hydrants shall not be placed within the curb return.
 - c. Hydrants shall be within 600 feet travel distance of every new residential building.
 - d. Shrubs, etc., shall not be installed within a three (3) foot clear space around the circumference of fire hydrants, nor shall any plant that grows higher than 12 inches be installed within a five (5) foot circumference of hydrant. Trees shall be a minimum of ten (10) feet from hydrant.
 - e. Recessed blue reflective hydrant markers shall be installed per City specifications.
 - f. Water lines shall be looped.

4. Premise(s) identification shall be provided in accordance with IFC 505.1. Buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four (4) inches in height with a minimum stroke width of one-half (1/2) inch. Numbers shall contrast with their background.
 - a. When a structure is not visible, or too far, from the road or street to read address numbers, provisions shall be made to clearly identify the driveway or roadway which serves the property. An address reader board or monument shall be provided at the entrance to the property, visible from both directions of travel along the road. Numbers on the address reader board or monument shall be a minimum of six (6) inches in height, with a minimum stroke wide of one-half (1/2) inch. Numbers shall contrast with their background.
 - b. Where multiple addresses are required at a single driveway, they shall be mounted on a single post, and additional signs shall be posted at locations where driveways divide.
 - c. Addresses shall be posted at the beginning of construction and shall be maintained thereafter, and the address shall be visible and legible from the road on which the address is located.

ENERGY SERVICES COMMENTS:

1. Ten foot utility easements shall be established adjacent to all roadways both public and private.
2. Existing facilities for electrical services shall be extended across the site and tied into the conduits which cross Fermi Drive.

CIVIL AND UTILITY ENGINEERING DEVELOPMENT COMMENTS

DATE: JULY 15, 2014

PLAT REVIEW BY: JASON REATHAFORD, ENGINEERING TECH 4
PETE ROGALSKY, PUBLIC WORKS DIRECTOR
JEFF PETERS, TRANSPORTATION ENGINEER

PROJECT NAME: SMI GROUP XV, 9 LOT PRELIMINARY PLAT (SUP2014-104)

The Civil and Utility Engineering Division has reviewed the special use permit received in this office on July 10, 2014, for the above referenced property and has the following conditions.

General Conditions:

1. All final plans for public improvements shall be submitted prior to pre-con on a 24" x 36" hardcopy format and also electronically in .dwg format compatible with the City's standard CAD software. Addendums are not allowed, all information shall be supplied in the specified 24 x 36 (and electronic) format. When construction of the infrastructure has been substantially completed, the applicant shall provide 3 mil mylar and electronic record drawings to the City. The electronic as-built record drawings shall be submitted in a AutoCAD format compatible with the City's standard CAD software. Electronic copies of the construction plans are required prior to the pre-con meeting, along with the multiple

sets of paper drawings. The mylar record drawings (including street lights) shall be submitted and approved by the City before the final punchlist inspection will be performed. All final punchlist items shall be completed or financially guaranteed prior to recording of the final plat.

2. Any and all necessary permits that may be required by jurisdictional entities outside of the City of Richland shall be the responsibility of the developer to obtain.
3. A copy of the construction drawings shall be submitted for review to the appropriate jurisdictions by the developer and his engineer. All required comments / conditions from all appropriate reviewing jurisdictions (e.g.: Benton County, any appropriate irrigation districts, other utilities, etc.) shall be incorporated into one comprehensive set of drawings and resubmitted (if necessary) for final permit review and issuance.
4. Any work within the public right-of-way or easements or involving public infrastructure will require the applicant to obtain a right-of-way permit prior to construction. A plan review and inspection fee in the amount equal to 5% of the construction costs of the work within the right-of-way or easement will be collected at the time the permit is issued. A stamped, itemized Engineers estimate (Opinion of probable cost) and a copy of the material submittals shall be submitted along with the final plan submittal.
5. When the construction is substantially complete a paper set of "record drawings" shall be prepared by a licensed surveyor and include all changes and deviations. Please reference the Public Works document "RECORD DRAWING REQUIREMENTS & PROCEDURES" for a complete description of the record drawing process. After approval by the City of the paper copy, a mylar copy of the record drawings shall be submitted along with a CAD copy of them. The electronic as-built record drawings shall be submitted in a AutoCAD format compatible with the City's standard CAD software. All final punchlist items shall be completed or financially guaranteed prior to recording of the final plat.
6. Public utility infrastructure located on private property will require recording of a City standard form easement prior to acceptance of the infrastructure and release of the final plat. The City requires preparation of the easement legal description by the developer two weeks prior to the scheduled date of acceptance. Once received, the City will prepare the easement document and provide it to the developer. The developer shall record the easement at the Benton County Assessor and return a recorded original document to the City prior to application for acceptance.
7. A pre-construction conference will be required prior to the start of any work within the public right-of-way or easement. Contact the Civil and Environmental Engineering Division at 942-7500 to schedule a pre-construction conference.
8. Site plan drawings which involve the construction of public infrastructure shall be drawn on a standard 24" x 36" drawing format to a scale which shall not be less than 1"= 40'.
9. All plan sheets involving construction of public infrastructure shall have the stamp of a current Washington State licensed professional engineer.

10. All construction plan sheets shall include the note "CALL TWO WORKING DAYS BEFORE YOU DIG 1-800-424-5555 (or "811")." Or: <http://www.call811.com/>
11. A copy of the preliminary plat shall be supplied to the Post Office and all locations of future mailbox clusters approved prior to final platting.

Design Standards:

12. Public improvement design shall follow the following general format:
 - A. Sanitary sewer shall be aligned on the north and west side of street centerlines.
 - B. Storm sewer shall be aligned on the south and east side of street centerlines.
 - C. Any sewer or storm manholes that are installed outside of public Right of Way shall have an acceptable 12-foot wide gravel access road (minimum) provided from a public street for maintenance vehicles.
 - D. 10-foot horizontal spacing shall be maintained between domestic water and sanitary sewer mainlines and service lines.
 - E. Water lines shall be aligned on the south and east side of street centerlines.
 - F. Watermains larger than 8-inches in diameter shall be ductile iron.
 - G. Watermains installed outside of the City Right of Way or in very rocky native material, shall be ductile iron and may need restrained joints.
 - H. All watermains outside areas zoned R1 shall be ductile iron.
 - I. Fire hydrant location shall be reviewed and approved by the City Fire Marshal.
 - J. Sewer mains over 15-feet deep shall be constructed out of SDR26 PVC, C900 PVC or ductile iron. The entire main from manhole to manhole shall be the same material. Private sewer service lines over 15-feet deep shall also be constructed of the same material, then transition to regular sewer piping above 15-feet.
 - K. Valves and manholes installed on private property shall be placed so as to avoid parked cars whenever feasible.
 - L. Trash compactors (high capacity dumpsters) shall be plumbed to the sanitary sewer system.
 - M. All utilities shall be extended to the adjacent property (properties) at the time of construction.
 - N. The minimum centerline finish grade shall be no less than 0.30 % and the maximum centerline finish grade shall be no more than 10.0 % for local streets.
 - O. The minimum centerline radius for local streets shall be 100-feet.
 - P. Any filling of low areas that may be required within the public Right of Way shall be compacted to City standards.
 - Q. An overall, composite utility plan shall be included in the submitted plan set if the project is phased. This comprehensive utility plan benefits all departments and maintenance groups involved in the review and inspection of the project.
 - R. A detailed grading plan shall be included in the submitted plan set.
 - S. For public utilities not located within public street rights-of-way the applicant shall provide maintenance access acceptable to the City and the applicant shall provide an exclusive 10-foot wide public utility easement (minimum) to be conveyed to the City of Richland.
 - T. Final design of the public improvements shall be approved at the time of the City's issuance of a Right-of-way Construction Permit for the proposed construction.
 - U. All public improvements shall comply with the State of Washington and City of Richland requirements, standards and codes.
 - V. All cul-de-sacs shall have a minimum radius of 45-feet to the face of curb to allow for adequate turning radius of fire trucks and solid waste collection vehicles.

- W. Curb returns at minor intersections shall have a minimum radius of 25-feet. Curb returns at major intersections should have minimum radius of 30-feet but should be evaluated on a case by case basis.
 - X. All public streets shall meet design requirements for sight distance (horizontal, vertical and intersectional).
 - Y. All driveways for commercial projects shall construct City standard commercial driveways. Radius-style driveways are not allowed.
 - Z. The final engineered construction plans shall identify locations for irrigation system, street lighting, gas service, power lines, telephone lines, cable television lines, street trees and mail boxes. All electrical appurtenances such as transformers, vaults, conduit routes, and street lights (including their circuit) need to be shown in the plan view.
 - AA. Construction plans shall provide or reference all standard drawings or special details that will be necessary to construct all public improvements which will be owned, operated, maintained by the City or used by the general public (Commercial Driveway, Curb, Gutter, Sidewalk, Water, Sewer, Storm, Street and Street lighting etc.).
 - BB. The contractor shall be responsible for any and all public infrastructure construction deficiencies for a period of one year from the date of the letter of acceptance by the City of Richland.
13. If the project will be built in phases the applicant shall submit a master plan for the sanitary sewer, domestic water, storm drainage, electrical, street lighting and irrigation system for the entire project prior to submitting plans for the first phase to assure constructability of the entire project. This includes the location and size of any storm retention ponds that may be required to handle runoff.
14. If the City Fire Marshal requires a secondary emergency vehicle access, it shall be included in the construction plan set and be designed to the following standards:
- A. 2-inches compacted gravel, minimum (temp. SEVA only).
 - B. 2% cross-slope, maximum.
 - C. 5% slope, maximum. Any access road steeper than 5% shall be paved or be approved by the Fire Marshal.
 - D. Be 20-feet in width.
 - E. Have radii that are accommodating with those needed for City Fire apparatus.

Secondary emergency vehicles accesses (SEVA's) shall be 20-feet wide, as noted. Longer secondary accesses can be built to 12-feet wide with the approval of the City of Richland Fire Marshal, however turn-outs are required at a spacing acceptable to the Fire Dept. Temporary SEVA's shall be constructed with 2-inches of compacted gravel, at a minimum. Permanent SEVA's shall be paved with 2-inches of asphalt over 4-inches of gravel, at a minimum.

15. SURVEY MONUMENT DESTRUCTION:

All permanent survey monuments existing on the project site shall be protected. If any monuments are destroyed by the proposed construction, the applicant shall retain a professional land surveyor to replace the monuments and file a copy of the record survey with the City.

- A. No survey monument shall be removed or destroyed (*the physical disturbance or covering of a monument such that the survey point is no longer visible or readily*

accessible) before a permit is obtained from the Department of Natural Resources (DNR). WAC 332-120-030(2) states "It shall be the responsibility of the governmental agency or others performing construction work or other activity (including road or street resurfacing projects) to adequately search the records and the physical area of the proposed construction work or other activity for the purpose of locating and referencing any known or existing survey monuments." (RCW 58.09.130).

- B. Any person, corporation, association, department, or subdivision of the state, county or municipality responsible for an activity that may cause a survey monument to be removed or destroyed shall be responsible for ensuring that the original survey point is perpetuated. (WAC 332-120-030(2)).
- C. Survey monuments are those monuments marking local control points, geodetic control points, and land boundary survey corners. (WAC 332-120-030(3)).

When a monument must be removed during an activity that might disturb or destroy it, a licensed Engineer or Land Surveyor must complete, sign, seal and the file a permit with the DNR.

It shall be the responsibility of the designing Engineer to identify the affected monuments on the project plans and include a construction note directing them to the DNR permit.

Traffic & Streets:

- 16. Sidewalks shall be installed along full frontage of Smartpark Street with the first phase of development..
- 17. The Smartpark Street frontage shall be completed to City standards with development of the first phase. The road section (curb, gutter and sidewalk) shall be built with the face of curb at 18-feet off of centerline.. A ten-foot public utility easement along the Smartpark and Fermi frontages shall be provided on the face of the final plat.
- 18. A single shared driveway accessing Smartpark Street will be allowed. No direct access from residential lots to Smartpark Street will be allowed.
- 19. The City does not intend to landscape or otherwise improve the SmartpPark Street frontage, but is considering developing landscaping requirements that will apply to the new plat. The developer is encouraged to propose a landscaping improvement and maintenance plan for the right of way adjacent to this project. The developer is advised that landscaping standards under development may apply to this project prior to acceptance of the final plat for any phase of this project.
- 20. The existing access points onto Smartpark Street are acceptable for this project, but any proposed changes to said driveways will be subject to approval by the City Engineer.
- 21. All proposed Right of Ways that are narrower than 54-feet shall have parking restricted, as per City standards. Street signs indicating restricted parking shall be installed prior to final

platting at the developers expense. The restricted parking areas shall be indicated on the final plats.

22. All private roads shall be constructed to provide for adequate fire truck & solid waste collection truck access & turnaround movements.
23. Any private roads narrower than 34-feet shall have parking restricted on one side, and any roads 28-feet or narrower shall have parking restricted on both sides. Street signs indicating restricted parking shall be installed prior to final platting at the developers expense.
24. Smartpark Street shall be dedicated to the City as a public street from Stevens Drive to Hanford Street with the first phase of this development, or as provided in the Infrastructure Agreement dated July 15, 2014.
25. The developer shall place a 1-inch asphalt overlay over the segment of Smartpark Street between the existing Sienna Sky development and Stevens Drive with the first phase of this development

Domestic Water:

26. The closest water main is located in Smartpark Street. It shall be the responsibility of the developer to extend a watermain meeting City design standards across the entire Smartpark Street frontage at the time of plat construction.
27. The developer will be required to demonstrate that all phases are capable of delivering adequate fire flows prior to construction plans being accepted for review. This may require looping of the watermain from off-site locations, or oversizing of the main where needed.
28. The fire hydrant layout shall be approved by the City Fire Marshal. If a fire hydrant is required off of Smartpark Street City standards shall apply to the pipeline and fire hydrant assembly installed and an easement shall be granted to the City for access and maintenance of the fire hydrant and pipelines.

Sanitary Sewer:

1. City sanitary sewer pipelines exist off-site both to the west and east. It shall be the responsibility of the developer to obtain easement rights as needed to access these pipelines and extend sanitary sewer pipelines, meeting City standards to the development.
2. A 10-foot wide exclusive sanitary sewer easement shall be provided for any sewer main that is outside of the public Right-of-Way. If any manholes are located outside of the public Right-of-Way, maintenance truck access to said structure may be required.

Storm Water:

29. This project may require coverage under the Washington State General NPDES Permit for Construction projects. The Developer shall be responsible for compliance with the

permit conditions. The City has adopted revised standards affecting the construction of new stormwater facilities in order to comply with conditions of its NPDES General Stormwater Permit program. This project, and each phase thereof, shall comply with the requirements of the City's stormwater program in place at the time each phase is engineered. The project will require detailed erosion control plans.

30. All storm drainage systems shall be designed following the core elements defined in the latest edition of the Stormwater Management Manual for Eastern Washington. The Hydrologic Analysis and Design shall be completed based on the following criteria: Washington, Region 2, Benton County; SCS Type 1A – 24 Hour storm for storm volume. The applicant's design shall provide runoff protection to downstream property owners.
31. The flow-rate of the public storm drainage system shall be designed using the 2-Year, 3-Hour short duration Eastern Washington storm for pipe and inlet sizing using SCS or Santa Barbara method; no modifying or adding time of concentration; no surcharge allowed. Calculations shall be stamped by a registered professional engineer and shall include a profile of the system showing the hydraulic grade line. The calculations should include a 50-foot wide strip behind each right of way line to represent drainage from private property into the City system. Of that area, 50% shall be considered pervious and 50% impervious. Calculations shall include a profile for the design showing the hydraulic grade line for the system. Passing the storm downhill to an existing system will require a downstream storm system capable of accepting the water without being overwhelmed.
32. All construction projects that don't meet the exemption requirements outlined in Richland Municipal Code, Section 16.06 shall comply with the requirements of the Washington State Department of Ecology issued Eastern Washington NPDES Phase II Municipal Stormwater Permit. All construction activities subject to this title shall be required to comply with the standards and requirements set forth in the Stormwater Management Manual for Eastern Washington (SWMMEW) and prepare a Stormwater Site Plan. In addition a Stormwater Pollution Prevention Plan (SWPPP) or submission of a completed erosivity waiver certification is required at the time of plan submittal.
33. If any existing storm drainage or ground water seepage drains onto the proposed site, said storm drainage shall be considered an existing condition, and it shall be the responsibility of the property developer to design a system to contain or treat and release the off-site storm drainage.
34. If the storm drain pond slopes are greater than 25% or deeper than 4-feet, then a 6-foot fence will be required around the perimeter of the pond with a minimum 12-foot wide gate for maintenance vehicles.
35. If there are any natural drainage ways across the proposed pre-plat, the engineered construction plans shall address it in accordance with Richland Municipal code 24.16.170 ("Easements-watercourses").
36. Prior to or concurrent with the submittal of the first phase the developer shall provide a Geotechnical report including the percolation rate of the soils in the area of any storm retention ponds. If the project constructs a storm retention pond then the engineer will need to demonstrate that the pond will drain itself within 24 hours after the end of a

storm event, and not have standing water in it longer than that. Engineering solutions are available for retention ponds that do not perk within 24 hours.

37. If the storm drain pond slopes are greater than 25% or deeper than 4-feet, then a 6-foot fence will be required around the perimeter of the pond with a minimum 12-foot wide gate for maintenance vehicles. A maintenance road from the public Right of Way to the bottom of the pond is also needed (2-inches of compacted gravel, minimum). The City's maintenance of the pond in the future will consist of trimming weeds to maintain compliance with fire and nuisance codes, and maintaining the pond for functionality.
38. The developer shall be responsible for landscaping the storm pond and for its maintenance through the one-year infrastructure warranty period. At a minimum the landscaping plan should be consistent with the City's intended maintenance standard as described above. If the developer wishes for the pond to be landscaped and visually appealing, then the homeowners association should be considered for maintenance responsibilities. This will require an irrigation meter and sprinkler system (including a power source), and responsibility for maintaining the landscaping.
39. The developer of record shall maintain the public storm drainage system for one year from the date of final acceptance by The City of Richland (as determined by the issuance of the "Letter of Final Acceptance"). Said developer shall also thoroughly clean the entire system, including structures, pipelines and basins prior to the City warranty inspection, conducted 11 months after the Letter of Final Acceptance.
40. The public storm drainage system for this project shall be a system designed according to the above requirements for Smartpark Street. A separate private system, meeting the regulatory and design requirements described above, shall be designed and installed for the private street and lots.

Solid Waste:

41. The private driveway configuration within the plat boundaries does not allow adequate access or turning radii for solid waste collection vehicles. The applicant therefore has the following options regarding solid waste pick-up:
 - All homeowners will have to transport their solid waste cans to a location accessible by the City of Richland solid waste collection vehicles (Smartpark Street).
 - A central collection point (dumpster enclosure) accessible by City vehicles shall be designated on the construction plans and all homeowners will need to transport their waste to that location.
 - The private road layout design be re-configured to allow for access by City solid waste collection vehicles.

Final Platting / Project Acceptance Requirements:

42. When the construction is substantially complete a paper set of "record drawings" shall be prepared by a licensed surveyor and include all changes and deviations. Please reference the Public Works document "RECORD DRAWING REQUIREMENTS &

PROCEDURES” for a complete description of the record drawing process. After approval by the City of the paper copy, a mylar copy of the record drawings shall be submitted along with a CAD copy of them. The electronic as-built record drawings shall be submitted in a AutoCAD format compatible with the City’s standard CAD software. All final punchlist items shall be completed or financially guaranteed prior to recording of the final plat.

43. Public utility infrastructure located on private property will require recording of a City standard form easement prior to acceptance of the infrastructure and release of a certificate of occupancy. The City requires preparation of the easement legal description by the developer two weeks prior to the scheduled date of occupancy. Once received, the City will prepare the easement document and provide it to the developer. The developer shall record the easement at the Benton County Assessor and return a recorded original document to the City prior to application for final occupancy.
44. Any off-site easements or permits necessary for this project shall be obtained and secured by the applicant and supplied to the City at the time of plat construction and prior to final plat acceptance by the City.
45. Ten-foot wide public utility easements will be required on the final plat along both sides of all Right-of-Ways within the proposed plat.
46. The final plat shall include notes identifying all common areas including the private streets and tracts and acknowledging the ownership and maintenance responsibility by the homeowners association. A note shall be added to the face of the final plat that states: *“The private roads are for the use and benefit of the homeowners that abut said roads, and are to be maintained by said owners. The City of Richland accepts no maintenance responsibility for said roads”*.
47. A note shall be added to the face of the plat that states: *“The private drives within this plat are fire lanes and parking is restricted. The required no-parking signs shall be installed by the developer where applicable.”* Any private roads narrower than 34-feet shall have parking restricted on one side, and any roads 28-feet or narrower shall have parking restricted on both sides. Street signs indicating restricted parking shall be installed prior to final platting at the developers expense. The restricted parking areas shall be indicated on the final plats.
48. All landscaped areas within the plat that are in the public Right of Way shall be the responsibility of the homeowners / property owners to maintain.
49. The intended use and ownership of all tracts within the plat shall be noted on the final plat.
50. Property with an unpaid L.I.D. assessment towards it must be paid in full or segregated per Richland Municipal Code 3.12.095.
51. Any restricted parking areas shall be indicated on the final plats.

EXHIBIT (3)



CITY OF RICHLAND **NOTICE OF APPLICATION** **AND PUBLIC HEARING (S2014-102) / (SUP2014-100)**

Notice is hereby given that the SMI Group XV, LLC on January 30, 2014, filed an application for preliminary plat approval with a concurrent special use permit to subdivide 1.58 acres parcel into 9 single family residential lots. The property is located on the northeast corner of Smart Park Street and Fermi Drive. The site is zoned Business Research Park (B-RP) with a proposed average lot size of 6,674 square feet. Pursuant to Richland Municipal Code (RMC) Section 19.30.030 the City of Richland determined the application complete for processing on June 3, 2014.

The Richland Planning Commission, on Wednesday, July 23, 2014, will conduct a public hearing and review of the application at 7:00 p.m. in the Richland City Hall Council Chambers, 505 Swift Boulevard. All interested parties are invited to attend and present testimony at the public hearing.

Any person desiring to express his views or to be notified of any decisions pertaining to this application should notify Aaron Lambert, Senior Planner, 840 Northgate Drive, P.O. Box 190, Richland, WA 99352. Comments may also be faxed to (509) 942-7764 or emailed to alambert@ci.richland.wa.us. Written comments should be received no later than 5:00 p.m. on Tuesday, July 15, 2014 to be incorporated into the Staff Report. Comments received after that date will be entered into the record at the hearing.

Copies of the staff report and recommendation will be available in the Development Services Division Office, and at the Richland Public Library beginning Friday, July 18, 2014.

The proposed application will be reviewed in accordance with the regulations in RMC Title 19 Development Regulation Administration, Title 23.46 Special Use Permits and Title 24 Plats and Subdivisions. Appeal procedures of decisions related to the above referenced application are set forth in RMC Chapter 19.70. Contact the Richland Planning Division at the above referenced address with questions related to the available appeal process.

AARON LAMBERT,
SENIOR PLANNER

EXHIBIT (4)

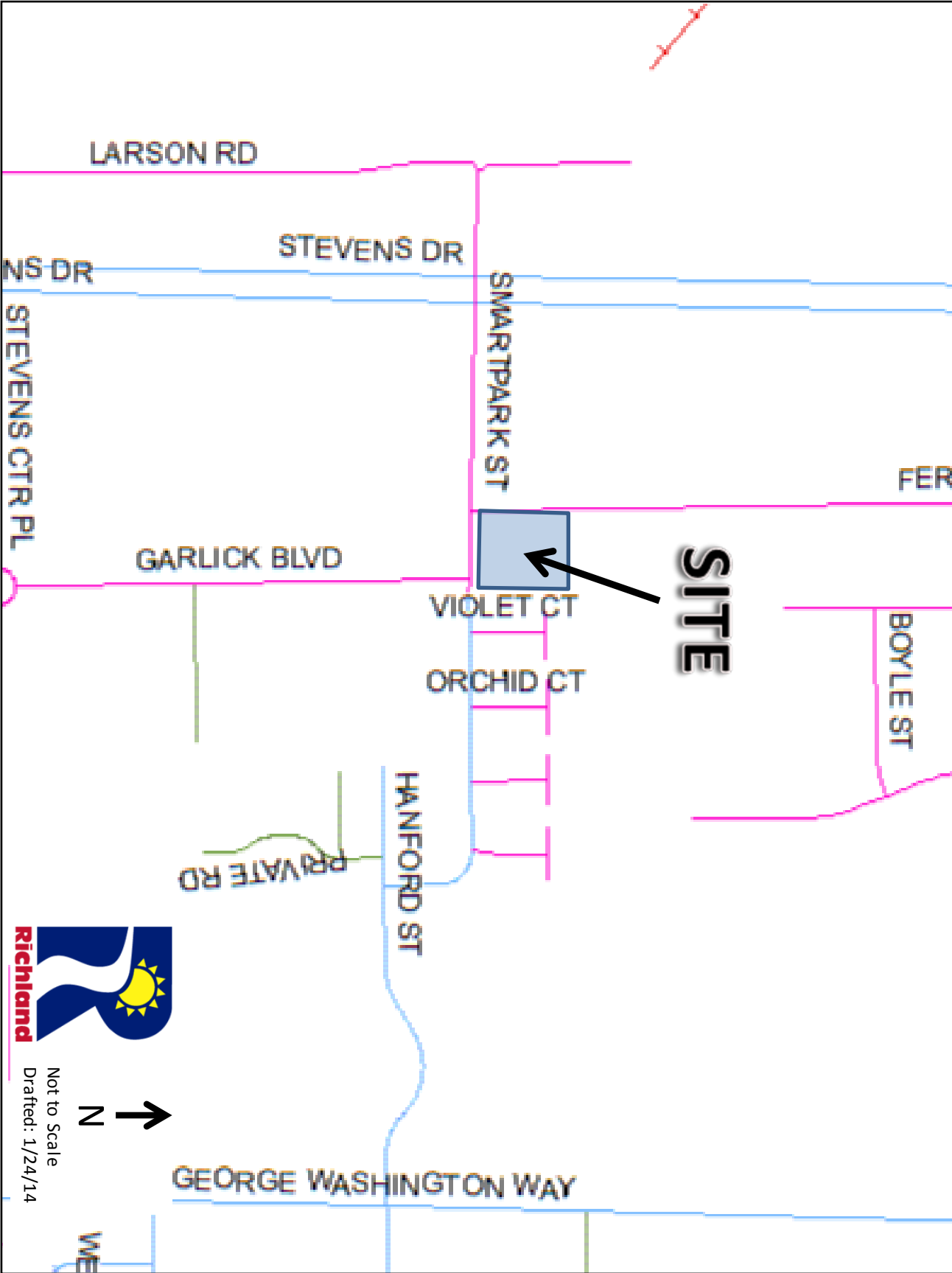


EXHIBIT (5)

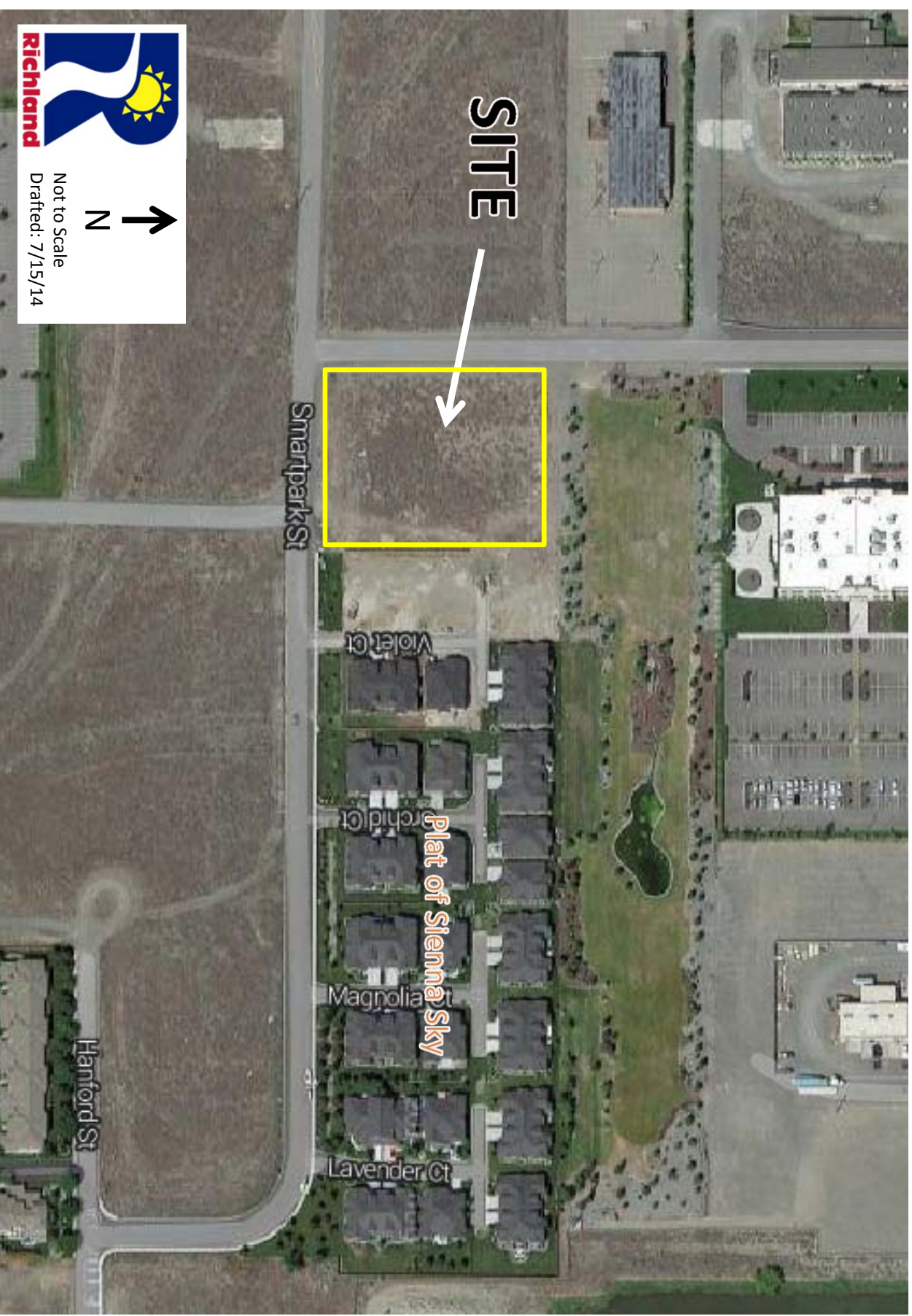
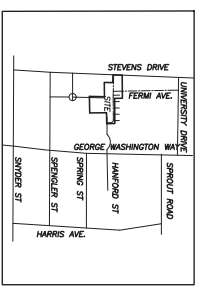
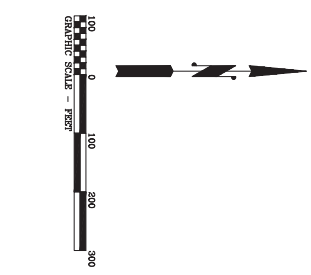


EXHIBIT (6)



SHEET 1 OF 2

JANUARY 27 2014
13-251

DESCRIPTION

[illegible]

DEVELOPER

CONTACT BILL MCKAY
1030 BATTLE BLVD, 102
RICHLAND WA 99354
509-375-9002

LAND SURVEYOR

RICHARD S. RUSSUM
WORLEY SURVEYING SERVICE, INC., P.S.
P.O. BOX 6132
KENNEWICK, WASHINGTON 99336
509-582-6716

LAND USE SUMMARY

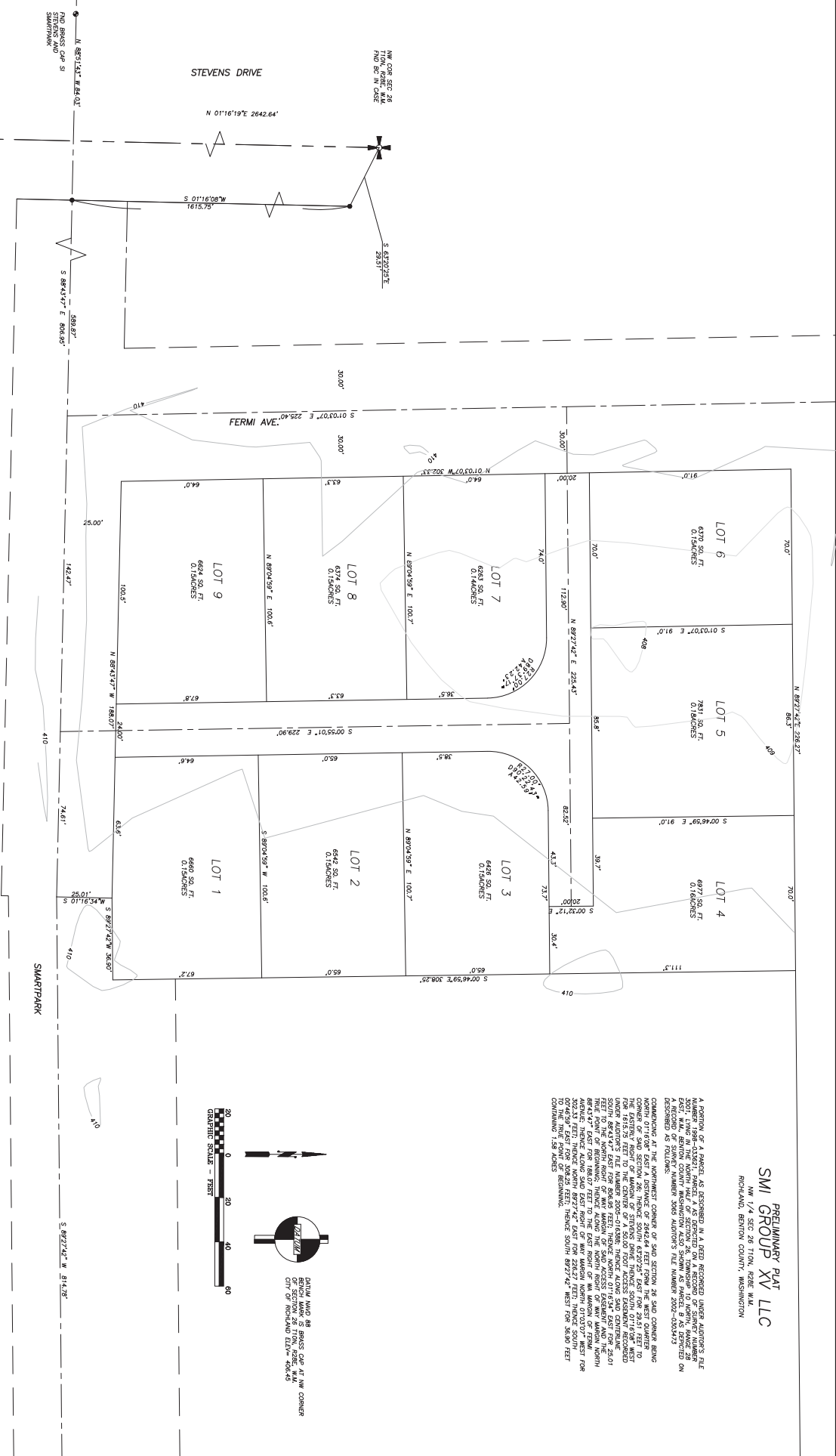
TOTAL AREA OF LOTS	24.82 ACRES
NUMBER OF LOTS	1.58 ACRES
AVERAGE LOT SIZE	9
LARGEST LOT SIZE	667.4 S.F.
SMALLEST LOT SIZE	783.1 S.F.
WATER	6263 S.F.
SEWER	CITY OF RICHMOND
ELECTRICAL SERVICE	CITY OF RICHMOND
CABLE TELEVISION	CHARITTE COMMUNICATIONS

VICINITY MAP

NW 1/4 SEC 26 T10N, R28E W.M.
RICHLAND, BENTON COUNTY, WASHINGTON

[illegible]

BENCH MARK IS BRASS CAP AT NW CORNER
OF SECTION 26 T10N, R28E, W.M.
CITY OF RICHLAND ELEV= 406.45



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EXHIBIT (7)

SITE PHOTOS — “SMI Group XV, LLC” Preliminary Plat File No. S2014-102



Not to Scale

Source:
Google
Street View

View looking SW to NE from Fermi Drive and Smart Park Street

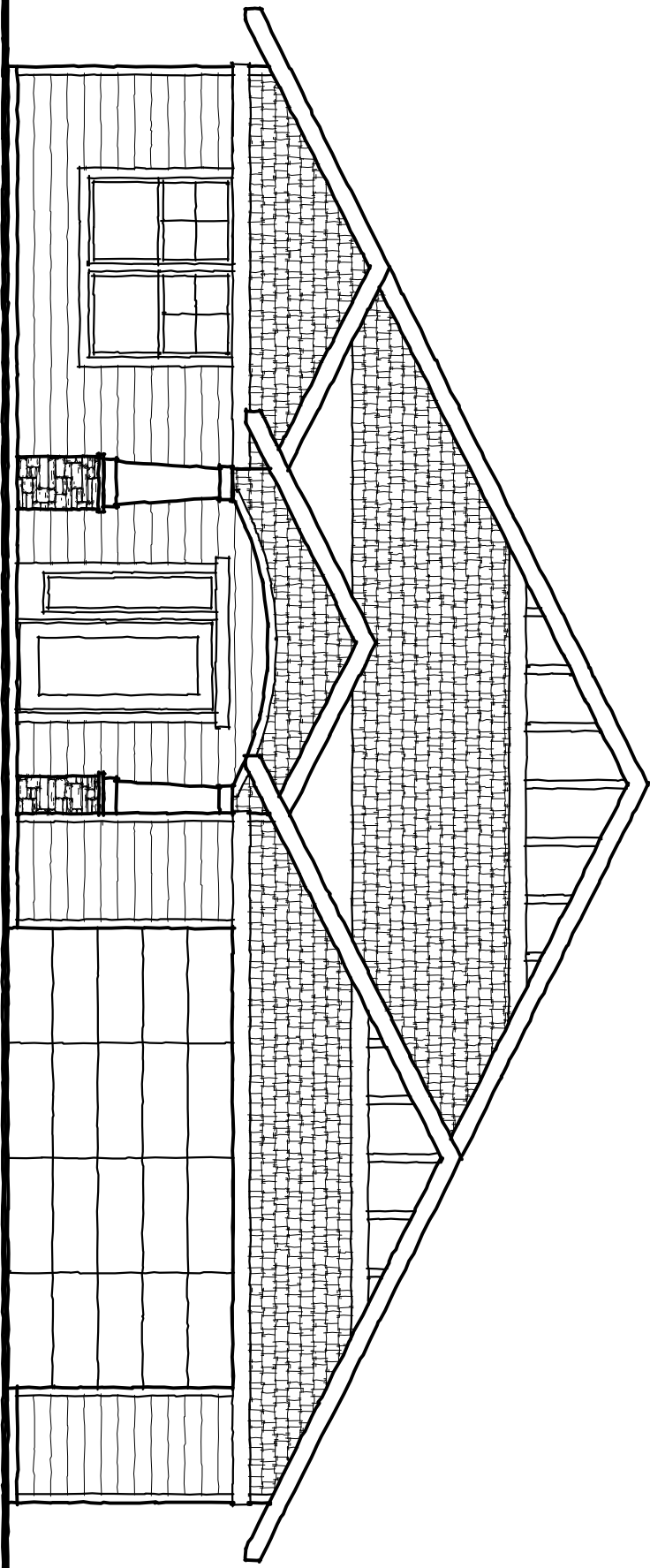


SITE PHOTOS — “SMI Group XV, LLC” Preliminary Plat File No. S2014-102

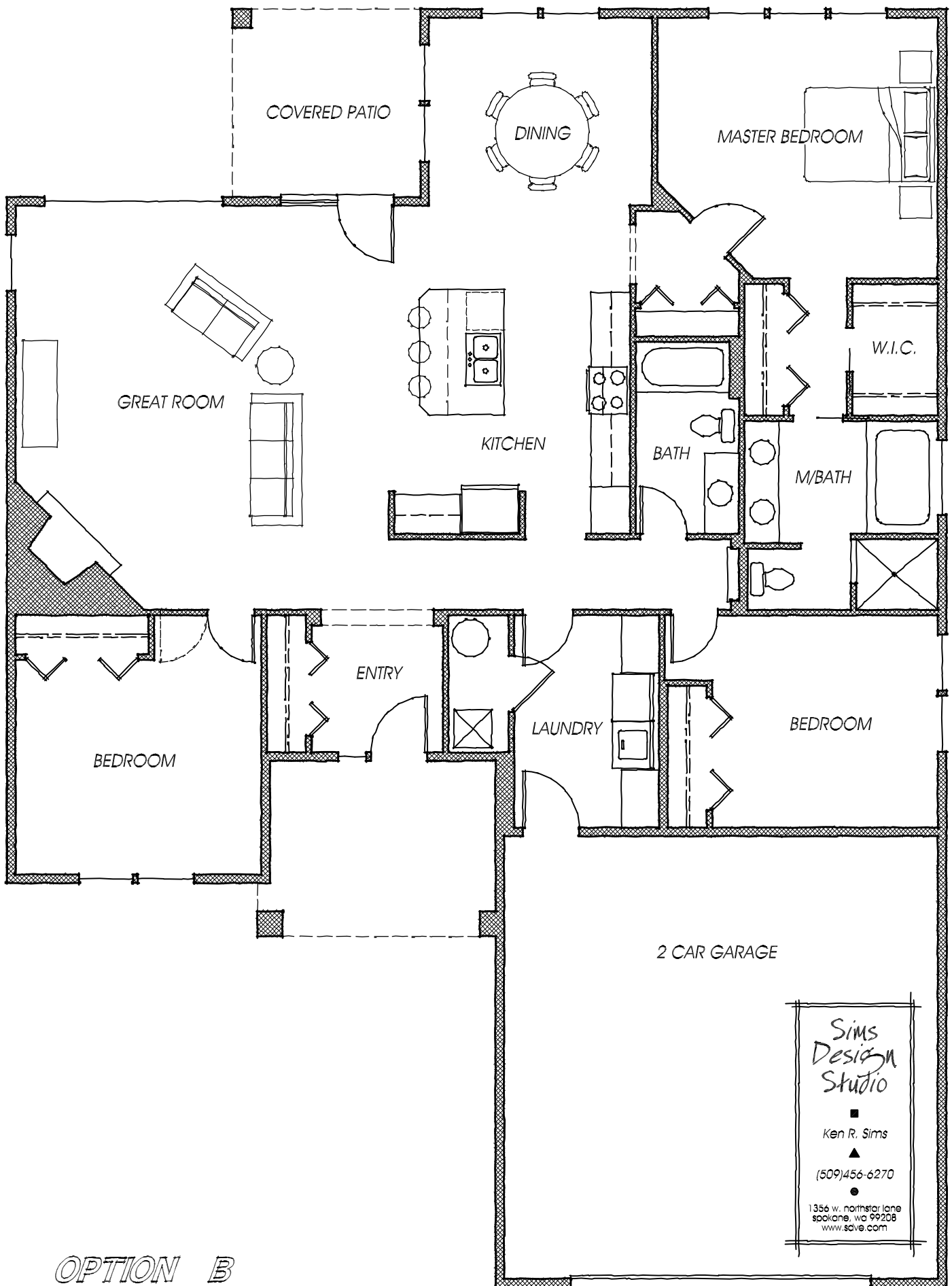


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EXHIBIT (8)



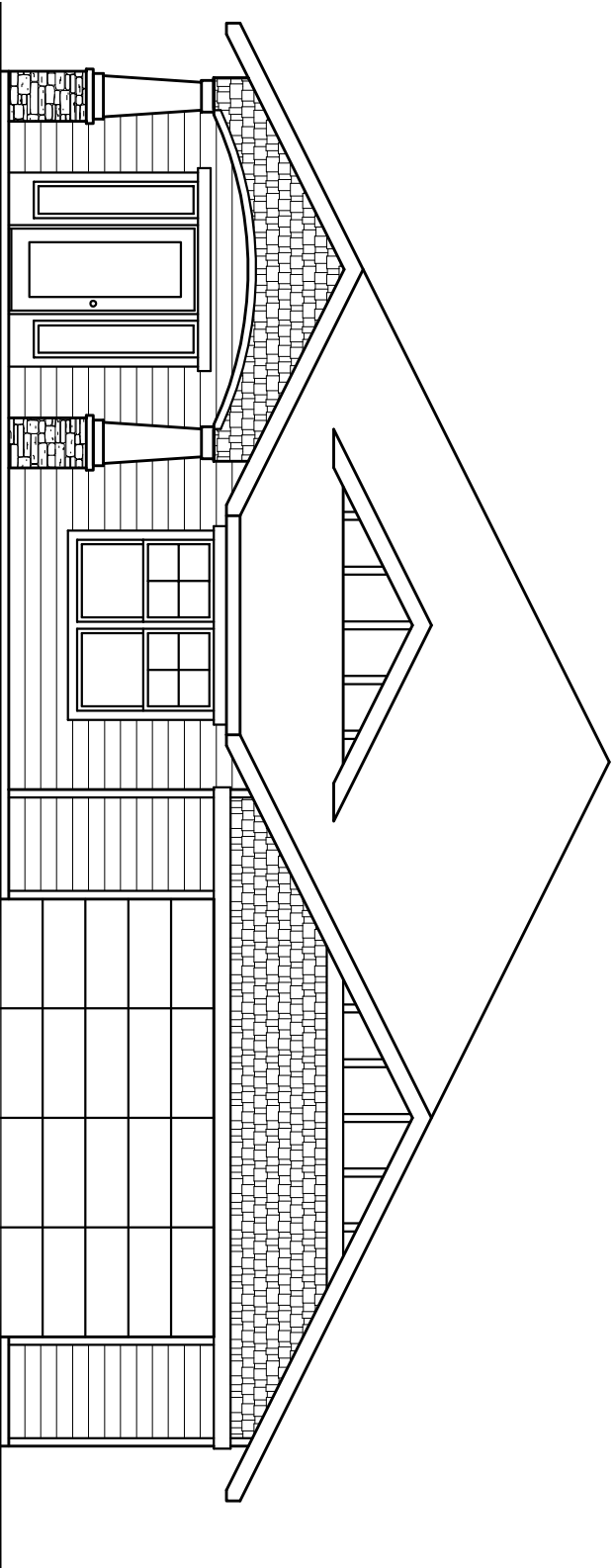
OPTION ELEVATION B



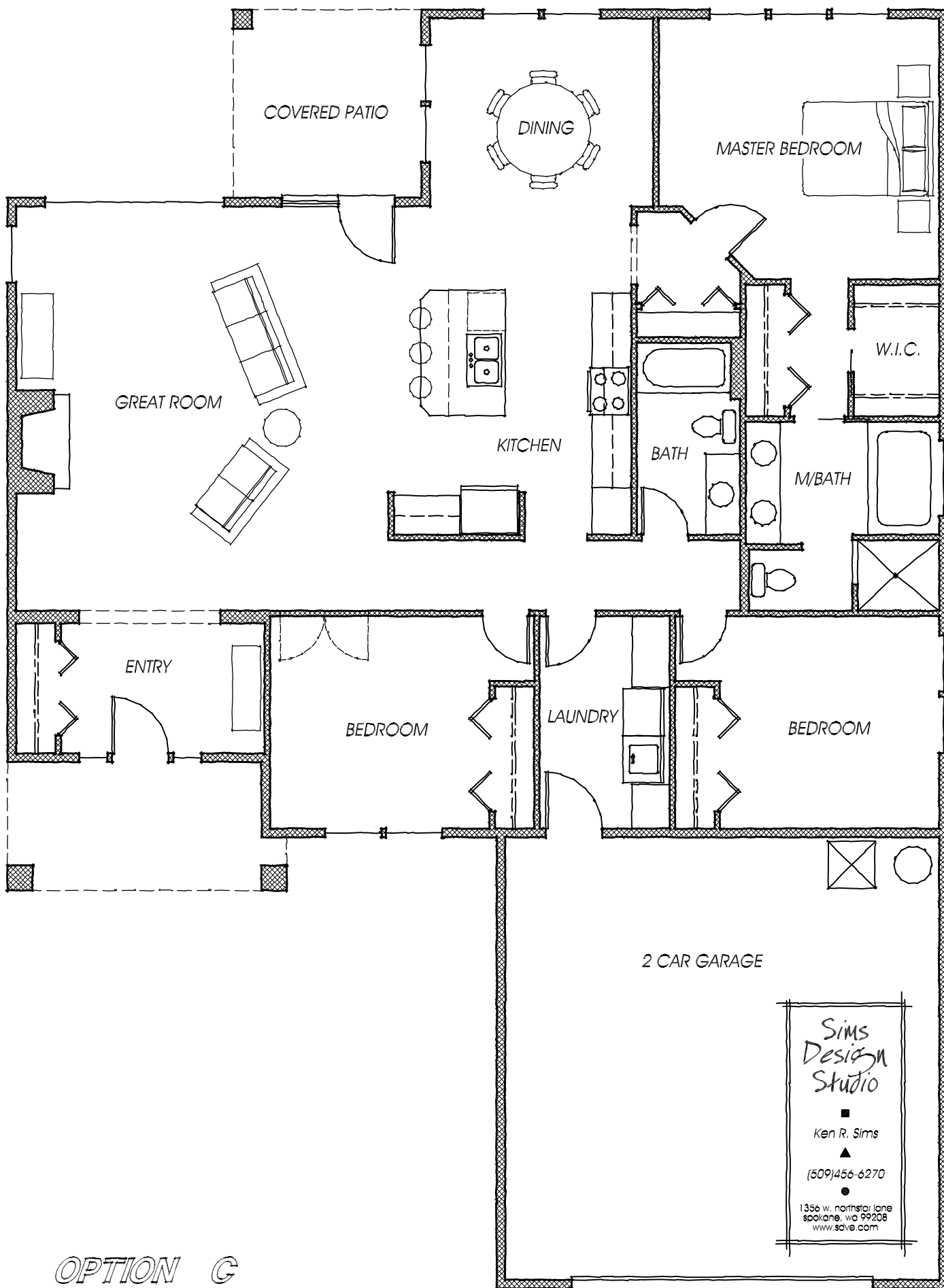
OPTION B
1968 SQ.FT.

Sims Design Studio

■
Ken R. Sims
▲
(509)456-6270
●
1356 W. Northstar Lane
Spokane, WA 99208
www.sdsi.com



OPTION ELEVATION G



OPTION C

1922 SQ.FT.

*Sims
Design
Studio*

■
Ken R. Sims

▲
(509)456-6270

●
1356 W. Northstar Lane
Spokane, WA 99208
www.sds.com

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EXHIBIT (9)



Development Services Division • Planning Section
840 Northgate Drive • Richland, WA 99352
General Information: (509) 942-7794 • Fax: (509) 942-7764

P.O. Box 190 Richland, WA 99352
www.ci.richland.wa.us

SPECIAL USE PERMIT APPLICATION

Applicant's Section

Applicant: SMI Group XV, LLC

Address: 1030 Battelle Blvd City: Richland State: WA Zip: 99354

Phone Number: 509-375-9002 Fax Number: 509-375-4949 Other:

Address and/or Location of Property: 851 Smartpark, Richland, WA 99354

Legal Description (including lot, block, and plat): See Attached Legal Present Zoning: B-RP

Request to use the above-described property for the following purpose (use this space to identify the intended use involved). Also include the title and section of the Richland Municipal Code under which the special use is sought.

Building nine single family residential homes.

Explanation of use. Please complete the information below, selecting the items that apply to the proposed use, in order that the Physical Planning Commission and City Council may ascertain whether the intended use on the proposed site would conform to the stated purposes of Title 23, Zoning, Richland Municipal Code, and be compatible with the permitted uses in the zone.

What are the products resulting from the operations?

Nine single family residential homes

What supplies and materials are to be kept or used on the premises? Raw materials:

During the construction process there will be standard construction materials that will be used in the homes

Finished products:

Nine single family residential homes

What are the type, amount, and location of storage to be provided?

None needed.

If any of the materials used and stored in connection with this activity are hazardous, what is the nature of the hazard? What precautionary means will be employed to provide safety both to employees, customers, and adjoining properties?

How many people will be employed?

5 - 7

In the manufacture of the product?

Same

In the sale of the product?

1

In any other capacity?

None

What do you estimate will be the greatest number of persons on the premises at any one time, excluding employees?

2 - 4

What type of volume of trucking is involved?

Minimal

What are the hours of peak loading and unloading?

Regular Business Hours

What other type and volume of traffic would be generated?

Regular auto traffic from employees

Would the activity normally attract the public to the premises?

Yes ☐ No ☒

Number of visitors daily?

Number of patrons daily?

No

Will this activity be carried on outside of daylight working hours? If so, what are the hours?

What type of power would be employed?

Electric ☒

Gas ☒

Oil ☐

Steam ☐

or Internal Combustion Engine ☐

What type and volume of noise results from operations on premises?

Minimal

Have you any evidence of the decibel rating of sound emanating from this or similar operations? If so, what is it?

Minimal

What odors, fumes, smoke, or dust result from the operations?

None

Is there any sewage from the processes involved that would sterilize or overload existing wastewater (sewer) facilities?

Yes ☐ No ☒

What are they?

What are the demands of this activity upon available public facilities and utilities?

Electricity

Normal residential uses

Water

" " "

Wastewater (Sewer) Disposal

" " "

Refuse Disposal

" " "

Transportation (railroad and streets)

" " "

Explain in detail why this particular site is especially suited, if it is, for the intended purpose:

It is a continuation of the existing Sienna Sky residential development and is small piece of property that would be

difficult to build a commercial office building on.

Describe how the proposed use and improvements are designed and arranged to fit into the development of adjacent property and the neighborhood:

See Above.

I have examined and am familiar with the regulations covered in Title 23 of the Richland Municipal Code, as they pertain to the application.

Michael C. Henry
Signature of Applicant or Authorized Agent

Signature of Applicant or Authorized Agent

I have read and consent to the filing of this application as the owner of record of the property for which the Special Use Permit is being requested.

I DECLARE UNDER PENALTY OF THE PERJURY LAWS THAT THE INFORMATION I HAVE PROVIDED ON THIS FORM/APPLICATION IS TRUE, CORRECT AND COOMplete.

SMI Group, LLC
Owner's Name

Owner's Name

1030 Battelle Blvd
Address

Address

Richland
City

City

WA 99854
State Zip

State Zip

375-9002
Phone No. Other No.

Phone No. Other No.

Michael C. Henry
Owner's Signature

Owner's Signature



Development Services Division • Planning Section
840 Northgate Drive • Richland, WA 99352
General Information: (509) 942-7794 • Fax: (509) 942-7764

P.O. Box 190 Richland, WA 99352
www.ci.richland.wa.us

SPECIAL USE PERMIT INSTRUCTIONS AND APPLICATION

General Information

Application for a Special Use Permit must be submitted to the Development Services Division office prior to the regular meeting of the Richland Planning Commission or Board of Adjustment. The Current Planning Section staff will review the application, solicit comments from City staff, and consulted agencies, notify surrounding property owners, and prepare a staff report and recommendations to the Planning Commission or Board of Adjustment. The Planning Commission or Board of Adjustment, at their regular monthly meeting, will conduct a public hearing on the applicant's request and make a decision to approve, deny, or approve with conditions. Any decision of the Planning Commission or Board of Adjustment is final, unless appealed to the City Council.

Requirements

Requirements for filing an application for Special Use Permit with the Planning Commission or Board of Adjustment (see RMC, Chapter 23.46):

- ♦ **Filing Fee** The City of Richland's Municipal Code requires a filing fee be paid at the time of filing an application for the Special Use Permit. This fee is to assist in covering the expense to the City for advertising investigations, map work, and processing the application through its various stages.
- ♦ **Application Form** The attached application for Special Use Permit must be filled out completely with answers to each question. The application form must also contain the signatures of both the applicant(s) and the owner(s) of record of the property for which the Special Use Permit is being requested.
- ♦ **Required Attachments** The application shall be accompanied by a title insurance company report showing ownership of record of the property involved and a list of the names and addresses of all owners of record of property within a radius of 300-feet of the exterior boundaries of the subject property, or within the distance specified within the appropriate section of Chapter 23.46 relating to the special use being proposed. Specified distance _____ feet.

The application shall also be accompanied by 20 copies of a plot plan which shall be drawn at a scale of not less than 30-feet to the inch, nor more than 100-feet to the inch, which shall be clear and precise and shall contain the following information:

- ♦ Boundaries and dimensions of property,
- ♦ Location and width of boundary streets,
- ♦ Size and location of existing or proposed buildings, structures, or activities on the site,
- ♦ Roadways, walkways, off-street parking, loading facilities, and emergency vehicle access,
- ♦ Fencing, screening, or buffering with reference to location, type, dimension, and character,
- ♦ Required setbacks, yards, and other open spaces, and
- ♦ Easements, right-of-ways, etc.

In addition, architect's sketches showing elevations of proposed buildings or structures, complete plans, and any other information needed by the Commission may also be required.

- ♦ Written assurance from all applicable federal, state, or local regulatory agencies indicating that the applicant has complied with at least one (1) of the following requirements:
 - ♦ Make initial contact with those agencies suspected of having jurisdiction over the proposed project,
 - ♦ Applied for the necessary permits and/or licenses from those agencies having jurisdiction over the proposed project, or
 - ♦ Received the necessary permits and/or licenses from those agencies having jurisdiction over the proposed project.
- ♦ State Environmental Policy Act (SEPA) checklist as required.

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EXHIBIT (10)



BENTON COUNTY EMERGENCY SERVICES

651 Truman Avenue
Richland, Washington 99352
(509) 628-2600

Memo

To: Aaron Lambert

From: Jeremy Beck

Date: July 15, 2014

Re: Proposed Residential Subdivision (S2014-102)

The Proposed Residential Subdivision (S2014-102) is in an area where there are no special planning zones for specific hazards. Instead an all hazard planning approach has been taken in the area. Under the Emergency Planning & Community Right to Know Act (EPCRA), both small and large businesses are required to plan for possible emergencies and report chemical information to the State Emergency Response Commission (SERC), the Local Emergency Planning Committee (LEPC), the local fire department, and tribal nations. The reports are called Tier Two reports and are available through Benton County Emergency Management and the LEPC.

There is a possibility that the proposed subdivision may be in the path of an accidental release of these substances and may be required to evacuate under adverse conditions. This should be addressed when considering the approval of this project.

The hazards that are present do not require special planning zones or means of special notification to area but the public should be aware of the known hazards. The developers should feel free to contact our office with recommendations to related emergency planning concerns and potential evacuation routes related to the listed hazards.

EXHIBIT (11)

From: LENGUS@aol.com
To: [Lambert, Aaron](#)
Subject: COMENT FOR PLANNING COMMISON MEETING JULY 23RD
Date: Monday, July 14, 2014 4:37:21 PM

THE SIENNA SKY DEVELOPMENT ON SMART PARK HAS FOUR RESIDENTIAL UNITS ESSENTIALLY EQUIVALENT TO THE PROPOSED SMI GROUP XV, LLC DEVELOPMENT. AS SIENNA HOA RESIDENTS WE PAY THE MAINTENANCE AND UPKEEP COSTS FOR THE ADJACENT PUBLIC PARK ON OUR NORTHERN EDGE. THE PROPOSED DEVELOPMENT WILL HAVE HOMES THAT HAVE THE SAME CONVENIENT ACCESS THAT WE ENJOY. AS SUCH, IT SEEMS ONLY CORRECT THAT THESE HOMEOWNERS BE REQUIRED TO SHARE IN THESE COSTS.

LEONARD GUSTAFSON
2577 ORCHID CT
509-521-5827

From: [Dave Morasch](#)
To: [Lambert, Aaron](#)
Subject: Written Response to (S2014-102) and (SUP2014-100)
Date: Monday, July 14, 2014 12:54:19 PM
Attachments: [WSC Written Response To Richland SUP2014-1000001.pdf](#)

Hello Aaron,

Attached is a written statement from Western Sintering Co. Inc. that voices our concerns over the Special Use Permit to subdivide property located at the northeast corner of Smart Park Street and Fermi Drive. We just feel there needs to be a buffer zone between manufacturing and residential areas and putting homes on that piece of land will take away from and leave virtually no buffer between our manufacturing complex and residents.

We are also very concerned but do not see it spelled out on our notice of application and public hearing for (S2014-102) / (SUP2014-100) about the future status of Fermi Drive. SMI Group XV, LLC has posted the road for closure thus blocking off access to Smart Park Street for us here at Western Sintering Co. as well as the business tenants of 2620 Fermi Dr. located behind our facility. The road closure signs keep changing in reference to the date of implementation and we are trying to understand what is happening with that posted section of Fermi Dr. Does the application for special use permit include the closing of that section of Fermi Dr. as it is posted for closure? Or is the closer of Fermi Drive as posted an entirely different matter?

Thanks for your time and information as we are just trying to understand what is going on with the section of Fermi Dr. behind us. Our employees use this section of roadway every day of the week as well as numerous commercial entities for mail, transport, freight, and other business. Yes we are concerned about the buffer zone between us and the proposed new residential area, but more so than that we are concerned for the blocking off, of our access to Smart Park Street by closure of Fermi Dr.

Thanks for your time and information Aaron,

Take Care,

Dave

Dave Morasch
Vice President
Western Sintering Co. Inc.
2620 Stevens Dr.
Richland WA 99354

Email: dmorasch@westernsintering.com

Wk. Ph: (509)-375-3096

Fax: (509)-375-3594

Cell Ph: (509)-528-4783



EXHIBIT (12)

Chapter 23.46 SPECIAL USE PERMITS

Sections:

- [23.46.010](#) Purpose.
- [23.46.020](#) Applications.
- [23.46.025](#) Hearing body.
- [23.46.030](#) Notice of hearing.
- [23.46.040](#) Hearings – Findings – Conditions.
- [23.46.050](#) Notification of action.
- [23.46.060](#) Commission or board action.
- [23.46.070](#) Appeals.
- [23.46.075](#) Modification of special use permits.
- [23.46.080](#) Resubmission of application.
- [23.46.090](#) Change of property ownership.
- [23.46.100](#) Existing conditional uses.
- [23.46.110](#) Rights conferred.

23.46.010 Purpose.

The purpose of a special use permit is to provide opportunities to accommodate certain uses, which, by nature of use, intensity, or general impact on an area, cannot be considered as a use of right within a zoning district. Where special conditions and regulations can be complied with, and such use is authorized as a special use within the zoning district for which application is made, such uses may be found to be permissible. [Ord. 28-05 § 1.02].

23.46.020 Applications.

Any request for a special use permit shall not be considered by the hearing body unless and until a completed application for a special use permit is submitted indicating the section of this code under which the special use is sought, and further stating the grounds upon which it is requested. Such application shall be accomplished by the following:

A. A title insurance company report showing ownership of record of the property involved, an accurate legal description of the property involved, and a list of the names and addresses of all owners of record of property within a radius of 300 feet of the exterior boundaries of the subject property, or within the distance specified within the appropriate section of this chapter relating to the special use being proposed. In addition, the report shall be accompanied by an accurate key

map showing the property involved and delineating the property within 300 feet or other specified distance of the subject property. Each parcel falling wholly or partly within the specified distance shall be numbered to correspond with the ownership report;

B. A plot plan showing the following:

1. Boundaries and dimensions of property;
2. Location and width of boundary streets;
3. Size and location of existing or proposed buildings, structures or activities on the site;
4. Roadways, walkways, off-street parking, loading facilities and emergency vehicle access;
5. Fencing, screening or buffering with reference to location, type, dimension and character;
6. Required setbacks, yards and other open spaces; and
7. Easements, rights-of-way, etc.;

In addition, architect's sketches showing elevations of proposed buildings or structures, complete plans, and any other information needed by the commission or board may also be required;

C. Written assurance from all applicable federal, state or local regulatory agencies indicating that the applicant has complied with at least one of the following requirements:

1. Made initial contact with those agencies having jurisdiction over the proposed project;
2. Applied for the necessary permits and/or licenses from those agencies having jurisdiction over the proposed project;
3. Received the necessary permits and/or licenses from those agencies having jurisdiction over the proposed project;

D. State Environmental Policy Act (SEPA) checklist as required;

E. Standard fee as set forth in RMC [19.80.020](#). [Ord. 28-05 § 1.02].

23.46.025 Hearing body.

A. The planning commission shall be the hearing body to conduct the review of special use permit applications for the following uses:

1. Outdoor commercial recreation in the AG – agricultural and I-M – medium industrial districts;
2. Dormitories, fraternities, sororities, hotels and motels and residential development in the B-RP – business research park district;
3. Businesses with drive-through window service in the C-1 neighborhood retail and WF – waterfront districts;
4. Landscaping material sales and plant nurseries in the AG – agricultural district;
5. Manufactured home parks in the R-2 – medium-density residential and R-3 – multifamily residential districts;
6. Monopoles and lattice towers in the PPF – parks and public facilities, B-C – business commerce, CBD – central business district, C-2 – retail business, C-3 – general business, B-RP – business research park, I-M – medium industrial and M-2 – heavy manufacturing districts;
7. Recreational vehicle campgrounds and recreational vehicle parks in the AG – agricultural and C-3 – general business districts;
8. Sit down restaurants in the C/R-T – commercial/residential transition district;
9. Parking lots in the NOS – natural open space district;
10. Single retail businesses operating within a building space in excess of 15,000 square feet in area in the C-1 – neighborhood retail business district;
11. Telemarketing services in the B-RP – business research park district;
12. Automobile repair minor, automobile repair specialty shop, automobile service station, auto parts sales, car wash-automatic or self service, vehicle leasing/renting, vehicle sales and restaurant/drive-through in the CBD – central business district.

B. The board of adjustment shall be the hearing body to conduct the review of special use permit applications for the following uses:

1. Animal shelters, commercial kennels and animal clinics in the AG – agricultural, C-2 – central business, C-3 – general business, and I-M – medium industrial districts;
2. Automobile wrecking and the storage or sale of junk, unlicensed autos or salvage materials in the M-2 – heavy manufacturing district;
3. Bed and breakfast facilities in the single-family residential (R-1-12, R-1-10, R-2), SAG – suburban agricultural and AG – agricultural districts;
4. Day care centers in the residential (R-1-12, R-1-10, R-2, R-3), SAG – suburban agricultural, AG – agricultural, I-M – medium industrial and B-RP – business research park districts;
5. The excavating, processing, removal of topsoils, sand, gravel, rock or similar deposits in the AG – agricultural, I-M – medium industrial and M-2 – heavy manufacturing districts;
6. Public stables and riding academies in the FP – floodplain, AG – agricultural and C-3 – general business districts; and
7. Towing and vehicle impound lots in the C-3 – general business district. [Ord. 28-05 § 1.02; Ord. 07-06; Ord. 23-11 § 1.02; Ord. 32-11 § 16].

23.46.030 Notice of hearing.

Written notice of public hearings consistent with the requirements of Chapter [19.40](#) RMC shall be addressed through the United States mail to the owner of the property of which the special use is sought and to the owners of record of all properties within a radius of 300 feet of the exterior boundaries of the subject property, pursuant to the title insurance company report required by RMC [23.46.020](#), or within the distance specified within the appropriate section of Chapter [23.42](#) RMC relating to the special use being proposed. Such notice of hearing shall also be published at least once in the official newspaper of the city. Both published and mailed notices shall be given at least 10 days in advance of the public hearing. [Ord. 28-05 § 1.02].

23.46.040 Hearings – Findings – Conditions.

The hearing body shall conduct an open record public hearing on an application for special use permit as required by RMC Title [19](#) for a Type III permit application.

A. Any person may appear at the public hearing in person, or by agent or attorney.

B. The hearing body shall make a finding that it is empowered under the section of this code described in the application to consider the application for the special use permit.

C. The hearing body shall approve, approve with conditions or deny an application for a special use permit based on findings of fact with respect to the following criteria:

1. The size and dimensions of the site provide adequate area for the proposed use;
2. The physical conditions of the site, including size, shape, topography, and drainage, are suitable for the proposed development;
3. All required public facilities necessary to serve the project have adequate capacity to serve the proposed project;
4. The applicable requirements of this zoning regulation (RMC Title [23](#)), the city comprehensive plan, the city sensitive area regulations (RMC Title [20](#)), the city shoreline management regulations (RMC Title [26](#)) and the city sign regulations (RMC Title [27](#)) have been met; and
5. Identified impacts on adjacent properties, surrounding uses and public facilities have been adequately mitigated.

D. The hearing body may impose conditions on the approval of a special use permit in addition to or above and beyond those required elsewhere in this title, which are found necessary to ensure the use is compatible with the public interest. These conditions may include, but are not limited to, the following:

1. Limiting the hours, days, place and/or manner of operation;
2. Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and/or dust;
3. Requiring additional setback areas, lot area and/or lot depth or width;
4. Limiting the building height, size or lot coverage, and/or location on the site;
5. Designating the size, number, location and/or design or vehicle access points;
6. Requiring street right-of-way dedication and/or street improvement;

7. Requiring additional landscaping, berms and/or screening of the proposed use and/or its parking or loading areas and designating the required size, height, type and/or location of fencing and landscaping materials;

8. Limiting the number, size, location, height and/or lighting of signs.

E. Violation of any conditions, requirements, and safeguards, when made a part of the terms under which the special use permit is granted, shall be deemed a violation of this code and punishable under RMC [23.70.270](#).

F. The hearing body may prescribe a time limit within which the action for which the special use permit is required shall be begun and/or completed. Failure to begin and/or complete such action within the time limit set shall void the special use permit. The time limits may be extended by the hearing body for good cause shown. In the event that no specific time limit to begin or complete a special use permit is identified, then the special use permit shall remain valid for a period of two years from the date that the permit was issued. The hearing body may authorize issuance of a special use permit for a specified probationary period of time, at the termination of which the applicant must resubmit a new application in accordance with the provisions of RMC [23.46.020](#). [Ord. 28-05 § 1.02].

23.46.050 Notification of action.

A. A written notice of action shall be addressed through the United States mail to the applicant within three days after any action by the hearing body on a special use permit application.

B. If the special use permit application is approved, the notice shall contain findings of fact, a list of conditions of approval, if any, that must be complied with prior to special use permit issuance, and a list of requirements which have been made conditions of special use permit approval and which must be complied with after special permit issuance.

C. If the special use permit is tabled, the notice shall contain a list of requirements or information that must be complied with or provided prior to further consideration by the hearing body.

D. If the special use permit application is denied, the notice shall contain findings of fact that were the basis for the denial. [Ord. 28-05 § 1.02].

23.46.060 Commission or board action.

A decision on a special use permit by the planning commission or board of adjustment shall be by the affirmative vote of not less than a majority of the quorum of the commission or board. The approval shall be a recorded motion which shall incorporate findings of fact and refer expressly to the ordinance, or sections thereof, upon which the commission's or board's actions are based. Approval of a special use permit application shall authorize the administrative official to issue

a special use permit. Conditions may be attached to authorization by the commission or board that must be complied with prior to the issuance of the permit. [Ord. 28-05 § 1.02].

23.46.070 Appeals.

Any decision by the hearing body shall be final unless written notice of appeal to the city council, together with such fees as are required by RMC [19.80.020](#), is filed with the city clerk within 10 days from the date of the order, requirement, decision or determination by the hearing body. Such appeal shall be consistent with the requirements set forth in Chapter [19.70](#) RMC for appeal of decisions on Type II permit applications. The city council shall review the official record of the special use permit application, including the notice of appeal, and shall consider testimony pertinent to the official record. If new evidence is received that is not part of the official record, the city council shall not use the new evidence as a basis of reversing a decision, but instead shall remand the application to the hearing body for reconsideration. The city council may, so long as such action is in conformity with the terms of this code, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as the city council deems appropriate. [Ord. 28-05 § 1.02].

23.46.075 Modification of special use permits.

A. Major changes to a previously approved special use permit shall be considered as a new application as set forth in RMC [23.46.020](#). Major changes include the following:

1. An increase in the approved floor area of 10 percent or more for any nonresidential building;
2. An increase in the density of a residential project of 10 percent or more;
3. A reduction of 10 percent or more of the open space area, or required landscaping areas;
4. A reduction of an approved setback of 20 percent or more;
5. A change in the amount of off-street parking of 10 percent or more; or
6. A change in any operational condition specified in the original conditions of approval of the special use permit that the administrative official deems to result in a possible adverse impact to adjacent properties.

B. Any modification to a previously approved special use permit that does not meet the definition of a major modification shall be considered a minor modification. Minor modifications shall be approved, approved with conditions or denied by the administrative official based on the finding that the proposed development complies with all applicable requirements of this title. [Ord. 28-05 § 1.02; amended during 2011 recodification].

23.46.080 Resubmission of application.

A. Except as provided in subsection (B) of this section, any application for issuance of a special use permit which has been disapproved by the hearing body and/or city council shall not be resubmitted to the hearing body for a period of two years from the date of disapproval.

B. The hearing body may waive the two-year waiting period for a previously disapproved application when it can be reasonably demonstrated that conditions in the area of the request have substantially changed since disapproval, or that the nature of the application has changed sufficiently to remedy the reasons for disapproval. In either case, it shall be the burden of the applicant to show such change. [Ord. 28-05 § 1.02].

23.46.090 Change of property ownership.

A. The validity of any special use permit shall be contingent upon exercise of the special use, as granted, and the special use permit shall run with the property regardless of a change in ownership of the property.

B. The hearing body may require, as a condition of approval for granting of the special use, that the special use permit be recorded with the Benton County auditor's office as a special covenant which shall run with the property regardless of a change in ownership of the property.

C. Any change in the special use for which the original permit was issued which is determined to be substantial by the administrative official shall void the original permit and necessitate the submission of a new application. [Ord. 28-05 § 1.02].

23.46.100 Existing conditional uses.

A. Any conditional use lawfully existing prior to December 6, 1976, and/or prior to the effective date of the mandatory ordinance codified in this title shall be considered an existing nonconforming special use, subject to the provisions and requirements of Chapter [23.66](#) RMC, and further subject to the conditions of issuance of the permit issued for such use.

B. Any such nonconforming special use considered to be terminated by virtue of the requirements specified in Chapter [23.66](#) RMC shall require the issuance of a special use permit in order to be continued. [Ord. 28-05 § 1.02].

23.46.110 Rights conferred.

Granting of a special use permit confers upon the property only such use or uses specifically enumerated in the approved special use permit, and subject to any and all conditions, requirements and safeguards established in the approved permit. [Ord. 28-05 § 1.02].

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EXHIBIT (13)



ZONING CODE

Chapter 23.28 BUSINESS ZONING DISTRICTS

Sections:

[23.28.010](#) Purpose of business use districts.

[23.28.020](#) Business performance standards and special requirements.

[23.28.025](#) Enforcement of performance standards.

[23.28.030](#) Business use districts permitted land uses.

[23.28.040](#) Site requirements for business use districts.

[23.28.050](#) Parking standards for business use districts.

[23.28.060](#) Landscaping requirements.

23.28.010 Purpose of business use districts.

A. The business research park use zoning classification (B-RP) is intended to provide locations for a range of business research and business park uses, including office and administrative uses, designed to be conducted wholly within enclosed buildings. It is also a purpose of this zoning classification to protect a portion of the existing industrial land base for research park facility development, which provides high-technology employment opportunities. Light manufacturing uses that complement the business park or research park use that are free from offense in the form of odor, dust, gas, fumes, smoke, soot, heat, glare, explosions, liquids, waste, noise, vibrations, and disturbances in this use district may be permitted if pertinent to the primary use. The business research park zoning classification provides opportunities for employment in modern, attractive buildings on well-landscaped sites which may be close to residential areas, thereby resulting in a reduction of travel time to and from work. Campus type developments that include several buildings with a mix of uses that are related to the primary businesses are encouraged. This zoning classification is intended to be applied to those portions of the city that are designated business research park under the city of Richland comprehensive plan.

B. The business and commerce use zoning classification (B-C) is intended to provide locations for a range of business and commerce uses, in a business park setting, where such uses are in close proximity to residential lands. It is also a purpose of this zoning classification to place appropriate use limitations and restrictions on business and commerce

uses to ensure the protection of nearby residential uses. Areas of restriction include such items as increased building setbacks, stringent landscaping standards, restrictions on outdoor storage, architectural controls, outdoor lighting standards and access controls. The business and commerce zoning classification provides opportunities for employment in modern, attractive buildings on well-landscaped sites which may be close to residential areas, thereby resulting in a reduction of travel time to and from work. Developments that include several businesses with integrated building architecture, landscaping, and infrastructure are encouraged. This zoning classification is intended to be applied to some portions of the city that are designated industrial under the city of Richland comprehensive plan. [Ord. 28-05 § 1.02].

23.28.020 Business performance standards and special requirements.

A. B-RP Business Research. It is the intent of this section that:

1. Uses shall be conducted entirely within enclosed buildings;
2. On and off-site hazardous waste treatment and storage facilities shall be located a minimum of 300 feet from surface water, residential zones and public gathering places;
3. Public pedestrian access around and through a site is encouraged and should include clearly marked travel pathways from the public street, through parking areas, to primary building entries;
4. Development of a trail system through landscaped areas is encouraged and should, where possible, connect to trail systems on adjacent sites; and
5. No more than 15 percent of the total number of acres in the B-RP zone or within a specific business park shall be developed with commercial uses. The applicant proposing a commercial use shall identify the properties that he/she is relying on to comply with this requirement. In the event that the applicant is relying upon property(ies) that are not under the ownership of the applicant, then the applicant shall submit a written statement to the city signed by the affected property owners consenting to the application for a commercial use.

B. B-RP Residential, Day Care and Preschool Standards.

1. Residential development is permitted in the B-RP zone at an average density of eight dwellings per acre within a business park. Average density shall be determined by a calculation of the total land area (in acres) within a business park that are both developed and proposed for development with residential uses divided by the total number of dwelling units that are both developed and proposed for development. Any residential development approved through a special use permit must maintain a minimum density of six dwelling units per acre. Construction of residential units shall proceed as identified or conditioned in a special use permit approved by the Richland planning commission;

2. Detached single-family dwellings are prohibited unless:

- a. Detached single-family dwellings are part of a residential development as approved through the special use permit process, in which no more than 25 percent of the total number of dwelling units approved through the special use permit are detached single-family dwellings; and
- b. Detached single-family dwellings are a part of a common maintenance program, such as a homeowners' association, with attached conditions, covenants and restrictions to be approved by the city at the time of development and recorded by deed to run in perpetuity to the individual properties;

3. Dwelling units may be incorporated into a building occupied by a nonresidential use;

4. No more than 15 percent of the total number of acres in the B-RP zone or within a specific business park or master planned area shall be developed exclusively for residential uses. The applicant for a residential use project shall identify the properties that he/she is relying upon to comply with this requirement. In the event that the applicant is relying upon property(ies) that are not under the ownership of the applicant, then the applicant shall submit a written statement from the affected property owners consenting to the application for an exclusive residential use;

5. No site developed exclusively for residential uses shall exceed 10 acres in area;

6. No parcel or parcels of property developed exclusively for residential uses shall be contiguous to any other parcel or parcels of property developed exclusively for residential uses, if the combined total of all contiguous parcels developed exclusively for residential uses exceeds 10 acres in area;

7. Mixed use buildings that contain permitted uses (as identified in RMC [23.26.030](#)) on the main floor of the building and residential uses on the upper floors of the building are permitted without regard to subsections (B)(4) through (6) of this section. All other provisions regulating the placement of residential uses in the B-RP zone shall apply;

8. Day care and preschool uses are permitted without regard to subsections (B)(4) through (6) of this section. All other provisions regulating the placement of day care and preschool uses in the B-RP zone shall apply;

9. Residential projects in the B-RP zone shall include provisions to connect with permitted uses in the zone which have the effect of minimizing the need for automotive commutes. Such connections may include shared open space, pedestrian trails, computer and/or communication links between buildings, or other similar features. Residential projects should also be designed to be compatible with the architectural character of existing, adjacent business parks;

10. Parking for residential structures shall be required in addition to any requirement for other permitted uses on the site; and

11. The applicant shall ensure that an emergency response plan is prepared by Benton County emergency services and that such emergency response plan is implemented prior to or simultaneously with the issuance of a certificate of occupancy for a project.

a. Prior to the submittal of a special use permit, the applicant shall consult with Benton County emergency services to determine the following:

i. The specific hazards to residential, day care and/or preschool populations that exist in the vicinity of the project site resulting from existing industrial land uses in the general area. Such hazards shall be determined and assessed through the review of risk management hazard plans that are on file with Benton County emergency services;

ii. The parameters of the emergency services plan that are necessary to support the proposal. Such plan will at a minimum address the following:

(A) Provisions for emergency notification;

(B) Identification of evacuation routes;

(C) Identification of special populations that may reside or be located within the proposed project (small children, seniors, individuals with mobility restrictions, etc.) for identification of specific provisions to address the safety of these special populations;

iii. Identification of any plans for sheltering residential populations during an emergency event and any specific building or site design features to be incorporated into the project to mitigate potential hazards created by nearby industrial facilities; and

iv. Identification of plans to inform the future residents of the residential project of the specific emergency notification procedures and actions that would be taken during an emergency event.

b. Following completion of the consultation process, the applicant shall obtain a written statement from Benton County emergency services that either:

i. Indicates that the proposed project site is located outside of any known hazard area which represents a threat to residential, day care or preschool populations as identified in the risk

management plans on file with Benton County emergency services and that the requirement for a specific emergency response plan is waived; or

ii. Identifies the known hazards to residential, day care or preschool populations that are known to exist in or near the project site. Such report shall identify the specific mitigation measures that will be included in the emergency response plan. The applicant shall sign a statement acknowledging and agreeing to the mitigation measures included in the emergency response plan.

iii. The applicant is required to provide any information requested by Benton County emergency services for the preparation of an emergency response plan.

C. B-C Business Commerce. It is the intent of this section that:

1. Uses shall be conducted primarily within enclosed buildings.

2. On-site hazardous waste treatment and storage facilities shall be located a minimum of 300 feet from surface water, residential zones and public gathering places.

3. Development of a trail system through landscaped areas is encouraged and should, where possible, connect to adjoining trail systems and public sidewalks.

4. Uses shall not inflict upon the surrounding properties smoke, dirt, glare, vibrations, or noise beyond the maximum permissible levels hereby established:

a. Vibration. Every use shall be so operated that the ground vibration inherently and recurrently generated from equipment other than vehicles is not perceptible without instruments at any point on or beyond any lot line of the property on which the use is located.

b. Toxic and Noxious Gases. No emission which would be demonstrably injurious to human health, animals or plant life common to the region, on the ground at or beyond any lot line on which the use is located will be permitted. Where such emission could be produced as a result of accident or equipment malfunction, adequate safeguards standard for safe operation in the industry involved shall be taken. This shall not be construed to prohibit spraying of pesticides on public or private property in accordance with state regulations as set forth in WAC Title [173](#), as codified or as hereinafter amended.

c. Heat, Glare and Humidity (Steam). In the B-C district any activity producing humidity in the form of steam or moist air, or producing heat or glare shall be carried on in such a manner that the heat, glare or humidity is not perceptible at any lot line on which the use is located. Building materials with high light reflective qualities shall not be used in the construction of buildings in such a manner that reflected sunlight will throw

intense glare on areas surrounding the B-C district. Artificial lighting shall be hooded or shaded so that direct light of high intensity lamps will not result in glare when viewed from areas surrounding the B-C district.

d. Fire and Explosive Hazards. The storage, manufacture, use, or processing of flammable liquids or materials which produce flammable or explosive vapors or gases shall be permitted in accordance with the regulations of the fire prevention code and the building code of the city of Richland as set forth in the International Building Code and International Fire Code as adopted by the city of Richland or as hereinafter amended.

5. Wherever the B-C zone is applied to any property or properties, there shall be site design standards put in place that shall regulate the appearance of buildings within the B-C district. This requirement for site design standards shall be met in one of the following ways:

- a. The property or properties that are part of the B-C zone shall also be subject to the standards set forth in subsection (D) of this section; or
- b. The property or properties that are part of the B-C zone shall be subject to private conditions, covenants, and restrictions as proposed by applicants for a zone change proposal. Said conditions, covenants and restrictions shall include site design standards that are deemed appropriate for the intended character, appearance and physical characteristics of the property or properties that are a part of the B-C zone and the immediate vicinity. Such conditions, covenants, and restrictions shall be recorded at the time the zone change ordinance is approved and shall be binding on all new development that occurs on the property or properties that are a part of the B-C zone. Such conditions, covenants, and restrictions shall not be amended without the approval of the city of Richland.

D. B-C Site Design Standards. The following standards apply to the design of buildings within the B-C zone:

1. Building Design.

- a. Wall planes shall not run in one continuous direction for more than 60 feet without an offset or setback in the building face, unless the building face contains windows, alcoves, canopies, cornices, cupolas, or similar architectural features.
- b. At least 25 percent of the wall area fronting on a street should be occupied with windows, alcoves, canopies, cornices, cupolas, or similar architectural features.
- c. Large buildings should have height variations to give the appearance of distinct elements.

- d. Rooftop or outdoor mechanical equipment shall be fully screened from public view in a manner which is architecturally integrated with the structure. Screening shall be constructed to a finished standard using materials and finishes consistent with the rest of the building.
- e. Roof-mounted equipment should be painted a compatible color with the roof screen.
- f. Exterior building colors should be subdued. Primary colors or other bright colors should generally be used only as accents to enliven the architecture.
- g. Reflective glass is not permitted for glazing.
- h. Buildings whose exterior surfaces are more than 50 percent comprised of metal, excluding roof surfaces, are not permitted.

2. Loading and Service Areas.

- a. Truck docks and loading areas shall not be permitted on the side of the building that faces or abuts a public street.
- b. Refuse areas and service areas shall be screened from view of the public street.

3. Site Lighting.

- a. Lighting should be used to provide reasonable illumination for the security and safety of on-site areas such as parking, loading, shipping, and pathways.
- b. Lighting shall be designed to minimize glare or objectionable effects to adjacent properties.
- c. Site lighting poles shall not exceed 20 feet in height and shall direct the light downward.
- d. Lighting sources shall be shielded from adjacent properties.

4. On-Site Utilities.

- a. All site utilities shall be placed underground.
- b. Pad mounted equipment shall be appropriately located and screened in a manner consistent with required access and safety requirements.

5. Alternative Design. In the event that a proposed building and/or site does not meet the literal standards identified in this section, a property owner may apply to the Richland planning commission for a deviation from

these site design standards. The Richland planning commission shall consider said deviation and may approve any deviation based on its review and a determination that the application meets the following findings:

- a. That the proposal would result in a development that offers equivalent or superior site design than conformance with the literal standards contained in this section;
- b. The proposal addresses all applicable design standards of this section in a manner which fulfills their basic purpose and intent; and
- c. The proposal is compatible with and responds to the existing or intended character, appearance, quality of development and physical characteristics of the subject property and immediate vicinity. [Ord. 28-05 § 1.02; Ord. 07-11 § 1.01].

23.28.025 Enforcement of performance standards.

It is the intent of this section that:

- A. If in the opinion of the administrative officials a violation of the performance standards in RMC [23.28.020](#) has occurred, the administrative official shall send a written notice of the violation to the owners of the property and the manager of the operation involved by certified mail. The manager or responsible person shall have 30 days to correct the violation, unless in the opinion of the administrative official there is imminent peril to the life and property of persons adjacent to the alleged violation, in which case the violation shall be corrected immediately.
- B. Where determinations of violation can be made by the administrative official using equipment normally available to the city or obtainable without extraordinary expense, such determination shall be so made before notice of violation is issued.
- C. Where technical complexity or extraordinary expense make it unreasonable for the city to maintain the personnel or equipment necessary to make the determination of violation, then the city shall call in properly qualified experts to make the determination. If expert findings indicate a violation of the performance standards, the costs of the determination shall be assessed against the properties or persons responsible for the violation in addition to the other penalties prescribed by this title. If no violation is found, cost of the determination shall be paid entirely by the city. [Ord. 28-05 § 1.02].

23.28.030 Business use districts permitted land uses.

In the following chart, land use classifications are listed on the vertical axis. Zoning districts are listed on the horizontal axis.

A. If the symbol “P” appears in the box at the intersection of the column and row, the use is permitted, subject to the general requirements and performance standards required in that zoning district.

B. If the symbol “S” appears in the box at the intersection of the column and row, the use is permitted subject to the special use permit provisions contained in Chapter [23.46](#) RMC.

C. If the symbol “A” appears in the box at the intersection of the column and the row, the use is permitted as an accessory use, subject to the general requirements and performance standards required in the zoning district.

D. If a number appears in the box at the intersection of the column and the row, the use is subject to the general conditions and special provisions indicated in the corresponding note.

E. If no symbol appears in the box at the intersection of the column and the row, the use is prohibited in that zoning district.

Land Use	B-RP	B-C
Automotive, Marine and Heavy Equipment Uses		
Automotive Repair – Major		P
Automotive Repair – Minor		P
Automotive Repair – Specialty Shop		P
Automobile Service Station	P	P ¹⁴
Bottling Plants	P	P
Car Wash – Automatic or Self-Service		P ¹
Fuel Station/Mini Mart	P	P ¹⁴
Business and Personal Services		
Automatic Teller Machines	P	P
General Service Businesses	P	P
Health/Fitness Facility	P	P

Land Use	B-RP	B-C
Health/Fitness Center	P	P
Laundry/Dry Cleaning, Retail	P	P
Mini-Warehouse		P ²
Mailing Service	P	P
Personal Loan Business	P	P
Personal Services Businesses	P	P
Photo Processing, Copying and Printing Services	P	P
Telemarketing Services	S	P
Video Rental Store	P	P
Food Service		
Cafeterias	A	A
Delicatessen	A	A
Drinking Establishments	P	P
Portable Food Vendors	P ³	P ³
Restaurants/Drive-Through	A ⁴	A ⁴
Restaurants/Lounge	P	P
Restaurants/Sit Down	P	P
Restaurants/Take Out	P	P

Land Use	B-RP	B-C
Restaurants with Entertainment/Dancing Facilities	P	P
Industrial/Manufacturing Uses		
Light Manufacturing Uses	P	P
Research, Development and Testing Facilities	P	P
Warehousing, Storage and Distribution		A
Wholesale Facilities and Operations		P
Office Uses		
Financial Institutions	P	P
Medical, Dental and Other Clinics	P	P
Newspaper Offices and Printing Works		P
Office – Consulting Services	P	P
Office – Corporate	P	P
Office – General	P	P
Office – Research and Development	P	P
Radio and Television Studios		P
Schools, Commercial	P	P
Schools, Trade	P	P
Travel Agencies	P	P
Public/Quasi-Public Uses		

Land Use	B-RP	B-C
Alternative Schools		P ⁵
Churches		P ⁶
Clubs or Fraternal Societies		P ⁶
Cultural Institutions		P ⁶
General Park Operations and Maintenance Activities	P	P
Passive Open Space Use	P	P
Power Transmission and Irrigation Wasteway Easements and Utility Uses	P ⁷	P ⁷
Public Agency Buildings	P ⁷	P ⁷
Public Agency Facilities	P ⁷	P ⁷
Public Parks	P	P
Special Events Including Concerts, Tournaments and Competitions, Fairs, Festivals and Similar Public Gatherings	P	P
Trail Head Facilities	P	P
Trails for Equestrian, Pedestrian, or Nonmotorized Vehicle Use	P	P
Residential Uses		
Accessory Dwelling Unit	A	A
Apartment, Condominium (3 or More Units)	S ⁸	
Day Care Center	S ^{8,9}	A ⁹
Designated Manufactured Home	S ^{8,10, 11}	

Land Use	B-RP	B-C
Dormitories, Fraternities, and Sororities	S ⁸	
Dwelling, One-Family Attached	S ^{8,10,11}	
Dwelling, One-Family Detached	S ^{8,10,11}	
Dwelling, Duplex	S ⁶	
Dwelling Units for a Resident Watchman or Custodian	A	A
Hotels or Motels	S ⁸	P
Temporary Residence	P ^{8,10}	P ¹⁰
Retail Uses		
Parking Lot or Structure	P	P
Department Stores		P
Specialty Retail Stores	P	P
Miscellaneous Uses		
Bus Terminal	P	P
Bus Transfer Station	P	P
Community Festivals and Street Fairs	P	P
Convention Center	P	P
Farming of Land	P	P
Micro- and Macro-Antennas	P	P
Monopole	P ¹²	S ¹²

Land Use	B-RP	B-C
Outdoor Storage	P ¹³	P ¹³
Storage in an Enclosed Building	P	P

1. RMC [23.42.270](#)

2. RMC [23.42.170](#)

3. RMC [23.42.185](#)

4. RMC [23.42.047](#)

5. RMC [23.42.260](#)

6. RMC [23.42.050](#)

7. RMC [23.42.200](#)

8. RMC [23.28.020](#)(B)

9. RMC [23.42.080](#)

10. RMC [23.42.110](#)

11. RMC [23.18.025](#)

12. Chapter [23.62](#) RMC

13. RMC [23.42.180](#)

14. Permitted when located adjacent to a principal or minor arterial street as identified in Chapter [12.02](#) RMC, Street Functional Classification Plan.

[Ord. 28-05 § 1.02; Ord. 28-07; Ord. 07-11 § 1.02; Ord. 23-11 § 1.01].

23.28.040 Site requirements for business use districts.

In the following chart, development standards are listed on the vertical axis. Zoning districts are listed on the horizontal axis. The number appearing in the box at the intersection of the column and row represents the dimensional standard that applies to that zoning district.

Standard	B-RP	B-C
Minimum Lot Area	None	None
Maximum Site Area (in acres)	Varies ¹	None
Minimum Density – Dwelling units/acre	6 feet	N/A
Average Density – Dwelling units/acre	8 feet	N/A
Minimum Front Yard Setback	Varies ²	Varies ³
Minimum Side Yard Setback	Varies ⁴	Varies ³
Minimum Rear Yard Setback	20 feet ⁵	Varies ³
Maximum Building Height – Main Building	55 feet ⁶	45 feet ⁷

1. Retail and service uses shall be clustered on sites no larger than five acres in size. Sites devoted exclusively to residential uses shall be located on sites no larger than 10 acres in size. Other permitted uses do not have a maximum site area.

2. The front yard setback area shall be landscaped. The front yard setback for all uses except residential uses shall be 25 feet. Residential uses shall maintain the following front yard setbacks:

a. Front yard to living area and/or side of garage: 10 feet.

b. Front yard to garage door: 20 feet.

c. Front yard to covered porch and/or deck: 10 feet.

3. The following minimum setbacks shall apply in the B-C zoning district:

a. Wherever a B-C zoned property abuts any property or properties that are a part of any PPF, SAG, R-1-12, R-1-10, R-2, R-2S, R-3 or residential PUD, a minimum building setback of 50 feet shall be provided, except that whenever a B-C zoned property abuts any property that is designated as single-family residential overlay within the Island View subarea plan, setbacks as set forth in subsection (c) of this footnote shall apply.

b. Where property lines of a parcel in the B-C district are not adjacent to properties located in other zoning districts, or are adjacent to a public right-of-way or to M-2, I-M, B-RP, or C-3 zoned properties, the following minimum yard requirements shall apply:

i. Front yard – 20 feet.

ii. Side yard – zero feet.

iii. Rear yard – zero feet.

c. Wherever a B-C zoned property abuts any property or properties that are part of a C-1, C-2, C-LB, CBD, WF or AG zones or wherever a B-C zoned property abuts any property that is designated as single-family residential overlay within the Island View subarea plan, the following minimum yard requirements shall apply:

i. Front yard – 20 feet.

ii. Side yard – 10 feet.

iii. Rear yard – 10 feet.

4. The side yard setback for all uses except commercial and residential uses is 20 feet. The side yard setback for multiple-family dwelling units is one foot of side yard per three feet of building height. The side yard setbacks for single-family detached dwelling units and an unattached side of attached dwelling units shall be five feet. The side yard setback for commercial uses is 20 feet when the adjoining property is developed with noncommercial uses and zero feet when the adjoining property is developed with commercial uses or a parking lot.

5. The rear yard setback for all uses except residential uses shall be 20 feet, except when commercial uses adjoin property that is developed with other commercial uses or a parking lot, then the rear yard setback shall be zero feet. Residential uses shall have a minimum rear yard setback of 10 feet.

6. Maximum Building Height. No building in a B-RP district shall exceed 55 feet in height. The planning commission may authorize an increase in building height to a maximum height of 100 feet, based upon a review of the structure and a finding that the proposed building is aesthetically pleasing in relation to buildings and other features in the vicinity and that the building is located at sufficient distance from the Columbia River to avoid creating a visual barrier. Exception: Private communications facilities may exceed the height limitation.

7. No building in a B-C district shall exceed 45 feet in height. The planning commission may authorize an increase in building height to a maximum height of 55 feet, based upon a review of the structure and a finding that the proposed building is aesthetically pleasing in relation to buildings and other features in the vicinity and that the building would be situated in a

fashion so as not to interfere with views from surrounding properties. Exception: Private communications facilities may exceed the height limitation.

[Ord. 28-05 § 1.02; Ord. 04-09; Ord. 20-09; amended during 2011 recodification].

23.28.050 Parking standards for business use districts.

Off-street parking space shall be provided in all industrial zones in compliance with the requirements of Chapter [23.54](#) RMC. [Ord. 28-05 § 1.02].

23.28.060 Landscaping requirements.

A. In the B-RP zoning district, the following minimum landscaping requirement applies: At least 25 percent of a business park shall be landscaped. Landscaped areas may incorporate pedestrian amenities such as meandering pathways or trails, street furniture such as benches, public art features or similar features. Specific parcels of property within a business park do not have to meet the required percentage of landscaping; provided, that the overall business park maintains the minimum landscaping requirement of 25 percent for all developed parcels within the park; provided further, that parking lot landscaping as required in RMC [23.54.140](#) and landscaping within a required front yard shall be required in all cases.

B. The following landscaping standards apply to the development of property within the B-C district.

1. All off-street parking areas designed for employee and/or customer parking shall be paved and shall meet the landscape standards set forth in RMC [23.54.140](#). Parking/loading dock areas designed for truck maneuvering, parking and/or loading shall meet the requirements for perimeter landscaping only. No interior landscaping for truck parking/loading areas shall be required.

2. Wherever a B-C zoned property abuts any property or properties that are a part of any PPF, SAG, R-1-12, R-1-10, R-2, R-2S, R-3 or residential PUD zone, a landscape buffer strip a minimum of 25 feet in width shall be provided, except that B-C zoned property that abuts any property or properties that are designated as single-family residential overlay within the Island View subarea plan shall be exempt from this requirement. Perimeter landscape strips required for off-street parking areas, as set forth in RMC [23.54.140](#), may be included within the required landscape buffer. Evergreen and deciduous trees, of which no more than 40 percent of the trees may be deciduous, shall be planted within the required landscape buffer. A minimum of five trees per 1,000 square feet of buffer area shall be required. The landscape buffer is intended as a screen, and need not completely obscure the development.

3. A landscape buffer strip a minimum of 10 feet in width shall be provided adjacent to any public right-of-way. Perimeter landscape strips required for off-street parking areas, as set forth in RMC [23.54.140](#), may be included within the required landscape buffer.
4. All areas not covered by buildings, paved parking areas or sidewalks or other pedestrian paths shall be landscaped.
5. All landscaped areas shall be served by an underground irrigation system or shall be provided with a readily available water supply with at least one outlet located within 150 feet of all plant material requiring irrigation.
6. All delivery truck and maintenance vehicle parking areas, all truck dock and loading areas, all refuse and service areas and all outdoor storage areas shall be screened by means of a sight-obscuring fence or sight-obscuring landscaping materials or a combination of landscaping and fencing materials that together create a six-foot-tall sight-obscuring screen. Outdoor storage shall not extend above the height of the sight-obscuring screen.
7. Landscaped areas may incorporate pedestrian amenities such as meandering pathways or trails, street furniture such as benches, public art features or similar features.
8. Wherever trees are required in landscape buffer strips, the following minimum standards shall apply:
Evergreen trees shall be a minimum height of five feet at the time of planting. Deciduous trees shall be a minimum height of 10 feet at the time of planting. [Ord. 28-05 § 1.02; Ord. 20-09].

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STAFF REPORT

TO: PLANNING COMMISSION
FILE NO.: Z2014-101

PREPARED BY: AARON LAMBERT
MEETING DATE: JULY 23, 2014

GENERAL INFORMATION:

APPLICANT: CITY OF RICHLAND (Z2014-101)

REQUEST: ZONING AND SUBDIVISION CODE TEXT AMENDMENTS – REVISIONS TO SECTIONS 23.38.070, 23.18.040, 23.38.020, 23.54.140, 24.04.030 AND 24.12.010 OF THE RICHLAND MUNICIPAL CODE CONCERNING REQUIREMENTS ASSOCIATED WITH FENCING, ACCESSORY BUILDINGS AND HOUSE SETBACKS, SUBDIVISION APPLICATION REQUIREMENTS, REESTABLISHING PREVIOUSLY PLATTED LOTS AND SIZE REQUIREMENTS FOR LANDSCAPING TREES FOR COMMERCIAL DEVELOPMENT.

LOCATION: CITY-WIDE

REASON FOR REQUEST

City staff has developed amendments to setbacks for fences and homes on corner lots, setbacks from alley/private access easements as well as setbacks for accessory buildings to the principal dwelling.

The purpose of revising corner lot setbacks is to allow more flexibility in the siting of the homes and the option to have a larger portion of their yard screened behind fences up to 6 feet in height. Currently the house and fence setbacks are the same for both street frontages and are generally 20 feet from the property line. The amendments include diagrams to visually describe the setback allowances. Currently the zoning code provides no guidance on setbacks from private alleys and access easements. The general development pattern has been that homes have been built to within 5 to 6 feet from the edge of the pavement on private alleys. As the property includes the alley they could potentially build right to the edge of the alleyway/drive. Establishing a minimum 6 foot setback allows for a more open vehicle corridor, a better pedestrian environment and would be in keeping with the established development pattern. The fencing requirements are found in RMC 23.38.070 while the setbacks required for homes is found in RMC 23.18.040.

The 6 foot separation (setback) from accessory buildings to the home is a requirement that stemmed from the Uniform Building Code which is no longer in use at the City. Staff is proposing to eliminate this requirement and follow the International Building Code adopted in 2003, (*and subsequent amendments*) which allows accessory

structures to be immediately adjacent to the home depending on the size, type of construction, openings in the buildings and materials stored in the structure. The amendment would allow sheds up to 200 square feet to be located adjacent to the primary structure (home) in the rear yard. Sheds under 200 SF in the side yard must be sited so a minimum 5 foot clearance is provided between either the shed and property line or the shed and primary structure. This would allow more flexibility to the residents when siting these structures while still meeting the International Fire and Building Codes. A diagram was added to RMC section 23.38.020 to aid in clarifying the requirements.

Staff is proposing to amend the submittal requirements for subdivision application maps by referencing the application form for the submittal requirements. This allows flexibility to reduce the number of hard copies from 32 to a lesser number and also request digital formats for ease of distribution to City departments and external agencies, see RMC 24.12.010.

Also related to subdivision is the proposal to allow development on previously consolidated lots if they are returned to the size to which they were originally platted. Current code requires all new lots to be of the minimum lot size. In Central Richland for example some lots were consolidated but as developed could be divided back to two lots to the same dimensions of the original plat. The lots could only be reestablished if the current setbacks requirements were met for existing structures. New development on the lot would be required to meet current development standards.

Allowing for the reestablishment of previously platted lots would allow the potential for infill development where possible and still maintain the character of the neighborhood. This is not an uncommon practice with other jurisdictions, even those with narrow lots at times only 20 feet wide platted at the turn of the 20th century when homes were much smaller and areas of towns and cities platted by speculative developers. Note that current setbacks would still be applied to any new construction.

Finally, a caliper size requirement is proposed for required landscaping trees to ensure trees of adequate size are installed with new commercial development. Recently trees have been planted that while meeting the letter of the code, had small caliper trunks and the trees are unlikely to mature to a desirable size as well as match the adjacent development. RMC 23.54.140 outlines the requirements for trees in commercial parking facilities.

FINDINGS AND CONCLUSIONS

Staff has completed its review of the proposed zoning code amendments to clarify the use and storage of recreational vehicles (Z2014-101) and submits that:

1. The City's existing setback requirements for fences and homes on corner lots provides little flexibility and results in much of the yard being dedicated to yard area along the street frontages.

2. Strict setback requirements for both frontages typically results in flat building elevations along the flanking (non-address) street frontage so that the most square footage can be gained from the reduced building footprint.
3. Residents and Developers have expressed a desire for setbacks that allow flexibility in the siting of homes which can lead to variety in the design of housing. There is also a desire to utilize more of the flanking street frontage side yards and have that area screened with fencing.
4. Establishing a requirement for setbacks from private alleys and access easements will provide needed guidance for siting homes. The proposed dimension will not unduly restrict development and it will insure that a minimum corridor is preserved for pedestrians, vehicles and EMS services.
5. The need for a separation of accessory buildings from the primary home has been superseded by the adoption of the International Building Code in 2003.
6. The proposed setback amendments allow for greater flexibility while still respecting the character and appearance of the community as well as safe visibility at intersections.
7. The requirements for subdivision application materials currently found in RMC 24.12.020 "Preliminary Plat – Application for approval" is more appropriately found on the application form. The proposed amendment allows Staff to update the requirements when necessary without requiring an amendment to the municipal code.
8. The reestablishment of previously platted lots that were consolidated with a developed lot, generally a single family home would allow for additional infill and density while still respecting the character of the neighborhood and previously planned subdivision of land. Development standards for setbacks, lot coverage, building heights and all City requirements would be required for future development on a reestablished lot.
9. The existing requirements for required street frontage and parking lot trees provides no assurance that the trees will have the desired effect of providing a visually appealing streetscape and cooling of the parking area.
10. The proposed amendment will insure trees are of a caliper that will result in desirable trees but not so large that the trees will have difficulty establishing themselves.
11. The City has evaluated the environmental impacts of the proposed code amendments, has determined those impacts will not be significant and has

issued a Determination of Non-Significance in keeping with the requirements of SEPA, see exhibit C.

12. Based on the above findings and conclusions, adoption of the proposed amendments to the City code would be in the best interest of the community of Richland.

RECOMMENDATION

Staff recommends the Planning Commission concur with the findings and conclusions set forth in Staff Report (Z2014-101) and recommend to the City Council approval of the proposed zoning and subdivision code revisions as found in Exhibit 1.

EXHIBITS

1. Proposed Code Amendments

EXHIBIT (1)

23.38.070 Fences.

Fences are permitted as follows:

A. Open Fences (fences constructed of panels/sections with at least 50 percent open spaces such as non-slatted chain link, wrought iron, picket or rail fencing).

1. Six feet high, anywhere on the lot; provided, that they shall be no closer to a street right-of-way than the building setback line in the same zone, except as provided for in subsections s (E and F) of this section.

2. Four feet high, anywhere on the lot and within adjoining street right-of-way to within one foot behind sidewalk or five feet behind back of curb; provided, that they do not form sight obstructions at intersections or at curves.

3. Open fences constructed in conjunction with public playgrounds, public utilities and other public installations shall be no closer than 10 feet to the curb line, but such fences may be any height necessary for safety and security.

B. Other Fences.

1. Six feet high, anywhere on the lot; provided, that they shall be no closer to the street right-of-way than the building setback line in the zone, except as provided in subsections s (E and F) of this section.

2. Three feet high, anywhere on the lot and within adjoining street right-of-way to within one foot behind sidewalk or five feet behind back of curb; provided, that they do not form sight obstructions at intersections, or at curves.

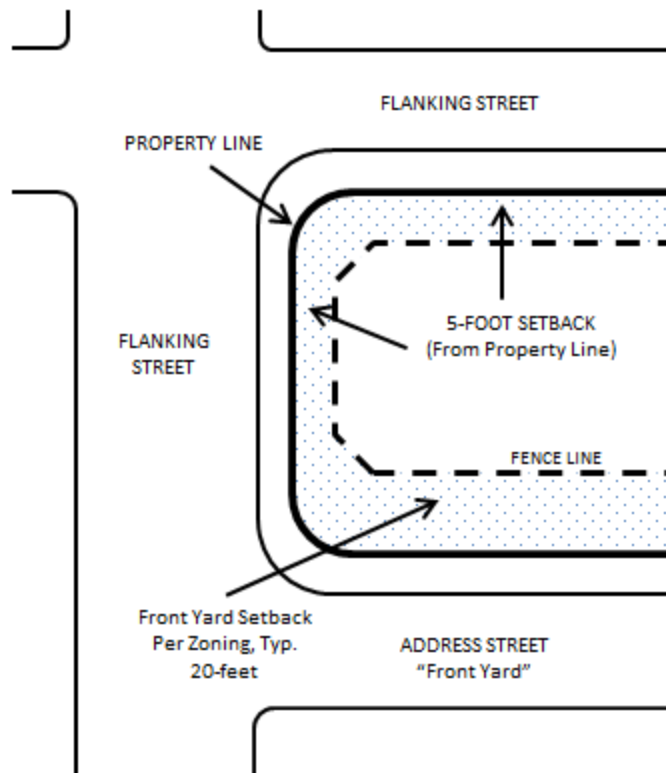
C. Fence height shall be measured above the highest grade within two feet of the fence line.

D. Fences and hedges shall be constructed and maintained in accordance with the requirements of Chapter [12.11](#) RMC, Intersection Sight Distance.

E. Fences up to six feet high may be built inside the property line and adjacent to arterial streets on lots having access to other streets when provisions for other such fencing are included in approved subdivision plats in accordance with RMC [24.08.140](#) and [24.16.260](#) or when special approval is granted by the administrative official. When fences are constructed under this provision, the following requirements shall apply:

1. The adjacent strip of land between the fence and the back of the adjacent sidewalk shall be improved by the property owner concurrent with installation of fencing;
2. The property owner shall provide a treatment plan for the strip of land as part of the building permit application process;
3. The treatment plan shall provide for minimum treatment with grass, decorative rock, wood, bark, or any combination of such materials or similar materials in a manner that will minimize disturbance by natural elements or pedestrians. Xeriscaping with native plants and other low maintenance landscaping materials is encouraged;
4. Fence installation and treatment of the strip of land shall be completed within six months after a permit is obtained;
5. Trees or shrubs may be planted on or behind the centerline (fence side) of the strip of land and shall be continuously maintained in a manner that will not interfere with normal pedestrian and vehicular uses on the adjacent sidewalk and street;
6. No vehicular access is allowed through any such fences except for occasional maintenance purposes;
7. Where no sidewalk or curb is required on an arterial street or highway, any required landscape treatment need not extend further than seven and one-half feet toward the street from the fence; provided, however, that the administrative official may waive, wholly or in part, the requirement of landscape treatment after finding that special circumstances exist which justify such a waiver.

F. For corner lots and lots with triple-street frontages, fencing over four feet in height must be setback 5 feet from the property line, excluding the front yard (see diagram below).



FG. Barbed Wire and Electric Fences. The use of barbed wire and electrically charged fences is prohibited except as follows:

23.18.040 Site requirements for residential use districts.

In the following chart, development standards are listed on the vertical axis. Zoning districts are listed on the horizontal axis. If a number appears in the box at the intersection of the column and row, that number represents the dimensional standard that applies to that zoning district.

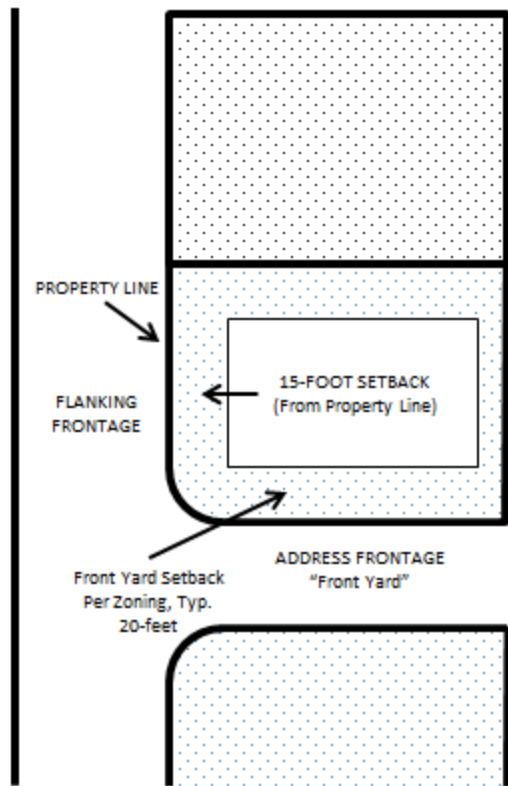
Land Use	R-1-12	R-1-10	R-2	R-2S	R-3
Residential Uses					
Minimum Front Yard Setback ³	20 feet	20 feet	20 feet	15 feet/18 feet ⁴	20 feet ^{6,10}
Minimum Side Yard Setback	10 feet	10 feet	6 feet	6 feet ⁵	6,10
Minimum Rear Yard Setback	25 feet	25 feet	25 feet	20 feet/3 feet ⁷	25 feet ^{6,10}
<u>Minimum Alley/Private Access Easement Setback</u>	<u>6 feet</u>	<u>6 feet</u>	<u>6 feet</u>	<u>6 feet</u>	<u>6 feet</u>

3. Front yard setbacks are required from all street rights-of-way adjoining a lot as shown in the table above, except as follows:

a. In single-family residence districts and in R-2 and R-3 districts where more than 50 percent of the normal or average-size lots in a block fronting on one side of the street are developed with existing buildings, other than accessory buildings, with front-yard setbacks less than that required for the district, a new single-family or duplex dwelling shall adopt a minimum front yard setback dimension which is the average of the setbacks of the buildings on the two adjoining lots, existing prior to July 22, 1960, but in no case shall this dimension be less than 15 feet nor need it exceed 30 feet.

b. Residential Districts. In any R district, or any combination therewith, on any corner lot where there is provided a side yard along the interior side lot line at least equal in width to the minimum depth of the rear yard required for the district, the main building may encroach upon the required rear yard up to a line where the remaining rear yard is no less in depth than the minimum width of the side yard required for the district. No accessory buildings may be located in said side yard, except a patio shelter enclosed on no more than two sides by walls or other enclosures and in conformity with the other provisions of this title.

c. The flanking frontage or non-address front yard of a corner lot may reduce the front yard setback of said frontage to 15 feet, see diagram below.



23.38.020 Accessory buildings in residential zoning districts.

A. Attached accessory buildings and detached accessory buildings meeting the main building setbacks shall comply with all the site requirements for the main building including maximum building height, minimum setbacks and maximum lot coverage as set forth in RMC [23.18.040](#).

B. Detached accessory buildings not meeting the main building setbacks are subject to the following requirements:

1. Detached accessory buildings shall be erected or altered so as not to be nearer to any street lot line than the minimum depth required for a front yard in the district.
2. Detached accessory buildings built adjacent to the front half of an adjoining lot shall comply with applicable side yard requirements of the underlying zoning district.

3. Detached accessory buildings under 200 SF may be located adjacent to the primary structure provided all building and fire codes are met. Those sheds less than 200 SF shall be located no closer than six feet to the main building or any roofed attached accessory structure to the main building such as a carport, porch or patio located in the side yard shall maintain a minimum 5 foot clearance to the property line or primary structure from the leading edge of the shed, see diagram below.

4. When a detached accessory building is built adjacent to the back half of the adjoining lot or is 75 feet or more from any right-of-way line bounding the lot, the following setbacks shall apply:

- a. If the accessory building is 120 square feet or less in floor area and 10 feet or less in height ~~no a 1.5'~~ (18") setback is required from the side and rear property lines.
- b. Accessory buildings over 10 feet in height and those between 120 square feet and 600 square feet in floor area shall be set back a minimum of three feet from the rear and side property lines.
- c. Any accessory building exceeding 600 square feet in floor area shall be set back a minimum of five feet from the rear and side property lines.

C. In addition to maintaining compliance with the maximum overall lot coverage set forth in RMC [23.18.040](#), total area of detached accessory buildings located in a rear yard shall not exceed 25 percent of the area of said rear yard.

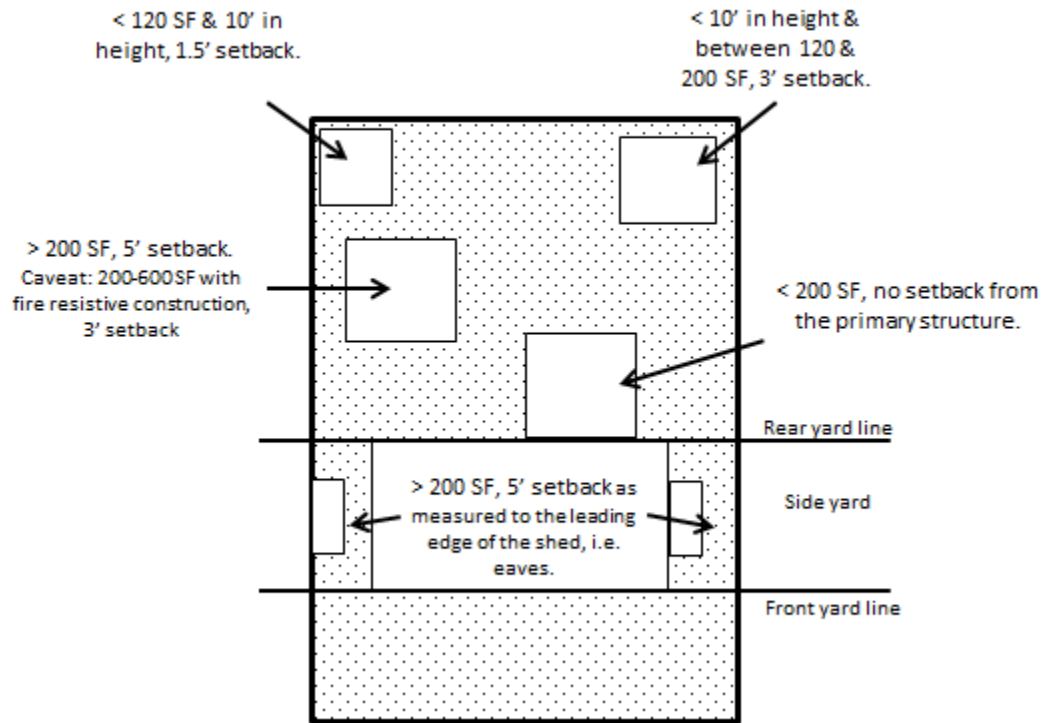
D. In no case shall a detached accessory building exceed 900 square feet in floor area or 50 percent of the gross floor area of the main building (including the floor area of attached garages but excluding any floor area of a basement), whichever is greater, to a maximum of 1,200 square feet.

E. To help ensure larger detached accessory buildings are similar in design and appearance to the main building, detached accessory buildings over 900 square feet in floor area or which exceed the height of the main building on the lot shall be subject to the following minimum design standards:

1. In no case shall a detached accessory structure exceed a height of 16 feet.
2. The detached accessory structure shall have a minimum roof pitch of 4:12 or a roof pitch equal to or greater than the roof pitch of the main building on the lot if the roof pitch of the main building is less than 4:12.
3. Exterior siding shall consist of wood, hardboard, stucco, aluminum, vinyl or steel siding commonly used in standard residential construction. Corrugated metal siding or similar industrial type siding is not permitted.

The final administrative decision as to a proposed accessory building's conformance with the design standards set forth in this subsection shall be appealable to the board of adjustment in accordance with the procedures set forth in RMC [23.70.070](#), Administrative review – Procedures.

F. Detached residential accessory buildings built pursuant to this section shall not be more than one story. [Ord. 28-05 § 1.02; Ord. 04-09; Ord. 20-10 § 1.02].



SUBDIVISION

24.04.030 Application of regulations.

The regulations contained in this title shall apply to the subdivision of any lot, parcel, or tract of land into two or more lots or tracts, or other division of land for the purpose of sale or building development, whether immediate or future, including the resubdivision or replating of land or lots. The regulations shall apply in every situation where there is a dedication of streets, alleys, easements, or land for public use. The provisions of this chapter shall not apply to:

A. Cemeteries and other burial plots while used for that purpose;

B. Divisions of land into lots or tracts each of which is one one hundred twenty-eighth of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land; provided, that for purposes of computing the size of any lot under this title which borders on a street or road, the lot size shall be expanded to include that area which would be bounded by the centerline of the road or street and the side lot lines of the lot running perpendicular to such centerline;

C. Divisions made by testamentary provisions, or the laws of descent; and

D. A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site.

E. The reestablishment of a previously platted legal lot of record to its original dimensions that does not violate any current setback, lot coverage or other development standard excluding minimum lot size requirements.

24.12.010 Preliminary plat – Application for approval.

For the purpose of expediting the preliminary approval of any subdivision, every subdivider shall file with the subdivision administrator a preliminary plat application on such forms as may be provided by the city. Each application shall include a sufficient number of copies of the preliminary plat map_ electronic and hard copies of the map(s) (but in any case, at least 32 copies) as specified on the preliminary plat application, a report from form.

23.54.140 Landscaping of parking facilities.

E. Landscaping Material. Landscaping materials used to achieve the design criteria in conformance with provisions of this section shall conform to the following standards:

1. Trees shall be species having an average mature spread of crown of greater than 15 feet and shall be a minimum of five feet to eight feet overall height six to eight feet in height and have a diameter at breast height (dbh) caliper of at least 1.5 inches immediately after at planting. DBH is measured at 4.5 feet from average grade within 6 feet of the tree trunk so as not to include mounding at the tree base. Trees having an average mature spread of crown less than 15 feet may be substituted by grouping the same

so as to create the equivalent of a 15-foot crown spread. Tree species whose roots are known to cause damage to public roadways or other public works shall not be planted closer than 12 feet to such public works, unless the tree root system is completely contained within a barrier being a minimum of five feet deep and five feet wide.