

CITY OF BURIEN, WASHINGTON

RESOLUTION NO. 352

A RESOLUTION OF THE CITY OF BURIEN, WASHINGTON, CONDITIONALLY APPROVING THE WESTVIEW SUBDIVISION PRELIMINARY PLAT AND ADOPTING THE HEARING EXAMINER'S FINDINGS OF FACT AND CONCLUSIONS IN SUPPORT OF SAID APPROVAL

WHEREAS, the City of Burien Hearing Examiner conducted an open record public hearing on November 5, 2013 at which testimony from city staff, the applicant and public was heard regarding preliminary plat approval of the Westview Subdivision; and

WHEREAS, on November 18, 2013 the Hearing Examiner issued a recommendation to the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN,
WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Council, having considered the Westview Subdivision preliminary plat application and the Hearing Examiner's recommendation, conditionally approves the Westview subdivision and adopts the Hearing Examiner's findings and conclusions attached as Exhibit "A", as fully incorporated herein as if fully set forth.

PASSED BY THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON,
WASHINGTON, AT A REGULAR MEETING THEREOF THIS 2nd DAY OF DECEMBER,
2013.

CITY OF BURIEN, WASHINGTON

/s/ Brian Bennett, Mayor

ATTEST/AUTHENTICATED:

/s/ Monica Lusk, City Clerk

Approved as to form:

/s/ Ann Marie Soto, Acting City Attorney

Filed with the City Clerk: December 2, 2013
Passed by the City Council: December 2, 2013
Resolution No. 352

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

| | | |
|-------------------------------------|---|-----------------------------|
| In the Matter of the Application of |) | No. PLA 13-0135 |
| |) | |
| Mike Lierman, on behalf of |) | Westview Subdivision |
| Smackdab Realty, LLC |) | |
| |) | FINDINGS, CONCLUSIONS, |
| For a Preliminary Plat |) | AND RECOMMENDATION |

SUMMARY OF RECOMMENDATION

The Hearing Examiner recommends that the request for a preliminary plat to subdivide 1.14 acres into five, single-family residential lots at 18052 Occidental Avenue S, Burien, Washington, be **APPROVED**, with conditions. Conditions are necessary to comply with City code and mitigate specific impacts of the proposal.

SUMMARY OF RECORD

Hearing:

The Hearing Examiner held an open record hearing on the request on November 5, 2013.

Testimony:

The following individuals testified under oath at the open record hearing:

- Stephanie Jewett, City Planner
- Ramesh Davad, City Development Review Engineer
- Heungkook Lim, City Surface Water Management Engineer
- Harold Duncanson, Duncanson Company, Inc., Applicant Representative
- Yvonne Moore
- Shirley Rousell
- Mike Lierman, Applicant

Exhibits:

1. Staff Report, dated October 16, 2013, with the following attachments:
 1. Vicinity Map
 2. Residential Subdivision Development Regulations
 3. Preliminary Plat
 4. Conceptual Road and Utility Plan
 5. Tree Retention Plan
 6. Preliminary Technical Information Report, Duncanson Company, Inc., dated January 15, 2010
 7. Updated to Section 4 of the Preliminary Technical Information Report, Duncanson Company, Inc., dated March 12, 2013
 8. Road Standards Variance, dated March 15, 2013

*Findings, Conclusions, and Recommendation
City of Burien Hearing Examiner
Westview Preliminary Plat, No. PLA 13-0135*

9. Public Works Recommended Conditions of Land Use Approval, dated October 7, 2013
10. Public Works Stormwater Conditions of Land Use Approval, dated October 7, 2013
11. Certificate of Water Availability, Highline Water District, dated December 21, 2012
12. Certificate of Sewer Availability, Southwest Suburban Sewer District, dated January 3, 2013
13. Certificate of Fire Hydrant Availability, King County Fire District #2, dated January 9, 2013
14. Westview PLA 13-0135 School Walkway Conditions
15. Email from Sandra Coulter, dated April 2, 2013
16. Email from Colleen Phillips, dated April 17, 2013
17. Email from Sandra Galbraith, dated April 23, 2013
18. Email from Nathan Enns, dated April 26, 2013
19. Email from Shirley Rousell, dated April 27, 2013
20. Email from Danelle Bautista, dated April 28, 2013
21. Email from Debbie Jurasek, dated April 29, 2013
22. Email from Lloyd Whisman, dated April 30, 2013
23. Email from Bonnie White, dated May 1, 2013
24. Email from Daniel Sevin, dated May 1, 2013
25. Response to Public Comments, Harold Duncanson, Duncanson Company, Inc., dated October 4, 2013
26. Preliminary Subdivision Application, dated January 15, 2013
27. Notice of Application, dated April 2, 2013
28. Email from Jason R. Richardson, Utility Inspector, Southwest Suburban Utility District, dated October 15, 2013
29. Public Hearing Notice, dated October 21, 2013
30. Email from Shirley Rousell, dated October 28, 2013, with attached photographs
31. Email from Daniel Sevin, dated October 24, 2013
32. Email from Danelle Bautista, dated November 4, 2013

Based upon the testimony and documents submitted at the open record hearing, the Hearings Examiner enters the following findings, conclusions, and recommendation:

FINDINGS

Application and Notice

1. Mike Lierman, on behalf of Smackdab Realty, LLC, (Applicant) requests a preliminary plat to subdivide 1.14 acres into five, single-family residential lots, at 18052 Occidental Avenue S, Burien, Washington.¹ *Exhibit 1, Attachment 26.*
2. The City of Burien (City) determined the application was complete on March 21, 2013. The City mailed notice of the application to owners of property within 500 feet of the

¹ The property is identified by Tax Assessor Parcel No. 3223049127. A legal description of the property is included with the proposed preliminary plat map. *Exhibit 1, Attachment 3; Exhibit 1, Attachment 26.*

subject property on March 29, 2013. On April 2, 2013, the City posted notice on the property and published notice in the local newspaper of record. City Planner Stephanie Jewett testified that the City mailed notice of the open record hearing to owners of surrounding property in accord with City ordinances. *Exhibit 1, Staff Report, page 1; Exhibit 29; Testimony of Ms. Jewett.*

State Environmental Policy Act

3. The City determined that the proposal is exempt from review under the State Environmental Policy Act (SEPA), chapter 43.21C Revised Code of Washington (RCW), in accord with Burien Municipal Code (BMC) 14.10.040(1). *Exhibit 1, Staff Report, page 10.*

Comprehensive Plan and Zoning

4. The property is designated Moderate Density Residential Neighborhood under the City Comprehensive Plan. The designation provides for primarily single-family residential uses in neighborhoods suited for this type of development, where community improvements and facilities that are normally necessary for development can be provided. Development within this designation includes existing neighborhoods that have been platted at more than four dwelling units per acre. *Exhibit 1, Staff Report, page 18.*
5. The property is located in the City's RS 7200 zoning district. *Exhibit 1, Staff Report, page 6.* The zone implements the Moderate Density Residential Neighborhood designation under the City Comprehensive Plan, and establishes areas in which a wide range of single-family housing opportunities can be provided while preserving the character of the surrounding neighborhood and protecting environmentally sensitive areas. The intent is to provide a variety of attractive, well-designed housing choices that meet the needs of existing and future city residents. *BMC 19.15.005.*
6. Single-family residential development is allowed within the RS 7200 zone. *BMC 19.15.005.2.* Lots must be at least 7,200 square feet in size within the RS 7200 zoning district unless lot averaging² is implemented, but no lot is permitted within the zone with an area less than 90 percent of the minimum lot size. *BMC 19.15.005.2.* Ms. Jewett testified that the preliminary plat proposal includes lot averaging; lots would range from approximately 6,882 square feet to approximately 8,769 square feet. The lot size average would be 7,610 square feet. Ms. Jewett testified that, with lot averaging, proposed lots meet the City's minimum lot size requirements. *Exhibit 1, Staff Report, page 12; Testimony of Ms. Jewett.*
7. Development on lots within the RS 7200 zone must provide a 20-foot minimum front setback and a 5-foot minimum interior setback. Buildings may be no more than 35 feet

² Lot averaging is the numerical averaging of lot areas to determine compliance with the minimum lot area requirements of Burien Municipal Code (BMC) Title 19. *BMC 19.10.327.*

tall, and two off-street parking spaces must be provided for each dwelling unit. Lots may contain no more than 35 percent building coverage and 70 percent impervious surface coverage. *BMC 19.15.005.2.*

Existing Site and Surrounding Property

8. The property contains an existing house, outbuilding, and access driveway. The property also contains landscaped lawn and scattered trees. There are 16 significant trees³ on the property. As proposed, four significant trees would be retained following development, including one evergreen tree more than 24 inches in diameter. Under City Landscape Category A, at least 30 percent of the significant trees on the property must be retained. *BMC 19.25.120.2.* As proposed, the Applicant would receive a total tree retention credit of 5 trees, or 30 percent. The property slopes gradually from east to west at five percent average grade. Ms. Jewett testified that the property is currently vacant and that the house and outbuilding are proposed to be demolished. *Exhibit 1, Staff Report, page 3; Exhibit 1, Attachment 1; Testimony of Ms. Jewett.*
9. Surrounding property in all directions is located in the City's RS 7200 zoning district and contains single-family residential development. Occidental Avenue S is located adjacent to the west of the property. With single-family residential development, S 182nd Street is located to the south, and, with single-family residential development, 1st Avenue S is located to the west. The intersection at Occidental Avenue S/S182nd Street is located to the southwest, and 2nd Place S is located to the northeast. There is no existing or proposed road connection between the property and 2nd Place S. *Exhibit 1, Staff Report, pages 4 and 8; Exhibit 1, Attachment 1; Exhibit 1, Attachment 3.*

Access and Traffic Impacts

10. As proposed, a private access tract, Tract B, would provide access to proposed lots from Occidental Avenue S. The access tract would include a hammerhead for emergency vehicle turn-around access. The City approved a road-standards variance that allows a 3.5-foot-wide asphalt shoulder along the south side of the access tract. A five-foot-wide sidewalk, curb, and gutter would be constructed along the north side. Frontage improvements along Occidental Avenue S, consisting of curb, gutter, five-foot-wide sidewalk, ADA ramps, pavement widening, storm drain system, and full overlay, would also be constructed. Frontage improvements would result in sidewalks, or at least four-foot-wide shoulders, extending south from the property to the nearest school bus stop, located on S 183rd Street. Sidewalks or paved shoulders would also extend northwest from the property to 1st Avenue S. *Exhibit 1, Staff Report, pages 5 and 12 to 13; Exhibit 1, Attachment 3; Exhibit 1, Attachment 8; Exhibit 1, Attachment 9.*

³ A significant tree is a healthy tree that has a minimum eight-inch diameter for evergreen trees or 12 inches for deciduous trees, when each are measured four feet above grade. *BMC 19.10.493.* Each significant tree retained may be credited as two trees for complying with retention requirements if it exceeds 24 inches in diameter for evergreen trees or is located in a group of at least five trees with canopies that touch or overlap. *BMC 19.25.140.*

Stormwater

11. Stormwater runoff currently sheet flows west across the property until intercepted by a ditch along Occidental Avenue S. Runoff from surrounding residential property currently flows north and west away from the property. Proposed development includes a stormwater control structure, wet vault, and infiltration/detention pond within Tract A, which would be located in the northwest corner of the subdivision. Stormwater runoff would be collected and managed through a combination of infiltration and detention within the proposed pond. Individual lots would incorporate infiltration best management practices in accord with the 2009 King County Surface Water Design Manual (KCSWDM). *Exhibit 1, Attachment 4; Exhibit 1, Attachment 6; Exhibit 1, Attachment 7.*

Utilities and Services

12. The proposed plat would obtain water service from the Highline Water District and sewer service from the Southwest Suburban Sewer District. All utilities would be established underground within the proposed development. A sewer main would be constructed within Occidental Avenue S, and would extend east within proposed private access Tract B. Sewer would not be extended to 2nd Place S as part of proposed development. Homes off 2nd Place S would eventually be served from the east. A new water main would be constructed to connect to the existing public main in Occidental Avenue S. The new water main would run east through the proposed subdivision, and then connect to the existing public water main in 2nd Place S. *Exhibit 1, Staff Report, pages 4, 6 to 7, and 14; Exhibit 1, Attachment 4; Exhibit 1, Attachment 11; Exhibit 1, Attachment 12; Exhibit 1, Attachment 25.*
13. The property would obtain fire protection services from Fire District #2. Fire Marshal conditions require that the proposed private access tract to be marked as a fire lane on both sides, with no parking allowed; that fire land and maintenance provisions be recorded on the face of the final plat; and that future homes on Lots 2, 3, and 4 may require residential sprinklers if any portion of the homes is located over 350 feet from an existing hydrant. *Exhibit 1, Staff Report, page 14; Exhibit 1, Attachment 13.*
14. BMC 19.17.013 requires that residential developments provide on-site recreational areas of 390 square feet for each lot created, or pay a fee-in-lieu of actual recreational space when the space is not provided. No on-site recreation space is proposed. A payment for 1,560 square feet, multiplied by the current assessed value per square foot of the property, is due. *Exhibit 1, Staff Report, page 17; Exhibit 1, Attachment 3.*

Public Comment

15. Sandra Coulter expressed concern in an email, dated April 2, 2013, that development of the proposed subdivision would impact how her home on Occidental Avenue S accesses utilities from a pole, owned by Puget Sound Energy, located on Lot 2 within the proposed subdivision. According to a letter from the Applicant, dated October 4, 2013, the existing

pole and overhead services to the Coulter residence would be retained in its current or similar configuration, and the owner would not have any obligations as a result of development. *Exhibit 1, Attachment 15; Exhibit 1, Attachment 25.*

16. Additional emails and letters express concern about the following issues: connection to the proposed sewer line within Occidental Avenue S; traffic impacts of proposed development on pedestrians; tree impacts of proposed development; noise impacts of construction and potential risk of damage to surrounding property; zoning code compliance and compatibility with surrounding development; parking impacts on surrounding property; possible sewer connection requirement for existing homes on 2nd Place S served by private septic systems; reduced water pressure within 2nd Place S; drainage; size, height, and setback requirements for future homes; length of construction; and impact on views to the west. An email from Shirley Rousell, dated October 28, 2013, expresses concern about a tree proposed for retention that is close to her property and has damaged the brick paver walkway on her property. The email also expresses concern about the stability of the tree. *Exhibit 1, Attachments 16 to 24; Exhibit 1, Attachment 25; Exhibit 1, Attachments 30 to 32.*
17. An email from Dan Sevin, dated October 24, 2013, states opposition to the proposal due to the following: increased traffic and congestion; risk of liability for Occidental Avenue S property owners for damage to cars parked along Occidental Avenue S; visibility hazards to cars making a right turn from S 182nd Street to Occidental Avenue S when cars are parked along that side of the street; possible requirement to move a fence along his property line if the sidewalk is constructed down Occidental Avenue S to 183rd Street; possible requirement for homes served by private septic to connect to sewer; and compatibility with the style and appearance of homes in the surrounding neighborhood. An email from Danelle Bautista, dated November 4, 2013, inquires whether a back yard will separate proposed homes from existing homes along the property boundary. *Exhibit 1, Attachment 31; Exhibit 1, Attachment 32.*
18. Yvonne Moore testified to inquire whether sewer would connect to 2nd Place S, whether the proposed retaining pond would be open or closed, whether rainwater draining from Occidental Avenue S would drain onto her property, and how long construction would take. Shirley Rousell testified to inquire about a tree proposed for retention near her home, whether there will be any additional grading on the property, whether there would be fencing between her property and proposed development, and about the size and location of individual homes. *Testimony of Ms. Moore; Testimony of Ms. Rousell.*

Staff Comment and Applicant Response

19. Ms. Jewett testified that City staff recommends approval of the request with six conditions. Proposed conditions concern compliance with applicable ordinances and standards; submittal of detailed plans and updated Technical Information Report and Engineering Plans; submittal of an Erosion and Sediment Control Plan; protection of significant trees proposed to be retained; installation of all street, stormwater, and utility

improvements; payment of a fee-in-lieu of providing recreation spaces; recording a Declaration of Covenant that all drainage facilities shall be privately maintained and operated; payment of a transportation impact fee; receipt of a right-of-way use construction permit and a clearing and grading permit; and receipt of a Construction Stormwater General Permit, if required. *Exhibit 1, Staff Report, pages 2 to 3; Testimony of Ms. Jewett.*

20. Heungkook Lim, City Surface Water Management Engineer, testified that on-site soils are suitable for the type of infiltration proposed. Construction must comply with City noise ordinances. Site development and home construction may be completed within 9 to 12 months, depending on weather and home sales. City ordinances do not regulate exiting views. Harold Duncanson, Applicant Representative, testified that the Applicant has read, understands, and agrees to comply with conditions proposed by City staff. Mr. Duncanson responded that: the proposed water system would improve water pressure; a pedestrian cross-walk would be established across the proposed private access road; proposed frontage improvements to Occidental Avenue S would address stormwater runoff from the street; and the Applicant would meet with Ms. Rousell to discuss options for the tree near her property. Mike Lierman, Applicant, testified that some proposed improvements can be bonded for later completion, including the final road lift, stormwater pond completion, and landscaping. Ramesh Davad, City Development Review Engineer, testified that complete improvements, completely bonded improvements, or a cash security is required. *Exhibit 1, Staff Report, page 8; Testimony of Mr. Lim; Testimony of Mr. Duncanson; Testimony of Mr. Lierman; Testimony of Mr. Davad.*
21. Mr. Duncanson responded that catch basins would collect stormwater runoff from the street and route the runoff into the proposed detention/infiltration pond, which would be open. The proposed pond would be mostly dry and would only contain water during storm events. The street would be crowned to divert stormwater runoff to the catch basins. There are no specific home plans at this time, and there would be no additional grading on the property except for a four to five-foot cut to install the proposed road on the property. Mr. Duncanson also responded that a variety of fencing currently exists along the property boundary and that maintenance of existing fencing would be determined on a case-by-case basis. The Applicant would make every effort to coordinate with existing fencing, and surrounding property owners are free to install fencing at their option. Ms. Jewett added that there is no landscape buffer requirement for the proposed development. *Testimony of Mr. Duncanson; Testimony of Ms. Jewett.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to receive and examine available information on a preliminary plat application; conduct a public hearing on the application; prepare a record of the hearing; enter findings of fact and conclusions; and, based upon those facts, make a

recommendation to the City Council to grant the application, grant the application with conditions, or deny the application. *BMC 2.15.070 (2) (a); BMC 2.15.080; BMC 17.55.040.*

Criteria for Review

The Hearing Examiner's decision must be supported by the evidence presented and must be consistent with the objectives and goals of the comprehensive plan, zoning code, subdivision code, and other City codes and ordinances. *BMC 2.15.070 (2); BMC 2.15.080 (1); BMC 17.55.040(3).*

The preliminary plat application review standards and criteria are found in Title 17 BMC and chapter 58.17 RCW. Subdivisions shall conform to chapter 17.15 BMC and chapter 17.20 BMC.

- A. Pursuant to chapter 17.15 BMC:
 - a. The proposed subdivision and its ultimate use shall be in the best interests of the public welfare and the neighborhood development of the area and the subdivider shall present evidence to this effort when requested by the city of Burien;
 - b. Subdivision streets shall conform in effect to the master plan as adopted and/or to the general pattern of the highway system of the city of Burien;
 - c. The tract to be subdivided shall not be part of or encroach on an area or areas designated in the master plan for future public facilities;
 - d. No plan for the replatting, subdivision or dedication of any area shall be approved by the city of Burien unless the streets shown therein are connected by a surfaced road or street (according to city specifications) to an existing dedicated highway of the city;
 - e. Sidewalks or walkways shall be required for all existing and proposed streets including perimeter streets in business and residential subdivisions as specified in Chapter 17.20 BMC;
 - f. No lot or portion of a lot in this plat shall be divided and sold or resold or ownership changed or transferred whereby the ownership of any portion of this plat shall be less than the area required for the use (zone) district in which located;
 - g. All lots must be served by or provision made for an adequate public sewage disposal system; and
 - h. All lots must have an adequate water supply before the plat may be recorded.

Pursuant to chapter 17.20 BMC, the minimum dimensions for lots shall conform to the dimensions established in the zoning code and shall not be less than the requirements for the use district in which located. *BMC 17.20.010.*

The criteria and standards set forth in Title 17 BMC are essentially identical to those in chapter 58.17 of the Revised Code of Washington (RCW). The application must meet the RCW criteria before a decision of approval may be made. *BMC 17.10.310.* RCW 58.17.110 requires that:

Appropriate provisions must be made for the public health, safety and general welfare, for 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 sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and the public interest must be served by the subdivision.

The criteria for review adopted by the Burien City Council are designed to implement the requirement of chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with City development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusions Based on Findings

- 1. With conditions, the proposed development is consistent with Title 17 BMC provisions and chapter 58.17 RCW.** The City provided adequate notice and opportunity to comment on the proposed subdivision. The Applicant presented evidence that the proposed development would be in the best interests of the public welfare because the development would provide single-family residences compatible with surrounding single-family residential development and consistent with the Comprehensive Plan designation for the property. The access to the proposed subdivision would be located on Occidental Avenue S. Single-family residential development is an allowed use within the City's RS 7200 zoning district. Lots would conform to the minimum lot size required within the zones through lot averaging. Setbacks are required on subdivision lots under City code. Existing trees would be retained in accord with City ordinances. Adequate sewer and water would be provided to the proposed subdivision. Conditions are necessary to ensure that proposed development complies with Fire Marshal requirements. The proposed on-site detention vault within Tract A would provide adequate stormwater drainage of the proposed subdivision site and adequate water quality treatment. A fee-in-lieu of providing on-site recreational space would be paid. With proposed internal and frontage improvements, sidewalks or paved shoulders would offer safe walking conditions to the nearest transit stop. Conditions are necessary to ensure compliance with applicable ordinances and standards; submittal of detailed plans and updated Technical Information Report and Engineering Plans; submittal of an Erosion and Sediment Control Plan; protection of significant trees proposed to be retained; installation of all street, stormwater, and utility improvements;

payment of a fee-in-lieu of providing recreation spaces; recording of a Declaration of Covenant that all drainage facilities shall be privately maintained and operated; payment of a transportation impact fee; receipt of a right-of-way use construction permit and a clearing and grading permit; and receipt of a Construction Stormwater General Permit, if required. *Findings 1 – 21.*

RECOMMENDATION

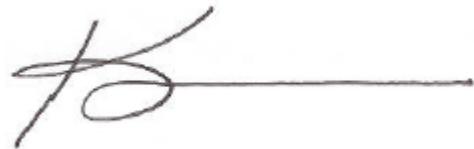
Based on the preceding Findings and Conclusions, the Hearing Examiner recommends that the City Council **GRANT** the request for a preliminary plat to subdivide 1.14 acres into five, single-family residential lots, at 18052 Occidental Avenue S, Burien, Washington, with the following conditions:⁴

1. This application is subject to the applicable requirements contained in the Burien Municipal Code (including but not limited to the Zoning Code, Building Code and Fire Code), the 2009 King County Surface Water Design Manual and the 2009 Stormwater Pollution Prevention Manual as adopted by the city of Burien, and the 2008 Burien Road Standards. It is the responsibility of the Applicant to ensure compliance with the various provisions contained in these documents.
2. Prior to the issuance of development permits for any construction activities on-site the Applicant shall:
 - a. Submit detailed on-site street improvement plans for review and approval by the Development Review Engineer. The Plans shall be in accordance with the requirements of the 2008 Burien Road Standards and address the issues expressed in the Development Review Engineer’s memorandum, dated October 7, 2013 (Attachment 9) and the Fire Marshal’s Certificate of Fire Hydrant Availability (Attachment 13). The plans shall include an illumination plan for the proposed street and a channelization and signing plan.
 - b. Submit an updated Technical Information Report (TIR) and Engineering Plans to apply Level 2 flow control standards and provide conveyance system analysis for review and approval by the Surface Water Management Engineer. The Report and Plans shall be in accordance with the 2009 King County Surface Water Design Manual and address the issues expressed in the Surface Water Management Engineer’s memorandum, dated October 7, 2013 (Attachment 10). Specifically, Page 3 of the TIR shall be updated to show the flow control standards checked as Level 2 and the maintenance and operation of all drainage facilities will be “Private”.

⁴ Conditions are necessary to mitigate specific impacts of proposed development and comply with City Code.

- c. Submit an Erosion and Sediment Control plan prepared by a Washington State Licensed engineer in accordance with the KCSWDM, Appendix C and D for review and approval by the Surface Water Management Engineer.
 - d. Protect the significant trees proposed for retention consistent with the requirements of BMC 19.25.
3. Prior to recording the final subdivision, the Applicant shall:
 - a. Install all street, stormwater, and utility improvements per the approved plans and provide appropriate performance and maintenance bonds to the Development Review Engineer.
 - b. Pay a fee-in-lieu of providing 390 square feet of recreation space on the property for each of the 4 additional lots created. The fee shall be 1,560 square feet multiplied by the current assessed value per square foot of the property.
4. Prior to issuance of building permits for future development of single-family homes on each of the new lots, the Applicant shall:
 - a. Record a Declaration of Covenant, provided by the city of Burien, per page 1-46 of the King County Surface Water Design Manual declaring that all drainage facilities on site shall be privately maintained and operated.
 - b. Pay a Transportation Impact Fee as set forth in BMC 19.35.
5. Prior to beginning any work in the public right-of-way or on-site, the Applicant shall apply for and obtain a right-of-way use construction permit and a clearing and grading permit.
6. If the project disturbs more than 1 acre, a Construction Stormwater General Permit (also known as “NPDES” permit) is required from the Washington State Department of Ecology prior to discharging stormwater from construction activities.

RECOMMENDED this 18th day of November 2013.



KRISTEN J. LARSON
Hearing Examiner
Sound Law Center



CITY OF BURIEN, WASHINGTON

Department of Community Development
400 SW 152nd St., Suite 300, Burien, Washington 98166
Phone: (206) 241-4647 Fax: (206) 248-5539

TYPE 3 LAND USE REVIEW STAFF RECOMMENDATION TO THE HEARING EXAMINER

DATE: October 16, 2013

FILE NO.: PLA 13-0135

APPLICANT: Mike Lierman, Smackdab Realty LLC

REQUEST: Subdivide one (1) existing 1.14 acre residential lot into five (5) single-family residential lots in the RS 7200 zone

LOCATION: 18052 Occidental Avenue South, Burien, WA (see Attachment 1)

PARCEL: 3223049127

APPLICATION SUBMITTED: January 17, 2013

APPLICATION COMPLETE: March 21, 2013

RECOMMENDATION: Approval with conditions

DECISION MAKER: City Council

HEARING EXAMINER DATE: November 4, 2013

PROJECT PLANNER: Stephanie Jewett, AICP, Project Planner

I. INTRODUCTION

A. PROJECT SUMMARY

The applicant is proposing a 5-lot single-family residential subdivision. The lots are proposed to gain access to Occidental Avenue South from an improved private access street with a 5 foot sidewalk along the northern side of the street and a 3.5 foot paved shoulder on the south side. Frontage improvements consisting of curb, gutter and sidewalk are proposed along Occidental Avenue South. Tract A, located in the northwest portion of the site, is proposed for onsite stormwater facilities including a wet vault for water quality treatment and an infiltration/detention pond for flow control (see Attachments 3 & 4).

B. RECOMMENDATION

Based on the Findings of Fact and Conclusions (Section II) and Attachments to this report, it is recommended that the application be approved subject to the following conditions:

1. This application is subject to the applicable requirements contained in the Burien Municipal Code (including but not limited to the Zoning Code, Building Code and Fire Code), the 2009 King County Surface Water Design Manual and the 2009 Stormwater Pollution Prevention Manual as adopted by the City of Burien, and the 2008 Burien Road Standards. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these documents. Attachment 2, Residential Subdivision Development Regulations, is provided in this report to familiarize the applicant with some of the additional requirements that may apply to the project. This attachment does not include all of the additional requirements (see Conclusion II.E.1).
2. Prior to the issuance of development permits for any construction activities on-site the applicant shall:
 - a. Submit detailed on-site street improvement plans for review and approval by the Development Review Engineer. The Plans shall be in accordance with the requirements of the 2008 Burien Road Standards and address the issues expressed in the Development Review Engineer's memorandum dated October 7, 2013 (Attachment 9) and the Fire Marshal's Certificate of Fire Hydrant Availability (Attachment 13). The plans shall include an illumination plan for the proposed street and a channelization and signing plan (see Conclusions II.E.3 and II.E.4).
 - b. Submit an updated Technical Information Report (TIR) and Engineering Plans to apply Level 2 flow control standards and provide conveyance system analysis for review and approval by the Surface Water Management Engineer. The Report and Plans shall be in accordance with the 2009 King County Surface Water Design Manual and address the issues expressed in the Surface Water Management Engineer's memorandum dated October 7, 2013 (Attachment 10). Specifically, Page 3 of the TIR shall be updated to show the flow control standards checked as Level 2 and the maintenance and operation of all drainage facilities will be "Private"(see Conclusion II.E.5).
 - c. Submit an Erosion and Sediment Control plan prepared by a Washington State Licensed engineer in accordance with the KCSWDM, Appendix C and D for review and approval by the Surface Water Management Engineer (see Conclusion II.E.5).
 - d. Protect the significant trees proposed for retention consistent with the requirements of BMC 19.25 (see Conclusion II.E.7).

3. Prior to recording the final subdivision, the applicant shall:
 - a. Install all street, stormwater and utility improvements per the approved plans and provide appropriate performance and maintenance bonds to the Development Review Engineer (see Conclusions II.E.3, 4 and 5).
 - b. Pay a fee-in-lieu of providing 390 square feet of recreation space on the property for each of the 4 additional lots created. The fee shall be 1,560 square feet multiplied by the current assessed value per square foot of the property (see Conclusion II.E.6).
4. Prior to issuance of building permits for future development of single-family homes on each of the new lots, the applicant shall:
 - a. Record a Declaration of Covenant, provided by the City of Burien, per page 1-46 of the King County Surface Water Design Manual declaring that all drainage facilities on site shall be privately maintained and operated (see Conclusion II.E.5).
 - b. Pay a Transportation Impact Fee as set forth in BMC 19.35 (see Conclusion II.E.8).
5. Prior to beginning any work in the public right-of-way or on-site, the applicant shall apply for and obtain a right-of-way use construction permit and a clearing & grading permit (see Conclusion II.E.3 & II.E.5).
6. If the project disturbs more than 1 acre, a Construction Stormwater General Permit (also known as “NPDES” permit) is required from the Washington State Department of Ecology prior to discharging stormwater from construction activities (see conclusion II.E.5).

II. FINDINGS OF FACT AND CONCLUSIONS

A. SITE DESCRIPTION

1. Facts:
 - a. Size: 49,658 square feet (1.14 acres)
 - b. Land Use: single family residence
 - c. Terrain: The site slopes gradually down from east to west with an average slope of approximately 5%.
 - d. Vegetation: A landscaped lawn and scattered trees are located on the site. See Section II.E.7 for further analysis of trees located on site.
 - e. Bulk Regulations: For future development of single detached dwelling units, the proposed development standards are:

Front Setback: 20 feet minimum
Interior Setback: 5 feet minimum
Building Coverage: 35% maximum
Impervious Surface Coverage: 70% maximum
Height: 35' maximum
Minimum Parking Required: 2 off-street spaces per dwelling unit

- f. Neighboring Development and Zoning: The subject site is bordered to the North, South, East and West by single family development that is zoned for single-family residential use (RS 7200).
2. Conclusions: Size, land use, terrain, and vegetation are not constraining factors in the consideration of this application. Site specific requirements including, but not limited to, building height, setback, impervious surface coverage and building coverage will be reviewed when building permits are filed for each new lot. This application is consistent with neighboring single-family development.

B. PUBLIC & AGENCY COMMENT

1. Public Comments

- a. Facts: Public notice of this application was posted on the site and published in the newspaper April 2, 2013 and mailed to all property owners within 500 feet of the site on March 29, 2013. See attachment 27 for a copy of the Notice of Application. Ten public comment letters/emails were received during the 30-day comment period, which ended on May 2, 2013. The Applicant submitted a Response to Public Comments letter on October 4, 2013 (Attachment 25). The public comment letters have been summarized and addressed below.

Sandra Coulter (see Attachment 15)

States that her home located at 18036 Occidental Avenue South accesses its power, cable, and phone from a pole owned by Puget Sound Energy currently located on proposed Lot 2 and asks if the proposed subdivision will affect how her home receives these utilities.

City's Response: The Applicant has stated in Attachment 25 that utilities for the new single-family homes will be installed underground within the development and that the existing pole and overhead services to 18036 will be retained in its current or similar configuration and that the owner will not have any obligations as a result of the development.

Asks if the properties bordering the proposed development will have the opportunity to connect to the sewer line proposed on Occidental Avenue South and what the terms, conditions and associated costs would be.

City's Response: Southwest Suburban Sewer District has stated that once the sewer main has been constructed by the developer and accepted by the District, 18036 Occidental Avenue South will have an opportunity to connect. The

Connection charge will be determined by the overall cost of sewer construction and will be determined at the end of the project (see Attachment 28).

Colleen J. Phillips (see Attachment 16)

Expresses concern with how increased traffic from the proposed development might impact pedestrians in the neighborhood, especially students walking to and from school bus stops, given the lack of sidewalks in the neighborhood.

City's Response: As noted in the Applicant's submitted Response to Public Comments (Attachment 25) and School Walkway Conditions Memorandum (Attachment 14), the proposal will include the installation of sidewalks along the property frontage which will result in sidewalks and/or shoulders (4 feet wide or greater) extending south from the project site to the nearest school bus stop located on South 183rd Street and extending northwest from the project site to 1st Avenue South.

Expresses concern over the proposed development's impacts to existing trees on the site.

City's Response: The proposed development will be required to retain 30 percent of the existing significant trees located on the site consistent with the City's tree retention regulations. See section II.D.7 Tree Retention and Protection for additional details.

Sandra Galbraith (see Attachment 17)

Expresses concern over the proposed development's impacts to existing trees and vegetation on the site.

City's Response: The proposed development will be required to retain 30 percent of the existing significant trees located on the site consistent with the City's tree retention regulations. See section II.D.7 Tree Retention and Protection for additional details.

Expresses concern with how the increased traffic from the proposed development might impact pedestrians in the neighborhood.

City's Response: As noted in the Applicant's submitted Response to Public Comments (Attachment 25) and School Walkway Conditions Memorandum (Attachment 14), the proposal will include the installation of sidewalks along the property frontage which will result in sidewalks and/or shoulders (4 feet wide or greater) extending south from the project site to the nearest school bus stop located on South 183rd Street and extending northwest from the project site to 1st Avenue South.

Nathan Enns (see Attachment 18)

Expresses concern about possible noise impacts from future construction of the development.

City's Response: Construction hours will be required to comply with BMC 9.105.400, which limits noise on construction sites between 10 pm and 7am weekdays and between 10 pm and 9 am weekends.

Believes the project will require a rezone and that the proposed development will be out of character with the surrounding existing development in the neighborhood.

City's Response: The proposed development is required to comply with the existing zoning restrictions in the area. See Section II.E.2 Lot Size and Layout, for additional detail. A rezone of the property has not been proposed. The subject site currently zoned for single-family residential use with a minimum lot size of 7200 square feet (RS 7200) and is bordered to the North, South, East and West by single family development that is zoned for single-family residential use (RS 7200).

Expresses concern with the potential for damage to their property during the construction of the proposed development. Especially in regards to the cutting of existing trees on the site.

City's Response: The proposed development will be required to retain 30 percent of the existing significant trees located on the site consistent with the City's tree retention regulations. See section II.D.7 Tree Retention and Protection for additional details. In addition, as noted in the Applicant's Response to Public Comments (Attachment 25), tree removal will be performed by licensed, bonded and insured contractors.

Expresses concern with possible increased parking impacts to the neighborhood.

City's Response: Each single family home that is developed in the City of Burien is required to provide space for two vehicles to park on-site. Compliance with this requirement is reviewed at the time of building permit submittal for each of the single-family homes.

Shirley Rousell (Attachment 19)

Asks if the proposed development will require the existing homes on 2nd Place South that are currently on private septic systems to connect to the sewer.

City's Response: As noted in the Applicant's submitted Response to Public Comments (Attachment 25), sewer will not be extended to 2nd Place South as part of the proposed development and Southwest Suburban Sewer District's Comprehensive Sewer Plan indicates that the homes off of 2nd Place South will eventually be served from the east.

Asks if the proposed development will reduce the current water pressure on 2nd Place South.

City's Response: As noted in the Applicant's submitted Response to Public Comments (Attachment 25), a new water main will connect to the existing public main in Occidental Avenue South, run east through the new development, and then connect to the existing public main in 2nd Place South. This will improve system flow, circulation and reliability.

Asks how drainage will be addressed and expresses concern that changes to the drainage patterns as a result of the development will negatively impact her property.

City's Response: The proposal is required to comply with the 2009 King County Surface Water Design Manual. Surface Water is proposed to be infiltrated on site consistent with these regulations. See section II.E.5 Surface Water Management for additional details.

Asks what the tree retention requirements are for the development and if studies are required to identify impacts to wildlife in the area.

City's Response: The proposed development will be required to retain 30 percent of the existing significant trees located on the site consistent with the City's tree retention regulations. See section II.E.7 Tree Retention and Protection for additional details.

Given the site is not located within an identified critical area (stream, wetland, floodplain or fish & wildlife conservation area) and the proposal is exempt from the City's adopted regulations related to the State Environmental Policy Act (SEPA), as noted in section II.C, the Applicant is not required to generate studies identifying impacts to wildlife in the area.

Asks if there are size, height and setback requirements for the future single-family homes and expresses concern that the future development will not fit in with the existing development patterns in the neighborhood and believes the site would be better suited for 4 lots instead of 5.

City's Response: As noted in the Applicant's submitted Response to Public Comments (Attachment 25), no specific home plans have been developed for the site at this time. The subject site is currently zoned for single-family residential use with a minimum lot size of 7,200 square feet (RS 7200) and is bordered to the North, South, East and West by single family development that is zoned for single-family residential use (RS 7200). Future development on the proposed single family lots will be required to comply with the following bulk standards for the RS 7200 zone:

Front Setback: 20 feet minimum
Interior Setback: 5 feet minimum
Building Coverage: 35% maximum
Impervious Surface Coverage: 70% maximum
Height: 35' maximum

Expresses concern about possible noise impacts from future construction of the development.

City's Response: Construction hours will be required to comply with BMC 9.105.400, which limits noise on construction sites between 10 pm and 7am weekdays and between 10 pm and 9 am weekends.

Asks when construction might start and how long it will last.

City's Response: As noted in the Applicant's submitted Response to Public Comments (Attachment 25) site development and home construction is anticipated to be completed within 9 to 12 months, depending on weather and sales.

Danelle Garcia (Attachment 20)

Expresses concern with how location of the future homes on lots 2, 3 and 4 might affect existing views to the west from 18064 2nd Place South.

City's Response: The City of Burien does not regulate existing views. As noted in the Applicant's submitted Response to Public Comments, specific home plans have not been developed at this time.

Asks if they will be able to access the proposed sewer line.

City's Response: As noted in the Applicant's submitted Response to Public Comments (Attachment 25), sewer will not be extended to 2nd Place South and Southwest Suburban Sewer District's Comprehensive Sewer Plan indicates that the homes off of 2nd Place South will eventually be served from the east.

States that the new homes should not be able to access 2nd Place South.

City's Response: Access to the subdivision is proposed from Occidental Avenue South. No access is proposed to 2nd Place South.

Debbie Jurasek (Attachment 21)

Expresses concerns about traffic impacts to 2nd Place South.

City's Response: Access to the subdivision is proposed from Occidental Avenue South. No access is proposed to 2nd Place South.

Lloyd Whisman (Attachment 22)

Asks about water and sewer service to the proposal and expresses concern about traffic impacts to 2nd Place South.

City's Response: As noted in the Applicant's submitted Response to Public Comments (Attachment 25), a new water main will connect to the existing public main in Occidental Avenue South; run east through the new development and

then connect to the existing public main in 2nd Place South. This will improve system flow, circulation and reliability.

As also noted in the Applicant's submitted Response to Public Comments (Attachment 25) sewer will not be extended to 2nd Place South as part of this proposal and Southwest Suburban Sewer District's Comprehensive Sewer Plan indicates that the homes off of 2nd Place South will eventually be served from the east.

Access to the subdivision is proposed from Occidental Avenue South. No access is proposed to 2nd Place South.

Bonnie White (Attachment 23)

Asks about water and sewer service to the proposal and expresses concern about traffic impacts to 2nd Place South.

City's Response: As noted in the Applicant's submitted Response to Public Comments (Attachment 25), a new water main will connect to the existing public main in Occidental Avenue South, run east through the new development and then connect to the existing public main in 2nd Place South. This will improve system flow, circulation and reliability.

As also noted in the Applicant's submitted Response to Public Comments (Attachment 25) sewer will not be extended to 2nd Place South as part of this proposal and Southwest Suburban Sewer District's Comprehensive Sewer Plan indicates that the homes off of 2nd Place South will eventually be served from the east.

Access to the subdivision is proposed from Occidental Avenue South. No access is proposed to 2nd Place South.

Daniel Sevin (Attachment 24)

Asks how the proposal will be served by sewer.

City's Response: As noted in the Applicant's submitted Response to Public Comments (Attachment 25), the new homes will be served by public sewer from Occidental Avenue South, which will be extended from the new fire station.

- b. Conclusions: The public comment requirement has been addressed for the proposal.

2. Agency Comments

- a. Facts: On March 29, 2013, notice of this application was distributed to Puget Sound Energy, Highline Water District, King County Fire District # 2, SW Suburban Sewer District, Highline School District and Burien Police Services. The water, sewer and fire districts have completed availability forms with comments and requirements (see Section II.E.4). No responses were received from Puget Sound Energy, Highline School District or Burien Police Services.
- b. Conclusions: The agency comment requirement has been addressed for the proposal.

C. STATE ENVIRONMENTAL POLICY ACT (SEPA)

1. Facts: The City's adopted regulations related to the State Environmental Policy Act (SEPA), requires a SEPA Checklist and SEPA determination for all proposed subdivisions of more than twenty (20) dwelling units (BMC 14.10.040 (1)). Therefore, the proposed subdivision of five (5) residential lots is exempt from SEPA.
2. Conclusions: The proposed five (5) lot subdivision is exempt from SEPA requirements.

D. APPROVAL CRITERIA

1. Subdivision Code Compliance

- a. Facts: The Burien Subdivision Code outlines various standards which are to be met when creating a subdivision. The purpose of the City of Burien's subdivision regulations is to:
 - (1) Set forth the rules and regulations for the division of real property into subdivisions;
 - (2) Provide for the proper location and width of streets, building lines; open spaces, safety and recreation facilities, utilities, and drainage;
 - (3) Provide for the avoidance of congestion of population through requirements of minimum lot area and compatibility of design;
 - (4) Require and fix the extent to which and the manner in which streets shall be graded and improved, and water, sewer, drainage, and other utility mains and piping or connections of other physical improvements shall be installed; and
 - (5) Provide for and secure the actual construction of such physical improvements.
- b. Conclusions: The application, as conditioned, meets the subdivision standards (see Section II.E).

2. Revised Code of Washington Section 58.17.110

a. Facts:

(1) RCW 58.17.110, as amended, states that "A proposed subdivision shall not be approved unless the city... makes written findings that:

- i) 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...; and
- ii) The public use and interest will be served by the platting of such subdivision and dedication."

(2) Pursuant to BMC 17.35.120.2 the preliminary plat decision shall be based on conformance to adopted city rules and regulations and RCW 58.17.110 states that prior to approval of the subdivision the city must find that the public use and interest must be served by the platting of such subdivision.

b. Conclusions: The proposal, as conditioned, complies with RCW 58.17.110. As conditioned, it will serve the public use and interest and is consistent with the public health, safety, and general welfare because it will contribute to the community's ability to provide additional single-family residential units and additional home ownership opportunities within the community. The property will develop in accordance with the Comprehensive Plan for this area (see Section II.F).

E. DEVELOPMENT REGULATIONS

1. General Compliance

- a. Fact: This application is subject to the applicable requirements contained in the Burien Municipal Code (including but not limited to the Zoning Code, Building Code and Fire Code), the 2009 King County Surface Water Design Manual and the 2009 Stormwater Pollution Prevention Manual as adopted by the City of Burien, and the City of Burien 2008 adopted Road Design and Construction Standards.
- b. Conclusion: It is the responsibility of the applicant to ensure compliance with the various provisions contained in the Burien Municipal Code (including but not limited to the Zoning Code, Building Code and Fire Code), 2009 King County Surface Water Design Manual and the 2009 Stormwater Pollution Prevention Manual as adopted by the City of Burien, and the City of Burien 2008 adopted Road Design and Construction Standards. Attachment 2, Residential Subdivision Development Requirements, is provided to familiarize the applicant with some of the additional requirements that may apply to the project. This attachment does not include all of the additional requirements.

2. Lot Size and Layout

- a. Facts: The site is zoned RS 7200 Single-Family Residential. The minimum lot area per each single-family dwelling unit for this zone is 7,200 square feet. No lot may be created less than the minimum lot area except through the application of lot averaging (BMC 19.15.005.2). Lot averaging allows for lots to be created that are 90 percent of the minimum lot area, or 6,480 square feet in the RS 7200 zone, as long as the overall average lot size of the development remains at or greater than 7,200 square feet. The proposal for 5 lots (Attachment 3) meets the minimum lot size requirement through the use of lot averaging. Proposed lot sizes and overall lot average are as follows:

| Lot No. | Square Feet |
|-------------------------|-------------|
| 1 | 7,299 |
| 2 | 8,769 |
| 3 | 6,882 |
| 4 | 7,886 |
| 5 | 7,214 |
| Lot Size Average | |
| 38,050/5 =7,610 | |

- b. Conclusion: The proposed preliminary plat satisfies the minimum lot area requirements for the RS 7200 zone as outlined in BMC 19.15.005.2.

3. Street Improvements & Access

- a. Facts: City of Burien Municipal Code section 17.35.120 requires that access and street improvements comply with the 2008 Burien Road Standards. The Applicant submitted a road standards variance approved by the City's Public Works Director (Attachment 8) for the allowance of a 5 foot sidewalk along the northern side of the proposed access street and a 3.5 foot asphalt shoulder in place of a 5 foot sidewalk along the southern side of the access road. The City of Burien Development Review Engineer reviewed the proposed development for compliance with the 2008 Burien Road Standards and provided comments in a memorandum dated October 7, 2013 (Attachment 9) including the following:
- (1) The proposed new street shall be designed as a Private Access Tract and meet the geometric design criteria for minor access streets in accordance with 2008 Burien Road Standards (BRS). This includes a minimum tract width of 26 feet, minimum pavement width of 20 feet and pedestrian connection to the public right-of-way.

- (2) Frontage improvements along Occidental Avenue South shall consist of curb, gutter, five foot wide sidewalk, ADA ramps and pavement widening, storm drain system and full overlay in accordance with the 2008 Burien Road Standards.
- (3) All required utilities, drainage and street improvement plans shall be designed by a Washington State Licensed Civil Engineer in accordance with the 2008 Burien Road Standards and 2009 King County Surface Water Design Manual.
- (4) All utilities serving the property shall be placed underground.
- (5) A channelization and signing plan shall be submitted for review and approval by the Public Works Department prior to issuance of construction permits.
- (6) Prior to issue of clear and grade permit, the applicant shall submit approved utility plans for the various underground utilities serving or proposed to serve the site.
- (7) A Right-of-way use permit will be required for all work performed in the public right-of-way, as required by BMC 12.17 and 12.18.
- (8) A Clearing & Grading permit will be required for all on-site work, including installation of on-site drainage and street improvements, prior to beginning any construction.
- (9) An illumination plan for the proposed private street shall be submitted to the Public Works Department for review and approval prior to issuance of construction permits. Any required pole installation (or relocations) shall be coordinated with Puget Sound Energy (PSE), and meet applicable City of Burien and PSE Standards. Applicant shall design minimum 25 foot steel post street light with LED fixture to meet the 2008 BRS foot candle requirements, Section 5.05. Developer shall provide assurance to collect street light billing either through Water District or Home Owners Association. Lights shall be designed in accordance with the 2008 Burien Road Standards, Section 5.05. The Applicant shall coordinate with Puget Sound Energy for street illumination design, standards and maintenance requirements.
- (10) Restoration, Performance and maintenance security bonds are required for site and right-of-way improvements.
- (11) As-Built drawings shall be prepared by professional surveyor in accordance with City of Burien checklist or 2008 Burien Road Standards and 2009 King County Surface Water Design Manual.

- b. Conclusions: Prior to issuance of development permits for any construction activities on-site, the applicant shall submit for review and approval to the Development Review Engineer final engineered drawings for all required street improvements consistent with the Development Review Engineer's comments dated October 7, 2013 (see Attachment 9). The plans shall include an illumination plan for the proposed street and a channelization and signing plan. Prior to recording the final subdivision the applicant shall install all required street improvements per the approved plans and provide appropriate performance and maintenance bonds to the Development Review Engineer. A right-of-way construction permit is required prior to any work performed in the public right-of-way and a clearing & grading permit is required for all on-site work, including on-site drainage and street improvements.

4. Utilities

- a. Facts:

- (1) The site is located within Highline Water District. Highline Water District approved the development for public water service based on the findings that the nearest fire hydrant is located approximately 15 feet from the site with a flow rate of 1000 gallons per minute for a duration of 2 hours or more and with the condition that the project will require the developer to connect to the 8 inch diameter water main in Occidental Avenue South and extend and connect to the 6 inch water main at the NE corner of the property (see Attachment 11).
- (2) The site is located within the Southwest Suburban Sewer District. Southwest Suburban Sewer District issued a certificate of sewer availability to serve the proposed development based on the satisfactory completion of 360 feet of sanitary sewer trunkline or lateral to reach the site, the recording of a sewer easement and the payment of connection charges (see Attachment 12).
- (3) Fire District #2 provides fire protection to the area. The Fire Marshal approved the development for water flow, hydrant spacing and access with the following conditions: 1) The private street shall be marked fire lane on both sides with no parking allowed; 2) The fire lane and maintenance provisions shall be recorded on the face of the final plat; and 3) future homes on Lots 2, 3 and 4 may require residential sprinklers if any portion is located over 350 feet from existing hydrant (see Attachment 13).

- b. Conclusion: Prior to recording the Final Subdivision, water and sewer service shall be provided to each lot, or a bond submitted, consistent with the requirements of the serving utility and the Subdivision Code. The applicant shall show any utility easements or reference documents pertaining to sewer and water utility easements, which are necessary to provide service to the lots. Prior to issuance of development permits for any lots, the applicant shall demonstrate conformance with all requirements of the Fire Marshal.

5. Surface Water Management

a. Facts:

- (1) The City of Burien adopted the 2009 King County Surface Water Design Manual (KCSWDM) and 2009 Stormwater Pollution Prevention Manual (SPPM) as the City's drainage control regulations (BMC 13.10).
- (2) The applicant submitted a Preliminary Technical Information Report (TIR) for storm drainage by Duncanson Company, Inc (see Attachment 6) and a subsequent update to Section 4 of the TIR (see Attachment 7) addressing surface water management facilities for the proposed development.
- (3) The City of Burien Public Works Surface Water Management Engineer reviewed the proposed development for compliance with the 2009 KCSWDM and 2009 SPPM and provided comments in a memorandum dated October 7, 2013 (see Attachment 9), including the following:
 - i) In general, the proposed wet vault for water quality treatment and infiltration/detention pond for flow control appears reasonable. Refinement of the final design of water quality treatment, flow control facilities, and conveyance system will be required prior to issuance of development permits for any construction activities on-site.
 - ii) The submitted TIR shall be updated to apply "Level 2" Flow Control and check as level 2 in the TIR (page 3) and provide conveyance system analysis details including pipe flow tables, flow profile computation tables, monographs, charts, graphs, detail drawings, and other tabular and graphic aides used to design and confirm performance of the conveyance system. Conveyance system analysis shall include existing conveyance systems, and the design of the proposed system. Verify the capacity and performance of each element of conveyance system. Backwater analysis might be needed to verify existing and new drainage system can handle additional runoff from the development.
 - iii) In computing runoff from the site, the assumed impervious coverage shall not be less than 4,000 square feet per lot or the maximum impervious coverage permitted by city code (BMC 19.15.005), whichever is less.
 - iv) Maintenance and operation of all drainage facilities will be the responsibility of the applicant or property owner. Mark as "Private" Maintenance and Operation Responsibility in the TIR (page 3).
 - v) All drainage facilities on site shall be private. The facilities shall be owned and maintained by a Homeowner's Association. All privately maintained facilities must be maintained as specified in the site/lot's declaration of covenant and grant of easement per Section 5.2.1. of the KCSWDM.
 - vi) At least three ESC inspections are required i.e., prior to clearing and construction, during construction, upon completion of construction.

- vii) A Declaration of Covenant must be recorded prior to engineering plan approval per page 1-46 of the KCSWDM. The form and the instruction of the covenant will be provided during building permit process.
- viii) If the project disturbs more than 1 acre, the Department of Ecology's Construction Stormwater General Permit (also known as the "NPDES" permit) shall be required. The Applicant must submit the Notice of Intent (NOI) to Ecology at least 60 days before discharging stormwater from construction activities. More detail about the permit can be found at [-http://www.ecy.wa.gov/programs/wq/stormwater/construction/](http://www.ecy.wa.gov/programs/wq/stormwater/construction/)

b. Conclusions:

- (1) Prior to issuance of development permits for any construction activities on-site, the applicant shall:
 - i) Submit an updated Technical Information Report (TIR) and Engineering Plans to apply Level 2 flow control standards and provide conveyance system analysis for review and approval by the Surface Water Management Engineer.
 - ii) Submit an Erosion and Sediment Control (ESC) plan prepared by a Washington State Licensed engineer in accordance with the KCSWDM, Appendix C and D for review and approval by the Surface Water Management Engineer.
- (2) Prior to recording the final subdivision, the applicant shall:
 - i) Install approved stormwater improvements and provide restoration, performance and maintenance security bonds or other security methods as required by the Surface Water Management Engineer.
- (3) Prior to issuance of building permits for future single-family home development on each of the new lots, the applicant shall:
 - i) Record a Declaration of Covenant, provided by the City of Burien, per page 1-46 of the King County Surface Water Design Manual declaring that all drainage facilities on site shall be privately maintained and operated.
- (4) An engineer licensed in the State of Washington shall prepare all plans for storm water improvements.
- (5) A right-of-way construction permit is required prior to any work in the right-of-way and a grading and clearing permit is required for all on-site drainage and access improvements.

- (6) A Construction Stormwater General Permit (also known as “NPDES” permit) is required from the Washington State Department of Ecology prior to discharging stormwater from construction activities.

6. Fee-In-Lieu of Recreation Space

- a. Facts: The Burien Zoning Code requires residential developments to provide on-site recreational areas or pay a fee-in-lieu of actual recreational space when the space is not provided (BMC 19.17.013). Since no on-site recreation space meeting the Code requirements has been provided, a fee-in-lieu of recreation space will be required. The applicant shall pay for 390 square feet of recreation space for each additional lot being created. For the proposed subdivision 4 additional lots are being created (credit is received for the one existing lot). This fee shall be based on the assessed value per square foot of the land at the time of recording.
- b. Conclusions: To comply with the requirements of BMC 19.17.013, the Applicant shall pay a fee in lieu of providing 390 square feet of recreation space on the property for each of the 4 additional lots created. The fee shall be 1,560 square feet multiplied by the current assessed value per square foot of the property. The fee shall be paid prior to recording the final plat.

7. Tree Retention and Protection

- a. Facts: Single Detached Dwelling Units in the RS 7200 zone are required to comply with Landscape Category A (BMC 19.15.005.2). Landscape Category A requires 30% of the significant trees located on site to be retained (BMC 19.25.120.2). A significant tree is defined as a healthy tree, which when measured four feet above grade, has a minimum diameter of 8 inches for evergreen trees or 12 inches for deciduous trees (BMC 19.10.493). Each significant tree that is retained may be credited as two trees for complying with the retention requirements if it exceeds 24 inches in diameter for evergreen trees or is located in a grouping of at least five trees with canopies that touch or overlap (BMC 19.25.140).

The submitted tree retention plan (Attachment 5) shows that 16 significant trees are located on the site and of these 16 significant trees, 4 significant trees will be retained, including one evergreen tree greater than 24 inches in diameter for a total significant tree retention credit of 5 trees (30%).

- b. Conclusions: The significant tree retention plan meets the City’s significant tree retention requirements. Prior to or in conjunction with any development activity, the applicant shall protect the significant trees proposed for retention located on the site. Protective measures shall comply with the requirements of BMC 19.25 (see Residential Subdivision Development Regulations, Attachment 2).

8. Transportation Impact Fee

- a. Facts: Any person who receives a building permit or any other construction permit for any development activity or who undertakes any development activity within the City's corporate limits for which a building permit or other construction permit is not required, shall pay a transportation impact fees as set forth in Table 19.35-2 at the time of issuance of the permit (BMC 19.35.060).
- b. Conclusions: Prior to issuance of building permits for future development on each of the new lots, the applicant shall pay a Transportation Impact Fee as set forth in Table 19.35-2.

F. COMPREHENSIVE PLAN

1. Facts: The subject property is designated Moderate Density Residential Neighborhood. Burien Comprehensive Plan Policy RE 1.6 indicates that the Moderate Density Residential Neighborhood designation should provide primarily single-family residential uses in neighborhoods suitable for this type of development, where community improvements and facilities that are normally necessary for development can be provided. Development within this designation includes existing neighborhoods that have been platted at greater than four units per acre.
2. Conclusions: The proposed subdivision is consistent with the Moderate Density Residential Neighborhood land use designation. As conditioned, the proposal complies with the Comprehensive Plan.

III. APPEALS AND JUDICIAL REVIEW

State law allows the city's final decision to be appealed by a party of record with standing by filing a land use petition in King County superior court. Such petition must be filed within 21 days after issuance of the decision, as provided in RCW 36.70C.

IV. LAPSE OF APPROVAL

Under BMC 17.40.140(3)(a), subdivision preliminary approvals shall be valid for seven (7) years. If any condition is not satisfied and the final plat is not recorded within the 7-year period the preliminary subdivision approval shall be null and void. If all conditions have been satisfied and all required documents have been submitted within the 7-year period, the city may grant a single extension of up to 90 days to obtain additional information or for the processing and recording of final plat documents. Applicants will have a maximum of 30 days to comply with requests for additional information made within the extension period.

V. ATTACHMENTS

1. Vicinity Map
2. Residential Subdivision Development Regulations
3. Preliminary Plat
4. Conceptual Road & Utility Plan
5. Tree Retention Plan
6. Preliminary Technical Information Report, Duncanson Company, Inc., January 15, 2010
7. March 12, 2013 update to Section 4 of the Preliminary Technical Information Report, Duncanson Company, Inc., January 15, 2010
8. Road Standards Variance, granted March 15, 2013
9. Public Works Recommended Conditions of Land Use Approval, dated October 7, 2013, Ramesh Davad, Development Review Engineer
10. Public Works Stormwater Conditions of Land Use Approval, dated October 7, 2013, Huengkook Lim, Surface Water Management Engineer
11. Certificate of Water Availability, Highline Water District, December 21, 2012
12. Certificate of Sewer Availability, Southwest Suburban Sewer District, January 3, 2013
13. Certificate of Fire Hydrant Availability, King County Fire District #2, dated January 9, 2013
14. WestView PLA 13-0135 School Walkway Conditions
15. Comment email, Sandra Coulter, received April 2, 2013
16. Comment Letter, Colleen Phillips, received April 17, 2013
17. Comment Letter, Sandra Gaebraith, received April 23, 2013
18. Comment email, Nathan Enns, received April 26, 2013
19. Comment email, Shirley Rousell, received April 27, 2013
20. Comment email, Danelle Bautista, received April 28, 2013
21. Comment email, Debbie Jurasek, received April 29, 2013
22. Comment email, Lloyd Whisman, received April 30, 2013
23. Comment email, Bonnie White, received May 1, 2013
24. Comment email, Daniel Sevin, received May 1, 2013
25. Response to Public Comments, Harold Duncanson, P.E., October 4, 2013
26. Preliminary Subdivision Application
27. Notice of Application
28. Email from Jason R. Richardson, Utility Inspector, Southwest Suburban Sewer District, October 15, 2013

VI. PARTIES OF RECORD

| Name | Address |
|---------------------------------------|--|
| Mike Lierman, Smackdab Realty LLC | 26108 SE 27 th Street Sammamish, WA 98075 |
| Harold Duncanson, Duncanson Co., Inc. | 145 SW 155 th Street, Suite 102 Burien, WA 98166 |
| Sandra Coulter | 18036 Occidental Avenue South Burien, WA 98148 |
| Colleen Phillips | 18107 Occidental Avenue South Burien, WA 98148 |
| Sandra Galbraith | 3937 South 293 rd Street Auburn, WA 98001 |
| Nathan Enns | 18060 Occidental Avenue South Burien, WA 98148 |
| Shirley Rousell | 18053 2 nd Place South Burien, WA 98148 |
| Danelle Garcia | 18064 2 nd Place South Burien, WA 98148 |
| Debbie Jurasek | 18056 2 nd Place South Burien, WA 98148 |
| Lloyd Whisman | 19025 2 nd Place South Burien, WA 98148 |
| Bonnie White | 18041 2 nd Place South Burien, WA 98148 |
| Daniel Sevin | 104 South 182 nd Street Burien, WA 98148 |
| Bob Searing | 18032 2 nd Place South Burien, WA 98148 |

Dated this ___ day of October, 2013

Charles W. "Chip" Davis, AICP
Community Development Director