

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5637

AN ORDINANCE granting a Planned Unit Development and Preliminary Short Plat with conditions, on the Application of CamWest Development for a 41-lot Single-Family Planned Unit Development and Preliminary Plat, on 9.01 acres west of 164th Way SE in the Newcastle Subarea, commonly known as the "Hillside PUD", Application No. 03-131600LK.

WHEREAS, CamWest Development submitted an application for a Planned Unit Development and Preliminary Plat to create 41 lots on 9.01 acres in the R-3.5 land use district, to be used for single-family detached residences, located west of 164th Way SE in the Newcastle Subarea to be known as "Hillside PUD", in Bellevue, King County, Washington; and

WHEREAS, a Notice of Application and Public Meeting was published in the Land Use Bulletin on May 6, 2004 and said public meeting was held on May 13, 2004; and

WHEREAS, on January 26, 2005, the Bellevue Hearing Examiner conducted a hearing on the application CamWest Development for a Planned Unit Development and Preliminary Plat, Application File No. 03-131600 LK, pursuant to notice as required by law; and

WHEREAS, on March 14, 2005, the Hearing Examiner issued Findings of Fact, Conclusions of Law and Decision, approving the Planned Unit Development and Preliminary Plat with conditions; and

WHEREAS, an appeal was filed by residents of Silverglen and Silverglen Homeowners Association; and

WHEREAS, following an appeal hearing held and closed by the City Council on May 2, and following further discussion on May 16, 2005, the Council remanded the application back to the Hearing Examiner for clarification of some of the conditions of the Planned Unit Development and Preliminary Plat; and

WHEREAS, on July 28, 2005, the Hearing Examiner held a second hearing on the remanded application, pursuant to notice as required by law; and

WHEREAS, on August 12, 2005, the Hearing Examiner issued a Report and Recommendation to City Council Following Hearing on Remand on the remanded application; and

WHEREAS, the City Council considered the Examiner's Recommendation on October 17, 2005 and voted to deny the appeal and grant the application; and

WHEREAS, the City has complied with the State Environmental Policy Act and the City Environmental Procedures Code, now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. The City Council adopts the Findings of Fact and Conclusions of Law of the Hearing Examiner as set forth in "Findings of Fact, Conclusions of Law and Decision" dated March 14, 2005 on Planned Unit Development and Preliminary Plat Application File No. 03-131600 LK.

Section 2. The City Council further adopts the New Facts and Responses to Council Questions set forth by the Hearing Examiner in "Report and Recommendation to City Council Following Hearing on Remand" dated August 12, 2005 on Planned Unit Development and Preliminary Plat Application File No. 03-131600 LK.

Section 3. Based on the foregoing Findings of Fact and Conclusions and New Facts and Responses to Council Questions, the City Council enters the following Decision:

The City Council concludes that appellants failed to meet their burden to prove that the Hearing Examiner's Decision and Recommendation were not supported by substantial evidence in the record. The appeal is hereby denied, and the Decision of the Hearing Examiner approving the Planned Unit Development and Preliminary Plat, with conditions, is approved, subject to the following Conditions:

The applicant shall comply with all applicable Bellevue City Codes and Ordinances including but not limited to;

Applicable Ordinances

- Clearing & Grading Code – BCC 23.76
- Construction Codes – BCC Title 23
- Fire Code – BCC 23.11
- Land Use Code – BCC Title 20
- Noise Control – BCC 9.18
- Sign Code – BCC Title 22
- Transportation Code – BCC 14.60
- Utility Code – BCC Title 24

A. GENERAL CONDITIONS

1. UTILITY DEVELOPER EXTENSION AGREEMENT: The water, sewer, and storm drainage systems shall be designed per the current City of Bellevue Utility Codes and Utility Engineering Standards. Utilities Department design review, plan approval, and field inspection is performed under the Utility Developer Extension Agreement and Utilities Permit Processes. (Bellevue City Code 24.02, 24.04, 24.06)

2. UTILITIES DEPARTMENT APPROVAL: Utilities Department approval is based on the conceptual design only. Changes to the site layout may be required to accommodate the utilities after utility engineering is approved. (Bellevue City Code 24.02, 24.04, 24.06)

3. CONSTRUCTION HOURS: Noise related to construction is allowed from 7:00 a.m. to 6:00 p.m. Monday through Friday and 9:00 a.m. to 6:00 p.m. on Saturday. Exceptions to the construction noise hours limitation contained in the Noise Control Code MAY be granted pursuant to 9.18.020C.1 when necessary to accommodate construction which cannot be undertaken during exempt hours. Prolonged exposure to noise created by extended hour construction activity is likely to have a significant impact on inhabitants of surrounding residential properties during construction. In order to minimize detriment on residential uses in the immediate vicinity of the Hillside PUD/Plat, allowances for short term work outside of normal construction hours shall be limited and will be reviewed on a case by case basis to verify necessity and ensure appropriate noise mitigation is utilized to protect surrounding uses and properties. If expanded hours are necessary to accommodate a specific component of construction, a written request for exemption from the Noise Control Code must be submitted two weeks prior to the scheduled onset of extended hour construction activity. (Bellevue City Code 9.18.040)

B. PRIOR TO ISSUANCE OF ANY PLAT ENGINEERING/CLEAR AND GRADE PERMIT

1. RIGHT-OF-WAY USE PERMIT: The applicant is required to secure a Right-of-way Use Permit from the City of Bellevue Transportation Department before the issuance of any clearing and grading, building, foundation, or demolition permit. In some cases, more than one right of way use permit may be required, such as one for hauling and one for construction work within the right of way. A Right-of-way Use Permit regulates activity within the City right-of-way, including but not limited to the following:

- a. Designated truck hauling routes.
- b. Truck loading and unloading activities.
- c. Hours of construction and hauling.

- d. Continuity of pedestrian facilities.
- e. Temporary traffic control and pedestrian detour routing for construction activities.
- f. Street sweeping and maintenance during excavation and construction.
- g. Location of construction fences.
- h. Parking for construction workers.
- i. Construction vehicles, equipment, and materials in the right of way.
- j. All other construction activities as they affect the public street system.

In addition, the applicant shall submit for review and approval a plan for providing pedestrian access during construction of this project. Access shall be provided at all times during the construction process, except when specific construction activities such as shoring, foundation work, and construction of frontage improvements prevents access. General materials storage and contractor convenience are not reasons for preventing access. (Bellevue City Code 14.30)

2. SITE (CIVIL ENGINEERING) PLANS: The design of all street frontage improvements must be in conformance with the requirements of the Americans with Disabilities Act and the Transportation Development Code, and the provisions of the Transportation Department Design Manual. The access at the intersection of Road A with 164th Avenue SE must be designed as a driveway apron per City Detail "Dev-6". (Bellevue City Code 14.60.210; Transportation Department Design Manual)

3. TREE PROTECTION: To mitigate adverse impacts to nondisturbed areas and trees to be retained during construction:

a. Clearing limits shall be established at the limit of nondisturbed areas and for retained trees within the developed portion of the site, outside of drip lines. Six-foot chain link fencing with driven posts, or an approved alternative, shall be installed at the clearing limits prior to initiation of clearing and grading.

b. No excavation or clearing should be performed within drip lines of retained trees except as specifically approved on plans. All such work shall be done by hand to avoid damage to roots and shall be done under the supervision of an arborist approved by the city. (PUD Criteria A, Land Use Code 20.20.520, Bellevue City Code 23.76.060)

4. BOUNDARY LINE ADJUSTMENT: The adjacent property to the west that will continue to be the site of the Hillside School shall be segregated from the property involved in the subject Planned Unit Development by a Boundary Line Adjustment. Any future expansion of the school or proposed residential development will be reviewed based on the available land area remaining on the newly configured lot. (LUC 20.30D.156)

C. PRIOR TO FINAL PLAT/PUD APPROVAL

1. STREET FRONTAGE IMPROVEMENT: Street frontage improvements and other required transportation elements including street lighting must be constructed by the applicant and accepted by the Transportation Department prior to final plat approval. Specific requirements are detailed below:

a. Frontage improvements along 164th Avenue SE shall consist of a six-foot wide sidewalks and a four foot wide planter strip along the site's entire road frontage. Although not shown on the site plan, the planter strip shall be provided for the entire length of the road frontage.

b. Landings on sloping approaches are not to exceed a 10% slope for a distance of 20 feet approaching the back edge of sidewalks. Driveway grades must be designed to prevent vehicles from bottoming out due to abrupt changes in grade.

c. Vehicle and pedestrian sight distance must be provided per BCC 14.60.240 and 14.60.241.

d. The private road access to the PUD shall not be gated or obstructed and must remain open at all times for emergency and public service vehicles. A note to this effect shall be placed on the face of the final Subdivision map.

e. The maintenance responsibility for the private road shall be the shared responsibility of all lot owners. A note to this effect must be indicated on the face of the final Subdivision map.

(Bellevue City Code 14.60.100, 110, 130, 150, 170, 190, 210, 240, 241;
Transportation Department Design Manual Sections 3, 4, 5, 7, 11, 14, 19)

2. PAVEMENT RESTORATION: Pavement restoration associated with street frontage improvements or to repair damaged street surfaces shall be provided. The City plans to resurface this street in the year 2009 after which a 5-year no-street-cut moratorium will be in effect. All necessary trenching and street cuts must be completed by that time. Should the street surfaces become damaged as a result of this development after the City resurfaces this street, a full grind and overlay will be required. (Bellevue City Code 14.60.250)

3. PEDESTRIAN TRAILS: The applicant shall construct and install a six-foot wide soft surface trail within a 10-foot wide public pedestrian easement per trail section #L-418 of the City's adopted Pedestrian and Bicycle Transportation Plan. The trail shall connect to the existing trail at the north edge of the property, adjacent to proposed Lot 12 and continue along the east edge of Tract E to the northwest corner of Lot 19. The trail shall continue across the corner of Lot 19, connecting to the sidewalk along Road C.

The applicant shall also provide the public pedestrian easement over the corner of Lot 19 and the sidewalk portion of the internal development roads out to 164th Avenue SE.

The applicant shall also provide a 10-foot wide public pedestrian trail easement from the northwest corner of Lot 12 approximately 75 feet west to the northwest corner of Tract E, for future trail construction by the City when a future connection is available.

4. RETAINED VEGETATION AREAS (RVA): Tracts C and E shall be designated as Retained Vegetation Area (RVA) on the face of the final plat with a note restricting its use. The designation shall include the following restrictions:

- a. An assurance that existing native and compatible introduced vegetation which provides overstory will be preserved for the purposes of buffering, protecting plants and animal habitat and for aesthetic and other purposes; and
- b. The right of the City of Bellevue to enforce the terms of the restriction.

(Land Use Code 20.25H.110.D)

5. RECREATION SPACE TRACTS: Tract A shall be designated as recreation/detention on the final plat with a note restricting its use. Tract C shall be designated as RVA and recreation space, and Tract D shall be designated as recreation space in order to satisfy PUD recreation space requirements. (Land Use Code 20.30D.160)

6. VEGETATION MANAGEMENT: A Vegetation Management Plan is needed to assess the condition of the RVA tracts. This report shall inventory natural resources present in the tract including wildlife habitats, plant communities, presence of invasive plants, and hazardous trees. This report shall be prepared by a qualified forester or certified arborist. All recommended tree and vegetation pruning, removal, planting shall be completed prior to final plat/PUD approval. (Land Use Code 20.25H.120.C)

7. REVISED LOT 40 STRUCTURE SETBACKS: The minimum rear yard structure setback for Lot 40 must be revised from 10 feet to 20 feet. The minimum front yard structure setback shall be modified from 15 feet to 10 feet. (Land Use Code 20.30D.150.D)

D. PRIOR TO BUILDING PERMIT ISSUANCE

1. VARIANCE RESTRICTION: The final plat shall include the following note:

“Approval by the City of this plat is a determination that each lot in the plat can be reasonably developed in conformance with the Land Use Code requirements in effect at the time of preliminary plat approval without requiring a variance.” (Land Use Code 20.45A.130A.6)

2. FIRE HYDRANT: Relocate fire hydrant from between Lots 34/35 to between lots 36/37 at intersection of roads A & B. Fire hydrants will be located at approved locations per the Fire Department. (Uniform Fire Code Appendix III-B and Bellevue Fire Department Development Standard 6-6.04)

Section 4. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

Passed by the City Council this 21st day of November, 2005, and signed in authentication of its passage this 21st day of November, 2005.

(SEAL)

Connie B. Marshall
Connie B. Marshall, Mayor

Approved as to form:

Lori M. Riordan
Lori M. Riordan, City Attorney

Attest:

Myrna L. Basich
Myrna L. Basich, City Clerk

Published November 26, 2005