



Richland

## **NOTICE OF DECISION**

**PURSUANT TO RICHLAND MUNICIPAL CODE SECTIONS 19.60.080 & 23.46.050, NOTICE IS HEREBY GIVEN THAT THE RICHLAND HEARING EXAMINER HELD A PUBLIC HEARING ON MARCH 10, 2025, TO CONSIDER AN APPLICATION SUBMITTED BY DARIN MUSSER OF MUSSER LANDSCAPING LLC FOR A SPECIAL USE PERMIT TO CREATE AN AREA OF ADDITIONAL LAYDOWN YARD FOR LANDSCAPING MATERIALS AT 1770 BUCKSKIN LANE. THE PROJECT SITE IS LOCATED ON ASSESSOR'S PARCEL NUMBER 104981020003001. ON APRIL 18, 2025, THE HEARING EXAMINER ISSUED A WRITTEN DECISION TO APPROVE SPECIAL USE PERMIT # PLN-T2-2025-00010.**

**REQUEST:** Special Use Permit to create an area of additional laydown yard for landscape materials.

**LOCATION:** 1770 Buckskin Lane, Parcel Number 104981020003001

**DESCRIPTION OF ACTION:** Request approved subject to the conditions as enumerated in the Hearing Examiner's written decision, attached below.

**SEPA REVIEW:** The above referenced action was reviewed in compliance with the requirements of the State Environmental Policy Act (RCW 43.21c). A SEPA Threshold Determination of Non-Significance was issued by the City of Richland on February 11, 2025 after utilizing the Optional DNS Method.

**APPEAL PROCEDURES:** This Special Use Permit is a Type II Permit action under RMC 19.20.010(B)(9). RMC 19.70.010 explains that project permit applications shall be appealable as provided in the framework in RMC 19.20.030, which provides that Type II Permit decisions are not subject to a closed record appeal before the City Council but may be appealed to Superior Court. RMC 19.70.060, captioned "Judicial appeals", reads as follows:  
*Except in the event of legal authority providing for a different appeal process, the city's final decision on an application may be appealed by a party of record with standing to file a land use petition in Benton County superior court. Such petition must be filed within 21 days of issuance of the decision, as provided in Chapter 36.70C RCW.*

**DATE OF DECISION:** April 18, 2025

Mike Stevens  
Planning Manager

April 21, 2025  
Date

**BEFORE THE HEARING EXAMINER  
FOR THE CITY OF RICHLAND**

Regarding an Application for a Special  
Use Permit to authorize a Landscape  
Materials Storage Use on property  
located in the City's Agricultural Zone,  
submitted by

**DARIN MUSSER,**

Applicant,

*(The site is located at 1770 Buckskin Lane, immediately north  
of the applicant's existing landscaping business, in the  
northeast corner of the Buckskin Lane and Van Giesen Street  
intersection in the City of Richland)*

**File No. PLN-T2-2025-00010**

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

**I. SUMMARY OF DECISION.**

The applicant met his burden of proof to demonstrate that his Special Use Permit application merits approval, subject to appropriate conditions.

**II. RECORD.**

Exhibits entered into evidence as part of the record, and an audio recording of the public hearing, are maintained by the City of Richland, and may be examined or reviewed by contacting the City Clerk's Office. The Record includes a Staff Report, prepared by Mr. Nelson, recommending approval, with the following exhibits:

***Exhibits:***

1. Application Materials
2. Site Plan

**FINDINGS OF FACT, CONDITIONS OF  
APPROVAL AND DECISION RE: DARIN MUSSER  
APPLICATION FOR A SPECIAL USE PERMIT TO  
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3. SEPA Checklist
4. Determination of Non-Significance
5. Public Notice and Affidavits
6. Agency Comments

**Hearing Testimony:** The following individuals presented testimony under oath at the duly noticed public hearing for the underlying application on March 10, 2025:

1. Ryan Nelson, Planner for the City of Richland. Mr. Nelson summarized the Staff Report, the site location, applicable codes, suggested conditions, history of the applicant's landscaping business on the neighboring site, and responded to questions from the Hearing Examiner;
2. Shane O'Neill, land use consultant with Clover Planning, attended the Musser application hearing which followed another unrelated matter for one of Mr. O'Neill's clients; spoke briefly to share how he reached out to the applicant by phone when he noticed that Mr. Musser was not present in the hearing room, explained that Mr. Musser was absent so he could care for family members who were not feeling well, or something to this effect.

The Examiner visited the project site, as well as the road network and vicinity of the proposed Special Use Permit before and after the public hearing, and is fully advised on matters at issue herein, including without limitation applicable law, application materials, and relevant codes.

No one provided testimony or evidence during the public hearing or in written comments that would serve as a basis to deny the pending application. No one opposed the requested SUP.

### III. FINDINGS OF FACT.

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

1. In this matter, the Hearing Examiner has jurisdiction to conduct an open record public hearing and issue a Decision regarding Darin Musser's pending application for a Special Use Permit to authorize a landscape materials storage use, specifically a "laydown yard", on a parcel that is currently zoned AG (Agricultural), adjacent to and immediately north of his existing landscaping business. *(See RMC 23.42.105, re: Landscaping material sales and plant nurseries, requirements if located in an AG district; RMC 23.46.025(A)(4), re:*

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1 *authority for Hearing Examiner to issue Special Use Permit for “landscaping material sales*  
2 *and plant nurseries in the AG – agricultural district”; and RMC 23.46.040, re: special use*  
3 *permit process; Ex. 1, application materials; Staff Report, pages 12-15).*

4 2. The applicant’s existing landscaping business, Musser Landscaping, commenced  
5 operations at the corner of Buckskin Lane and Van Giesen Street at some point after obtaining  
6 a separate Special Use Permit approval from the City’s Hearing Examiner in 2016 to operate  
7 a landscaping contractor business at 1752 Buckskin Lane, a 1.5-acre site that was then located  
8 in the city’s AG (Agricultural) zoning district. *(See Hearing Examiner Decision for File No.*  
9 *SUP 2016-101, issued in August of 2016).*

10 3. Soon thereafter, the same applicant applied to rezone his landscaping business site,  
11 from AG to C-3 (General Business), which was the subject of another open record public  
12 hearing before and recommendation of approval from the Hearing Examiner to the City  
13 Council in early 2017. *(See Rezone application File No. Z2016-106, H Ex Recommendation*  
14 *of Approval, dated Feb. 13, 2017).* In March of 2017, the City Council voted to rezone the  
15 Musser Landscaping parcel that was the subject of the first SUP issued in 2016. *(See Ord.*  
16 *No. 04-17, approved on March 21, 2017).*

17 4. Since opening and operating his landscaping business, for 8+ years, the City has not  
18 received any code compliance complaints about problems or adverse impacts on adjacent  
19 properties. *(Testimony of Mr. Nelson, in response to question about history of code*  
20 *enforcement complaints, if any, filed regarding the Musser Landscaping business).*  
21 Conditions of Approval for the original SUP appear to have achieved their purpose, i.e. to  
22 prevent negative impacts on surrounding properties, among other things, so they should be  
23 extended to this SUP which allows for expansion of the applicant’s landscape materials  
24 storage use onto part of a neighboring property. The applicant should be commended for  
25 being a good neighbor, operating a business without complaints, despite expressions of  
26 concern from local residents during the 2016 public hearing.

5. Given the success of his business, the applicant seeks to expand the area where he can  
store / “lay down” landscape materials on a part of the parcel immediately north of the current  
business operation, providing the following proposal description: “Utilizing 1.5 acres of a  
5.4 acre parcel to extend lay down/gravel area for the purposes of holding more landscape  
materials (pavers, plantings, pipe, etc.). Area will be fenced off with privacy fencing.” *(See*  
*Ex. 3, SEPA Checklist, on project file page 31 of 67).*

6. There is no dispute that the proposed “lay down” area is on a parcel that is zoned AG,  
so just as the original landscaping business required a Special Use Permit to operate on land  
that was previously zoned AG, the proposed new “lay down” area to hold landscaping

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materials on a property that is zoned AG requires a Special Use Permit. (See RMC 23.46.025).

7. An aerial image showing the existing business site, and the proposed area where the expanded “lay down” use will be located, is included in the record as Figure 1 on page 2 of the Staff Report and is republished below:



8. A Special Use Permit is reviewed under the City’s Type II process, which requires an open record public hearing by the Hearing Examiner, who is given authority to approve such permits. (See RMC 19.20.010, and RMC 23.46.040 re: special use permit process and Examiner’s authority to impose conditions).

9. No development application for a Type II or Type III permit shall be approved by the city of Richland unless the decision to approve the permit application is supported by the findings and conclusions mandated by RMC 19.60.095.

10. The City’s review procedure chart provides that decisions made by the Examiner on Type II matters are subject to appeal to superior court. See 19.20.010(B)(9), RMC 23.46.070, and RMC 19.20.030.

11. The applicant bears the burden of proof to show that their application conforms to the relevant elements of the city’s development regulations and comprehensive plan, and that any significant adverse environmental impacts have been adequately addressed. RMC

**FINDINGS OF FACT, CONDITIONS OF APPROVAL AND DECISION RE: DARIN MUSSER APPLICATION FOR A SPECIAL USE PERMIT TO AUTHORIZE A LANDSCAPE MATERIALS STORAGE USE ON A PROPERTY LOCATED IN THE CITY’S AG – AGRICULTURAL ZONE, FILE NO. PLN-T2-2025-00010**

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19.60.060.

12. RMC 23.46.040 specifies the hearing process and criteria that must be satisfied by an applicant to obtain a Special Use Permit, and reads as follows:

**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;

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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].

13. The un rebutted Staff Report and exhibits in the record establish that the pending application was subject to and satisfied applicable notice and comment requirements for matters of this sort. (*Staff Report, page 12; Exhibits 4-6*).

14. The applicant completed a SEPA Checklist for his proposal, which was considered by staff with other relevant environmental information, resulting in a SEPA Determination of Non-Significance for this project issued on or about February 28, 2025. (*Staff Report, page 11; Ex. 3, SEPA Checklist; and Ex. 4, SEPA DNS*).

15. The Staff Report credibly analyzes relevant Comprehensive Plan policies and City development regulations that apply to the pending Special Use Permit application.

16. Based on the application materials, site visits, the site plan, and the Staff Report's analysis and proposed conditions, there is a preponderance of evidence to support approval of the requested Special Use Permit, subject to conditions.

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***Application satisfies approval criteria***

17. The record includes a preponderance of evidence which establishes that the proposed landscape materials storage use on part of a property that is zoned AG has been designed, or can be conditioned, to comply with the specific performance standards for such use in the AG zone. *(See discussion and analysis in the Staff Report; Testimony of Mr. Nelson).*

18. The record includes a preponderance of evidence which establishes that the proposed landscape materials storage use has been designed, or can be conditioned, to comply with all 5 approval criteria for the requested Special Use Permit found in RMC 23.46.040(C)(1-5), as explained in the analysis provided in the Staff Report.

19. As conditioned in this Decision, potential impacts on adjacent properties, surrounding uses and public facilities have been adequately mitigated.

20. Any factual matters set forth in the foregoing or following sections of this Decision are hereby adopted by the Hearing Examiner as findings of fact and incorporated into this section as such.

21. Except as modified in these findings, all statements of fact and findings included in the Staff Report are adopted herein as findings of fact by the Examiner, supporting approval of the requested Special Use Permit.

22. Based on the record, the applicant demonstrated its special use permit application merits approval, meeting its burden of proof imposed by RMC 19.60.060.

23. Approval of this special use permit will not and does not constitute, nor does it imply any expectation of, approval of any administrative permit or subsequent reviews that may be required for construction, business operations, or other activities on the site of the special use permit.

**IV. CONDITIONS OF APPROVAL.**

Based on the record and authority specifically granted under applicable city codes, including without limitation RMC 23.46.040, the Examiner hereby imposes the following conditions on the approval for the pending special use permit in addition to or above and beyond those required elsewhere in the city's municipal code, specifically finding that such conditions are necessary to ensure the proposed use is compatible with the public interest:

1. Except as modified to comply with other Conditions of Approval, the project

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shall be developed in substantial conformance with the site plan submitted as part of this application (*Ex. 2*), provided the Planning Manager shall have full discretion and authority to require submittal of more detailed plans for city review and approval (for building permits, landscaping, planting plans, and the like) that will conform to these conditions of approval, and/or otherwise applicable city development standards. Landscape materials storage and related uses authorized by this permit shall not expand beyond the area depicted in the site plan (*Ex. 2*).

2. Consistent with RMC 23.42.010(D), the applicant shall implement and employ effective dust-control measures on a continuing basis, to the satisfaction of the City's Planning Manager, who shall have full discretion and authority to: enforce this condition, add to, or modify the applicant's dust-control requirements on the site, based on verified complaints or observations that this provision is not adequately respected during the applicant's business operations on the site.

3. Consistent with special requirements for landscaping materials business uses in the AG zone, found in RMC 23.42.105, the project site shall be screened from adjacent properties not owned or under lease by the applicant, with minimum screening to consist of a six-foot-high solid fence or hedge row, subject to review and approval by the Planning Manager.

4. Consistent with RMC 23.46.090, the validity of this special use permit shall be contingent upon exercise of the special use, as granted, and the special use permit shall run with the property. This decision granting the underlying special use shall 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. Such recording shall be the responsibility of the permit-holder/applicant, and a conformed copy of the recorded instrument reflecting a valid recording number shall be filed with the City prior to the conduct of the expansion on the property. Any change in the special use, which is to be determined to substantial by the administrative official, shall void this permit and the original permit (SUP 2016-101) and necessitate the submission of a new special use permit application.

5. The applicant shall obtain all necessary City of Richland development permits.

6. Extending a specific condition imposed as part of the applicant's first SUP issued under File No. SUP2016-101 to this SUP allowing for additional landscape materials storage space, the applicant's business vehicles, trucks and equipment shall not be parked or staged (for loading, unloading, or similar activities) along the public

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rights-of-way abutting the site. Deliveries shall be coordinated so as to minimize any waiting time, to discourage large vehicles or equipment driving around the vicinity on local roads, or parking to await opening of the business. The Planning Manager shall have discretion to require signage that would limit parking or turn-arounds by suppliers, customers, and/or the landscaping business vehicles on Buckskin Lane, if verified complaints or observations warrant such traffic control measures.

#### V. DECISION.

Based upon the preceding Findings and Conditions of Approval, Mr. Musser's Special Use Permit application to authorize landscape materials storage on a portion of property located at 1770 Buckskin Lane in the City's AG zone as described in the application materials, site plan, and Staff Report included in File No. PLN-T2-2025-00010 is APPROVED, as conditioned herein. Consistent with RMC 23.46.060, this Decision authorizes the City's administrative official to issue a special use permit, subject to the applicant's compliance with the above-referenced Conditions of Approval.

ISSUED this 18<sup>th</sup> Day of April, 2025



Gary N. McLean  
Hearing Examiner

#### OPPORTUNITY TO APPEAL

This Special Use Permit is a Type II Permit action under RMC 19.20.010.B.9. RMC 19.70.010 explains that project permit applications shall be appealable as provided in the framework in RMC 19.20.030, which provides that Type II Permit decisions are not subject to a closed record appeal before the City Council but may be appealed to Superior Court. RMC 19.70.060, captioned "Judicial appeals", reads as follows:

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