

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 619

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, APPROVING THE SUBDIVISION AND FINAL PLAT KNOWN AS WESTWOOD ENCORE.

WHEREAS, on October 11, 2007, application was made to the City of Burien for the preliminary approval of a subdivision known as Shirley's Place; and

WHEREAS, on May 19, 2008, the City Council adopted Resolution 279, which concurred with the Findings, Conclusions, and Recommendation of the City's Hearing Examiner and preliminarily approved the Shirley's Place Subdivision, subject to a number of terms and conditions. At time of final subdivision application, the applicant changed the name of the subdivision to Westwood Encore; and

WHEREAS, pursuant to Ch. 58.17 RCW and Ch. 17.45 BMC, the City's Department of Community Development has reviewed the final plat of Westwood Encore Subdivision and determined it to comply with all terms and conditions of preliminary plat approval and all applicable zoning and subdivision code requirements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1: Findings. The City Council makes the following findings:

A. The Findings, Conclusions, and Recommendation of the City's Hearing Examiner attached hereto as Exhibit A are hereby adopted and incorporated herein by this reference.

B. The Final Plat for the Westwood Encore Subdivision complies with all terms and conditions of preliminary plat approval and all applicable zoning and subdivision code requirements.

Section 2: Approval. The City Council hereby approves the Westwood Encore Subdivision and Final Plat subject to all terms and conditions set forth in the attached Exhibit A.

Section 3: Severability. Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4: Savings. The enactments of this ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this ordinance.

Section 5: Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 1ST DAY OF DECEMBER, 2014, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 1ST DAY OF DECEMBER, 2014.

CITY OF BURIEN

/s/ Lucy Krakowiak, Mayor

ATTEST/AUTHENTICATED:

/s/ Monica Lusk, City Clerk

Approved as to form:

/s/ Chris Bacha, Interim City Attorney

Filed with the City Clerk: December 1, 2014

Passed by the City Council: December 1, 2014

Ordinance No. 619

Date of Publication: December 4, 2014

**CITY OF BURIEN
HEARING EXAMINER
FINDINGS, CONCLUSIONS AND RECOMMENDATION**

APPLICANT: Tim Akins for Burien Venture, LLC

CASE NO.: PLA 07-1894

LOCATION: 16206 Ambaum Boulevard South (see Exhibit A, Attachments 1 & 3).

APPLICATION: Request for preliminary subdivision approval to create 19 single family lots on 4.2 acres in an RS-7,200 zoning district (see Exhibit A and attachments).

REVIEW PROCESS: Hearing Examiner conducts an open record hearing and makes a recommendation to the City Council, who then makes the final decision.

SUMMARY OF RECOMMENDATIONS

Staff Recommendation: Approve with conditions

Hearing Examiner Recommendation: Approve with conditions

PUBLIC HEARING

After reviewing the official file, which included the Staff Recommendation; and after visiting the site, the Hearing Examiner conducted a public hearing on the application. The hearing on the Burien Ventures subdivision application was opened at 2:00 p.m., April 29, 2008, in City Hall, Burien, Washington, and closed at 2:30 p.m. Participants at the public hearing and the exhibits offered and entered are listed in this report. A verbatim recording of the hearing is available in the Community Development Department.

Hearing Comments:

The following is a summary of the comments offered at the public hearing.

From the City

Chip Davis, Project Planner: Described and summarized the various components of the proposed subdivision. In particular, it was noted that the 19 lots meet the minimum size as allowed under the City's lot averaging provisions; that a Tract A is being created for drainage (11,992 sq. ft.) and a Tract B for recreation (3,929 sq. ft.), the latter being less than City

requirements, the remainder being provided via a fee-in-lieu payment for the difference; access will be provided off of South 162nd Street, with two new internal roads providing lot frontages. Mr. Davis also noted that street frontage improvements will be required along the south side of South 162nd Street west to the intersection with Ambaum Boulevard South. Frontage improvements have also been recommended by staff along the east side of Ambaum Boulevard South. Mr. Davis explained that the Ambaum Boulevard street improvements related to an early SEPA condition at a time when the three large lots fronting on Ambaum were being considered as part of the overall project, they being in the same ownership as the 4.2 acre internal parcel that is the specific focus of the application. (see Exhibit A and attachments)

Mr. Davis also provided two clarifications in response to applicant comments:

- 1) That the maximum house size would be 3,600 sq. ft. per the Fire Marshal's memo (Exhibit A, Attachment 14), rather than the 3,500 sq. ft. noted in the Staff Report (Exhibit A).
- 2) That "non-disturbance" within the required 15 foot building setback from the critical area buffer meant there could be no building constructed within that area.

Mr. Davis also entered Exhibit B into the record, a comment letter from the Washington State Department of Transportation relative to the SR 509 right-of-way.

Ramesh Davad, Public Works: Reiterated that the recommended frontage improvements along the east side of Ambaum Boulevard South have been included as a condition of approval because the three lots fronting on Ambaum were in common ownership with the subject parcel and had been originally included in submitted application drawings early in the process.

From the Applicant

Luay R. Joudeh, P.E.: Questioned whether the Ambaum Boulevard South frontage improvements recommended by staff were appropriate given that a boundary line adjustment essentially removed the three large lots abutting Ambaum from the overall project; noting that the applicants had gone through the boundary line adjustment to retain a portion of the overall parcel separate from the proposed project; i.e. those three lots abutting Ambaum Boulevard.

Maher A. Joudi, E.I.T.: Requested clarifications on some specifics of the staff report. Mr. Davis responded as noted above.

From the Community

None in attendance.

FINDINGS OF FACT AND CONCLUSION

1. The Facts presented in the Site Description on pages 5 and 6 in Exhibit A, Staff Recommendation, April 7, 2008, accurately reflects the site circumstances, zoning requirements and surrounding land use, and are hereby adopted by reference.

2. The Facts and Conclusions regarding compliance with SEPA review on page 8 in Exhibit A, Staff Recommendation, April 7, 2008, are accurate and hereby adopted by reference.
3. The Facts and Conclusion regarding compliance with the Subdivision Code and RCW 58.17.110 on pages 9 and 10 in Exhibit A, Staff Recommendation, April 7, 2008, are accurate and are hereby adopted by reference.
4. The Facts and Conclusions regarding compliance with Development Regulations on pages 10 through 20 in Exhibit A, Staff Recommendation, April 7, 2008; with the exception of Street Improvements, Access and Parking on pages 11 through 14, which are discussed below; are accurate and are hereby adopted by reference. In particular, they include the following:

General Compliance	page 10
Lot Size and Layout	pages 10 and 11
Utilities	pages 14 and 15
Surface Water Management	pages 15 through 17
Fee-In-Lieu of Recreation Space	pages 17 and 18
Tree Retention and Landscaping	page 18
Critical Area Evaluation	pages 19 and 20

5. Street Improvements, Access and Parking:

The Facts and Conclusions regarding compliance with Access and Parking requirements as presented in Exhibit A pages 11 through 14 are accurate and are hereby adopted by reference.

Relative to Street Improvements, the applicant has raised an issue regarding the nexus between the location of the project site and recommended conditions to improve the east side of Ambaum Boulevard South; i.e. that the site as proposed does not have direct frontage on Ambaum Boulevard. As a result, they do not believe there is a demonstrated proportionality of mitigation relative to project impacts as regards to traffic generation.

The recommended condition appears to originate with a Pre-Application Meeting that took place in July and represented by a Public Works memorandum dated July 26, 2007 (see Exhibit A, Attachment 10). Apparently, submitted plans seemed to indicate that the three lots abutting Ambaum Boulevard, which are also under the same ownership as the project site, were another component of the project (see Exhibit A, Attachments 3 and 4).

As noted in the staff report and at the hearing, after July of 2007 the applicants initiated and completed a boundary line adjustment on November 21, 2007 to allow the underlying owners to deal with the project parcel separate from their properties abutting Ambaum Boulevard. The application was accordingly revised (i.e. submitted maps and plans) and deemed complete on December 17, 2007. As a result, no project component is now abutting Ambaum Boulevard. However, the technical memorandum dated December 20, 2007 (Attachment 11, Exhibit A) brings the recommendation for Ambaum Boulevard improvements forward to the revised project boundaries.

Exhibit A, Attachment 18 is a Traffic Impact Analysis prepared in October, 2007. Figure #6 and narrative in the analysis indicate the total new peak hour trips at 18, with 90% of

those trips (16 or 17) traveling to or from the north relative to the intersection of South 162nd Street and Ambaum Boulevard. The recommended improvement conditions for Ambaum would be to the south of that intersection.

CONCLUSION: There does not appear to be a proportional nexus that would require the recommended street improvements along the east side of Ambaum Boulevard South as a result of the probable volume and direction of the added traffic from the project.

5. The Facts and Conclusions regarding Preliminary Plat Map compliance on page 20 in Exhibit A, Staff Recommendation, April 7, 2008, are accurate and are hereby adopted by reference.
6. The Facts and Conclusions regarding Comprehensive Plan compliance on pages 20 and 21 in Exhibit A, Staff Recommendation, April 7, 2008, are accurate and are hereby adopted by reference.

RECOMMENDATION

Based upon the foregoing findings and conclusions, it is recommended that the request for the proposed 19 lot subdivision be approved, subject to the following conditions:

- 1) The project shall comply with the recommended conditions found on pages 2 through 5 of Exhibit A. The exception is that recommendations for street improvements south of South 162nd Street on the east side of Ambaum Boulevard South are hereby removed from the recommendation; except for improvements for the radius at the intersection of Ambaum Boulevard South and South 162nd Street.
- 2) The applicants shall respond to the comments and questions raised by the Washington State Department of Transportation in Exhibit B.

Entered this 8th day of May, 2008.


Donald B. Lergen, AICP
Hearing Examiner

CITY COUNCIL REVIEW AND DECISION

The City Council will take final action on this application in accordance with the provisions of BMC 19.65.075.

JUDICIAL REVIEW

The following is a summary of the deadlines and procedures for judicial review.

BMC 19.65.060 allows the city's final decision to be appealed 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. Requirements for fully exhausting City administrative appeal opportunities must first be fulfilled.

EXHIBITS

The following exhibits were offered and entered into the record:

- A. Staff Recommendation to the Hearing Examiner with attachments dated April 7, 2008.
- B. Comment letter from WSDOT dated April 21, 2008; comments relative to SR 509 r.o.w.

PARTIES OF RECORD

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