

**SPECIAL BURLEY CITY COUNCIL MEETING
CITY HALL
1401 Overland Avenue
Burley, Idaho
May 11, 2022**

SPECIAL MEETING

AGENDA

SPECIAL SESSION AT 4:15 P.M.

- | | | |
|------------------------------|---|--------------|
| 1. <u>ACTION ITEM</u> | Deliberation and Decision on Petition to Vacate
Part of the Cinema Subdivision Plat Ord No. 1394 | Dave Shirley |
| 2. <u>ACTION ITEM</u> | Approval of Summary of Ordinance No. 1393 | Dave Shirley |
| 3. <u>ACTION ITEM</u> | South Hills Estates Approval | Bryan Reiter |

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**SPECIAL BURLEY CITY COUNCIL MEETING
CITY HALL
May 11, 2022**

COMMENCE MEETING

Council met in special session at 4:15 p.m. with Mayor Ormond presiding. Council members present were Casey Andersen, John Craner, Janet Hansen, Bryce Morgan (excused), Stegen Phillips and Kimberli Seely.

City Staff present were as follows: City Clerk Ellen Maier, Attorney Dave Shirley, Economic Development Specialist Doug Manning, Engineer Dave Waldron, and Engineer Bryan Reiter.

**DELIBERATION AND DECISION ON PETITION TO VACATE PART OF THE
CINEMA SUBDIVISION PLAT ORD NO. 1394**

City Attorney Dave Shirley said that for clarification there was a proposed sample ordinance on the shared drive for council to work from. He stated the purpose of that was to give council a starting point and this ordinance as presented is not his recommendation. He said there were three recommendations given by planning and zoning. An additional item that was talked about as a possibility is of the use of septic tanks, or wells. Mr. Shirley stated that council could choose any, all or none of them and he could construct a new ordinance. Mr. Shirley stated that we have had the public hearing and when considering a specific piece of property, it falls under quasi-judicial and the council acts more like a jury and cannot discuss anything outside of the public hearing that was held, until this meeting when the council can discuss and make a decision.

Council member Craner asked Mr. Shirley to explain: *1. I. The property shown as "Harris Lane" consists of more real property than the proposed right-of-way proposed to be dedicated as a condition or restriction of vacation.* Mr. Shirley explained it is tied to *3.b. Petitioner shall grant additional right of way, five feet in width, along East 5th Street North and along the 600 West Road.* This is saying the interior road would be vacated and given back to the owner.

Council member Craner also stated that he thinks 3.e. should be taken out because of what the land is proposed for, and it is the farthest away from the sewer connection. He then asked if they could put an exception in for further development.

Mr. Shirley said that by undoing the subdivision then it would take the previous requirement away and would allow septic. Also, if they kept single ownership of the entire parcel then the entire parcel would be able to utilize septic. If any portion is sold to someone else, then it would be a subdivision and all of the provisions for a subdivision would apply.

Mayor Ormond stated that by taking e. out of the ordinance it would revert back to the current status that has to happen with the three hundred feet. He stated his thought is get this parcel back to what we are currently doing, so everyone is under the same planning and zoning rules.

Council member Phillips stated that he felt, *e. There shall be no well or septic tank placed on or in the parcels vacated. Future water and sewer services for the vacated parcels must be connected to and provided by the City of Burley at the cost of the owners of the parcels*, should be taken out.

Mr. Shirley stated that if they do decide to sub divide after it is vacated, they would be subject to all the provisions that everyone else in the city as far as well and septic. And at that point they could try to petition for some kind of variance permit.

Council member Seely said she keeps asking herself what is in the publics best interest, what will serve the public abiding by the codes, not setting a precedent that makes exceptions for others in the future.

It was stated that whatever they intend to do with the land in the future would go to planning and zoning and they would make recommendations at that time.

Mr. Shirley said that in the hearing it was mentioned that in the past we did not require bonds upfront, and now we do.

A motion was made by Council member Craner and seconded by Council member Phillips to strike paragraph 3. E. from the proposed ordinance and designate that as Ordinance No. 1394.

Roll Call Vote:

The results of the votes were as follows:

Casey Andersen	Aye		
John Craner	Aye	Stegen Phillips	Aye
Janet Hansen	Aye	Kimberli Seely	Aye

Motion carried.

A motion was made by Council member Andersen and seconded by Council member Craner to dispense with the rule requiring three separate readings and read Ordinance No. 1394 once by title only.

Roll Call Vote:

The results of the votes were as follows:

Casey Andersen	Aye		
John Craner	Aye	Stegen Phillips	Aye
Janet Hansen	Aye	Kimberli Seely	Aye

Motion carried.

Attorney Dave Shirley then read Ordinance No. 1394 once by title only.

A motion was made by Council member Andersen and seconded by Council member Phillips to accept Ordinance No. 1394 and allow the mayor to sign it.

Roll Call Vote:

The results of the votes were as follows:

Casey Andersen Aye

John Craner Aye

Janet Hansen Aye

Stegen Phillips Aye

Kimberli Seely Aye

Motion carried.

ORDINANCE NO. 1394

AN ORDINANCE OF THE CITY OF
BURLEY, IDAHO, VACATING A PART OF
THE CINEMA SUBDIVISION PLAT
SUBJECT TO CONDITIONS AND
RESTRICTIONS; AND PROVIDING AN
EFFECTIVE DATE.

PREAMBLE

WHEREAS, on or about April 5, 2022, the Planning and Zoning Administrator received a Petition to Vacate Real Property from Subdivision filed by Robert Harris and Bowen Theatre Company (the "Petition");

WHEREAS, the Petition requests the proposed vacation of a part of the Cinema Subdivision, in the City of Burley, Minidoka County, State of Idaho;

WHEREAS, the Planning and Zoning Commission considered the Petition during its April 19, 2022, meeting, and decided to make a recommendation that the City Council approve the vacation with the following conditions:

1. That Petitioner grant additional right of way along East 5th Street North and along the 600 West Road, as may be required by the Burley City Engineer, to meet the specifications for the appropriate right-of-way widths for the future development of those roads and right-of-way.
2. The execution and recording of a written instrument, approved by the City Attorney, and signed by the owners of Lots 7 and 8, sufficient to prohibit the future sale of one of the two parcels without the other.
3. If there are any utilities established within easements located within the parcel that is requested to be vacated, those easements shall not be vacated or otherwise affected by the vacation of the parcel;

WHEREAS, following proper notice, a public hearing on the Petition was held before the Burley City Council on May 3, 2022; and

WHEREAS, all required procedures of Idaho Code § 50-1306A have been fulfilled;

NOW THEREFORE,

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BURLEY, IDAHO:

1. Finding of fact and conclusions: The Burley City Council, following public hearing and review of the documents on record make the following findings and conclusions:
 - a. The proposed vacation includes a request to vacate parcels from the Cinema Subdivision Plat which was recorded in the records of Minidoka County, Idaho, on January 20, 1998, as instrument #433294.
 - b. The real property proposed to be vacated is located in the City of Burley, Minidoka County, State of Idaho;
 - c. All required procedures of Idaho Code § 50-1306A have been fulfilled

- d. The City Council finds there will be no detriment to the public interest as a result of the vacation with the restrictions and conditions set forth below;
 - e. Vacation of the Property with the restrictions and conditions set forth below is in the public interest and appropriate.
 - f. Granting the Petition subject to the conditions and restrictions set forth below would more likely allow for the owners of the vacated property to timely develop the real property to be utilized at the owner's planned higher valued use.
 - g. There appear to be no established utilities in public easements located on the parcels of property proposed to be vacated from the plat.
 - h. No testimony or evidence was given in opposition to the Petition.
 - i. The property shown as "Harris Lane" consists of more real property than the proposed right-of-way proposed to be dedicated as a condition or restriction of vacation.
2. Petitioner's Petition is hereby APPROVED subject to the conditions and restrictions set forth below. The following described real property located in the City of Burley, Minidoka County, Idaho, is hereby vacated from the Cinema Subdivision Plat:
See Exhibit "A" attached hereto and by this reference made a part hereof.
3. The following conditions and restrictions shall apply to the vacation:
- a. The real property shown on the plat as "Harris Lane" shall revert to Bowen Theater Company of 464 E 5th N Burley, ID 83318.
 - b. Petitioner shall grant additional right of way, five (5) feet in width, along East 5th Street North and along the 600 West Road, from the property within the parcels to be vacated, for the future development of those roads and right-of-way. Said grant of right-of-way shall be recorded in the records of Minidoka County before this Ordinance is signed, published, or recorded.
 - c. Lot 7 of the Cinema Subdivision of the City of Burley, Minidoka County, Idaho, as shown on the official plat thereof recorded in the records of Minidoka County, Idaho, on January 20, 1998, as instrument number 433294, shall not be sold or transferred to any other party unless Lot 7 is sold or transferred together with Lot 8 of said Subdivision.
 - d. If there are any utilities established within easements located within the parcels that are requested to be vacated, those easements shall not be vacated or otherwise affected by the vacation of the parcel.

This Ordinance shall be effective upon its passage, approval and publication.

PASSED May 11, 2022
APPROVED May, 11, 2022

CITY OF BURLEY

/s/
Steve Ormond - Mayor

ATTEST:

/s/
Ellen Maier - City Clerk

EXHIBIT "A"

LEGAL DESCRIPTION

Lots 1 & 2 in Block 2, Lots 1 & 2 in Block 3, All of Harris Lane, and Part of Alfresco Drive of the Cinema Subdivision located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 8 in Township 10 South, Range 23 East of the Boise Meridian, Minidoka County, State of Idaho.

Beginning at the Southeast Corner of Section 8 in T.10 S., R.23 E., B.M. said corner marked by a $\frac{5}{8}$ " rebar; Thence South 89 degrees 41 minutes 00 seconds West along the south line of Section 8 for a distance of 25.00 feet; Thence North 00 degrees 04 minutes 07 seconds West for a distance of 35.00 feet to a $\frac{1}{2}$ " rebar at the Southeast Corner of Lot 2 in Block 3 of the Cinema Subdivision which shall be the Point of Beginning;

THENCE South 89 degrees 41 minutes 00 seconds West along the northerly right of way of East 5th Street North for a distance of 595.44 feet to a $\frac{1}{2}$ " rebar at the Southwest Corner of Lot 2 in Block 2;

THENCE North 00 degrees 04 minutes 07 seconds West along the west lines of Lots 1 & 2 in Block 2 for a distance of 448.81 feet to a $\frac{1}{2}$ " rebar at the Northwest Corner of Lot 1 in Block 2;

THENCE South 89 degrees 41 minutes 00 seconds West along the southerly right of way of Alfresco Drive for a distance of 87.96 feet;

THENCE North 00 degrees 16 minutes 06 seconds West along the westerly right of way of Harris Lane for a distance of 371.35 feet to a $\frac{5}{8}$ " rebar;

THENCE North 89 degrees 41 minutes 00 seconds East along the northerly right of way of Harris Lane for a distance of 50.00 feet to a $\frac{5}{8}$ " rebar;

THENCE South 00 degrees 16 minutes 06 seconds East along the easterly right of way of Harris Lane for a distance of 311.35 feet to a $\frac{5}{8}$ " rebar on the northerly right of way of Alfresco Drive;

THENCE North 89 degrees 41 minutes 00 seconds East along said right of way for a distance of 70.71 feet to a $\frac{5}{8}$ " rebar;

THENCE along a tangent curve to the right along said right of way for a distance of 111.72 feet to a $\frac{5}{8}$ " rebar, said curve having a radius of 160.00 feet, a delta angle of 40 degrees 00 minutes 29 seconds, and a long chord bearing of South 70 degrees 18 minutes 45 seconds East for a distance of 109.47 feet;

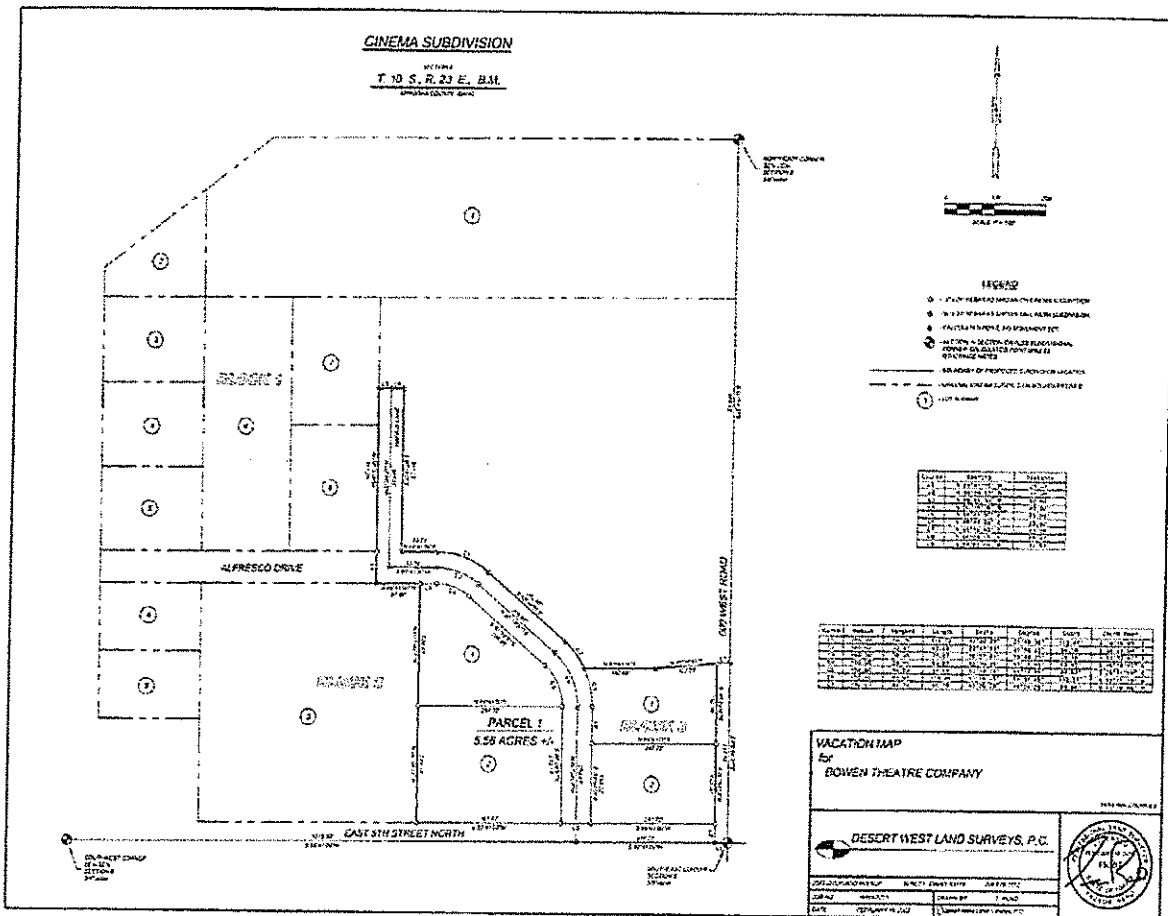
THENCE South 50 degrees 18 minutes 31 seconds East along said right of way for a distance of 200.95 feet to a $\frac{5}{8}$ " rebar;

THENCE along a tangent curve to the right along said right of way for a distance of 65.02 feet to a $\frac{5}{8}$ " rebar at the Northwest Corner of Lot 1 in Block 3, said curve having a radius of 160.00 feet, a delta angle of 23 degrees 17 minutes 03 seconds, and a long chord bearing of South 38 degrees 39 minutes 59 seconds East for a distance of 64.58 feet;

THENCE North 89 degrees 41 minutes 00 seconds East along the north line of said Lot 1 for a distance of 142.65 feet to a $\frac{5}{8}$ " rebar;

THENCE North 85 degrees 16 minutes 45 seconds East along the north line of said Lot 1 for a distance of 122.85 feet to a $\frac{1}{2}$ " rebar on the westerly right of way of 600 West Road;

THENCE South 00 degrees 04 minutes 07 seconds East along said right of way for a distance of 300.96 feet to the Point of Beginning.



APPROVAL OF SUMMARY OF ORDINANCE NO. 1393

Attorney Dave Shirley stated that this is a summary of the Flood Plain Ordinance that was approved at the last council meeting. He asked council to approve this ordinance in summary for publication.

A motion was made by Council member Craner and seconded by Council member Phillips to approve the summary of Ordinance No. 1393 for publication.

Roll Call Vote:

The results of the votes were as follows:

Casey Andersen	Aye		
John Craner	Aye	Stegen Phillips	Aye
Janet Hansen	Aye	Kimberli Seely	Aye

Motion carried.

SUMMARY OF ORDINANCE NO. 1393

AN ORDINANCE OF THE CITY OF BURLEY, IDAHO, AMENDING BURLEY CITY CODE CHAPTER 17 OF TITLE 5; CLARIFYING EXISTING PROVISIONS; AMENDING DEFINITIONS AND PROVIDING NEW DEFINITIONS FOR TERMS USED IN SAID CHAPTER; REQUIRING A SITE PLAN TO OBTAIN A DEVELOPMENT PERMIT; PROVIDING FOR NOTIFICATION TO THE FEDERAL INSURANCE ADMINISTRATOR OF CHANGES IN BASE FLOOD ELEVATIONS, BOUNDARY CHANGES AND OTHER CONDITIONS; SETTING FORTH STANDARDS FOR DEVELOPMENT ADDITIONS, IMPROVEMENTS, AND RECREATIONAL VEHICLES; PROVIDING FOR ENFORCEMENT OF THE PROVISIONS OF SAID CHAPTER AND FOR CORRECTIVE PROCEDURES; PROVIDING PROCEDURES FOR VARIANCES; PROVIDING FOR SEVERABILITY OF THE PROVISIONS OF THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

The full text of Ordinance No. 1398 is available at the Burley City Hall located at 1401 Overland, Burley, ID, and will be provided to any citizen upon personal request during normal office hours.

Ordinance No. 1398 amends provisions of Title 5 Chapter 17 of the Burley City Code, and adds new provisions to Title 5 Chapter 17 of the Burley City Code. A Summary of the principal provisions of ordinance No. 1393 of the City of Burley, Idaho, adopted by the Burley City Council on May 3, 2022, is as follows:

1. Clarifies the scope of Chapter 17 of Title 5 of the Burley City Code.
2. Amends or adds definitions of the following terms used in Chapter 17: Base Flood Elevation, Basement, Flood or Flooding, Flood Insurance Rate Map, Flood Insurance Study, Floodplain Management, Floodplain Management Regulations, Floodproofing, Floodway, Functionally Dependent Facility, Highest Adjacent Grade, Historic Structure, New Construction, Recreational Vehicle, Substantial Damage, Substantial Improvements, and Violation.
3. Clarifies the method of determining the areas of special flood hazard.

4. Requires a site plan submission to obtain a development permit.
5. Requires notification to the Federal Insurance Administrator of changes in base flood elevations, boundary changes, and other conditions.
6. Specifies information to be obtained and maintained by the building inspector.
7. Clarifies the standard requirements in areas of special flood hazards.
8. Provides new standard requirements for additions/improvements of structures and recreational vehicles.
9. Provides corrective procedures for enforcement of violations of Chapter 17.
10. Provides procedures and standards for variances from the provisions of Chapter 17.
11. Provides for severability of the provisions of this Ordinance.
12. The effective date of this ordinance shall be upon its passage, approval and publishing as provided by law.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR of the City of Burley, Idaho, the 3rd day of May, 2022.

_____/s/_____

Honorable Steve Ormond, Mayor

ATTEST

_____/s/_____

Ellen Maier, City Clerk

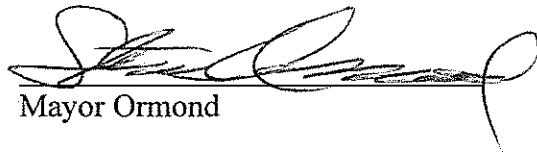
SOUTH HILLS ESTATES APPROVAL

This item is tabled until the next meeting.

A motion was made by council member Andersen and seconded by Council member ____ to adjourn the meeting at 4:15 P.M.

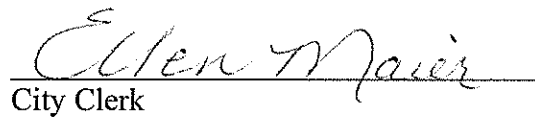
All "Aye."
Motion carried.

City of Burley



Mayor Ormond

ATTEST:



City Clerk