CITY COUNCIL AGENDA

May 4, 2009

SPECIAL MEETING, North Classroom

For the purpose of holding Arts Commission Advisory Board interviews

6:00 p.m.

and

COUNCIL MEETING, Board Room

7:00 p.m.

Educational Resource & Administrative Center (ERAC)
15675 Ambaum Blvd. SW
Burien, Washington 98166

		PAGE NO.
I. CALL TO ORDER		
II. EXECUTIVE SESSION		
III. PLEDGE OF ALLEGIANCE		
IV. ROLL CALL		
V. AGENDA CONFIRMATION		
VI. PUBLIC COMMENT	To receive comments on *topics other than public hearing topics.* Individual will please limit their comments to three minutes, and groups to five minutes.	
VII. CORRESPONDENCE FOR THE RECORD	a. Email Dated January 15, 2009, from Sean Smith Regarding Municipal Codes 9.50.210 and 9.50.220.	3.
	b. Letter Dated April 7, 2009, from Andrea Mandt Regarding Community Garden with Response from Steve Roemer, Parks Development and Operations Manager.	5.
	c. Email Dated April 22, 2009, from Leigh Regarding Police Safety.	9.
VIII. PRESENTATIONS	a. Presentation on Communities Count by Sandy Ciske, Regional Health Officer, Public Health - Seattle and King County.	
IX. CONSENT AGENDA	a. Approval of Vouchers: None.	
	b. Approval of Minutes: April 27, 2009.	13.
	c. Motion to Adopt Ordinance No. 510, Relating to Off-Site Commercial Parking Amendments to BMC Title 19 (Zoning Code).	17.

Phyllis Dickey

From: Lisa Clausen
Sent: Wednesday, April 29, 2009 9:48 AM
To: 'Sean Smith'
Subject: RE: Municipal Codes 9.50.210 and 9.50.220

Dear Mr. Smith:
Please excuse the length of time it has taken to research this issue. We appreciate your patience. As mentioned in a separate email exchange, a draft ordinance will be brought to the City Council soon.
L. Clausen
City Manager's Office

From: Council
Sent: Friday, January 16, 2009 4:40 PM
To: 'Sean Smith'
Subject: RE: Municipal Codes 9.50.210 and 9.50.220

Thank you for your message. It will be included in the Council's Correspondence for the Record.

L. Clausen
City Manager's Office

From: Sean Smith [mailto:izzletodasmizzle@hotmail.com]
Sent: Thursday, January 15, 2009 2:55 PM
To: Council; Burien City Attorney
Subject: Municipal Codes 9.50.210 and 9.50.220

Dear Attorney and Council of the City of Burien:

I would like to bring to the city's attention Burien Municipal Code 9.50.210 [Weapons prohibited on liquor sale premises.] Section 1 and Burien Municipal Code 9.50.220 [Firearms prohibited in certain places] Section 1 Part E. Currently both of these codes are in violation of Washington State Law.

Burien Municipal Code 9.50.210 Section 1 is worded: "(1) It is a misdemeanor for anyone, on or in any premises in the city where alcoholic beverages are dispensed by the drink to: (a) Carry in any manner any firearm, rifle or handgun, whether such person has a license or permit to carry such firearm or not, and whether such firearm is concealed or not"

Burien Municipal Code 9.50.220 Section 1 Part E is worded "(1) It is unlawful for any person to enter the following places when he or she knowingly possesses or knowingly has under his or her control a firearm; (e) The council chambers of the city council."

Currently Burien Municipal Code 9.50.210 and Burien Municipal Code 9.50.220 are in violation of RCW 9.41.290 [State Preemption]: "Local laws and ordinances that are inconsistent with, more restrictive than, or exceed the requirements of state law shall not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of such city, town, county, or municipality."

Burien Municipal Code 9.50.210 is inconsistent and more restrictive then RCW 9.41.300 [Weapons prohibited in certain places — Local laws and ordinances — Exceptions — Penalty. (1)(d)] because there is no exception

CFTR : 5-4-09

made for council chambers. Under RCW 9.41.290, Burien Municipal Code 9.50.210 is preempted and repealed.

This is also true with Burien Municipal Code 9.50.220 as we see under RCW 9.41.300 it only states: "That portion of an establishment classified by the state liquor control board as off-limits to persons under twenty-one years of age." not anywhere that alcohol is dispensed by the drink.

I would also like to direct your attention to the Washington State Attorney General's Opinion AGO 2008 No. 8 which states "Under RCW 9.41.290, cities may only enact laws and ordinances relating to firearms if two conditions are met. First, cities may only enact laws "that are specifically authorized by state law, as in RCW 9.41.300". And second ""RCW 9.41.290 preempts a city's authority to enact local laws that prohibit possession of firearms on city property or in city-owned facilities."

I request that you revise the referenced code in order to prevent and preclude the potential for a lawsuit from illegal citation and/or arrest in violation of state law. Further, I request that you assist the city law enforcement officials to develop a bulletin for officers that will clear up misconceptions caused by the preempted code. I look forward to hearing back from you about this issue.

I have also attached a copy of this email in Microsoft Word Format.

Thank You,

Sean Smith

206-819-2867

RECEIVED

APR 13 2009

CITY OF BURIEN

City Council
15811 Ambaum Blvd SW, Suite C
Burien, WA 98166
4/7/09

Dear Burien City Council,

I am writing this letter to you because I feel the need and would like to address the importance of having a community garden in Burien. It's great to see all the new development taking place, and as our town becomes more and more urban, I think people begin to lose a sense of the beauty of our neighborly friends and the nature we live in. Did you know according to the 2004 National Census, Americans spend about eight and a half hours on the computer, TV, radio, or reading? Having a local garden in Burien would make our environment's health and our community's friendships grow stronger, and even benefit our economy. There are so many wonderful attributes in sharing a garden. What I mean exactly by having a "community garden" is a small to medium sized vegetable garden ideally at the community center - fenced off but not locked to the pubic - a garden that our whole community would share and could be sponsored by local businesses and gardened possibly by after school programs too. This plan is so important because gardens have so many benefits, physical, mental, and social that our whole community should get to see.

One reason I think having a garden that everybody shares would be great is because it would be healthy for both the gardeners and the place being gardened. Our environment would be positively affected by gardens: the plants give us their oxygen of course and will attract important critters like worms and honeybees. As for the volunteers, they too would get fresh air, exercise, and healthier food out of the experience. You see, our family (mostly my mom) has this huge garden that we've had going on for three years now, and it's just a wonderful thing to spend hours outside in the moist lush air, breathing in and out the cool taste of green. My head clears of all my problems as I smile back at the blue sky. And then at the end of the year, such glorious gifts are given back to you. As research has shown, gardening can decrease the chance of osteoporosis, increase flexibility and endurance, and reduce stress. Besides, gardens are quite pretty to look at.

Another huge thing about why we should have a Burien garden is it would nurture our community. In 2005, 91 million households nationwide - 83% - participated in lawn and garden activities, according to statistics published by the NGA. So, in part, gardening is a community unto itself. There's something more too, that's hard to describe about gardening. That's what I want to share with all these people in Burien who live in apartments and stuff. Life should be more than traffic, cubicles, and watching TV. We as living beings need to treasure every bounty we are blessed with in life (Like the sunshine when we can get it). Compassion like that and towards others in itself is so much more valuable than money. Sometimes we forget about the thousands of good people we live around. Gardening is a great way to get out, enjoy friends, life, and feeling blessed with the sunshine itself.

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PC: 4-22-09
CC: Michael Lafreniere for response

Although money shouldn't be the motive for this possible project, it is obviously needed to make happen. And like I said earlier, this project could even help our city's economy. How could we do this? By getting local businesses like R&R rentals or Herr Backyard Garden Center to sponsor us then work out deals (maybe even for free things) so the expenses wouldn't break the budget. Furthermore, if those businesses got to post a sign that promoted their contributions to save the planet and help a community service, it would certainly get the peoples' attention - increasing their profit and keeping our local businesses around. Also, if we become short on funding, I could set up a donation box at my school for further contribution. Having a community garden might really be fun, And profitable.

Since you might still be unsure exactly (my apologies) about how the procedures in gardening here might go, try to picture this. Say a mom and friend make a date to go garden for a while their kids are at school (say maybe they don't have yards). Anyway, they'd come up to the fence I guess, and sign in to the garden with a sheet. There wouldn't have to be supervision all the time - but surveillance cameras might be favorable. So the two women could just garden however they chose to - maybe bringing seeds from home or using some there. They'd check if there were any plots left and if someone's "plot sign" said it was okay for visitors to water and weed their patch. As for ownership of the plants gardeners would (could) be able to time themselves and earn enough minutes to take the veggies home. Of course, if they grew the plants by themselves they could by all means keep them. As for who would garden there, besides the general public, we could invite after-school groups or local clubs to come too. If we had a garden like this, it could correspond to new festivals like a Harvest fest, Green Awareness, or a homegrown potluck. There are so many fun possibilities to consider.

As Rainie Picardo, who owns a plot in the Seattle p-patch once said, "You get back what you put in." I believe that is completely true with lots of things, especially gardens. I am open and keen to hear all of your concerns or suggestions. So to let you know, my email is *blueeyebahai@yahoo.com*. I am enthusiastic and ready to help if you think setting up a garden could be feasible. I assure you, it would be an effort *very* well spent. Thank you so much for your time and ears.

Sincerely,

Andrea Mandt

Burien
Washington, USA
15811 Ambaum Blvd SW, Suite C, Burien, WA 98166
Phone: (206) 241-4647 • FAX (206) 248-5539
www.burienwa.gov

April 28, 2009

Andrea Mandt
16222 Sylvester Rd. SW
Burien, WA 98166

Dear Ms. Mandt:

Thank you for taking the time to contact the City of Burien regarding the value and importance of community gardens. You have shared many of the positive attributes that a community garden can bring to a community, such as providing a healthy environment for the gardeners and visitors, and a source of food. The availability of a community garden can provide a respite from the daily distractions you mentioned like traffic, working or living in a confined environment, or even to help get us away from the TV for a while. You have provided some good suggestions on some of the day-to-day operational considerations involved in providing a community garden and I want you to know that this topic is one of interest to the City of Burien Parks Department as well.

You may be interested to know that here in Burien we have a citizen organization called Sustainable Burien (more at www.sustainableburien.org). Among other endeavors, they have a similar interest in the creation of community gardens. You might find their web link useful in providing a connection to others with your interests. The topic of community gardens has also been of interest to the Parks and Recreation Board. It will be having a discussion on this topic at its June 10th meeting. The Board welcomes the public to attend to share their ideas and hear about what a community garden means, how they can be operated, funded and developed.

If you have further questions or suggestions, I can be contacted at 206-248-5513 or stever@burienwa.gov.

Sincerely,

Steve Roemer
Parks Development and Operations Manager

cc: Mike Martin, City Manager
Michael Lafreniere, Parks Department Director

Phyllis Dickey

From: Council
Sent: Tuesday, April 28, 2009 2:59 PM
To: 'Leigh'
Subject: RE: police safety

Thank you for your message. It is being included in the Correspondence for the Record for the Council and sent to the City Manager and Police Chief for their information.

L. Clausen
City Manager's Office

From: Leigh [mailto:leighfenster@comcast.net]
Sent: Wednesday, April 22, 2009 7:46 AM
To: Council
Subject: police safety

<< File: My 2nd Story begins a little over a year ago on December 13th.doc >> << File: ATT00001.txt >>

CFTR: 5-4-09
cc: Mike Martin, Scott Kimerer

My Story begins a little over a year ago on December 13th, Friday the thirteenth, 2007. I was driving my son, my daughter, and two of her friends to a birthday party. We had to make a quick stop at a Burien business on our way. As we approached the stop sign on 153rd and 4th avenue I was hit from behind by another vehicle. I tried to pull over to the right as best I could and as I did, the man who hit me drove up next to me, just long enough to shrug his shoulders at me and drive off. In the hysteria of my van, with 4 screaming children, I was quick enough to write down his license plate number and quickly called 911. My call went something like this…"I was just hit by a red truck, license plate.., white male, brown hair and mustache, baseball cap, and heading north on 4th avenue right now! Now, silly old me thought that since this fellow just broke the law and I was smart enough to "catch" him with his info and since he was practically in the Burien Police Department's parking lot that they would nab him and hold him accountable for the damage done to my van. Well, that's not exactly how it worked out. I ended up sitting in a local business and then my van, when they closed for the night, and dialing 911 about every ½ hour until after 9:30p.m. At this point, I started feeling very deserted and nervous so I called one last time. Finally, the 911 operator filled me in on a little secret….all the police officers were on a shooting call and I would still be waiting for an undisclosed amount of time. ALL of the police officers??? So, I drove my van home and filed a report the following morning. In the end, nothing happened to the guy who was uninsured, had a suspended license, and was on parole for a federal offense but I had to buy a new van (mine was totaled) the day after Christmas if I was to have a vehicle for my family to get around in on their winter vacation.

Flash forward to last Friday, March 19, 2009…around 3p.m my daughter called me; she had been sideswiped in our new van, at 148th and Ambaum Boulevard. I asked her if she had hit the other driver or if the other driver had hit her. She said the other driver had hit her and if she hadn't swerved, she would have been t-boned. I was relieved that it hadn't been worse. However, my next questions brought other emotions. I asked her where exactly she was and if the other driver was still there. She said yes, the policeman had told her to pull over and she had. She was at the bank across from Walgreen's but she didn't know what to do next. I asked her if she had the name and insurance of the other driver and she said, "she is unlicensed and uninsured and doesn't speak English well". So I asked what the policeman had told her to do and she said, "He left mom!" "WHAT?!" With that, I hopped in my car and drove to meet her. I called 911 on my way there and told the operator what had happened. She asked if anyone was hurt and I didn't know so I said I would call back when I got there. When I drove into the parking lot I saw my daughter in my van, a beat up car next to her with a woman holding a baby standing outside of her car. Before getting out, I called 911 again. This time I got a very rude male operator. After I explained the situation he asked if anyone was hurt and I said "no, not that I can tell but I have a 16 year old girl and an unlicensed, uninsured woman driving her baby around and no policeman to help us" and his abrupt reply was "well, there's going to be a wait". When I said that I couldn't believe the policeman had simply motioned to my daughter to pull over and left and that it would have taken 2 minutes to pull over, make sure there were no injuries, and realize this woman was driving totally illegally, he remarked that there was a more important call – a shooting! Wow! What a big surprise! Burien. A shooting you say? Can you sense my sarcasm? So, I asked him what was I supposed to do? He replied to go ahead and wait but it was going to be a long while. Well, I've been down this road a little over a year ago, remember? I'm thinking that I have young children due home soon and I don't have 2,3 or 4 hours to wait around. I am also thinking that nothing happened to the driver last year that was completely illegal. I was the one who did nothing wrong and still had to buy myself a new vehicle. I'm now thinking that my daughter did everything right, no one is hurt, and our vehicle is barely scratched. So, I decided to count my blessings and give this woman a gift. I told her to be careful and please get a license. Then my daughter and I drove home.

As I drove home, my anger grew. I was (and am still a little) angry with myself for letting this person get away – God only knows whom she will hit next. But I was extremely angry with the policeman who didn't stop for my daughter. I have told my kids their whole lives that the police are there to help us. However, in these two instances, there was no one there to help us. We were victimized twice in the first accident and again in the second. When I got home, I called the Burien police and asked to speak with whomever was in charge…of course they were not available at that time. Oh, I forgot, they were on a shooting call! So, approximately 2 hours later I received a call from the officer in charge of the King County police who are contracted out to Burien. He was a very nice man who explained that it wasn't that we were not important but that shootings are a higher priority. I agreed but still argued that someone should have come to help a young driver – what if the person who hit her had a gun or got angry or whatever? Again, I stated that it would have taken less than 5 minutes to help her and get a record of this other driver who clearly needs to be off the streets. He agreed and then told me there simply weren't enough officers. He told me that I would still be waiting had I decided to to that. He said that Burien, with a population of around 36,000 people only pays for three….yes I said THREE… officers on Friday nights. The other police in the area are King County police and that they are only allowed to help Burien police with emergency calls. Obviously, a minor accident is not an emergency – unless you consider the ramifications of unlicensed, uninsured drivers (insurance costs, hospital costs, property damage, etc) on our society. Maybe not immediate emergency but a slow illness that is toxic. So, I know what you are thinking… I was thinking it too…why doesn't Burien pay for more officers? Don't they want business for their new downtown? Don't they want people to feel safe so they actually go to Burien? Don't they know there is lots of gang activity in their little town? Don't they care? Do they think we are stupid and can't see the crime? What is wrong with Burien? Do they want to make victims out of the tax-paying, law-abiding citizens? Do they want us to the policemen's job for them (as I felt I should have done?)? Enough! The citizens of Burien and the surrounding areas who frequent Burien should be very upset with Burien City Officials! The King County officer whom I spoke to said that they can provide Burien with as many officers as they want to pay for…. but Burien has to make the safety of the people and protection of their business a priority instead of just cleaning up after crimes that have occurred. I am disgusted and will not be heading into Burien on a weekend or evening again until I see some improvement. It is sad, such a nice little town, slowly being taken over by the people who don't care about anyone but themselves.. I am not angry with the police officers but am furious with the lack of concern and shortsightedness of the Burien Council.

Sincerely,
A concerned and angry citizen

draft

CITY COUNCIL MINUTES

April 27, 2009

SPECIAL MEETING, North Classroom

For the purpose of holding an Executive Session to discuss a personnel matter per RCW 42.30.110(1g)

6:00 p.m.

and

COUNCIL MEETING, Board Room

7:00 p.m.

Educational Resource & Administrative Center (ERAC)
15675 Ambaum Blvd. SW
Burien, Washington 98166

To hear Council's full discussion of a specific topic or the complete meeting, the following resources are available:

- *Watch the video-stream available on the City website, www.burienwa.gov*
- *Check out a DVD of the Council Meeting from the Burien Library*
- *Order an audio cassette tape recording or a DVD of the meeting from the City Clerk, (206) 241-4647*

SPECIAL MEETING

Mayor McGilton called the Special Meeting of the Burien City Council to order at 6:00 p.m. for the purpose of holding an Executive Session to discuss a personnel matter per RCW 42.30.110(1g).

Present: Mayor Joan McGilton, Deputy Mayor Sue Blazak, Councilmembers Rose Clark, Kathy Keene, Lucy Krakowiak, Sally Nelson and Gordon Shaw.

Administrative staff present: Christopher Bacha, Interim City Attorney.

No action was taken.

SPECIAL MEETING ADJOURNMENT TO STUDY SESSION

The Special Meeting was adjourned at 6:55 p.m.

CALL TO ORDER

Mayor McGilton called the Meeting of the Burien City Council to order at 7:00 p.m.

EXECUTIVE SESSION

An Executive Session was held prior to and at the end of the Council Meeting for the purpose of holding an Executive Session to discuss a personnel matter per RCW 42.30.110(1g).

PLEDGE OF ALLEGIANCE

Mayor McGilton led the Pledge of Allegiance.

ROLL CALL

Present: Mayor Joan McGilton, Deputy Mayor Sue Blazak, Councilmembers Rose Clark, Kathy Keene, Lucy Krakowiak, Sally Nelson, and Gordon Shaw.

Administrative staff present: Mike Martin, City Manager; Christopher Bacha, Interim City Attorney; Richard Loman, Economic Development Manager; Scott Greenberg, Community Development Director; Gina Kallman, Cultural Arts Supervisor; and Monica Lusk, City Clerk.

AGENDA CONFIRMATION

Direction/Action

Motion was made by Deputy Mayor Blazak, seconded by Councilmember Nelson, to add Business Agenda Item "e" Motion directing the Mayor to investigate hiring outside counsel and to meet with the City Manager.

Direction/Action

Motion was made by Deputy Mayor Blazak, seconded by Councilmember Nelson, and passed unanimously to affirm the April 27, 2009, Agenda as amended.

PUBLIC COMMENT

The following citizens spoke in support of retaining Mike Martin as city manager:
Dean Parkins, 2638 SW 152nd Street
Jim Clingan, 14682 22nd Avenue SW
Jack Block, Jr., address not given
Ed Dacy, 2016 SW 146th Street

CORRESPONDENCE FOR THE RECORD

No Correspondence for the Record was received.

PRESENTATIONS

Presentation on Student B/IAS Project by Dale Copeland, Puget Sound Skills Center

Dale Copeland, Welding Instructor at Puget Sound Skills Center (PSSC), introduced Ed Holmes, Coordinator, and students Landon Abel and Robert Rose. Mr. Copeland said that the proposed sculpture for the B/IAS site is an eagle swooping down catching a salmon. He noted the materials being used and the sculpture's size.

Presentation on Possible B/IAS Site Visit as Part of Seattle Urban Planning Conference by Kathy Justin, B/IAS

On Kathy Justin's behalf, Dane Johnson, B/IAS, spoke to the opportunity before the City and Council. Urban planner, Tom Sieverts, from Germany will be at the upcoming conference to talk about art in the urban area. Burien and the B/IAS project was identified as a site to visit on July 2.

Artist Cathy Law said that Burien was selected for a site visit during the conference because of its re-imagining and the bringing together the art energy with the Town Square project. The site visit will allow opportunities for the public to have conversations with Mr. Sieverts.

Mayor McGilton noted that a Council ad-hoc committee comprised of herself and Councilmembers Clark and Keene was formed to support the visit.

CONSENT AGENDA

Approval of Vouchers: Numbers 21880 – 22012 in the Amount of $1,207,176.34
Approval of Minutes: April 13, 2009

Direction/Action

Motion was made by Deputy Mayor Blazak, seconded by Councilmember Nelson, and passed unanimously to approve the April 27, 2009, Consent Agenda.

BUSINESS AGENDA

City Manager's Report

Follow-up

Staff will schedule a motion to execute a Memorandum of Understanding (MOU) for the Justice Assistance Grant (JAG) Program, provide information on resources needed to bring art and landscaping to SW 153rd Street, schedule a discussion on proposed ordinances relating to a Tenant Protection Program, and schedule Council review of the proposed agenda schedule on every last meeting of the month.

Motion to Adopt Resolution No. 292 Requesting King County to Hold a Special Election on August 18, 2009 for the Purpose of Placing on the Ballot a Proposition Concerning Annexation of the North Highline South Annexation Area

Direction/Action

Motion was made by Deputy Mayor Blazak, seconded by Councilmember Nelson, to adopt Resolution No. 292 requesting King County to hold a special election on August 18, 2009 for the purpose of placing on the ballot a proposition concerning annexation of the North Highline South Annexation Area. **Motion** passed 6-1. Opposed, Councilmember Krakowiak.

Discussion on Proposed Ordinance No. 510, Relating to Off-Site Commercial Parking Amendments to BMC Title 19 (Zoning Code)

Direction/Action

Councilmembers requested placing Ordinance No. 510 on the on the May 4, 2009, Consent Agenda for approval.

Discussion of Draft Ordinances Establishing a Special Events Permit Code and Amending the City Right-of-Way Code

Direction/Action

Councilmembers requested placing the ordinances and rules and regulations on the May 4, 2009, Business Agenda for consideration.

Motion directing the Mayor to Investigate Hiring Outside Counsel and to Meet with the City Manager

(Added under Item V Agenda Confirmation)

Direction/Action

Motion was made by Deputy Mayor Blazak, seconded by Councilmember Nelson and passed unanimously to Identify a List of Attorneys for Consideration by the City Council to be Retained to Give Advice Regarding Personnel Matters and Further to Meet with the City Manager to Develop an Action Plan for Consideration by the City Council.

COUNCIL REPORTS

Councilmember Keene reported on the Green Cities Conference held in Portland that she and Mayor McGilton attended.

EXECUTIVE SESSION

Direction/Action

Motion was made by Mayor McGilton, seconded by Councilmember Nelson, and passed unanimously to recess into Executive Session for the purpose of continuing a discussion on a personnel matter per RCW 42.30.110(1g) until 10:00 p.m. with a possibility of future action when the Council meeting is reconvened.

Administrative staff present: Christopher Bacha, Interim City Attorney.

No action was taken.

The Council meeting was reconvened at 10:00 p.m.

Direction/Action

Motion was made by Deputy Mayor Blazak, second by Councilmember Nelson, and passed unanimously to hold a Special Meeting on Thursday, April 30, 2009, at 7:00 p.m. at Burien City Hall for the purpose of holding an Executive Session to discuss a personnel matter per RCW 42.30.110(1g).

ADJOURNMENT

Direction/Action

MOTION was made by Deputy Mayor Blazak, seconded by Councilmember Nelson and passed unanimously to adjourn the meeting at 10:00 p.m.

_____
Joan McGilton, Mayor

_____
Monica Lusk, City Clerk

CITY OF BURIEN
AGENDA BILL

Agenda Subject: Motion to Adopt Ordinance No. 510, Relating to Off-Site Commercial Parking Amendments to BMC Title 19 (Zoning Code)		**Meeting Date:** May 4, 2009
Department: Community Development **Contact:** Charles W. "Chip" Davis, Planner **Telephone:** (206) 248-5501	**Attachments:** 1. Proposed Ordinance No. 510 2. Exhibit A to Ordinance No. 510	**Fund Source:** N/A **Activity Cost:** N/A **Amount Budgeted:** N/A **Unencumbered Budget Authority:** N/A
Adopted Work Plan Priority: Yes No X	**Work Plan Item Description:** N/A	

PURPOSE/REQUIRED ACTION: The purpose of this agenda item is for the Council to consider Ordinance 510, relating to allowing off-site commercial parking uses to locate in the CR-Regional Commercial, SPA-3 Gateway and SPA-4 Northeast Redevelopment Area (NERA) zones.

BACKGROUND (*Include prior Council action & discussion*):
A request has been received from James A. Lindstrom, the owner of property located at 14600 First Avenue South, for amendment of the Burien Zoning Code to permit valet airport parking as an allowed use in the SPA-3 Gateway zone. The request is being made because the property owner is faced with vacant property as a result of BBC Dodge ceasing operations after leasing the site for 17 years.

The proposed use of the property for valet airport parking or off-site commercial parking is a use which is currently allowed only in the SPA-4 Northeast Redevelopment zone. The property owner makes a reasonable argument that in both appearance and function the proposed use resembles the former use of the property and should be allowed on a temporary basis, pending improvement of the economy and development of the site to a more intensive land use more in keeping with the intent of the SPA-3 Gateway zone. Allowing the site to be utilized as an off-site commercial parking facility would have similar characteristics to the former auto sales use of the property.

Staff is proposing a new definition for the Off-Site Commercial Parking use and allowing the use in both the SPA-3 and CR zones on a temporary basis subject to the following limitations: the property must either currently or within the preceding 12 month period have been used for new and/or used car sales and the use will only be allowed until July 1, 2012 and after that date the use will be illegal and must be removed. The proposed revisions are reasonable and provide some flexibility in allowable land uses to address the current economic conditions while recognizing and balancing the long-range intent of the zoning code and comprehensive plan related to the SPA-3 Gateway zone.

On April 14, 2009, the Planning Commission conducted a public hearing on the proposed amendment and following the hearing, by a unanimous vote, recommended the City Council adopt the proposed amendment.

The proposed ordinance was reviewed and discussed by City Council on April 27, 2009. At which time, the Council requested the ordinance be placed on the May 4, 2009 consent agenda for adoption.

OPTIONS (*Including fiscal impacts*):
1. Adopt proposed Ordinance No. 510.
2. Modify proposed Ordinance No. 510.
3. Do not adopt proposed Ordinance No. 510.

Administrative Recommendation: Adopt Ordinance No. 510.

Committee Recommendation: N/A

Advisory Board Recommendation: N/A

Suggested Motion: A motion to approve the Consent Agenda will adopt Ordinance No. 510.

Submitted by: Charles W. "Chip" Davis, Planner **Administration**	Mike Martin **City Manager**
Today's Date: April 28, 2009	**File Code:** R:\CC\Agenda Bill 2009\050409cd-1 OffStreet Parking Ord.docx

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 510

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, AMENDING TITLE 19 OF THE BURIEN MUNICIPAL CODE RELATED TO OFF-SITE COMMERCIAL PARKING, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in June, 1999, the City of Burien adopted a new zoning code establishing zoning regulations for the City of Burien; and

WHEREAS, the need to add flexibility in the siting of off-site commercial parking facilities has led to the proposed amendments; and

WHEREAS, the Planning Commission held a public meeting to discuss the proposed amendment on March 10, 2009 and held a public hearing to receive citizens' comments on the proposed amendment on April 14, 2009; and

WHEREAS, the City Council has received recommendations from the Planning Commission regarding the proposed amendment; and

WHEREAS, the City Council held a public meeting on April 27, 2009 to review and discuss the proposed amendment.

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

Section 1: Amendments to BMC Title 19. The City Council of the City of Burien hereby amends BMC Title 19 as shown on attached Exhibit A incorporated by reference as if fully set forth herein.

Section 2: 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 3: 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 4: 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 _____ DAY OF May 2009, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS _____ DAY OF May, 2009.

CITY OF BURIEN

_____
Joan McGilton, Mayor

ATTEST/AUTHENTICATED:

_____
Monica Lusk, City Clerk

Approved as to form:

_____
Chris Bacha, Interim City Attorney

Filed with the City Clerk: April 23, 2009
Passed by the City Council:
Ordinance No. 510
Date of Publication:

Revise Section 19.10 Definitions:

19.10.373 Off-site commercial parking – Use of land or structure for parking of motor vehicles as a commercial enterprise where hourly, daily, weekly or monthly fees are charged and transportation is provided for users to a separate off-site commercial use.

Revise Section 19.15.065—Special Planning Area 3 Gateway Zone:

SPA-3 GATEWAY USE ⇓ ⇓REGULATIONS	DIRECTIONS: FIRST, read down to find use…THEN, across for REGULATIONS									
	Special Review Process (See Ch. 19.65)	MINIMUMS			MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.065.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)
		Lot Area	*SETBACKS*		Lot Coverage		*Building Height*			
			Front Setback	*Interior Setback*	*Building Coverage*	*Impervious Surface Coverage*				
19.15.065.14 Off-Site Commercial Parking	None. See Special Regulations 1 and 2.	None	5'	0'	85%	90%	3 Stories	C	See Sec. 19.20.030.2	1. This use is limited to property used for new and/or used automobile sales currently or in the twelve (12) month period preceding application. 2. This use is allowed only until July 1, 2012. After this date, the use is illegal and must be removed.

Revise Section 19.15.040—Regional Commercial Zone

CR Zone USE ⇓ ⇓REGULATIONS	DIRECTIONS: FIRST, read down to find use…THEN, across for REGULATIONS									
	Special Review Process (See Ch. 19.65)	MINIMUMS			MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.040.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)
		Lot Area	*SETBACKS*		Lot Coverage		*Building Height*			
			Front Setback	*Interior Setback*	*Building Coverage*	*Impervious Surface Coverage*				
19.15.040.15 Off-Site Commercial Parking	None. See Special Regulations 1 and 2.	None	10'	0'	85%	90%	35'	C	See Sec. 19.20.030.2	1. This use is limited to property used for new and/or used automobile sales currently or in the twelve (12) month period preceding application. 2. This use is allowed only until July 1, 2012. After this date, the use is illegal and must be removed.

Revise Section 19.15.070—Special Planning Area 4 Northeast Redevelopment Zone:

SPA-4 Zone USE ⇩ ⇨ REGULATIONS	DIRECTIONS: FIRST, read down to find use…THEN, across for REGULATIONS									
	Special Review Process (See Ch. 19.65)	MINIMUMS			MAXIMUMS			Landscape Category (See Ch. 19.25)	Minimum Required Parking Spaces (See Ch. 19.20)	Special Regulations (See also Section 19.15.070.1 and Miscellaneous Use, Development and Performance Standards Ch. 19.17)
		Lot Area	*SETBACKS*		Lot Coverage		*Building Height*			
			Front Setback	*Interior Setback*	*Building Coverage*	*Impervious Surface Coverage*				
19.15.070.8 *Off-Site Commercial Parking*	See BMC 19.15.070.1	See BMC 19.15.070.1.A	See BMC 19.15.070.1		None	75% See BMC 19.15.070.1.G	See BMC 19.15.070.1	F	None	None

Burien
Washington, USA
15811 Ambaum Blvd SW, Suite C, Burien, WA 98166
Phone: (206) 241-4647 • FAX (206) 248-5539
www.burienwa.gov

MEMORANDUM

TO: Honorable Mayor and Members of the City Council
FROM: Mike Martin, City Manager
DATE: May 4, 2009
SUBJECT: City Manager's Report

I. INTERNAL CITY INFORMATION

A. Damaged Apartment Building Ready for Occupancy

Staff has issued a Certificate of Occupancy for the Jenny Marie at 429 SW 155th St. This was one of the two apartment buildings damaged last year by fire. The Jenny Marie sustained damage to its upper floor and is now ready for occupancy.

B. Second Chicken-Raising Class Held; Participants Flocking Back for More

The Parks Department is crowing about the success of its latest chicken-raising class. The Community Center Conference Room was filled with chicken enthusiasts on Wednesday, April 22 for the "Keeping Backyard Chickens" seminar. This is the second time the Department has offered the course and enrollment soared with 45 participants. Interest in the class may have also been helped by a front page story in the Highline Times. Topics included: discovering the benefits of raising chickens, feeding, caring and housing needs. Participants were able to hear from experienced chicken keepers and walk away with resources. The workshop was offered as part of the Department's efforts to encourage sustainable living. Innovative ideas are definitely hatching at Burien Parks.

C. Staff and Mayor Attend Salmon Habitat Conference

Mayor McGilton and Steve Roemer, Parks Operations & Development Manager, attended the 2009 Salmon Habitat Conference on April 15 and 16 in Shelton. Sponsored by the Salmon Recovery and Funding Board, the conference theme was "Building Better Projects" and included session tracks such as Assessments and Restoration in the Marine Environment, Riparian Restoration, Monitoring for Salmon Recovery, and How Utilization Studies Can Help Us Restore and Protect Salmon Habitat. There were an estimated 450 attendees from throughout Washington and other western states, and session presenters represented the leaders and innovators in their fields. A very important aspect of the conference was the availability of resource and funding agencies, and the opportunity to network with potential project partners. The conference keynote speaker was Congressman Norm Dicks.

D. Regional Meeting on Last December's Snow Incidents – April 16, 2009
Public Works and Emergency Management Staff met with staff from SeaTac, Normandy Park, Des Moines, Highline School District, King County DOT and Metro/Sound Transit to exchange information on snow clearing procedures and route priorities, and discuss what can be done better next time there is a snow incident. Staff has established a working relationship and agreed to periodically meet to maintain our relationship. An added benefit for Burien is that in comparing our priority routes for snow removal, Burien's priorities coincide with King County's need for maintaining Metro services. They are also a fairly close match to Highline School District's priority routes.

E. City to Use State Energy Performance Contract Program for Library Remodel
I have approved the Parks Department Director's request to enter into an Interagency Agreement with the state's Department of General Administration (GA). This will enable the City to utilize the GA's Energy Services Performance Contract program for repurposing the soon-to-be former Burien Library. Through this program the Department will contract an energy services company (ESCO) from the state's pre-approved roster to study and recommend utility saving changes to the Library's mechanical and electrical systems. The ESCO will be then be responsible for implementing and installing the system changes, and the program obligates the ESCO to guarantee projected energy savings. The Department Director will also be pursuing ARRA federal stimulus funding for energy conservation projects through CTED.

F. King County Responds, re: JAG Grant Allocation (Pg. 27)
King County Executive, Ron Sims, responded to the Managers and Mayors from the 18 cities subject to the MOU regarding allocation of the American Recovery and Reinvestment Act Byrne Memorial Justice Assistance Formula Grant (JAG). In essence Executive Sims' response fully supports the original allocations outlined by the Department of Justice based on Part One Crimes for the 17 suburban cities, excluding Seattle. He argues that based on prior practices a 50/50 split with the City of Seattle is appropriate and consistent. Seattle was initially allocated $2.7 million of the total $4.88 million grant and King County, $454,027.

G. Northeast Redevelopment Area Public Meeting – April 29, 2009 (Pg. 29)
A scoping meeting for the Supplemental Environmental Impact Statement (SEIS) for the NE Redevelopment Area strategy and master plan was held on Thursday, April 29. About 60 residents of the area attended and provided comments on the two action alternatives as well as issues they would like studied in the SEIS. A Draft SEIS is scheduled for completion this fall, with a Final SEIS and possible Comprehensive Plan and zoning changes complete by the end of 2009. Color prints of the attached meeting handouts have been placed in Council mailboxes, and additional copies are available at City Hall. These will be posted to our website soon.

H. GIS Visits With Water District 20

After some interest by representatives from Water District 20 in Burien's Geographical Information System, Fernando and Dean met with WD staff to talk about the potential for computer mapping of their system, and the potential for sharing data layers and collaborating on projects in the future.

I. Clean Sweep

Clean Sweep was a great success and very well organized this year. On Monday, Ray Helms and Sam Basmeh went out and cleared all of the items that were still left in various collection locations. A total of 26 CRTS, two microwaves, 188 pounds of miscellaneous electronics, 679 pounds of TVs, three commercial refrigerators, and 89 fluorescent light tubes were taken to recycling companies for disposal.

J. Natural Yard Care Program

During the past two weeks, flyers and postcards were sent to roughly 1,250 residents of the area around Chelsea Park Elementary School announcing this year's Natural Yard Care Workshops. These will be held at the school over three consecutive Thursdays during the month of May: May 7th, 14th & 21st and will run from 7:00 to 9:00 p.m. Heungkook and Ken from Public Works will be representing the City at these workshops. This is the 4th year that Burien & King County have presented these workshops. Although pinpointed to a certain area each year, anyone is welcome to attend. Postcards are available in City Hall Lobby for information.

II. COUNCIL UPDATES/REPORTS

A. Permit Activity Report – 1st Quarter (Pg. 37)

As you might expect, permits have been affected by the economy. While 2008 was a record year in Burien for number of permits issued, permit revenues and permit valuation, 2009 is starting with sharply lower number of permits issued, revenues and valuations. The total of 416 permits issued in the 1st quarter is the lowest in three years. First quarter revenues and permit valuation are the lowest in more than five years. The number of permit applications submitted electronically through mybuildingpermit.com increased over the last few quarters. This reduces processing time for both the applicant and staff. The number of inspections has dropped slightly (about 2%) from the 1st quarter of 2008, as projects permitted last year continue through the construction process but are winding down. This will give us the opportunity to offer improved customer service as our combination inspectors/plan reviewers can devote more time to plan reviews. Land use pre-application meetings are often an indicator of future permitting activities. In the 1st quarter, we only had 3 pre-application meetings, indicative of the continuing development slowdown.

B. Major Projects Status Report (Pg. 45)

Staff has provided Council with a Major Projects Status Report dated April 27, 2009 (attached).

C. Notices (Pg. 49)

The following Notices have been issued:

- Burien City Council & Highline School District Board Joint Meeting Notice
- Burien Business & Economic Development Partnership Meeting Date Changes Notice
- City of Burien 2009 Comprehensive Plan Amendments Submittal Deadline

King County

Ron Sims
King County Executive

401 Fifth Avenue, Suite 800
Seattle, WA 98104
206-296-4040 Fax 206-296-0194
TTY Relay: 711
www.kingcounty.gov

April 24, 2009

Dear Mayors and City Managers:

Thank you for your letter of April 21, 2009, in which you provide a proposed Memorandum of Understanding (MOU) for allocation of the region's American Recovery and Reinvestment Act Byrne Memorial Justice Assistance Formula Grant (JAG). While we fully support the allocations the MOU provides to the suburban cities, we are unable to accept the allocation between the county and City of Seattle because it is not equitable or consistent with our past agreements with the City of Seattle. We encourage you to work with us on an allocation between King County and Seattle that better represents the relative criminal justice system functions of the county and the historic distribution of JAG funds.

From the outset, the county has approached allocation of JAG funds as a regional and collaborative effort. The county has sought to bring the parties to the table and find an equitable distribution of the funds based upon consensus and sound analysis of criminal justice needs and relative expenditures. The county's previous proposals for allocation were fairly based upon the parties' relative criminal justice costs. The county is open to discussing an allocation that is less than we have proposed earlier, but the allocation between King County and the City of Seattle represented in your draft MOU is not acceptable.

As you know, the governing federal law requires that the region cooperatively reach agreement on the allocation. We remain invested in timely reaching the terms of an MOU through participation and reasoned discussion. So that there is no risk of losing the JAG funding.

Contrary to the suggestion in the letter from the King County Police Chiefs Association, JAG funds are intended to be used for a broad array of criminal justice programs and not just municipal law enforcement. The applicable federal law, 42 USC §3751(a)(1), provides that the funds should be used towards:

(A) Law enforcement programs;
(B) Prosecution and court programs;
(C) Prevention and education programs;
(D) Corrections and community corrections programs;
(E) Drug treatment and enforcement programs;
(F) Planning, evaluation, and technology improvement programs; and
(G) Crime victim and witness programs (other than compensation).

Given the county's significant role and responsibility for many aspects of these programs on behalf of the region and the intent of the JAG program, the county should be provided a commensurate allocation, especially in light of the potential one-time nature of the amount of grant funds that are currently available. The county is responsible for a significant component of criminal justice costs for the region and it is appropriate for the county to receive an allocation that is more representative of this responsibility.

Moreover, the county and City of Seattle have historically split JAG funds on a 50/50 basis. Such a split was more than fair in light of the roles and expenditures of the county with respect to criminal justice activities. It should be noted that Pierce County and the City of Tacoma have traditionally split their JAG funds 50/50 and plan to continue this regional partnership with the additional ARRA funds.

Given these factors, King County proposes that we continue a collaborative effort towards an MOU we can all agree to. We do agree that the suburban cities are entitled to the allocations presented in the MOU. The suburban cities have very real criminal justice needs and have not received JAG funding in the past. We fully support the allocations in this respect. However, in recognition of the significant criminal justice responsibilities the county shoulders for the region, the overall proposed allocation between the county and City of Seattle is not equitable, consistent with our past practice, or consistent with the intent of the federal law.

As you know, there is limited time remaining under the federal requirements before an MOU must be finalized. We hope we can all act quickly and renew our discussions to reach consensus on an allocation that is fair and in the region's best overall interests.

Sincerely,

Ron Sims
King County Executive

City of Burien and Port of Seattle

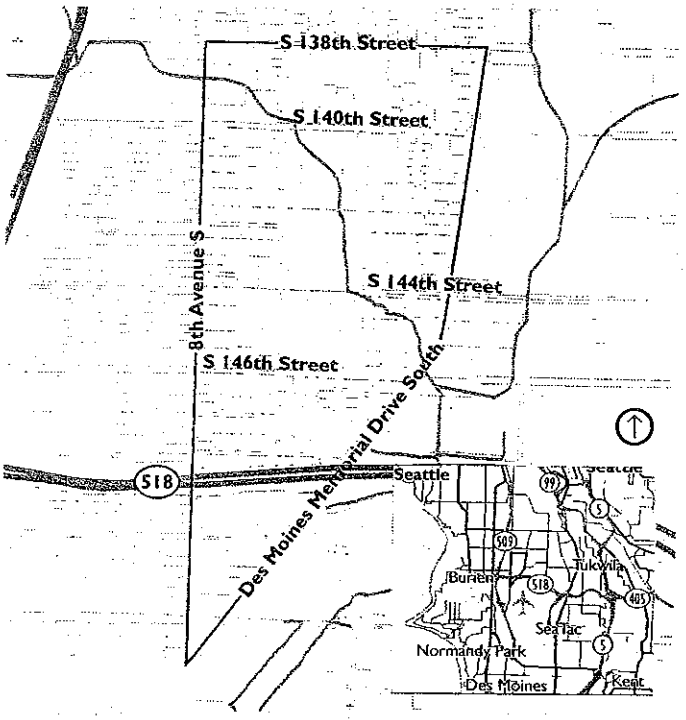
Northeast Redevelopment Area (NERA) Strategy and Master Plan

April 2009

Comment on the SEIS Scope and Learn More About Proposed NERA Subarea Redevelopment Strategies

Burien NERA Strategy Project Area

The Northeast Redevelopment Area (NERA) is bounded by 138th Street to the north, 8th Avenue South to the west, and Des Moines Memorial Drive South to the east and south. The NERA is located just north and northwest of the new third runway at Sea-Tac International Airport, as shown below.



JOIN US TUESDAY, APRIL 29 for an environmental scoping meeting and progress report on the Northeast Redevelopment Area (NERA) Strategy. This meeting is an opportunity for you to comment on what should be included in an update to the existing Supplemental Environmental Impact Statement (SEIS) for the NERA as well as on the options to be studied in the SEIS.

In addition to the environmental scoping, several potential land use and infrastructure options will be presented.

Subareas and Conceptual Land Uses

Based on stakeholder and community comments, we have identified seven subareas in the NERA for further analysis. These subareas were drawn based on physical and economic considerations, including topography, property ownership, market studies, and the presence of environmentally critical areas.

Each subarea poses different opportunities and constraints, with some available for short term redevelopment, such as subareas 1 and 4, whereas others could redevelop in the future, such as areas 5, 6 and 7. The map on the back identifies the

(Continued on back)

Attend the Next Public Meeting

SEPA Determination of Significance and Request for Comments on Scope of SEIS

Wednesday, April 29
6:30pm to 8:30pm

Highline School District ERAC
15675 Ambaum Blvd. SW (Board Room)
Burien, WA 98166

For More Information

Scott Greenberg, AICP
Community Development Director, City of Burien
15811 Ambaum Blvd. SW, Suite C, Burien, WA 98166
(206) 248-5519 Phone (206) 248-5539 Fax
email: scottg@burienwa.gov

Additional project information is available on the City of Burien website: **www.burienwa.gov**

Applicant/Lead Agency: City of Burien

Proposal: Revision of SEIS issued in 2003 to include proposed amendments to Burien Comprehensive Plan and Development Regulations relating to the Northeast Redevelopment Area (NERA), also known as Special Planning Area 4 (SPA-4). The two proposed action alternatives would each create land use policies and regulations to encourage redevelopment and reuse of properties as follows:

Alt. 1 ("Auto Mall/Airport-Related Industrial"):

Alt. 2 ("Airport-Related Industrial"):

Location: The NERA is located between Des Moines Memorial Drive, 8th Av. So., and So. 138th St.

The lead agency has determined this proposal is likely to have a probable significant adverse impact on the environment. A supplemental environmental impact statement (SEIS) is required under RCW 43.21C.030(2)(c) and will be prepared. Information on the proposal can be reviewed at Burien City Hall during regular business hours.

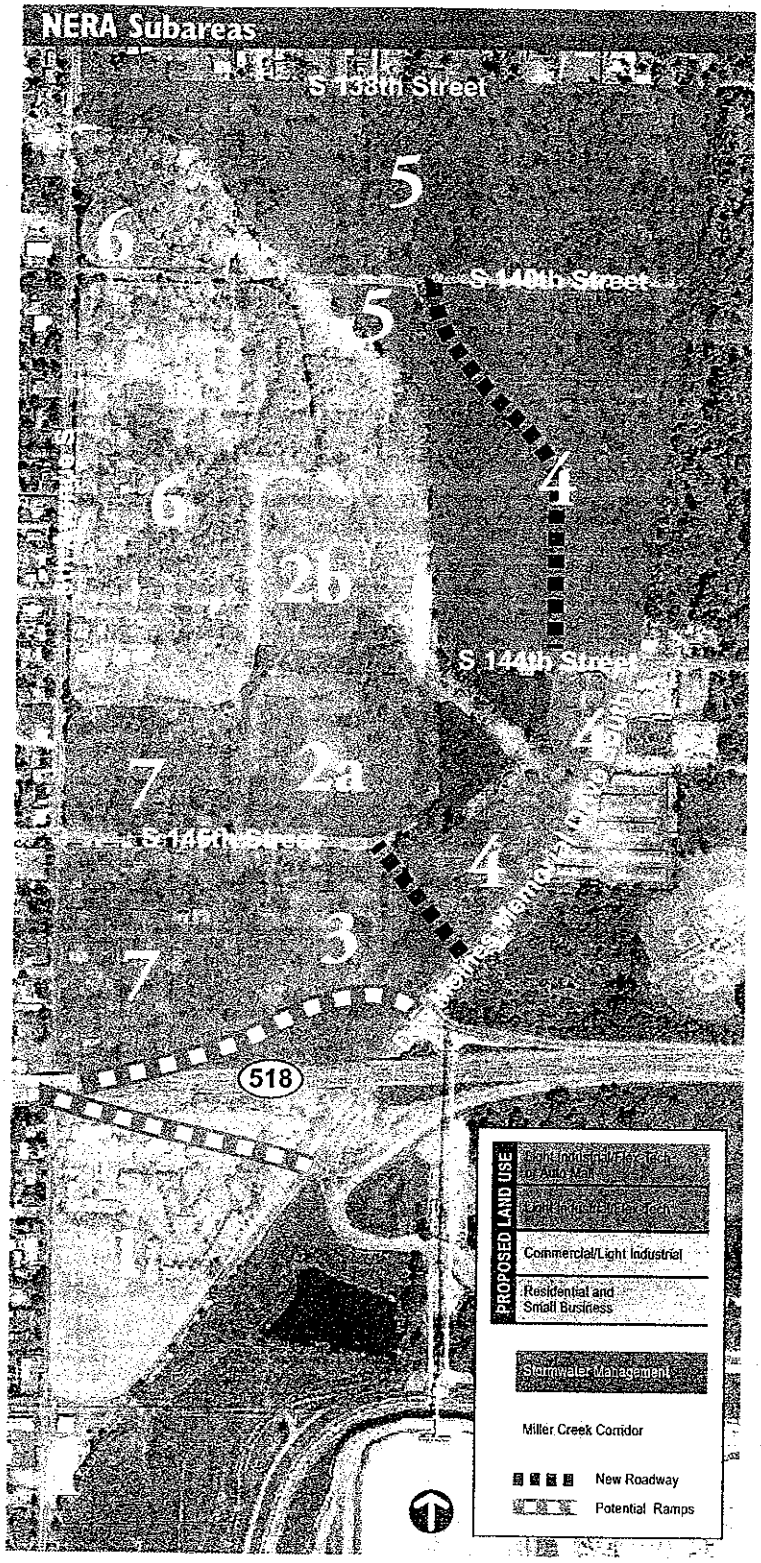
EIS Required: The lead agency has identified the following areas for discussion in the EIS: earth; water; plants & animals; planning policies & land use; economic base, employment & fiscal conditions; transportation; utilities & energy; storm water drainage; project-related noise (does not include airport noise); and light & glare.

Scoping: Agencies, affected tribes, and members of the public are invited to comment on the scope of the EIS. You may comment on alternatives, mitigation measures, probable significant adverse impacts, and licenses or other approvals that may be required. The method and deadline for giving us your comments is:

1) Submit written comments by May 5, 2009 to Scott Greenberg, SEPA Responsible Official (see contact information at left), or

2) Attend a public meeting at Wednesday, April 29, 2009, 6:30pm to 8:30pm at Highline School District ERAC, 15675 Ambaum Blvd. SW (Board Room), Burien, WA 98166.

There is no agency appeal of this DS.



Subareas and Conceptual Land Uses

(Continued from front)

conceptual land uses proposed for each subarea within the NERA, as well as two conceptual, new, internal roadway systems identified by a dashed line.

Subarea 1: Commercial redevelopment could serve as a catalyst project, sparking other redevelopment to the north of SR 518 and bring new tax revenue and jobs to the City of Burien. As an alternative to commercial development; airport-related industrial/ flex-tech redevelopment could also locate here, depending on the market demand.

Subareas 2a, 2b, 3 and 7: Development of an auto mall or airport-related industrial/flex-tech development are the two options for these subareas. Subareas 2a and 3 could be developed in near-term due to being just two large ownerships (Highline School District and Port of Seattle). Development in Subarea 7 is dependent on the desires of the dozens of single-family homeowners in this subarea.

Subarea 4: Another area within the NERA that may be poised for near term redevelopment primarily due to single ownership under the Port of Seattle and the large area of level ground suitable for airport-related industrial/ flex-tech uses.

Subarea 5: Owned by a number of separate property owners, this subarea could redevelop in the short to long-term as airport-related industrial/flex-tech use depending on the desires of the owners.

Subarea 6: The location of many homes, redevelopment of Subarea 6 is very long-term. We will be looking at several options to allow property owners the ability to create small office and commercial uses in conjunction with their homes.

In the context of the NERA, we are using the term "Industrial/Flex-Tech" to describe land uses that allow for a range of industrial and technological uses, ranging from single-use airport-related warehousing operations to high-tech office uses. Examples of some of the users that occupy similar type of space in the region include: transportation companies, printing warehouse, professional office, engineering firm, or a web hosting company.

Important Dates

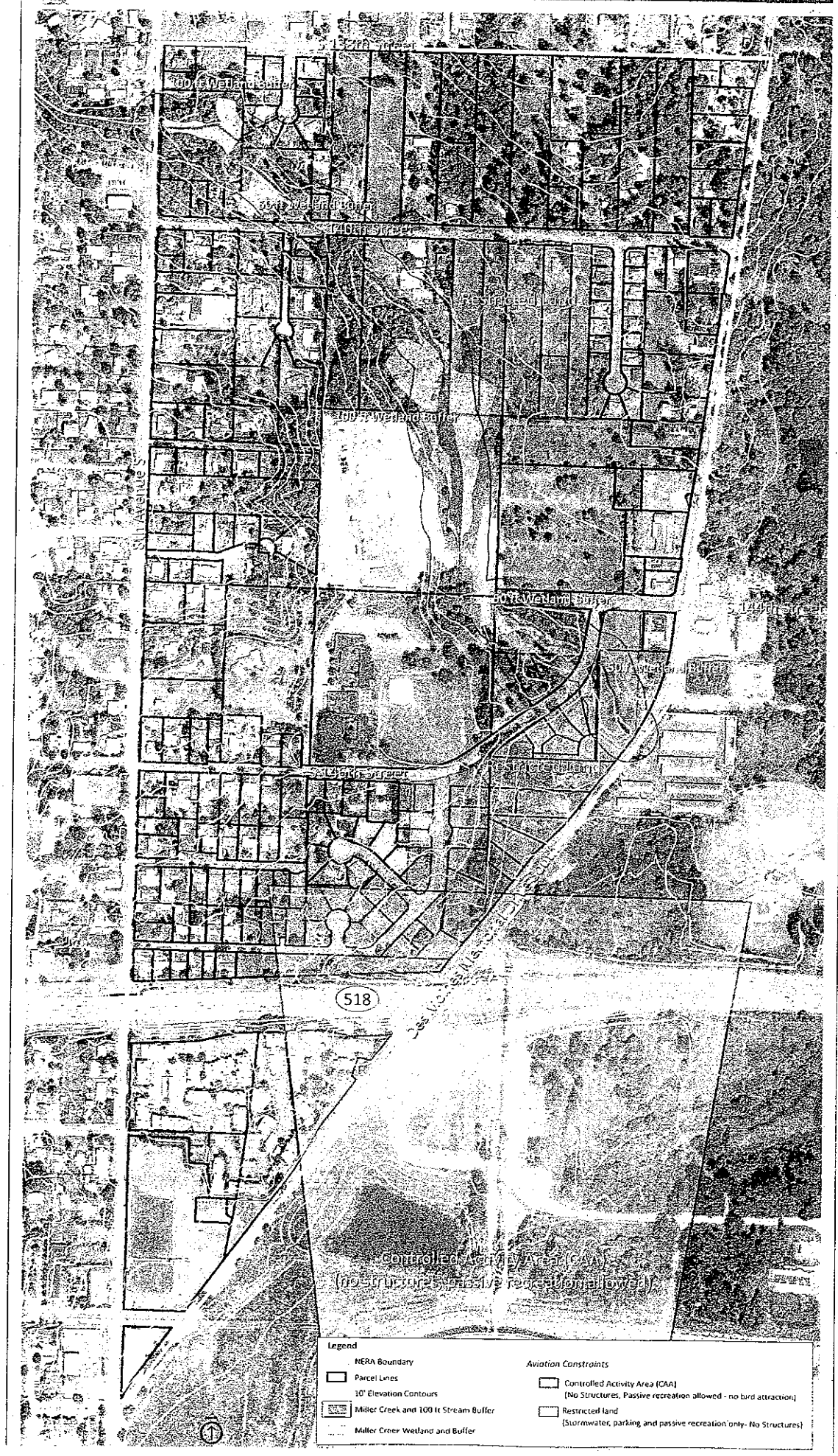
The Burien Northeast Redevelopment Area Strategy is scheduled to be completed by Summer of 2009.

The supplemental EIS work is project to be complete Fall of 2009, followed by NERA strategy recommended implementation action as time goes on.

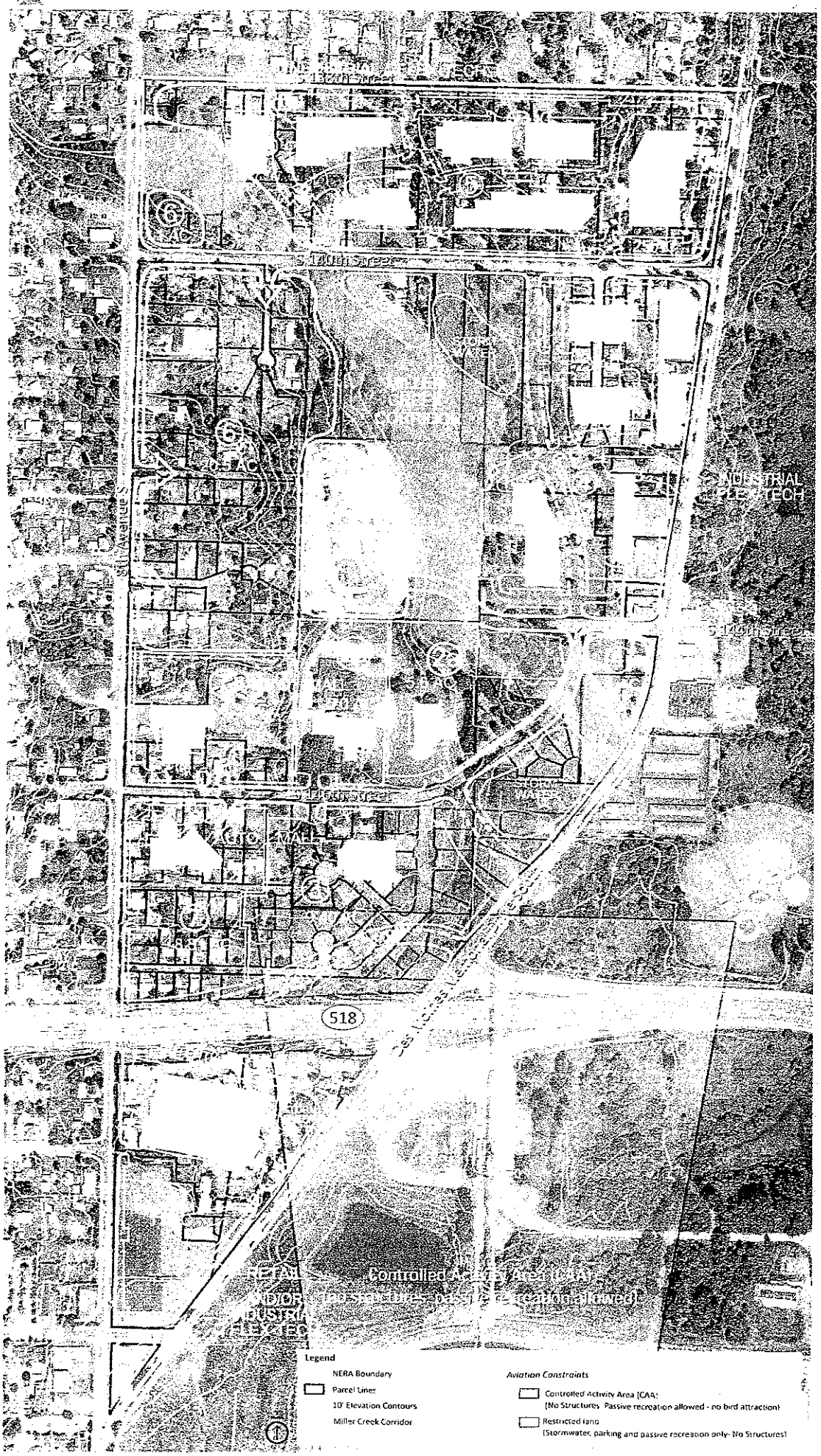
Please feel free to contact us with any questions you may have at NERA@burienwa.gov

Recently completed third runway

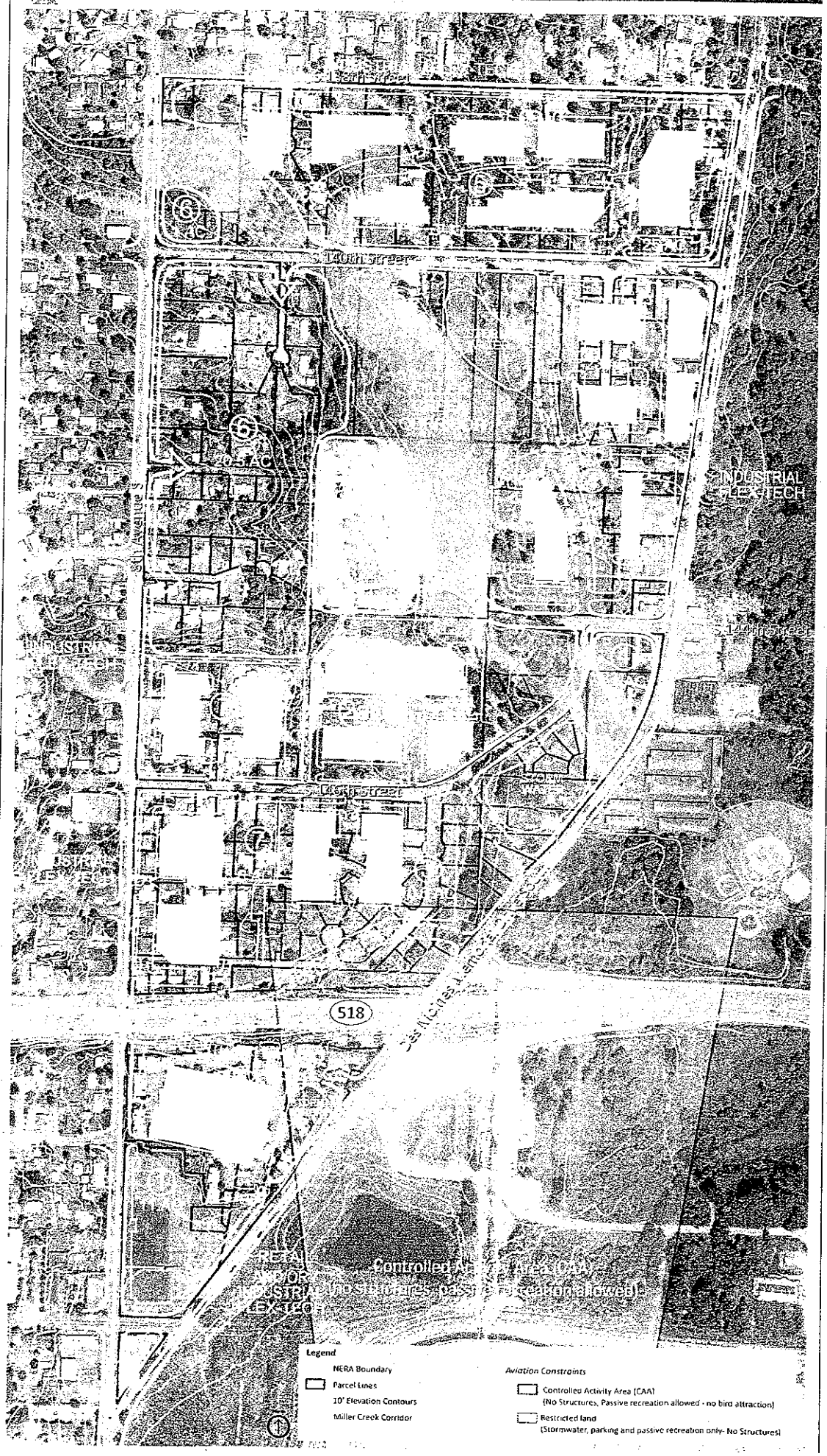
NERA Existing Conditions



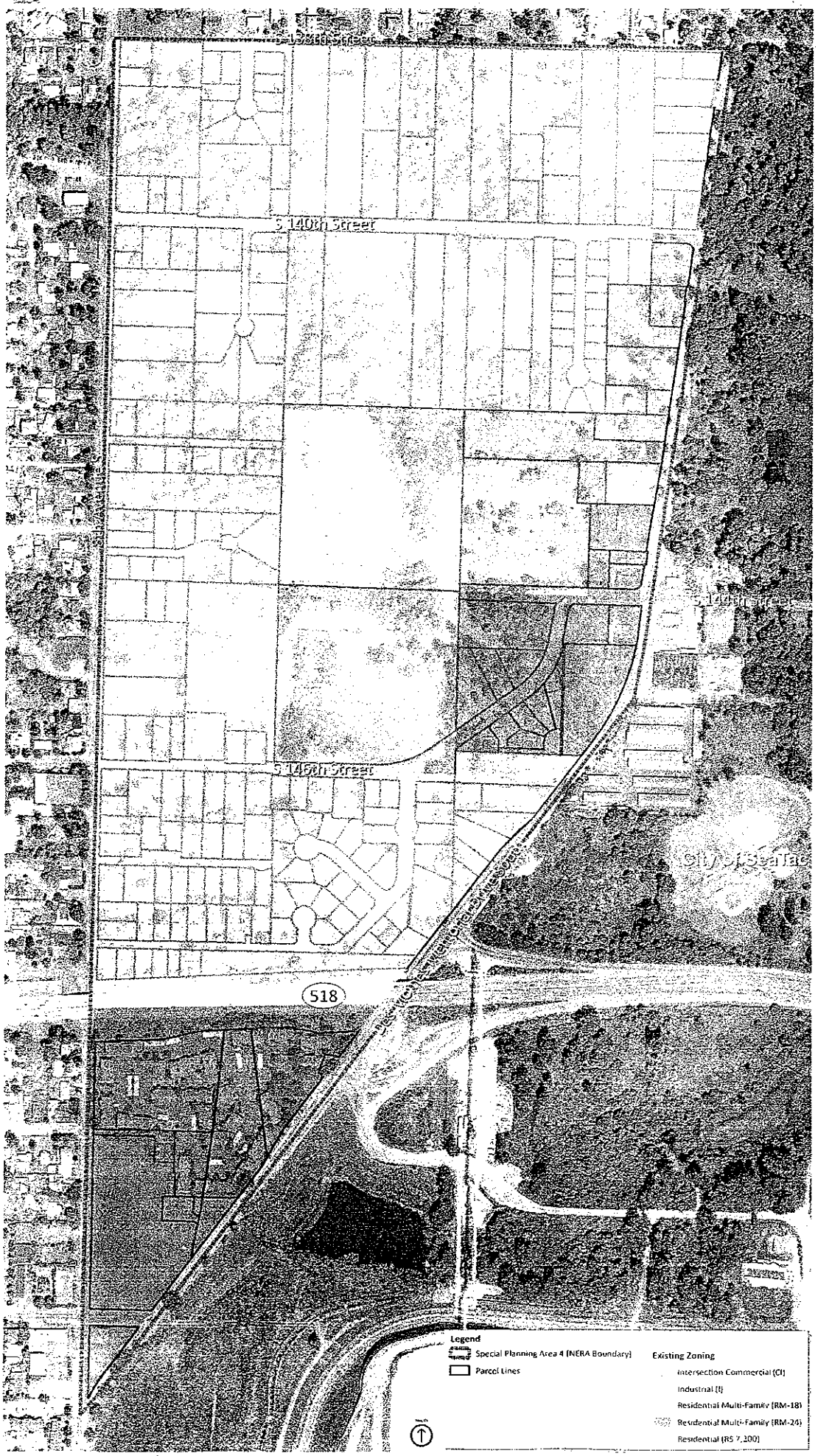
ALTERNATIVE 1: Auto Mall/Flex-Tech and Light Industrial



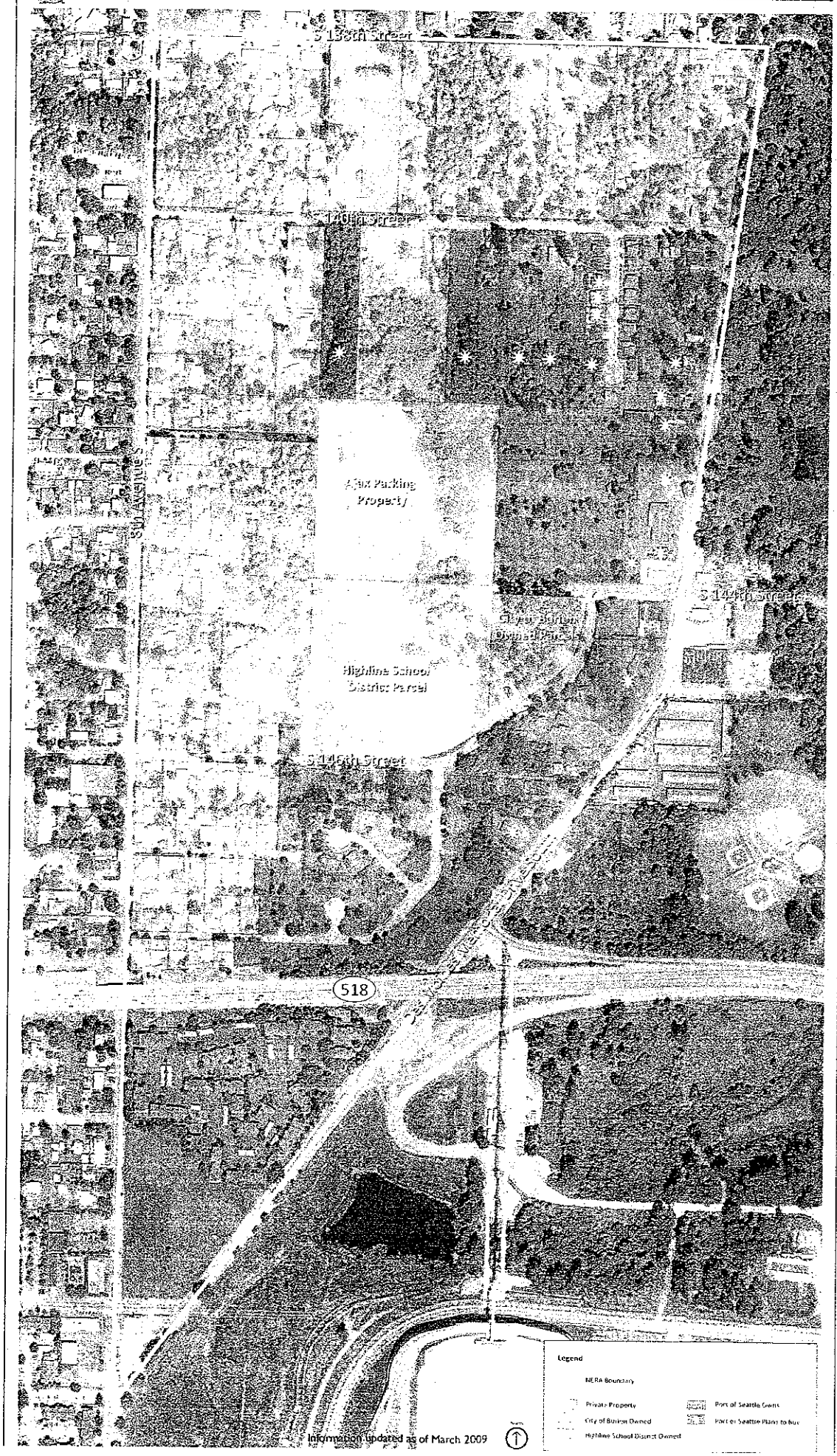
ALTERNATIVE 2: Airport/Industrial Flex-Tech Option



ALTERNATIVE 3: No Action (Levees in conditions notice)



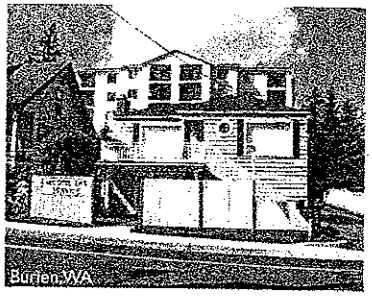
NERA Property Ownership



Residential and Small Business

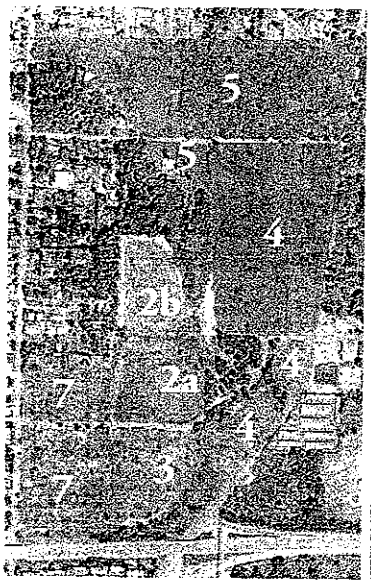
Redevelopment of Subarea 6 is very long term.

We will be looking at several options to allow property owners the ability to create small office and commercial uses in conjunction with their homes.



Burien, WA

Burien, WA



Light Industrial/Flex-Tech or Auto Mall

Light Industrial/Flex-Tech

INDUSTRIAL/FLEX-TECH

Land uses that allow for a range of industrial and technological uses.

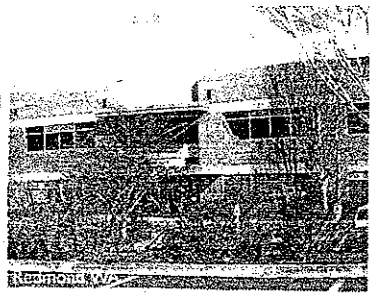
Examples of users include:

- transportation companies
- printing warehouse
- professional office
- engineering firm
- web hosting company

Seattle, WA

Seattle, WA

Woodinville, WA



Redmond, WA

CITY OF BURIEN, WASHINGTON
MEMORANDUM

DATE: April 27, 2009
TO: Mayor McGilton and City Council
FROM: Scott Greenberg, AICP, Community Development Director
SUBJECT: Permit Activity Report for 1st Quarter of 2009

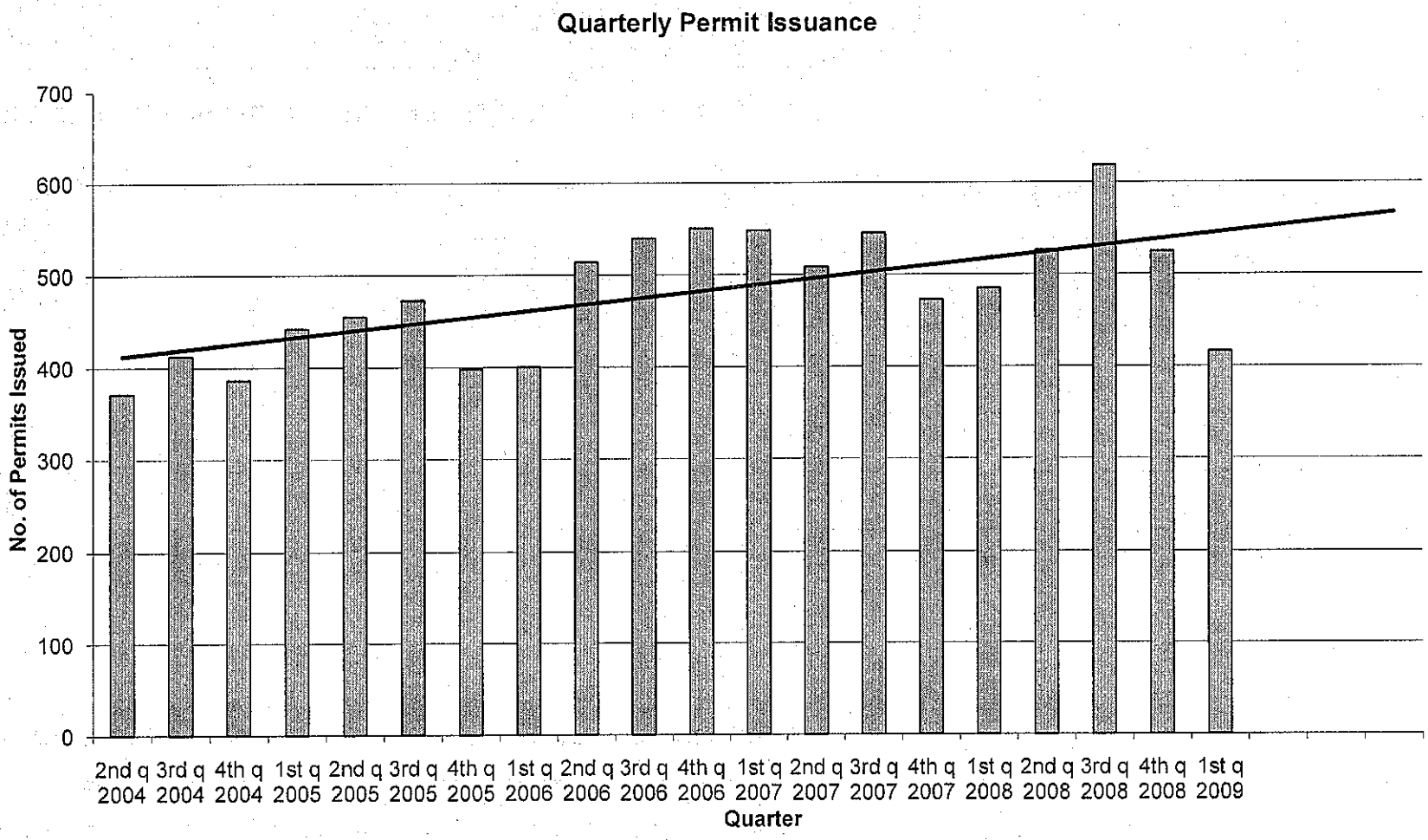
1. CONSTRUCTION-RELATED PERMITS ISSUED—QUARTERLY:

The chart below shows the number of different construction-related permits issued over the past two years, along with the revenues generated by those permits. The chart is a story of highs and lows. Last year set record highs for number of permits issued, permit revenues and permit valuation. This year we are seeing sharply lower number of permits issued, revenues and valuations. The total of 416 permits issued is the lowest in three years. First quarter revenues and permit valuation are the lowest in more than five years.

ISSUED PERMITS	3rd q 2006	4th q 2006	1st q 2007	2nd q 2007	3rd q 2007	4th q 2007	1st q 2008	2nd q 2008	3rd q 2008	4th q 2008	1st q 2009
Building	128	98	62	100	92	81	123	156	139	100	57
Demolition	3	2	12	8	15	5	10	13	14	15	11
Electrical	150	178	242	191	187	165	156	168	212	155	134
Fire Protection	16	20	25	8	24	19	14	20	19	22	17
Mechanical	73	66	61	61	65	66	49	47	69	89	61
Plumbing	33	42	21	26	28	42	39	28	44	49	27
Right-of-Way	95	113	107	85	108	72	74	72	96	64	80
Sign	41	31	18	29	26	23	20	22	25	30	29
TOTALS	**539**	**550**	**548**	**508**	**545**	**473**	**485**	**526**	**618**	**524**	**416**
Revenues	$305,063	$304,006	$295,110	$229,807	$177,751	$213,513	$243,162	$443,654	$243,390	$192,716	$100,867
Valuation ($millions)	$21.8	$12.4	$37.0	$16.7	$25.2	$18.7	$11.8	$54.8	$25.2	$15.8	$3.9

CONSTRUCTION-RELATED PERMITS ISSUED--ANNUAL SUMMARY:

	2005	2006	2007	2008
Permits Issued	1768	2003	2074	2153
Total Revenues	$683,345	$1,005,796	$916,181	$1,122,922
Total Valuation	$39,484,000	$65,308,000	$97,574,866	$107,568,900


Quarterly Permit Issuance
No. of Permits Issued
700
600
500
400
300
200
100
0
2nd q 2004
3rd q 2004
4th q 2004
1st q 2005
2nd q 2005
3rd q 2005
4th q 2005
1st q 2006
2nd q 2006
3rd q 2006
4th q 2006
1st q 2007
2nd q 2007
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2nd q 2008
3rd q 2008
4th q 2008
1st q 2009
Quarter

2. E-PERMITS

In the 4th quarter of 2006, the City began accepting and issuing simple electrical, mechanical, plumbing and re-roof permit applications online through http://www.mybuildingpermit.com. Online submittal and issuance of permits is an expanding technology that directly benefits our customers.

The percentages shown are percent of the total number of eligible permits of that type that were issued. Not all permits or permit types are currently eligible for online permitting (such as building permits, sign permits and other permits that require plan review). While our number of online permits currently represents a small portion of the total permits we issue, we are working on trying to increase the number of permits filed and issued online. The average for all MBP cities is 47%, so we have room for improvement.

E-PERMITS ISSUED	2007 Totals	1st q 2008	2nd q 2008	3rd q 2008	4th q 2008	2008 Totals	1st q 2009
Building (Re-roof)	2	2 (7%)	0	1 (25%)	0 (0%)	3/43 (7%)	1 (33%)
Mechanical	**104 (46%)**	15 (58%)	8 (31%)	18 (31%)	27 (39%)	**68/160 (43%)**	33 (55%)
Plumbing	**31 (32%)**	15 (58%)	10 (34%)	4 (11%)	8 (24%)	**37/108 (34%)**	12 (34%)
Electrical	**96 (13%)**	35 (32%)	32 (23%)	15 (8%)	11 (10%)	**93/520 (18%)**	28 (23%)
TOTALS	**233 (22%)**	**67 (35%)**	**50 (24%)**	**38 (13%)**	**46 (21%)**	**201/831 (24%)**	**74 (34%)**

4. MAJOR CONSTRUCTION PERMITS ISSUED IN 1ST QUARTER (over $400,000 valuation; excluding single-family):

Permit No.	Address	Project or Applicant	Project Description	Valuation	Issued
BLD-08-0937	13610 1st Av. So.	Aesthetic & general dermatology	Tenant improvements	$439,990	3/16/09

5. CONSTRUCTION INSPECTIONS:

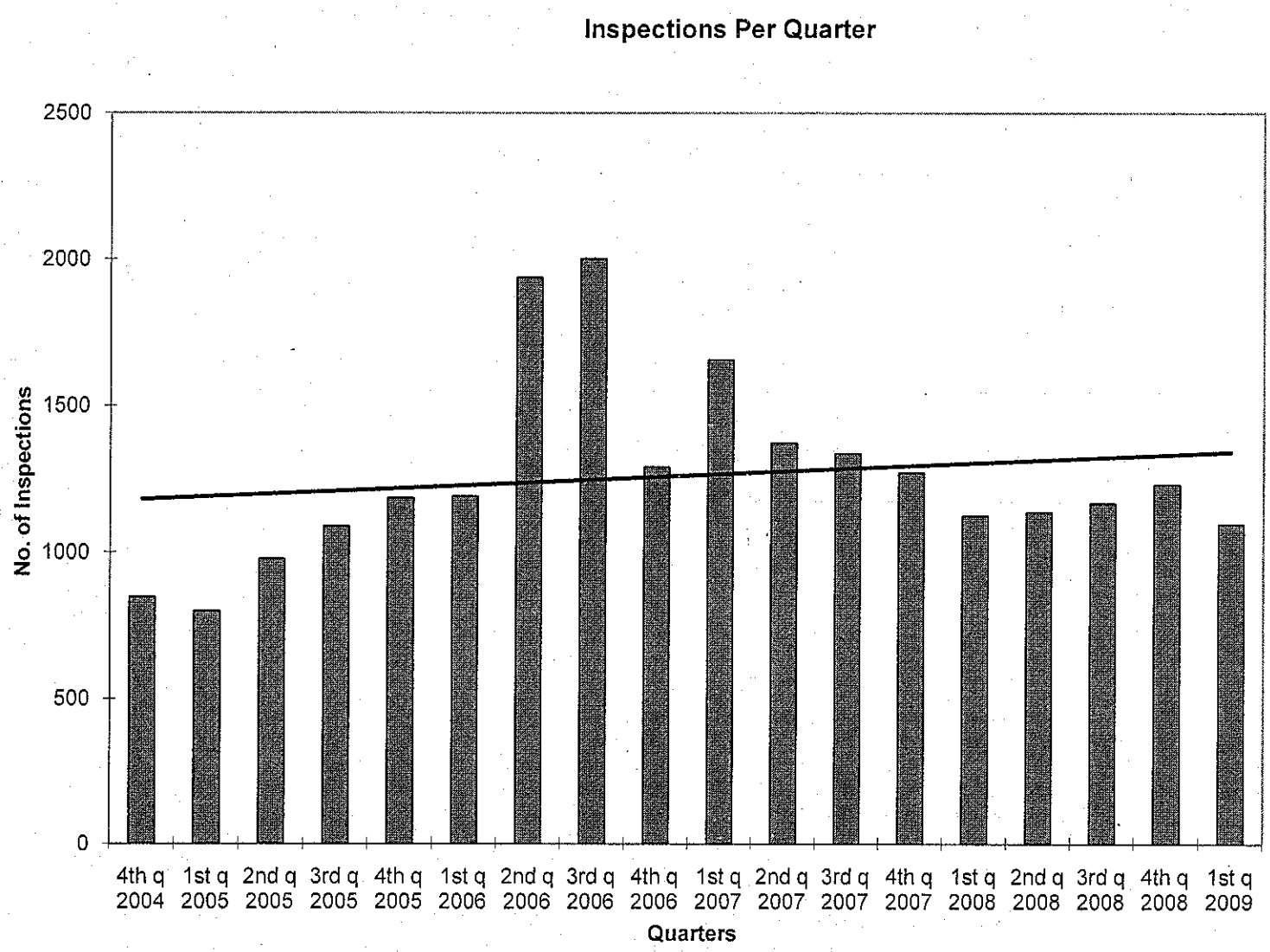
Burien has three full-time inspectors. These inspectors perform a variety of building, electrical, plumbing and mechanical inspections in addition to performing plan reviews and assisting with public information. Inspection requests can be called into a voice mail system (206-248-5525), or submitted online through the City's website or www.mybuildingpermit.com.

INSPECTIONS	2005 Totals	2006 Totals	1st q 2007	2nd q 2007	3rd q 2007	4th q 2007	2007 Totals	1st q 2008	2nd q 2008	3rd q 2008	4th q 2008	2008 Totals	1st q 2009
No. of Inspections	**4046**	**6414**	1655	1371	1335	1269	**5630**	1124	1136	1166	1230	**4656**	1095
No. of work days	**251**	**249**	62	64	63	62	**251**	62	64	64	61	**251**	61
Average No. of inspections per day per inspector	**8.1**	**8.6**	8.9	7.1	7.1	6.8	**7.5**	6.0	5.9	6.1	6.7	**6.2**	6.0
No. of inspectors	**2.0**	**3.0**	3.0	3.0	3.0	3.0	**3.0**	3.0	3.0	3.0	3.0	**3.0**	3.0

6. NORMANDY PARK PLAN REVIEWS AND INSPECTIONS:

In January, 2006, Burien began providing plan review and inspection services to the City of Normandy Park. These services are provided by Burien's Building Official and our three inspectors. Like Burien, Normandy Park's permitting activity has dropped during the 1st quarter. The following chart shows the number of plan reviews and inspections performed by Burien staff on behalf of Normandy Park:

INSPECTIONS	2006 Totals	1st q 2007	2nd q 2007	3rd q 2007	4th q 2007	2007 Totals	1st q 2008	2nd q 2008	3rd q 2008	4th q 2008	2008 Totals	1st q 2009
No. of Plan Reviews + Other	48	17	21	16	23	77	15	19	50	41	125	10
No. of inspections	672	221	272	402	347	1242	392	333	424	324	1473	224
No. of work days in quarter	249	62	64	63	62	251	62	64	64	61	251	61
Average No. of inspections per day	2.7	3.6	4.3	6.4	5.6	4.9	6.3	5.2	6.6	5.3	5.9	3.7


Inspections Per Quarter
No. of Inspections
2500
2000
1500
1000
500
0
4th q 2004
1st q 2005
2nd q 2005
3rd q 2005
4th q 2005
1st q 2006
2nd q 2006
3rd q 2006
4th q 2006
1st q 2007
2nd q 2007
3rd q 2007
4th q 2007
1st q 2008
2nd q 2008
3rd q 2008
4th q 2008
1st q 2009
Quarters

7. LAND USE PRE-APPLICATION MEETINGS:

Pre-application meetings are required for most planning and land use-related actions. Meetings are held every other Thursday for up to 4 pre-application reviews. Staff from planning, building, public works, fire, and police attends as needed to discuss fatal flaws and to identify various requirements for a proposed development. A written report is provided to the applicant, as well as meeting minutes. Although this service requires a substantial amount of staff time, it has proven to be valuable to both the applicant and the city and helps to expedite the formal review later in the process. The number of pre-app meetings has been declining over the past 3 years and has reached a record low in the 1st quarter of 2009. The following chart shows the number of pre-application reviews by project type.

Pre-Application Project Type	2005 Totals	2006 Totals	1st q 2007	2nd q 2007	3rd q 2007	4th q 2007	2007 Totals	1st q 2008	2nd q 2008	3rd q 2008	4th q 2008	2008 Totals	1st q 2009
Short Plat (4 or fewer lots)	28	18	6	3	2	3	14	4	1	2	2	9	
Subdivision (5 or more lots)	3	7	0	3	1	1	5	1	2	1		4	
Multi-Family	4	4	1	0	0	0	1		2	2		4	
Critical Area Review—Single-Family	19	11	2	4	4	7	17	1	3		1	5	
Critical Area Review—Other	2	3	1	0	0	0	1		1	1		2	1
Commercial/Mixed Use—New	14	7	2	4	0	2	8	3	1	1	1	6	1
Commercial/Mixed Use—Addition, Renovation	3	4	3	0	3	1	7		1	1	1	3	
Change of Use	3	1	1	0	0	0	1	1				1	
Other	7	10	1	1	0	0	2	2	2		1	5	1
TOTALS	83	65	17	15	10	14	56	12	13	8	6	39	3

8. LAND USE APPLICATIONS:

We received the following types of planning and land use applications, categorized as shown below.

Project Type	2005 TOTALS	2006 TOTALS	2007 TOTALS	1st Q 2008	2nd Q 2008	3rd Q 2008	4th Q 2008	2008 TOTALS	1st Q 2009
Accessory Dwelling Unit	11	3	11	5	1		3	9	5
Critical Area Review—Admin.	1	5	7	1	1			2	
Critical Area Review—Type 1	7	3	2		1			1	
Lot Line Adjustment	7	2	15	1	1	2	2	6	1
Land Use Review—Type 1	9	15	9	1	1	2	1	5	3
Land Use Review—Type 2	3	0	1		1			1	
Land Use Review—Type 3	2	3	0				1	1	1
Master Sign Plan	1	1	1	1		1		2	
Multi-Family Tax Exemption	0	0	1					0	
Rezone	0	1	0					0	
Shoreline Exemption	2	4	7	1		1	2	4	1
Short Plat--Preliminary	18	11	11	2	1	2		5	
Short Plat--Final	8	9	15	1	2	2	2	7	2
Subdivision--Preliminary	3	3	4			2	1	3	
Subdivision--Final	1	3	0				1	1	
Tree Removal Permit	15	16	17	2	4	2	1	9	2
Temporary Use Permit	13	9	7		2	1		3	
TOTALS	101	88	108	15	15	15	14	59	15

9. LAND USE DECISIONS:

We issued 2 planning/land-use related decisions in the 1st quarter of 2009. The following lists the planning and land use-related decisions that have target issuance dates.

APPLICANT	PERMIT NUMBER	REVIEW PROCESS	REVIEW TARGET (days)	CITY REVIEW TIME (days)	MET TARGET?
Ambauen Short Plat	PLA-08-1810	Short Plat	120	92	Yes
Highline Historical Museum	PLA-08-2208	Type 1 SEPA and Design Review	90	54	Yes
AVERAGE				**73**	
MEDIAN				**73**	

Type I Review: Administrative (Director) decision
Type II Review: Hearing Examiner hearing and decision
Type III Review: Hearing Examiner recommendation and City Council decision

LAND USE DECISIONS--ANNUAL SUMMARY:

	2000	2001	2002	2003	2004	2005	2006	2007	2008
Number of Decisions Issued	16	14	34	20	28	43	34	30	16
Percent Issued By Target Date	69%	50%	65%	68%	79%	74%	79%	67%	69%

Major Projects Status

Project

	Highline Christian Church	Date	Status (BLD 05-0078 & BLD 06-0676)
Address	114 SW 150th Street	*25-Apr*	Education wing interior work underway
Zone	CR	*25-May*	No Status Change
Site Size	1.45 Acres	*25-Jun*	No Status Change
Project Lead	KG	*25-Jul*	No Status Change
Building Sq Ft	63,000	*25-Aug*	No Status Change
Building Stories	2	*25-Sep*	No Status Change
		25-Oct	Education wing 1st floor final approved
		25-Nov	2nd floor finish work underway
		25-Dec	No Status Change
		25-Jan	No Status Change
		25-Feb	Limited occupancy granted for Ed wing
		25-Mar	No Status Change
		25-Apr	No Status Change

	Town Square Parcel 1	Date	Status (BLD 06-1750)
Address	460 SW 152nd Street	*25-Apr*	3rd level framing underway
Zone	DC	*25-May*	Interior mech, electrical and plumbing work underway
Site Size	4.46 Acres	*25-Jun*	Framing levels 3 and 4
Project Lead	JV/DJ	*25-Jul*	Framing levels 4 and 5
Building Sq Ft	255,481	*25-Aug*	Framing levels 5 and 6
Building Stories	6	*25-Sep*	Framing level 6 and interior work underway
		25-Oct	Interior work continuing
		25-Nov	No Status Change
		25-Dec	No Status Change
		25-Jan	Interior work continuing/decks and awning installation underway
		25-Feb	No Status Change
		25-Mar	Completing final punch list items
		25-Apr	No Status Change

	Nugyen Townhomes	Date	Status (BLD 05-1383)
Address	10XX SW 130th Street	*25-Apr*	#1 bldg interior work underway, 2 & 3 footing work continuing
Zone	RM-24	*25-May*	No Status Change
Site Size	14,337 sq. ft. (0.33 Acres)	*25-Jun*	No Status Change
Project Lead	SB/CD	*25-Jul*	No Status Change
Units	8	*25-Aug*	No Status Change
Building Stories	3	*25-Sep*	No Status Change
		25-Oct	Building 1 final occupancy approved
		25-Nov	Buildings 2 & 3 foundation work complete
		25-Dec	No Status Change
		25-Jan	No Status Change
		25-Feb	No Status Change
		25-Mar	No Status Change
		25-Apr	No Status Change

	Shorewood Subdivision (19-lots)	Date	Status (BLD 05-1683 & PLA 04-0228)
Address	Vacant Lot 15XX SW 124th Street	*25-Apr*	12 permits issued, 1 finaled
Zone	RS-12,000	*25-May*	12 permits issued, 1 finaled
Site Size	7.07 Acres	*25-Jun*	12 permits issued, 3 finaled
Project Lead	SB/CD	*25-Jul*	12 permits issued, 4 finaled
Lots	19	*25-Aug*	No Status Change
		25-Sep	12 permits issued, 5 finaled
		25-Oct	12 permits issued, 6 finaled
		25-Nov	12 permits issued, 7 finaled
		25-Dec	12 permits issued, 8 finaled
		25-Jan	12 permits issued, 8 finaled
		25-Feb	No Status Change
		25-Mar	No Status Change
		25-Apr	No Status Change

	Shorewood Elementary School
Address	2725 SW 116th Street
Zone	RS-7,200
Site Size	7.36 Acres
Project Lead	KG/SJ
Building Sq Ft	60,000 sq. ft.
Building Stories	2

Date	Status (BLD 07-0566)
25-Apr	Interior work underway
25-May	Exterior finishes complete
25-Jun	Interior work continuing
25-Jul	Final site work underway and interior nearing completion
25-Aug	No Status Change
25-Sep	Limited certificate of occupancy issued
25-Oct	Punch list item work continuing
25-Nov	No Status Change
25-Dec	No Status Change
25-Jan	No Status Change
25-Feb	No Status Change
25-Mar	Project complete, Certificate of Occupancy issued on 3/9/09
25-Apr	Project complete, Certificate of Occupancy issued on 3/9/09

	Burien Transit Center
Address	209 SW 148th Street
Zone	DC
Site Size	38,768 sq. ft. (0.89 Acres)
Project Lead	KG/DJ
Units	n/a
Building Stories	1

Date	Status (BLD 07-1028)
25-Apr	Permit issued on 2/13/08, No site work activity to date
25-May	No site work activity to date
25-Jun	No site work activity to date
25-Jul	Demolition and site work underway
25-Aug	Retaining wall work underway
25-Sep	Foundation forming and site grading underway
25-Oct	Shelter framing nearing completion
25-Nov	Bus circulation area concrete pours nearing completion
25-Dec	Framing of shelter complete
25-Jan	On-site sidewalk work cont. and finishing transit shelter
25-Feb	No Status Change
25-Mar	Landscaping installed, work on parking lot underway
25-Apr	West parking lot work continuing

	Sunset Townhomes
Address	148 & S 152nd Street
Zone	RM-24
Site Size	15,077 sq. ft. (0.35 Acres)
Project Lead	KG/SJ
Units	6

Date	Status (BLD 08-0362 & 0363)
25-Apr	Permit issued
25-May	Utility installation underway
25-Jun	Framing work underway
25-Jul	Framing work continuing
25-Aug	Exterior finishes being installed
25-Sep	Interior work underway
25-Oct	Interior work continuing
25-Nov	No Status Change
25-Dec	No Status Change
25-Jan	SW 152nd Street sidewalks poured
25-Feb	Interior finish work underway
25-Mar	No Status Change
25-Apr	Landscaping installed

	155th Street Townhomes
Address	214 SW 155th Street
Zone	RM-24
Site Size	7,440 sq. ft. (0.17 Acres)
Project Lead	KG/SJ
Units	3
Building Stories	3

Date	Status (BLD 07-1744, 08-0393, 08-0394)
25-Apr	Site work underway
25-May	Foundation work complete
25-Jun	Framing underway
25-Jul	Framing work continuing
25-Aug	Exterior work commencing
25-Sep	Interior work underway
25-Oct	Interior work continuing
25-Nov	No Status Change
25-Dec	No Status Change
25-Jan	No Status Change
25-Feb	Interior finish work underway
25-Mar	No Status Change
25-Apr	Project complete 4/23/09, C of O issued

	Moen Townhomes (Powell Homes)	Date	Status (BLD 07-2328 & 2329)
Address	213 SW 154th Street	*5-Mar*	Permit read to issue
Zone	RM-24	*25-Jun*	Permit extension granted
Site Size	15,000 sq. ft. (0.34 Acres)	*25-Nov*	Permit extension granted
Project Lead	KG/SJ	*25-Apr*	No activity to date
Units	6		
Building Stories	3		

	Highline Medical Center (Birch Wing)	Date	Status (BLD 08-0690 & 0695)
Address	16251 Sylvester Rd SW	*25-Jul*	Demolition and site prep work underway
Zone	O	*25-Aug*	Shoring and foundation work underway
Site Size	5.62 Acres	*25-Sep*	Foundation work underway
Project Lead	KG/DJ	*25-Oct*	Foundation work continuing
Building Sq Ft	79,607 sq. ft.	*25-Nov*	No Status Change
Building Stories	3	*25-Dec*	Floor construction underway
		25-Jan	Pouring 3rd story floor
		25-Feb	Roof framed, interior framing underway
		25-Mar	Interior framing continuing
		25-Apr	Interior work underway

	Navos Apartments	Date	Status (BLD 08-1623)
Address	1115 SW 134th Street	*25-Dec*	Permit issued 11/26/08, foundation work nearing completion
Zone	RM-24	*25-Jan*	Framing underway
Site Size	27,958 sq. ft. (0.64 Acres)	*25-Feb*	Framing complete
Project Lead	KG/SJ	*25-Mar*	Interior work underway
Units	15	*25-Apr*	Interior work continuing
Building Stories	2		

Burien

Washington, USA

15811 Ambaum Blvd SW, Suite C, Burien, WA 98166
Phone: (206) 241-4647 • FAX (206) 248-5539
www.burienwa.gov

DATE: **April 23, 2009**
FOR RELEASE: **Immediately**
CONTACT: **City Clerk's Office, (206) 248-5517**

BURIEN CITY COUNCIL AND HIGHLINE SCHOOL DISTRICT BOARD JOINT MEETING NOTICE

The Burien City Council will be attending a Joint Meeting with the Highline School District Board for the purpose of discussing partnerships on May 6, 2009, from 4:30 p.m. to 7:00 p.m. at Cedarbrook (The Washington Mutual Leadership Center), 18525 36th Avenue S., SeaTac. The Joint Meeting is open to the public.

###

The City of Burien strives to provide alternate communication opportunities. Please contact the City Clerk's office, 206/248-5517, twenty-four hours prior to the meeting, for assistance.

cc: Burien City Council
Burien Staff
Discover Burien
Highline Times
Burien Library
White Center Now
B-Town Blog
Web site: www.burienwa.gov/

*** PLEASE PUT ON COMMUNITY CALENDAR BULLETIN BOARD**

R:/cc/notices2009/050609jm

Burien
Washington, USA
15811 Ambaum Blvd SW, Suite C • Burien, WA 98166
Phone: (206) 241-4647 • FAX (206) 248-5539
www.burienwa.gov

DATE: April 28, 2009
FOR RELEASE: Immediately
CONTACT: City Clerk's Office, (206) 248-5517

CITY OF BURIEN
BURIEN BUSINESS AND ECONOMIC DEVELOPMENT PARTNERSHIP MEETING
DATE CHANGES
NOTICE

Beginning May 8, 2009, meetings of the City of Burien's Business and Economic Development Partnership will be held at 7:00 a.m. on the second Friday of each month at the Burien City Hall, 15811 Ambaum Blvd. SW.

cc: Burien City Council
Burien Staff
B-Town Blog
Discover Burien
Highline Times
King County/Burien Public Library
Seahurst Post Office
Web site: www.ci.burien.wa.us
White Center Now

R:/CC/Notices2009/042809bedpmtgschanges

Burien

Washington, USA

15811 Ambaum Blvd SW, Suite C, Burien, WA 98166
Phone: (206) 241-4647 • FAX (206) 248-5539
www.burienwa.gov

DATE: **April 22, 2009**
FOR RELEASE: **April 26, 2009**
CONTACT: **Office of Community Development, (206) 248-5510**

CITY OF BURIEN
2009 COMPREHENSIVE PLAN AMENDMENTS
PUBLIC NOTICE

The City of Burien is beginning the process of considering Comprehensive Plan Amendments for 2009. The deadline for submittal of Comprehensive Plan Amendment requests is June 1, 2009. The list of plan amendment requests to be considered during 2009 will be determined by the City's Planning Commission and City Council during July and August and may be added to the annual Comprehensive Plan update being prepared in 2009. Application packets are available at City Hall and on the City Web site www.burienwa.gov.

To schedule an application appointment or to obtain more information please contact David Johanson at (206) 248-5522 or via e-mail at davidj@burienwa.gov.

###

cc: Burien City Council
Burien Staff
Discover Burien
Highline Times
Burien Library
White Center Now
B-Town Blog
Web site: www.burienwa.gov/

Published in The Seattle Times: April 26, 2009
The Highline Times: April 29, 2009

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CITY OF BURIEN
AGENDA BILL

Agenda Subject: Motion to Approve Appointments to the Arts Commission Advisory Board		**Meeting Date:** May 4, 2009
Department: City Manager	**Attachments:**	**Fund Source:** N/A **Activity Cost:** N/A **Amount Budgeted:** N/A **Unencumbered Budget Authority:** N/A
Contact: Monica Lusk, City Clerk		
Telephone: (206) 248-5517		
Adopted Work Plan Priority: Yes No X	**Work Plan Item Description:**	

PURPOSE/REQUIRED ACTION:

The purpose of this agenda item is for Council to make appointments to the Arts Commission. (Council held interviews prior to the May 4 meeting.)

Background (*Include prior Council Action and Discussions*):

A call for volunteers to serve on Burien's citizen advisory boards was placed in the Highline Times, Burien City News, on TBC21, on the B-Town Blog and on the City's website. Six applications for the Arts Commission were received to fill six positions (two with terms that will expire on March 31, 2011, and four with terms that will expire on March 31, 2013).

OPTIONS (*Including fiscal impacts*):

1. Appoint applicants to fill all the advisory board vacancies with the terms noted.
2. Appoint applicants to fill some of the advisory board vacancies with the terms noted, and re-advertise a call for volunteers.
3. Do not appoint any of the applicants, and re-advertise.

Administrative Recommendation: Per Council direction.

Committee Recommendation: N/A

Advisory Board Recommendation: N/A

Suggested Motion:

1. Move to appoint _____ and _____ to the Arts Commission for unexpired terms that will begin on May 4, 2009, and end on March 31, 2011.

2. Move to appoint _____, _____, _____, and _____ to the Arts Commission for full terms that will begin on May 4, 2009, and end on March 31, 2013.

Submitted by: Monica Lusk **Administration**	Mike Martin **City Manager**
Today's Date: April 28, 2009	**File Code:** R:/CC/AgendaBill2009/050409cm-1 advbdappts-ac

CITY OF BURIEN
AGENDA BILL

Agenda Subject: Motion to Authorize the City Manager to Execute the Memorandum of Understanding (MOU) for Recovery Act: Justice Assistance Grant (JAG) Program.	**Meeting Date:** May 4, 2009

Department: Police Services	**Attachments:** Memorandum of Understanding	**Fund Source:** General Fund - Police Services **Activity Cost:** $103,999 **Amount Budgeted:** -0- **Unencumbered Budget Authority:** N/A
Contact: Scott Kimerer, Police Chief		
Telephone: 206-296-3333		
Adopted Initiative: Yes No	**Initiative Description:**	

PURPOSE/REQUIRED ACTION:
The purpose of this agenda item is to authorize the City Manager to sign the Memorandum of Understanding (MOU) with King County and 18 cities for the FY2009 Recovery Act: Edward Byrne Memorial Justice Assistance Grant (JAG) Program. Burien's share under the MOU would be $103,999.

BACKGROUND (*Include prior Council action & discussion*):

The City of Burien, along with King County and 17 other cities are eligible to receive $4.88 million in Justice Assistance Grant (JAG) Recovery Act funding for preventing and reducing crime. The grant specifies a set amount for each jurisdiction based on Part 1 violent crimes, however, the jurisdictions are in disparity and must agree on how to allocate the funds amongst themselves. In recognition of the costs that King County incurs in processing felonies and in the spirit of cooperation, the cities unanimously agreed and proposed to provide King County with 10% of their individual shares, essentially doubling King County's original allocation.

King County's response to this proposal was that they agreed with the suburban cities providing King County with 10% of their shares, however, they believe that Seattle should provide them with 50% of their share, based on prior practices. Negotiations continue between King County and the cities. If the parties do not agree by the May 18, 2009 grant deadline the funding will be lost. Providing King County with 10% of our original allocation, makes Burien's share $103,999.

OPTIONS (*Including fiscal impacts*):
1. Authorize the City Manager to execute the MOU, to ensure Burien's timely approval for the grant process.
2. Do not authorize the City Manager to execute the MOU, which would delay the grant process, possibly causing grant funding to be lost to all jurisdictions.

Administrative Recommendation:

Committee Recommendation: N/A

Advisory Board Recommendation: N/A

Suggested Motion: Motion to Authorize the City Manager to Execute the Memorandum of Understanding (MOU) for Recovery Act: Justice Assistance Grant (JAG) Program in substantially the same format and amount for Burien as attached.

Submitted by:
Administration **City Manager**

Today's Date: April ~~29, 2009~~	**File Code:** R:\CC\Agenda Bill 2009\050409ps-1.docx

Recovery Act: Edward Byrne Memorial Justice Assistance Grant (JAG) Program
FFY 2009

This Memorandum of Understanding (MOU) outlines the responsibilities and protocols for participating jurisdictions pertaining to the FFY 2009 Recovery Act: Edward Byrne Memorial Justice Assistance Grant (JAG) Program.

I. Participating Jurisdictions

The participating jurisdictions, relevant to this MOU, in the Recovery Act: Edward Byrne Memorial Justice Assistance Grant are:

- King County
- City of Seattle
- City of Auburn
- City of Bellevue
- City of Bothell
- City of Burien
- City of Covington
- City of Des Moines
- City of Federal Way
- City of Kenmore
- City of Kent
- City of Kirkland
- City of Maple Valley
- City of Redmond
- City of Renton
- City of SeaTac
- City of Shoreline
- City of Tukwila
- City of Woodinville

II. Background and Purpose

Proposed to streamline justice funding and grant administration, the Recovery Act: Edward Byrne Memorial Justice Assistance Grant (JAG) Program allows states, tribes, and local governments to support a broad range of activities to prevent and control crime based on their own local needs and conditions. JAG blends previous Byrne Formula and Local Law Enforcement Block Grant (LLEBG) Programs to provide agencies with the flexibility to prioritize and place justice funds where they are most needed.

III. Disparate Certification

Jurisdictions certified as disparate must submit a joint application for the aggregate of funds allocated to them, specifying the amount of funds that are to be distributed to each of the units of local government and the purposes for which the funds will be used, and indicating who will serve as the applicant/fiscal agent for the joint funds. The above jurisdictions are certified as disparate.

IV. Fiscal Agent and Fund Allocation

The City of Seattle will act as the applicant and will serve as the fiscal agent for the joint funds. The City of Seattle will charge a 3.7% ($181,520) administrative fee for these services.

The allocation of funding is as follows:

King County $863,500
City of Seattle $2,522,098 (Fiscal Agt.)
City of Auburn $161,101
City of Bellevue $96,935
City of Bothell $21,192
City of Burien $103,999
City of Covington $20,800
City of Des Moines $64,755
City of Federal Way $183,079
City of Kenmore $16,875
City of Kent $307,485
City of Kirkland $45,524
City of Maple Valley $11,185
City of Redmond $44,739
City of Renton $143,245
City of SeaTac $83,396
City of Shoreline $74,566
City of Tukwila $104,980
City of Woodinville $12,755

V. Project Allocations and Reporting

Participating jurisdictions are responsible for identifying their own projects for funding, and for providing project information to the identified fiscal agent, the City of Seattle, for purposes of submitting one joint application on behalf of all participating jurisdictions.

Upon receipt of award documents, and prior to expense of funds pertaining to the Recovery Act: Edward Byrne Memorial Justice Assistance Grant (JAG) Formula Program, the fiscal agent will enter into Interagency Agreements with all participating jurisdictions.

Recovery Act: Edward Byrne Memorial Justice Assistance Grant (JAG) Program
FFY 2009

Signature Page

Signature: _____ **Name & Title:** Tim Ceis, Deputy Mayor **Jurisdiction:** City of Seattle **Date:**	**Signature:** _____ **Name & Title:** Kurt Triplett, Chief of Staff **Jurisdiction:** King County **Date:**
Signature: _____ **Name & Title:** **Jurisdiction:** City of Auburn **Date:**	**Signature:** _____ **Name & Title:** **Jurisdiction:** City of SeaTac **Date:**
Signature: _____ **Name & Title:** **Jurisdiction:** City of Bellevue **Date:**	**Signature:** _____ **Name & Title:** **Jurisdiction:** City of Federal Way **Date:**
Signature: _____ **Name & Title:** **Jurisdiction:** City of Bothell **Date:**	**Signature:** _____ **Name & Title:** **Jurisdiction:** City of Burien **Date:**

Signature: _____ **Name & Title:** **Jurisdiction:** City of Kent **Date:**	**Signature:** _____ **Name & Title:** **Jurisdiction:** City of Woodinville **Date:**
Signature: _____ **Name & Title:** **Jurisdiction:** City of Kirkland **Date:**	**Signature:** _____ **Name & Title:** **Jurisdiction:** City of Shoreline **Date:**
Signature: _____ **Name & Title:** **Jurisdiction:** City of Redmond **Date:**	**Signature:** _____ **Name & Title:** **Jurisdiction:** City of Covington **Date:**
Signature: _____ **Name & Title:** **Jurisdiction:** City of Renton **Date:**	**Signature:** _____ **Name & Title:** **Jurisdiction:** City of Maple Valley **Date:**
Signature: _____ **Name & Title:** **Jurisdiction:** City of Tukwila **Date:**	**Signature:** _____ **Name & Title:** **Jurisdiction:** City of Kenmore **Date:**

Signature: _____ **Name & Title:** **Jurisdiction:** City of Des Moines **Date:**	

CITY OF BURIEN
AGENDA BILL

Agenda Subject: Motion to Adopt Ordinance No. 511, Establishing a Special Events Permit Code		**Meeting Date:** May 4, 2009
Department: Legal **Contact:** Chris Bacha, Interim City Attorney **Telephone:** (206) 248-5535	**Attachments:** 1. Proposed Ordinance No. 511. 2. Draft rules and regulations. 3. Summary by City Attorney	**Fund Source:** N/A **Activity Cost:** N/A **Amount Budgeted:** N/A **Unencumbered Budget Authority:** N/A
Adopted Work Plan Priority: Yes No X	**Work Plan Item Description:**	

PURPOSE/REQUIRED ACTION:
The purpose of this agenda item is for Council to consider Ordinance No. 511 that would adopt procedures governing application for and issuance of special events permits.

BACKGROUND (*Include prior Council action & discussion*):
The City currently does not have a comprehensive and detailed process for submittal and processing of applications for use of public property for special events such as, carnivals, markets, festivals, street fairs, parades, rallies, marches and demonstrations and there is no clear process for issuing events permits associated with use of public parks that will impact public rights-of-way or emergency services. As a result, the City is not consistently able to permit such events in a way that provides for cost recovery or protects the City from liability. Further, the current review process does not ensure that applications for special events are reviewed by all necessary departments such as police, fire, the health department, community development, public works, and legal. WCIA has also recommended that the City adopt comprehensive rules and regulations to set forth the standards for issuance of special events permits to reduce risk to the City associated with such uses of public property. The proposed special events permit ordinance would establish detailed application and review requirements and modify existing procedures set forth in the right-of-way code. The proposed ordinance would also authorize the City Manager to establish administrative rules and regulations governing the application and review process. Companion Ordinance No. 512 would amend the right-of-way code to reflect the new process for issuance of special event permits.

In response to a Council question, the definition of "expressive activity" is intended to establish different requirements for commercial and non-commercial speech.

OPTIONS (*Including fiscal impacts*):
1. Adopt Ordinance No. 511 as presented.
2. Refer the ordinance to City staff for further revisions and discussion and place on future Council Agenda.
3. Do not adopt Ordinance No. 511.

Administrative Recommendation: Adopt Ordinance No. 511.

Committee Recommendation: N/A

Advisory Board Recommendation: N/A

Suggested Motion: Move to adopt Ordinance No. 511, relating to special event permits.

Submitted by: Christopher Bacha **Administration** CB/ML	Mike Martin **City Manager** MM
Today's Date: April 28, 2009	**File Code:** R:/CC/AgendaBill2009/050409ls-1 special events

CITY OF BURIEN
WASHINGTON
ORDINANCE NO. 511

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, RELATING TO SPECIAL EVENTS; ADDING A NEW CHAPTER TO TITLE 12; ESTABLISHING REQUIREMENTS FOR OBTAINING A SPECIAL EVENTS PERMIT; AND PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Burien is host to many special events throughout the year; and

WHEREAS, the City Council recognizes the value of special events as it relates to the positive promotion of commerce and tourism within the City and the creation of unique venues for expression and entertainment that are not normally provided as part of governmental services; and

WHEREAS, the City Council also recognizes that special events may impact the operations of the City including the provisioning of its emergency services, safe travel upon the public rights of way, and the availability of use of public property including public parks and facilities; and

WHEREAS, the City Council finds that the City should have a comprehensive procedure for permitting of special events which: (1) establishes a process for the coordinated review and permitting of special events, (2) provides the City with the ability to monitor special events to make sure that any city department that may be affected has the opportunity to review and comment, (3) provides the City with the opportunity to review plans for special events to make sure that they are in compliance with the municipal code, (4) encourages responsible planning prior to the holding of special events, and (5) provides adequate protection to residents, visitors and property owners who may be adversely effected by such special events, including, ensuring that special events do not create disturbances, become nuisances, menace or threaten life, health, and property, disrupt traffic or threaten or damage private or public property, (6) decreases any liability risk, (7) protects the rights and interests granted a special event permit holder, (8) establishes a mechanism for the City to be able to recover all or any part of the added costs incurred by the provision of additional or extraordinary support services, and (9) protects the rights of its residents and visitors to engage in protected free speech expression activities and yet allow for the least restrictive and reasonable, time, place and manner regulation of those activities within the overall context of rationally regulating special events that have an impact upon public facilities and services; and

WHEREAS, it is not the intent of the City Council to regulate in any manner the content of speech or infringe upon the right to assemble, except for the time, place and manner of speech and assembly, and this ordinance should not be interpreted, nor construed otherwise; and

WHEREAS, the City Council finds that it is in the best interest of the public health, safety and welfare to adopt a new chapter relating to special events permitting; and

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

Section 1. Special Events Permitting Established. Title 12 of the Burien Municipal Code is hereby amended by the addition of new Chapter 12.15 to be known as Special Events Permitting Code to read as follows:

Section 2. Definitions.

"Activity" shall, for purposes of the definition of "special event", mean and refer to any one or more of the following: outdoor athletic events, promotional or fund-raising events, weddings, block parties, socials, street dances, parades, marches, rallies, demonstrations, public assemblies, performances, exhibitions, entertainment or amusement events, farmers markets, public markets, craft fairs, parking lot sales, public street or public sidewalk sales, tent sales, displays, filming of movies, taping of video or television shows, fireworks displays, motorcades, motorized vehicle races or contests, soapbox derbies, rodeos, and tournaments.

"Building" means any fully enclosed permanent structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind. It includes push carts or sidewalk cafes for which the sale of goods, food, or beverages has been authorized.

"Demonstration" means a public display of group opinion as by a rally or march, the principal purpose of which is expressive activity.

"Departmental service charges" means the actual costs which a department of the city incurs in connection with activities for which a permit is required under this article, including, but not limited to, costs associated with fire safety, traffic and/or pedestrian control, water safety, the closure of streets or intersections, the diverting of traffic, the salaries of city personnel involved in administration or coordination of city services for the event, the cost to the city to provide support personnel, equipment, materials and supplies, and related city costs such as fringe benefits or employee overtime.

"Event Organizer" means any person who conducts, manages, promotes, presents, sponsors, organizes, aids, or solicits attendance at a special event.

"Expressive Activity" includes conduct, the sole or principal object of which is the expression, dissemination, or communication by verbal, visual, literary, or auditory means of opinion, views, or ideas and for which no fee or donation is charged or required as a condition of participation in or attendance at such activity. For purposes of this chapter, expressive activity does not include activities for which the principal purpose is entertainment.

"Exhibition, Entertainment or Amusement events" shall have their ordinary meanings and shall include the following organized events: arts and craft shows, concerts, carnivals, circuses, fairs, shows, theatrical performances, musical performances, and festivals, including any exhibition involving amusement attractions or rides, spectacles, animals, side shows, games, and the like

"Extraordinary services" shall mean and refer to services above and beyond those routinely performed by the city police, fire and/or public works, and parks departments as a normal course of regular duty. Extraordinary services include but are not limited to those involving the closing of public streets, crowd control and security, and traffic control.

"March" means an organized walk or event whose principal purpose is expressive activity in service of a public cause.

"Organized" in addition to its ordinary meaning shall mean, functioning within a formal structure, as in the coordination and direction of planned and controlled activities.

"Outdoor Athletic event" means an organized competitive or recreational activity in which a group of persons collectively engage in a sport or form of physical exercise that takes place in whole or in part outdoors including, by way of example and not limitation, team sports, tournaments, races, marathons, volksmarches and volkssports. Sport or form of physical exercise includes, by way of example and not limitation, bicycling, walking, running, sprinting, jogging, skateboarding, rollerblading and roller skating.

"Parade" means an organized group of persons, animals, bicycles, vehicles, carts, balloons, musical units and/or floats, or any combination thereof, travelling in public procession and having a common purpose, design, destination or goal, and the principal purpose of which is not expressive activity.

"Person" means any natural person, firm, association, joint venture, joint stock company, partnership, organization, club, company, corporation, business trust or manager, lessee, agent, servant, officer or employee or any of them, except where the context clearly requires a different meaning.

"Promotional or Fund-Raising Events" shall have their ordinary meanings and shall mean and refer to organized activities intended to promote causes, products, or services or raise funds primarily for charitable purposes, and shall include, by way of example and not limitation, bike-a-thons, walk-a-thons, and fun runs.

"Rally" means a gathering whose principal purpose is expressive activity, especially one intended to inspire enthusiasm for a cause.

Right-of-way" means, within the City of Burien, all public right-of-way and property granted or reserved for, or dedicated to, public use for street purposes, together with public property granted or reserved for, or dedicated to, public use for walkways, paths, trails, sidewalks, bikeways and horse trails, whether improved, unimproved, or unopened, including the air rights, sub-surface rights and easements related thereto, and over which the City of Burien has authority and control.

"Sidewalk" means that portion of a right-of-way, other than the roadway, set apart by curbs, barriers, markings, or other delineation for pedestrian travel.

"Sign" means any sign, pennant, flag, banner, inflatable display, or other attention-seeking device.

"Special event" shall mean any temporary organized activity sponsored by an event organizer which takes place, in whole or in part, outdoors, will result in people congregating at the event location for a particular and limited purpose and time, and meets any one or more of the following criteria:

(1) City Property. The activity will be conducted in whole or in part on city owned or controlled land that is not a City park or right-of-way;

(2) City Parks. The activity will be conducted within a City park or facility, as those terms are defined at Section 7.10.020 of the Burien Municipal Code, and the parks director determines that the activity requires a special events permit because,

(a) The activity is likely to obstruct, delay or interfere with the free and normal use of public rights-of-way or other public property of the city within the vicinity of the event; or

(b) The activity is likely to result in the need for the City to provide extraordinary services in response to or arising out of the special event; or

(c) The activity will require exclusive use of all or a substantial portion of a City park.

Criteria to be considered include by way of example, and not limitation, available parking capacity in the vicinity of the special event, likely pedestrian and vehicular routes for travel to and from the special event, availability of public transportation, the number of days of the special event, the hours of the special event, the number of people anticipated to attend the special event, the capacity and safety of the permanent and temporary structures intended to house the special event, the proximity and availability of health and sanitation services, the

proximity and availability of emergency services, the activity(ies) to be engaged in as part of the special event, the historical impacts of the special event or comparable special events, if known, upon use of public rights of way and public property and public services including police and fire, and other similar considerations;

(3) Rights-of-Way. The activity will be conducted in whole or in part on city rights-of-way;

(4) Sales Not Already Permitted. The activity will involve the sale of merchandise, food or beverages outdoors where not already permitted by city code; whether by for profit or nonprofit organizations;

(5) Public Disturbance Noise. The activity will include use of sound amplification, public address, loud speaker, audio, video, or television systems or other devices likely to result in public disturbance noise in violation of Chapter 9.105 BMC as now or hereafter amended.

"Special event permit" means a permit issued under this chapter.

"Special event venue" means that area for which a special event permit has been issued.

"Tax–exempt nonprofit organization" means an organization that is exempted from payment of income taxes by federal or state law and has been in existence for a minimum of six months preceding the date of application for a special event permit.

"Vendor" means any person who sells or offers to sell any goods, food, or beverages within a special event venue.

Section 3. Special Event Permit Required/Purpose.

(1) Purpose. It is the purpose of the City to establish a process for permitting special events that impact City right-of-way, public property, other facilities or services. It is recognized that these special events enhance the Burien lifestyle and provide benefits to the citizens through the creation of venues for expression and entertainment that are not normally provided as a part of governmental services. By recognizing special event venues, it is further intended to supplement land use and street right-of-way regulations, to provide a coordinated process for the regulation of certain activities to be conducted in conjunction with special events, to ensure the health and safety of patrons of special events, to prohibit illegal activity from occurring within special event venues, and to protect the rights and interests granted to a special event permit holder. It is further intended to create a mechanism for cost recovery without having an adverse effect on those events that contribute to the community. It is also the intent of the City to protect the rights of its citizens to engage in protected free speech expression activities and yet allow for

the least restrictive and reasonable, time, place and manner regulation of those activities.

(2) Permit Required. Except as provided elsewhere in this chapter, an event organizer shall obtain a special event permit from the City Clerk for all special events.

(3) City Clerk. The City Clerk, in coordination with other involved City Departments and public agencies, is authorized to issue permits for special events occurring within the City limits, pursuant to the procedures established in this chapter and the rules and regulations promulgated by the City Manager. The City Clerk is authorized to determine the special event venue. The City Clerk shall set reasonable boundaries for the special event venue, balancing the special event requirements and public health, safety, and welfare. The City Clerk is authorized to coordinate the issuance of a special event permit with other public agencies through whose jurisdiction or property the special event or portion thereof occurs and to issue a special event permit upon the concurrence of other public agencies involved.

(4) Rules and Regulations. The City Manager is authorized to promulgate additional rules and regulations that are consistent with and that further the terms and requirements set forth within this chapter and the provisions of law that pertain to the conduct and operation of a special event.

Section 4. Exceptions To Special Event Permit Requirement.

A special event permit is not required for any of the following activities, provided that, the special event shall be conducted in accordance with all laws and regulations governing public safety or health:

(1) Funeral Procession. Funeral processions by a licensed mortuary or funeral home;

(2) Wedding processions. Wedding processions conducted on public rights-of-way wherein applicable traffic regulations, laws or controls are complied with;

(3) School, Church & Governmental Events. Any special events held or conducted by or on behalf a public or private school, college or school district, the State of Washington or other governmental entity or any church that is legally operated in the city, so long as the activity or event is conducted on property owned, used, or leased by the entity or its sponsor and is for the benefit of the entity that owns, uses, or leased the property on which the activity takes place;

(4) Expressive Activities on Sidewalks. Rallies, marches, demonstrations and picketing which take place on public sidewalks crossing streets only at pedestrian crosswalks in accordance with traffic regulations and controls and laws applicable to use of public sidewalks;

(5) Special Event Facilities. Events conducted at a facility designed for the special event purpose or upon facilities where such events are normally held, such as churches,

events/convention centers, schools, athletic fields, auditoriums, stadiums, theaters, etc.;

(6) Regularly Scheduled Athletic Events. Regularly scheduled outdoor athletic events conducted on property where such events are normally held.

(7) Outdoor Demonstrations on Public Property. Demonstrations on publicly owned property (other than public rights of way), unless,

(a) The activity is likely to obstruct, delay or interfere with the free and normal use of such public property or the public rights-of-way; or

(b) The activity is likely to result in the need for the City to provide extraordinary services in response to or arising out of the special event;

(8) Other Authorized Uses. Authorized uses of public property permitted by other provisions of the Burien Municipal Code; and

(9) Governmental Activities. Activities conducted by a governmental agency acting within the scope of its authority.

Section 5. Issuance Of A Special Event Permit Does Not Obligate City Services.

Issuance of a special event permit pursuant to this chapter does not obligate or require the City of Burien to provide City services, equipment, funding or personnel in support of a special event.

Section 6. Time For Filing Application For Special Event Permit.

(1) Except as provided at subsection 2 below, application for a special event permit shall be filed with the City Clerk not less than 45 calendar days, nor more than two years, before the time when it is proposed to conduct the special event. Upon good cause shown and provided that no risk or burden to the City ensues, the City Clerk has discretion to allow a later filing.

(2) Application for an expressive activity special event permit shall be filed with the City Clerk not less than seven calendar days, nor more than two years, before the time when it is proposed to conduct the expressive activity special event. Upon good cause shown and provided that no risk or burden to the City ensues, the City Clerk has discretion to allow a later filing.

(3) Except as otherwise provided herein, applications for a special event at City owned buildings and City parks shall be submitted to officials responsible for such buildings and in accordance with such time limits and procedures as may be established for such buildings and parks and are not subject to the provisions of this chapter.

Section 7. When Application For Special Event Permit Is Deemed Complete.

An application for a special event permit is deemed completed when the applicant has provided all of the information required pursuant to the Special Event Permit Rules and Regulations.

Section 8. Date Of Special Event Not Confirmed Until Permit Issued.

Notwithstanding the City Clerk's acceptance of a completed application, no date shall be considered confirmed until a special event permit is issued.

Section 9. Special Event Permit Application.

The application for a special event permit shall be submitted and processed in accordance with the special permit rules and regulations promulgated by the City Manager.

Section 10. Denial Of A Special Event Permit Application; Appeals From Denial.

(1) If the City Clerk denies the application for the special event permit he or she shall notify the applicant in writing as soon as is reasonably practical.

(2) The denial of a special event permit may be appealed to the City Manager or his or her designee.

(3) An appeal shall be made in writing within five calendar days of the date of the written denial. An appeal is made by filing a written petition with the City Clerk, setting forth the grounds for appeal.

(4) The City Manager, or his or her designee, shall hear the appeal as soon as is reasonably practicable. The City Manager shall determine if the application was denied by the City Clerk based upon an error of fact or law and shall limit his/her review to the record before the City Clerk; provided that, the City Manager may, in his or her discretion allow submission of additional evidence relevant to the alleged error of fact or law.

Section 11. Display Of Special Event Permit Required.

A copy of the special event permit shall be displayed in the special event venue in the method prescribed by the City Clerk applicable to the particular special event and shall be exhibited upon demand of any City official.

Section 12. City Clerk's Action On Special Event Permit Application.

(1) Except as provided in Section 12 (2) & (6), the City Clerk shall endeavor to take

final action upon a completed application for a special event permit within thirty (30) days of receipt.

(2) The City Clerk is not required to take final action upon any special event permit application prior to 180 calendar days before the special event.

(3) The City Clerk is not required to take final action on an incomplete or untimely special event permit application.

(4) The City Clerk is not required to take final action upon two or more special event permit applications submitted by the same applicant unless two or more weeks shall have elapsed between the respective dates of submission of each.

(5) Final action on a completed special event permit application shall consist of one of the following:

(a) Issuance of a special event permit in accordance with the terms of the application; or

(b) Issuance of a special event permit in accordance with the terms of the application, as modified by mutual agreement between the City Clerk and the applicant; or

(c) Denial of the special event permit application by the City Clerk.

(6) The City Clerk shall take final action upon a timely completed application for an expressive activity special event permit as soon as reasonably practicable after receipt of a completed application, and in any event prior to the time set for the expressive activity special event.

Section 13. Insurance Required To Conduct Special Event.

The event organizer of a special event must possess or obtain insurance in the form and with coverages and limits as set forth in the Special Events Permit Rules and Regulations.

Section 14. Revocation Of Special Event Permit.

(1) Any special event permit issued pursuant to this chapter is subject to revocation, pursuant to this Section 14.

(2) A special event permit may be revoked if the City Clerk, or his or her designee, or the Burien Police Chief, or his or her designee, or the City Manager, or his or her designee, determines:

(a) That the special event cannot be conducted without violating the standards or conditions for special event permit issuance; or

(b) The special event is being conducted in violation of any condition of the special event permit; or

(c) The special event poses a threat to health or safety; or

(d) The event organizer or any person associated with the special event has failed to obtain any other required permit; or

(e) The special event permit was issued in error or contrary to law.

(3) Except as provided in Section (4) below, notices of revocation shall be in writing and specifically set forth the reasons for the revocation.

(4) If there is an emergency requiring immediate revocation of a special event permit, the City Clerk, or responsible public official, may notify the permit holder verbally of the revocation.

(5) An appeal from a revocation shall be handled in the same manner and under the same time requirements as denials of special event permits, pursuant to Section 10.

(6) It shall be unlawful to operate a special event after revocation of a special event permit.

Section 15. Cost Recovery For Special Events.

(1) Except as otherwise provided in this chapter or when funded or waived by the City Council by resolution or ordinance, for any special event, the City Clerk shall impose a fee for departmental services charges.

(2) The City Clerk shall require payment of departmental service charges, based upon a reasonable estimate thereof, at the time the completed application is approved, unless the City Clerk for good cause extends time for payment.

(3) If the event organizer fails to clean the special event venue or route of the special event both during and upon completion of the special event and to return the area or route to the same condition of material preservation and cleanliness as existed prior to the special event, the event organizer will be billed for actual City costs for cleanup and repair of the area or route occasioned by the special event. If the event organizer failed to comply with such requirements under a previously issued special event permit, the City Clerk may require the event organizer to deposit adequate surety in the form of cash or bond.

Section 16. Expressive Activity Special Event.

When a special event permit is sought for a demonstration, rally, or march, the following exceptions shall apply:

(1) Where the special event will not require temporary street closures, cost recovery shall be limited solely to a fee based on the administrative cost of processing the permit application.

(2) The insurance requirement shall be waived provided that the event organizer or an officer of the event organizer has filed with the application a verified statement that he or she intends the special event purpose to be First Amendment expression and the cost of obtaining insurance is financially burdensome and would constitute an unreasonable burden on the right of First Amendment expression. The verified statement shall include the name and address of one insurance broker or other source for insurance coverage contacted to determine premium rates for coverage.

(3) Where the special event will require temporary street closures and any one or more of the following conditions are met requiring the City to provide services in the interests of public health, safety, and welfare, the City Clerk may condition the issuance of the special event permit upon payment of costs incurred by the City to a maximum of $500. Any fee schedule adopted by the City will contain a provision for waiver of or a sliding scale for payment of fees for city services, including police costs, on the basis of indigency, so that an indigent applicant's First Amendment rights are not impaired in any fashion due to wealth.

(a) The special event will substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its route, and/or

(b) The special event will cause an irresolvable conflict with construction or development in the public right-of-way or at a public park or public facility, and/or

(c) The special event will block traffic lanes or close right-of-way during peak commuter hours on weekdays between 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. on right-of-way designated as arterials by the City's Public Works Department, and/or

(d) The special event will require the diversion of police employees from their normal duties, and/or

(e) The concentration of persons, animals, or vehicles will unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the right-of-way, and/or

(f) The special event will substantially interfere with another special event for which a permit has already been granted or with the provision of City services in support of other scheduled special events, and/or

(g) The special event will have significant adverse impact upon residential or business access and traffic circulation in the same general venue.

(4) With regard to the permitting of expressive activity special events where the provisions in this section conflict with the provisions in any other section of this chapter, the provisions of this section shall prevail.

Section 17. Authorized Special Event Vendors.

(1) The issuance of a special event permit confers upon the permit holder or event organizer the right to control and regulate the sale of goods, food, and beverages within the special event venue in accordance with the terms and conditions of the special event permit. The permit holder may grant no greater rights or privileges to vendors than the rights or privileges granted to the permit holder pursuant to the special event permit.

(2) Vendors authorized to sell goods, food, or beverages in the special event venue shall display their authorization in the manner required by the City Manager. Only vendors displaying the required authorization shall be allowed to sell goods, food, or beverages in the Special Event Venue.

Section 18. Unlawful To Conduct Or Promote Attendance At Special Event Without Permit.

(1) It is unlawful for any person to conduct or manage a special event without a special event permit as required pursuant to this chapter.

(2) It is unlawful for any person during the 180 day period prior to a special event that will take place in whole or in part upon the right-of-way or City property, to promote any such special event prior to submittal of a special event permit application.

Section 19. Other Permits And Licenses.

The issuance of a special event permit does not relieve any person from the obligation to obtain any other permit or license required pursuant to the Burien Municipal Code or any other applicable law.

Section 20. Unlawful To Sell Goods In Special Event Venue Without Authorization.

It is unlawful for any person to sell, resell, or offer to sell or resell, any goods, food, or beverages in a special event venue, except:

1. From any building; or,
2. From any tent, booth, or temporary structure expressly authorized pursuant to a special event permit.

Section 21. Cost Recovery For Unlawful Special Event.

Whenever a special event is conducted without a special event permit, when one is required, or a special event is conducted in violation of the terms of an issued special event permit, the event organizer shall be responsible for, and the City shall charge the event organizer for, all City costs incurred for personnel and equipment for a public safety response caused or necessitated by the adverse impacts of the special event or the violation of the special event permit upon public safety.

Section 22. Violation; Penalties.

1. Violation of Sections 3(2), 14(6) or 18 of this Chapter is a misdemeanor punishable by a fine of up to $1000 or by imprisonment for up to 90 days in jail, or by both such fine or imprisonment.

2. Violation of Section 11 and 20 of this Chapter is a Class I civil infraction and punishable by a maximum fine of $250 for each such violation.

Section 23. Severability. Should any section, 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 24. 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 _____ DAY OF _____, 2009, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS _____ DAY OF _____, 2009.

CITY OF BURIEN

_____

Joan McGilton, Mayor

R:/Ordinances – Preliminary/Ord511

ATTEST/AUTHENTICATED:

_____
Monica Lusk, City Clerk

Approved as to form:

_____
Christopher Bacha
Kenyon Disend, PLLC
Interim City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.
Date of Publication:

CITY OF BURIEN SPECIAL EVENT PERMIT

RULES AND REGULATIONS

PROMULGATED BY THE CITY MANAGER

DATED THIS ** DAY OF ****, 2009

The following rules and regulations apply to all applications for a Special Events Permit pursuant to Chapter 12.15 of the Burien Municipal Code (the "Special Events Code") and to all special events as defined therein.

A. DELEGATION OF AUTHORITY: The City Clerk, and in the absence of the City Clerk, the Human Resources Director, and their designees, shall have responsibility for accepting applications for special events permits, processing, issuing or denying such permits, and implementing these rules and regulations.

B. SPECIAL EVENTS PERMIT APPLICATIONS: The City Clerk shall prepare a special events permit application form in conformance with the requirements of the Special Events Permit Code and these rules and regulations. The application code shall require the following information:

(1) The name, address, and telephone number of the applicant and the event organizer if different than the applicant.

(2) A certification that the applicant will be financially responsible for any City fees or costs that may be imposed for the special event.

(3) The name, address, and telephone number of the event organizer, if any, and the chief officer of the event organizer, if any.

(4) If the special event is designed to be held by, on behalf of, or for any organization other than the applicant, the applicant for the special event permit shall file a written communication from such organization:

(a) Authorizing the applicant to apply for the special event permit on its behalf; and

(b) Certifying that the applicant will be financially responsible for any costs or fees that may be imposed for the special event.

(5) A copy of the tax exemption letter issued for any applicant claiming to be a tax–exempt nonprofit organization;

(6) A statement of the purpose of the special event;

(7) A statement of fees to be charged for the special event;

(8) The proposed location for the special event;

(9) Dates and times when the special event is to be conducted;

(10) The approximate times when assembly for, and disbanding of, the special event is to take place;

(11) The proposed locations of the assembly or production area;

(12) The specific proposed site or route, including a map and written narrative of the route;

(13) The proposed site of any viewing stands;

(14) The proposed site for any disbanding area;

(15) Proposed alternate routes, sites or times, where applicable;

(16) The approximate number of persons, animals or vehicles that will constitute the special event;

(17) The kinds of animals anticipated to be part of the special event;

(18) A description of the types of vehicles to be used in the special event;

(19) The number of bands or other musical units and the nature of any equipment to be used to produce sounds or noise;

(20) The number and location of portable sanitation facilities;

(21) Other equipment or services necessary to conduct the special event with due regard for participant and public health and safety;

(22) The number of persons proposed or required to monitor or facilitate the special event and provide spectator or participant control and direction for special events using City right-of-way, sidewalks, or facilities;

(23) Provisions for first aid or emergency medical services, or both, based on special event risk factors;

(24) Insurance and surety bond information;

(25) Any special or unusual requirements that may be imposed or created by virtue of the proposed special event activity; and,

(26) Any other information required by the City that reasonably relates to the special event.

C. ACCEPTANCE AND REVIEW. Applications for special events permits shall be submitted to the City Clerk or the Department of Community Development at City Hall, or electronically through an electronic application made available on the City's website, and upon receipt shall be logged into the City and assigned a permit application number. All applications shall be routed to the City Clerk for initial review. The City Clerk, upon initial review shall determine if the application is complete or requires additional information from the applicant. In making such determination, the City Clerk may route the application to affected departments and other governmental entities to determine if the application is complete and further to determine what additional information may be necessary and what conditions may be required for issuance of the special events permit. Such review may include, but is not limited to, review by the City police department and other impacted law enforcement agencies, applicable fire districts, the Seattle-King County health department, the Community Development Department, the public works department, and the City Attorney.

D. CONDITIONS AFFECTING THE ISSUANCE OF A SPECIAL EVENT PERMIT.

(1) Upon review of the completed application, the City Clerk may issue a special event permit when, all of the conditions below (a-h) are met; the event organizer has not requested City services, equipment, or personnel; and the City Clerk, in consultation with other affected departments, has determined that the special event does not require City services, equipment, or personnel.

(a) The special event will not substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its route.

(b) The special event will not cause an un-resolvable conflict with construction or development in the public right–of–way or at a public park or public facility.

(c) The special event will not block traffic lanes or close right-of-way during peak commuter hours on weekdays between 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. on right-of-way designated as arterials by the City's Public Works Department.

(d) The special event will not require the diversion of police employees from their normal duties.

(e) The concentration of persons, animals or vehicles will not unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the right-of-way.

(f) The special event will move from its assembly location to its disbanding location expeditiously and without stopping enroute.

(g) The special event will not substantially interfere with any other special event for which a permit has already been granted or with the provision of City services in support of other scheduled special events or unscheduled governmental functions.

(h) The special event will not have significant adverse impact upon residential or business access and traffic circulation in the same general venue.

(2) In order to ensure that the conditions in 11 (1) are met, the City Clerk may place conditions on the special event permit.

E. REASONS FOR DENIAL OF A SPECIAL EVENT PERMIT.

(1) The City Clerk may deny a special event permit to an applicant who has not:

(a) Provided for the services of a sufficient number of trained and certified traffic controllers; or

(b) Provided sufficient monitors for crowd control and safety; or

(c) Provided sufficient safety, health, or sanitation equipment services, or facilities that are reasonably necessary to ensure that the special event will be conducted with due regard for health and safety; or

(d) Provided sufficient off–site parking or shuttle service, or both, when required, to minimize any substantial adverse impacts on general parking and traffic circulation in the vicinity of the special event; or

(e) Met all of the requirements for submitting an application for a special event permit.

(2) The City Clerk may deny a special event permit if the City Clerk determines that:

(a) The special event will create the imminent possibility of violent disorderly conduct likely to endanger public safety or to result in significant property damage; or

(b) The special event will violate public health or safety laws; or

(c) The special event fails to conform to the requirements of law or duly established City Policy; or

(d) The applicant demonstrates an inability or unwillingness to conduct a special event pursuant to the terms and conditions of this chapter; or

(e) The applicant has failed to conduct a previously authorized or exempted special event in accordance with law or the terms of a permit, or both; or

(f) The applicant has not obtained the approval of any other public agency within whose jurisdiction the special event or portion thereof will occur; or

(g) The applicant has failed to provide an adequate first aid or emergency medical services plan based on special event risk factors.

(3) The City Clerk may deny a special event permit to an applicant who has failed to comply with any require of Chapter 12.15 BMC or with any condition of a special event permit previously issued to the applicant.

F. CONTENTS OF SPECIAL EVENT PERMIT.

A special event permit may contain the following information or conditions:

(1) The location of the special event venue, which may be identified by a map attached to the special event permit;

(2) The date, assembly area, time for assembly, and starting time of the special event;

(3) The specific route plan to the special event;

(4) The minimum and maximum speeds of the special event;

(5) The number and types of persons, animals, and vehicles; the number of bands, other musical units, and equipment capable of producing sound, if any; and limitations thereon pertaining to noise abatement;

(6) The maximum interval of space to be maintained between booths or other structures to be used for the special event;

(7) The portion of the street and sidewalk that is to be occupied by the special event;

(8) The location of reviewing or audience stands, if any;

(9) The number and location of traffic controllers, monitors, other support personnel and equipment, and barricades to be furnished by the special event organizer;

(10) The area and time for disbanding;

(11) The conditions or restrictions on the use of alcoholic beverages and authorization for and conditions of the exclusive control or regulation of vendors and related sales activity by the event organizer during the special event;

(12) The provisions for any required emergency medical services;

(13) Such other information and conditions as are reasonably necessary for the conduct of the special event and the enforcement of Chapter 12.15 BMC, including the requirement for the on–site presence of the event organizer or its designated representative for all special event coordination and management purposes.

(14) As a condition of the issuance of a special event permit, the applicant shall be required to make adequate provisions for cleaning the area or route of the special event both during and upon completion of the special event and to return the area or route to the same condition of material preservation and cleanliness as existed prior to the special event.

G. INSURANCE REQUIREMENTS.

A. Comprehensive General Liability Insurance. The event organizer of a special event must possess or obtain comprehensive general liability insurance to protect the City against loss from liability imposed by law for damages on account of bodily injury and property damage arising from the special event. Such insurance shall name the City of Burien, its officers, employees, and agents, and, as required, any other public entity involved in the special event, as an additional insured. Insurance coverage must

be maintained for the duration of the special event. Notice of cancellation shall be provided immediately to the City.

Comprehensive general liability insurance coverage shall be in a combined single limit of at least $1,000,000. If the special event is of a demonstrated high- or low-risk category, according to recognized insurance and risk management standards, the City's Risk Manager may authorize a greater or lesser amount of coverage or may require a particular type of insurance coverage different from that specified herein.

The required Comprehensive general liability insurance coverage shall encompass all liability insurance requirements imposed for other permits required under other sections of Chapter 12.15 BMC and is to be provided for the benefit of the City and not as a duty, express or implied, to provide insurance protection for spectators or participants.

The event organizer's current effective insurance policy, or copy, along with necessary endorsements, shall be filed with the City Clerk at least 30 calendar days before the special event, unless the City Clerk for good cause modifies the filing requirements.

B. Waiver Of Insurance Requirements.

Except for Special Events where the sale of alcoholic beverages is authorized or for traffic control permits issued in conjunction with a Special Event, the insurance requirements of Section A above may be waived by the City Manager. In making the determination of whether to waive insurance, the City Manager shall consider the following factors:

(a) Whether it is an expressive activity special event;

(b) Whether it is objectively impossible to obtain insurance coverage;

(c) Whether the special event will involve the use of equipment (other than sound equipment), vehicles, animals, fireworks, or pyrotechnics;

(d) Whether a fee or donation is charged or required as a condition of admission or participation in the special event; or

(e) Whether other factors exist that provide a reasonable basis for waiving the insurance requirements.

To claim that it is objectively impossible to obtain insurance coverage pursuant to Section 18 (1)(a), the applicant shall submit a statement from at least two independent licensed insurance brokers demonstrating the insurance is unavailable in the market place.

Even though insurance is waived, the City may require the event organizer of a special event to defend, indemnify, and hold harmless the City from any claim or liability arising from the special event.

SPECIAL EVENTS PERMIT

Council Presentation – April 27, 2009, 2009

By: Chris Bacha, Kenyon Disend PLLC
Interim City Attorney

1. **PURPOSE**: Reasons for enacting a new ordinance:
   a. Coordinated Review: establishes a process for the coordinated review and permitting of special events,
   b. Monitoring: provides the City with the ability to monitor special events to make sure that any city department that may be affected has the opportunity to review and comment,
   c. Plan Review: provides the City with the opportunity to review plans for special events to make sure that they are in compliance with the municipal code,
   d. Responsible Planning: encourages responsible planning prior to the holding of special events, and
   e. Limitations to Protect the Public: provides adequate protection to residents, visitors and property owners who may be adversely effected by such special events, including, ensuring that special events do not create disturbances, become nuisances, menace or threaten life, health, and property, disrupt traffic or threaten or damage private or public property,
   f. Liability: decreases any liability risk,
   g. Protection of Permit Holder: protects the rights and interests granted a special event permit holder,
   h. Cost recovery: establishes a mechanism for the City to be able to recover all or any part of the added costs incurred by the provision of additional or extraordinary support services, and
   i. Expressive Activity: protects the rights of its residents and visitors to engage in protected free speech expression activities and yet allow for the least restrictive and reasonable, time, place and manner regulation of those activities within the overall context of rationally regulating special events that have an impact upon public facilities and services

2. **CURRENT PROCESS:**
   a. Chapter 12.18; right of way Use Code – Permits. Requires all persons to obtain a permit before making a private use of the ROW.
   b. Application: Applies to anyone wanting to temporarily block or shut down a public ROW. No clear definition of the type of events covered and no deference to expressive activity. The application does not require specific information regarding the proposed event other than the route. The information required is more particular to installation of utility lines.
   c. Types:

      i. Type A. Short-Term Nonprofit for less than 72 continuous hours.
      ii. Type B. Similar but for for-profits.
      ii. Type C. Disturbance of ROW
      iv. Type D. Annual ROW permit.
      v. Type E. Hauling Loaded Vehicles
      vi. Type F. Equivalent of a facilities lease

   d. Process: The process requires an application and review through public works and other impacted departments. No specific criteria to be considered, timelines, or information to be submitted.
   e. Focus: The focus of the ROW permit is primarily upon construction activity in the ROW and not upon special events.

3. **PROPOSED PROCESS:**

   a. The proposed special events permit ordinance and the companion ordinance would amend the Type A and Type B permit requirements and refer to the special events provisions under a new chapter of title 12.
   b. New Chapter 12.38 would control over all special events except as to those regulated under the zoning code such as outdoor sales that are authorized under the zoning code. Changes to the zoning code might be addressed in the future as necessary.
   c. What would the ordinance do:

      i. Where to File. Removes the application process from Public Works to the City Clerk
      ii. Scope Broadened. Broadens the permit process to include City Parks and City Property not part of the public right of way and to include outdoor sales not already permitted by City Code (zoning code) and public disturbance noise activities (in the event an event on private property will exceed limitations upon noise contained in our nuisance code (Ch. 9.105 BMC).

iii. Private Property. Does not otherwise apply to events held solely on private property. Earlier versions included such limitations but it was felt that there was not sufficient information gathered to implement this provision so it was removed.

iv. Defined Terms. Early comments were that the definition of special events was not clear defined. This draft is intended to include detailed definitions for key terms used in the ordinance.

v. Exemptions. It was felt that we needed to clearly identify those activities that were exempt from the special events permit requirements, so Section 4 identifies these properties. These exemptions focus on expressive activities, governmental activities, activities for which special events were specifically designed (some of these might have been more important when private property was originally included in the special events permit requirements), and funeral and wedding processions (common exclusions in other jurisdictions and often require compliance with traffic codes).

vi. City Services. Wanted to clarify that issuance of a permit does not obligate the city to provide provisioning of services by the City.

vii. Time Period For Application. We wanted to include provisions that ensure timely application for a permit. (Minimum of 45 days with 30 days to respond).

viii. Appeals. We wanted to include a process for appeals of such permits. The appeal will go to the City Manager.

ix. Rules and Regulations. The ordinance authorizes the City Manager to establish and impose rules and regulations governing the form of the application, the content of the application, the process for review, the factors that will be considered by the City when reviewing the application, the reasons that may support denial of a permit, the conditions that may be included in the special events permit, and the insurance requirements including under what conditions insurance may be waived.

x. Revocation. Includes authority to revoke a permit and the conditions that would support revocation.

xi. Cost recovery. Includes provisions allowing the City to recover costs the processing the permit as well as providing services and cleaning up after the event.

xii. Expressive Activity. Includes provisions that allow expressive activity events still subject to the permit requirement (will not comply with traffic regulations) under less restrictive time, place and manner regulations. Provides for reduction or waiver of fees and insurance requirements.

xiii. Vendors. Allows the event organizer to control the individual vendors rather than requirement permits for each vendor.

xiv. Penalties. Establishes penalties for violation

CITY OF BURIEN
AGENDA BILL

Agenda Subject: Motion to Adopt Ordinance No. 512, Amending Chapter 12.18 BMC of the City Right-of-Way Code		**Meeting Date:** May 4, 2009
Department: Legal **Contact:** Chris Bacha, Interim City Attorney **Telephone:** (206) 248-5535	**Attachments:** 1. Proposed Ordinance No. 512, Amending Right-of-Way Permits. 2. Ordinance No. 502. 3. Summary by City Attorney	**Fund Source:** N/A **Activity Cost:** N/A **Amount Budgeted:** N/A **Unencumbered Budget Authority:** N/A
Adopted Work Plan Priority: Yes No X	**Work Plan Item Description:**	

PURPOSE/REQUIRED ACTION:

The purpose of this agenda item is for Council to consider Ordinance No. 512 that would amend the right-of-way code to conform to changes made to Title 12 of the Burien City Code.

BACKGROUND (***Include prior Council action & discussion***):

The City has previously adopted Ordinance No. 502, relating to street trees and will consider for adoption Ordinance No. 511 relating to special events permits. Ordinance No 502 clarifies the procedures for issuance of street tree permits and supersedes certain provisions of Chapter 12.18 BMC related to issuance of a right-of-way permit. Proposed Ordinance No. 511, to be adopted contemporaneously with this ordinance, will add a new chapter to Title 12 BMC relating to issuance of special events permits for use of the public rights-of-way and will supersede certain provisions of Chapter 12.15 BMC. This ordinance is intended to amend Chapter 12.18 BMC to reflect the changes made to the Burien Municipal Code pursuant to Ordinance No. 502 and the changes proposed to be made pursuant to Ordinance No. 511.

OPTIONS (***Including fiscal impacts***):

1. Adopt Ordinance No. 512 as presented.
2. Refer the ordinance to City staff for further revisions and discussion and place on future Council Agenda.
3. Do not adopt Ordinance No. 512.

Administrative Recommendation: Adopt Ordinance No. 512.

Committee Recommendation: N/A

Advisory Board Recommendation: N/A

Suggested Motion: Move to adopt Ordinance 512, relating to issuance of right of way permits.

Submitted by: Christopher Bacha **Administration** CB/ML	Mike Martin **City Manager** MM
Today's Date: April 28, 2009	**File Code:** R:/CC/AgendaBill2009/050409ls-2 Ord512 row

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 512

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, RELATING TO RIGHT OF WAY PERMITS; AMENDING CHAPTER 12.15 BMC TO CONFORM TO NEW CHAPTER 12.15 BMC (SPECIAL EVENTS PERMITS) AND CHAPTER 12.38 BMC (STREET TREES AND TREES ON CITY PROPERTY); AND PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR SEVERABILITY

WHEREAS, the City Council has adopted a new Chapter 12.15 of the Burien Municipal Code that implements new requirements for the issuance of special events permits that will supercede certain parts of the right of way use permit requirements; and

WHEREAS, the City Council has previously adopted Chapter 12.38 of the Burien Municipal Code addressing use of the right of way for the maintenance, removal, pruning or windowing of trees and/or vegetation in the right of way; and

WHEREAS, it is necessary to amend Chapter 12.18 of the Burien Municipal Code to conform to the foregoing changes to the Burien Municipal Code;

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

Section 1. Amending Section 12.18.010 BMC (Permit Requirements). Section 12.18.010 of the Burien Municipal Code is hereby amended to read as follows:

12.18.010 Permit requirements.

(1) Except as otherwise provided at Section 12.18.030 BMC for special events and Chapter 12.38 BMC for maintenance, removal, pruning or windowing of trees and/or vegetation in the right of way, ~~I~~it is unlawful for anyone to make private use of any public right-of-way without first having obtained a right-of-way use permit issued by the city or to use any right-of-way without complying with all the provisions of such right-of-way use permit issued by the city.

(2) Pursuant to BMC 12.18.030(6), any telecommunications carrier or provider who desires to construct, install, operate, maintain, or otherwise locate telecommunications facilities in, under, over or across any right-of-way of the city for the purpose of providing telecommunications services shall first obtain authorization in the form of a franchise authorizing the use of such right-of-way consistent with the requirements and conditions of such franchise.

(3) All permit applicants shall, before commencing any construction in city rights-of-way, comply with all requirements of Chapter 19.122 RCW, the one number locator service.

(4) Use of the right-of-way of the City for special events shall be governed by Chapter 12.15 BMC; provided that, all special events that may alter the appearance of or disturb the surface or subsurface of the right-of-way shall be subject to the requirements for a type C permit in addition to the requirements for a special events permits.

(5) A permit shall not be required under this Chapter 12.18 BMC for the maintenance, removal, pruning or windowing of trees and/or vegetation in the right of way of the City that is subject to the requirements of Chapter 12.38 BMC; provided that, maintenance, removal, pruning or windowing of trees and/or vegetation in the right of way of the City that is part of other work or activities to be performed in the right-of-way of the City shall be subject to the this Chapter 12.18 BMC.

Section 2. Amending Section 12.18.030 BMC (Right-of-way use permits). Section 12.18.030 of the Burien Municipal Code is hereby amended to read as follows:

(1)Type A – Short-Term Nonprofit.

(a)Type A permits are issued for use of a right-of-way for 72 or less continuous hours for nonprofit purposes that are not classified as special events pursuant to Chapter 12.15 BMC, and which do not involve any alteration to the appearance of or a physical disturbance to the surface or subsurface of the right-of-way or any improvements located in, over, under and upon the right of way.

(b)This type of use may involve disruption of pedestrian and vehicular traffic or access to private property, and may require inspections, cleanup and police surveillance. For periods longer than 72 hours, these uses may be required to obtain a Type D annual right-of-way permit. If any of these uses are for profit, and are not classified as special events pursuant to Chapter 12.15 BMC, a Type B permit will be required.

(c) ~~Type A permits include but are not limited to the following, when for nonprofit purposes:~~

~~(i)Assemblies;~~

~~(ii)Bike races;~~

~~(iii)Block parties;~~

~~(iv)Parades/processions;~~

~~(v)Fairs, shows and exhibitions;~~

~~(vi)Parking;~~

~~(vii)Nonmotorized vehicle races;~~

~~(viii)Street dances;~~

~~(ix)Street runs or walks.~~

(2)Type B – Short-Term Profit.

(a)Type B permits are issued for uses of right-of-way for 72 or less continuous hours for profit purposes, which do not involve the physical disturbance of the right-of-way and are not classified as special events pursuant to Chapter 12.15 BMC.

(b)This type of use may involve disruption to pedestrian and vehicular traffic or access to private property, and may require inspections, cleanup and police surveillance. For periods longer than 72 consecutive hours, a Type D annual right-of-way permit may be required.

(c)Type B permits include, but are not limited to, the following when they are for profit purposes:

(i)~~Fairs, carnivals, shows and exhibitions;~~

~~(ii)~~House or large structure moves other than those which require a Type E permit;

(iii)Temporary sale of goods;

(iv)Temporary street closures.

(3)Type C – Disturbance of City Right-of-Way.

(a)Type C permits are issued for use of a right-of-way, for a period not in excess of 180 continuous days, for activities that may alter the appearance of or disturb the surface or subsurface of the right-of-way but do not necessarily involve the installation of permanent structures.

(b)Type C permits include but are not limited to:

(i)Boring;

(ii)Culverts;

(iii)Curb cuts;

(iv)Paving;

(v)Drainage facilities;

(vi)Driveways;

(vii)Fences;

(viii)Landscaping;

(ix)Painting/striping;

(x)Sidewalks;

(xi)Street trenching;

(xii)Utility installation, repair, replacement.

(c)Permanent structures not included in the above list that are placed in the right-of-way for a period over 72 hours may require a Type D annual right-of-way use permit, below. The director shall have the discretion to determine whether a Type C or D permit, or a facilities lease shall be required for any particular use or uses.

(4)Type D – Annual Right-of-Way Permit.

(a)Type D annual right-of-way permits are issued for uses in excess of 72 hours that will not physically disturb the right-of-way and are associated with long-term use of the right-of-way.

(b)The use of the right-of way for structures, facilities, and uses that involve capital expenditures and long-term commitments require this type of permit; provided, however, that more intensive long-term uses of the right-of-way such as the location of facilities and permanent structures on the right-of-way will require a facilities lease (Type F permit).

(c)Type D permits include, but are not limited to:

(i)Air rights and aerial facilities;

(ii)Bus shelters and stops;

(iii)Access to construction sites and haul roads;

(iv)Loading zones;

(v)Newspaper sale, distribution, and storage facilities;

(vi)Recycling facilities;

(vii)Sales structures;

(viii)Sidewalk cafes;

(ix)Special and unique structures, such as awnings, benches, clocks, decorations, flagpoles, fountains, kiosks, marquees, private banners, public mailboxes, and street furniture;

(x)Underground rights;

(xi)Utility facilities;

(xii)Waste facilities.

(d)The director shall have the discretion to determine whether a Type C or D permit or a facilities lease shall be required for any particular use or uses.

(5)Type E – Hauling Loaded Vehicles.

(a)Type E permits are issued for uses of right-of-way, for a period not in excess of 180 continuous days, for those activities that have the potential of altering the appearance of, or disturbing the surface or subsurface of, the right-of-way due to hauling large quantities.

(b)Type E permits include, but are not limited to:

(i)Frequent use hauling involving an average of six loaded vehicles per hour during any eight-hour period in one day, for two or more consecutive days.

(ii)Any hazardous waste hauling.

(c)Type E permits may be issued to a general contractor to authorize construction and fill activities by the said general contractor and by subcontractors.

(6)Type F Permits – Facilities Lease or Franchise. A Type F permit (facilities lease or franchise) is issued for use of a right-of-way for a period in excess of 180 continuous days, for those activities that have the potential of altering the appearance of or disturbing the surface or subsurface of the right-of-way or for the location of permanent structures on the right-of-way. Uses requiring a facilities lease or franchise shall include, but are not necessarily limited to the following:

(a)Location of garages, buildings, or other structures within the right-of-way;

(b)Location of telecommunications facilities within the right-of-way;

(c)Location of utility infrastructure within the right-of-way.

The director shall have the discretion to determine whether a franchise will be required rather than a facilities lease. The city council reserves the sole discretion to lease city property and other facilities, and no vested or other right shall be created by this section or any provision of this chapter applicable to such facilities leases. The terms of such facilities leases and franchises, including the fees associated with such lease or franchise, shall be negotiated with the lessee or franchisee on a case-by-case basis.

Section 3. Severability. Should any section, 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. 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 _____ DAY OF _____, 2009, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS _____ DAY OF _____, 2009.

CITY OF BURIEN

_____
Joan McGilton, Mayor

ATTEST/AUTHENTICATED:

_____
Monica Lusk, City Clerk

Approved as to form:

_____
Christopher D. Bacha
Kenyon Disend, PLLC

R:/Ordinances – Preliminary/Ord512 row amend

Interim City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.
Date of Publication:

CITY OF BURIEN
WASHINGTON
ORDINANCE NO. 502

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, RELATING TO TREES ON CITY PROPERTY; AMENDING CHAPTER 12.38 BMC TO CLARIFY MAINTENANCE RESPONSIBILITIES AND CLARIFY PROCESS FOR AND FURTHER RESTRICT APPLICATIONS FOR PRUNING, CROWN TOPPING AND REMOVAL OF STREET TREES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Council has previously enacted chapter 12.38 of the Burien Municipal Code (the "Tree Code") to regulate the pruning, care and removal of trees and other vegetation on City property; and

WHEREAS, the City Council desires to amend the Tree Code to clarify the portion of the public right of way that adjacent property owners have the right and obligation to maintain; and

WHEREAS, the City Council finds it to be in the best interest of the public health, safety and welfare to amend the Tree Code;

NOW, THEREFORE, the City Council of the City of Burien, Washington, do ordain as follows:

Section 1. Amendment of Section 12.38.040 BMC (Tree Protection, Maintenance and Permit Requirements). Section 12.38.040 of the Burien Municipal Code is hereby repealed and re-enacted to read as follows:

12.38.040 Tree Protection, Maintenance and Permit Requirements

A. The City shall maintain all trees and Other Vegetation on the City Maintenance Responsibility List established pursuant to this Chapter. No person shall prune or remove trees or Other Vegetation on the City Property identified on the City Maintenance Responsibility List.

B. The owner of property adjacent to an Improved or Unimproved Right-of-Way not listed on the City Maintenance List shall maintain Street Trees and Other Vegetation located within the maintenance area. Maintenance Area shall mean that area of the Right-of-Way described as follows: the right-of-Way area bounded by the property owner's boundary line contiguous to the Right-of-Way extending perpendicular on either

end to the centerline of the Right-of-Way. Maintenance Area within an Improved Right-of-Way shall include the Planting Strip between the sidewalk and curb, and the strip between the property line and the sidewalk or, if no sidewalk exists, the strip between the property line and the shoulder of the street; provided that, it shall not include the planting area within a center median.

C. The owner of property adjacent to an Improved or Unimproved Right-of-Way, may Prune trees within the owner's Maintenance Area provided that the best practices, policies, techniques and methods for pruning trees established by the International Society of Arboriculture are followed, including Crown Cleaning, Crown Thinning, Crown Raising and Windowing. Crown Topping is not permissible. The City shall prepare and distribute educational materials describing best practices, policies, techniques, methods and procedures for pruning trees.

D. Public utilities shall maintain any vegetation that interferes with their utilities and may Prune trees provided that the best practices, policies, techniques and methods for pruning trees established by the International Society of Arboriculture are followed.

E. No person shall perform Pruning other than that permitted by this Chapter or remove trees in Planting Strips, Improved or Unimproved Right-of-Way without an approved Tree Permit. A Tree Permit will not be issued to a private individual for the pruning or removal trees or Other Vegetation on City Property identified on the City Maintenance Responsibility List, including streets, parks and open spaces. The issuance of a Tree Permit shall be based on the following:

1. The applicant demonstrates in the following order that all of the following conditions have been satisfied:

a) The applicant establishes that the tree is located on a Right-of-Way;

b) The applicant submits a valid petition executed by at least sixty percent (60%) of the property owners located within a three hundred foot (300') radius of the subject tree(s) in favor of the proposed Pruning of the tree;

c) The applicant pays a fee to cover all costs associated with reviewing the pruning request; and

d) The Pruning is performed by the City but at the sole cost and expense of the applicant.

2. The City Arborist determines that the requested action or treatment is necessary based upon meeting one of the following criteria:

a) Consideration of generally accepted arboriculture standards established by the International Society of Arboriculture;

b) Determination that the tree is a "Nuisance Tree, " i.e. a tree which is causing physical damage to property or has been damaged by past maintenance practices, and for which generally accepted arboriculture practices cannot correct the problem;

c) Action or treatment can be performed without adversely affecting the health of the tree or adjacent tree(s);

d) Action or treatment can be performed without adversely affecting Geologically Hazardous Areas; or

e) Determination that the existing trees and Other Vegetation are appropriate for the location.

3. A Tree Permit shall not be granted if the sole purpose of the proposed action is the removal of a tree for view enhancement.

4. When the City Arborist determines that the removal of a tree is necessary in connection with a Tree Permit, the tree(s) shall be replanted or replaced. The cost of the removal and replacement of the tree shall be the responsibility of the permittee. Replacement Trees shall meet the following guidelines:

a) All Replacement Trees shall be at least six feet tall coniferous tree or have a minimum 2-inch caliper deciduous tree, unless a smaller size tree or shrub is approved the by the City Arborist;

b) The number of replacement trees shall be at the ratio of three Replacement Trees for every one tree removed;

c) In lieu of planting Replacement Trees, and at the sole discretion of the City Arborist, the permittee may contribute to the City's tree fund a dollar amount equal to the value of the Replacement Trees, including installation costs; and

d) The permittee may be required to maintain all Replacement Trees in a healthy condition for period of two years after planting. The permittee may be obligated to replant any Replacement Tree that dies, becomes diseased or is removed during this two-year time period.

F. Permission to Crown Top healthy trees shall not be granted. Trees that are severely damaged by storms or other causes, or certain trees under utility wires, or other obstructions where other pruning practices are impractical, may be topped for public safety.

G. The removal of trees in Geologically Hazardous Areas is subject to the requirements contained in BMC Chapter 19.40, Critical Areas. No cutting of trees in "Geologically Hazardous Areas" is allowed between October 1 and April 1 of any calendar year unless approved by the Public Works Director, or is required due to an emergency-situation involving immediate danger to life and property.

H. In addition to the requirements of this Chapter, persons must comply with all applicable federal and state laws, rules and regulations including, without limitation, the Endangered Species Act, the Bald Eagle Protection Act and the Migratory Bird Treaty Act, as now existing or herein adopted or amended.

Section 2. Severability. Should any section, 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 3. 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 29TH DAY OF DECEMBER, 2008, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 29TH DAY OF DECEMBER, 2008.

CITY OF BURIEN
/s/ Joan McGilton, Mayor

ATTEST/AUTHENTICATED:
/s/ Monica Lusk, City Clerk

Approved as to form:
/s/ Chris D. Bacha
Kenyon Disend, PLLC
Interim City Attorney

Filed with the City Clerk: December 9, 2008
Passed by the City Council: December 29, 2008
Ordinance No. 502
Date of Publication: January 1, 2009

SPECIAL EVENTS PERMIT

Council Presentation – April 27, 2009, 2009

By: Chris Bacha, Kenyon Disend PLLC
Interim City Attorney

1. **PURPOSE**: Reasons for enacting a new ordinance:
   a. Coordinated Review: establishes a process for the coordinated review and permitting of special events,
   b. Monitoring: provides the City with the ability to monitor special events to make sure that any city department that may be affected has the opportunity to review and comment,
   c. Plan Review: provides the City with the opportunity to review plans for special events to make sure that they are in compliance with the municipal code,
   d. Responsible Planning: encourages responsible planning prior to the holding of special events, and
   e. Limitations to Protect the Public: provides adequate protection to residents, visitors and property owners who may be adversely effected by such special events, including, ensuring that special events do not create disturbances, become nuisances, menace or threaten life, health, and property, disrupt traffic or threaten or damage private or public property,
   f. Liability: decreases any liability risk,
   g. Protection of Permit Holder: protects the rights and interests granted a special event permit holder,
   h. Cost recovery: establishes a mechanism for the City to be able to recover all or any part of the added costs incurred by the provision of additional or extraordinary support services, and
   i. Expressive Activity: protects the rights of its residents and visitors to engage in protected free speech expression activities and yet allow for the least restrictive and reasonable, time, place and manner regulation of those activities within the overall context of rationally regulating special events that have an impact upon public facilities and services

2. **CURRENT PROCESS:**
   a. Chapter 12.18; right of way Use Code – Permits. Requires all persons to obtain a permit before making a private use of the ROW.
   b. Application: Applies to anyone wanting to temporarily block or shut down a public ROW. No clear definition of the type of events covered and no deference to expressive activity. The application does not require specific information regarding the proposed event other than the route. The information required is more particular to installation of utility lines.
   c. Types:

      i. Type A. Short-Term Nonprofit for less than 72 continuous hours.
      ii. Type B. Similar but for for-profits.
      ii. Type C. Disturbance of ROW
      iv. Type D. Annual ROW permit.
      v. Type E. Hauling Loaded Vehicles
      vi. Type F. Equivalent of a facilities lease

   d. Process: The process requires an application and review through public works and other impacted departments. No specific criteria to be considered, timelines, or information to be submitted.
   e. Focus: The focus of the ROW permit is primarily upon construction activity in the ROW and not upon special events.

3. **PROPOSED PROCESS:**

   a. The proposed special events permit ordinance and the companion ordinance would amend the Type A and Type B permit requirements and refer to the special events provisions under a new chapter of title 12.
   b. New Chapter 12.38 would control over all special events except as to those regulated under the zoning code such as outdoor sales that are authorized under the zoning code. Changes to the zoning code might be addressed in the future as necessary.
   c. What would the ordinance do:

      i. Where to File. Removes the application process from Public Works to the City Clerk
      ii. Scope Broadened. Broadens the permit process to include City Parks and City Property not part of the public right of way and to include outdoor sales not already permitted by City Code (zoning code) and public disturbance noise activities (in the event an event on private property will exceed limitations upon noise contained in our nuisance code (Ch. 9.105 BMC).

iii. Private Property. Does not otherwise apply to events held solely on private property. Earlier versions included such limitations but it was felt that there was not sufficient information gathered to implement this provision so it was removed.

iv. Defined Terms. Early comments were that the definition of special events was not clear defined. This draft is intended to include detailed definitions for key terms used in the ordinance.

v. Exemptions. It was felt that we needed to clearly identify those activities that were exempt from the special events permit requirements, so Section 4 identifies these properties. These exemptions focus on expressive activities, governmental activities, activities for which special events were specifically designed (some of these might have been more important when private property was originally included in the special events permit requirements), and funeral and wedding processions (common exclusions in other jurisdictions and often require compliance with traffic codes).

vi. City Services. Wanted to clarify that issuance of a permit does not obligate the city to provide provisioning of services by the City.

vii. Time Period For Application. We wanted to include provisions that ensure timely application for a permit. (Minimum of 45 days with 30 days to respond).

viii. Appeals. We wanted to include a process for appeals of such permits. The appeal will go to the City Manager.

ix. Rules and Regulations. The ordinance authorizes the City Manager to establish and impose rules and regulations governing the form of the application, the content of the application, the process for review, the factors that will be considered by the City when reviewing the application, the reasons that may support denial of a permit, the conditions that may be included in the special events permit, and the insurance requirements including under what conditions insurance may be waived.

x. Revocation. Includes authority to revoke a permit and the conditions that would support revocation.

xi. Cost recovery. Includes provisions allowing the City to recover costs the processing the permit as well as providing services and cleaning up after the event.

xii. Expressive Activity. Includes provisions that allow expressive activity events still subject to the permit requirement (will not comply with traffic regulations) under less restrictive time, place and manner regulations. Provides for reduction or waiver of fees and insurance requirements.

xiii. Vendors. Allows the event organizer to control the individual vendors rather than requirement permits for each vendor.

xiv. Penalties. Establishes penalties for violation

CITY OF BURIEN
AGENDA BILL

Agenda Subject: Financial Update		**Meeting Date:**May 4, 2009
Department: Finance Department **Contact:** Tabatha Miller, Finance Director **Telephone:** (206) 439-3150	**Attachments:** 1. PowerPoint Presentation	**Fund Source:** N/A **Activity Cost:** N/A **Amount Budgeted:** N/A **Unencumbered Budget Authority:** N/A
Adopted Work Plan Priority: Yes No X	**Work Plan Item Description:** N/A	

PURPOSE/REQUIRED ACTION: The purpose of this agenda item is to update the Council on Burien's financial outlook and potential adjustments to the 2009-2010 budget.

BACKGROUND (***Include prior Council action & discussion***):

During the review and adoption of the 2009-2010 biennial budget, staff and the Council discussed the impact of the rapidly changing economic climate on the City's budget, and made downward adjustments on revenues. At that time, we estimated that the recession would continue through 2nd quarter 2009 and a recovery would begin during the 3rd quarter 2009. Staff has continued to monitor the economic climate and to estimate the impact on Burien. Updates were provided to the Council during the City Council retreat, where the economy dominated much of the discussion. Current predictions for the Puget Sound Region push a recovery out to 2nd quarter 2010.

Currently, year-to-date (YTD) sales tax revenues are down almost 10%. YTD real estate excise tax revenues are down more than 80%, and local unemployment has doubled in the last year. We anticipate these trends to continue into 2010.

Compounding the financial difficulties, are additional unbudgeted expenditures such as additional building maintenance for new community center facility, additional city hall maintenance and operating expenditures, increased cost of police services and litigation costs not covered by insurance. The cummulative result is a more than $2 million a year deficit between revenues and expenditures in the General Fund. Thus, it is apparent that additional adjustments to the 2009 – 2010 budget are necessary.

In response, staff has outlined some suggested budget adjustments. These include reductions in expenditures and in some cases service levels, reallocation of revenues to the general fund, use of one-time discretionary fund balances and one-time reserves. None of these adjustments are considered easy and many will have longer term consequences.

OPTIONS (***Including fiscal impacts***):

N/A

Administrative Recommendation: Hold discussion on proposed budget adjustments and provide additional feedback and guidance to staff.

Committee Recommendation: N/A

Advisory Board Recommendation: N/A

Suggested Motion: None required.

Submitted by: Tabatha Miller, Finance Director
Administration TM **City Manager** MM

Today's Date: April 29, 2009	**File Code:** R:\CC\Agenda Bill 2009\050409ad-1 financial update.docx

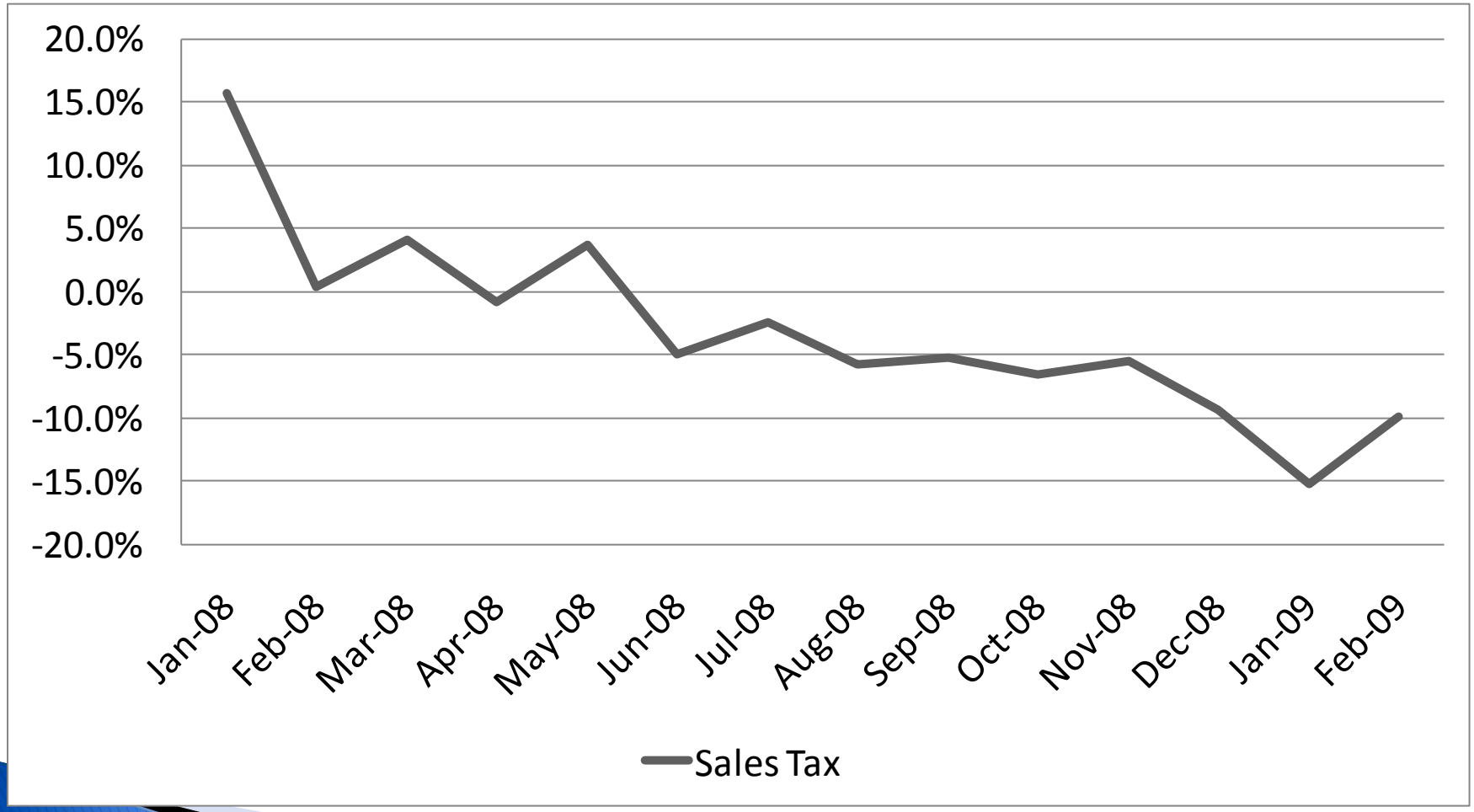
2009-2010 BUDGET FINANCIAL UPDATE

Finance Department
April 28, 2009

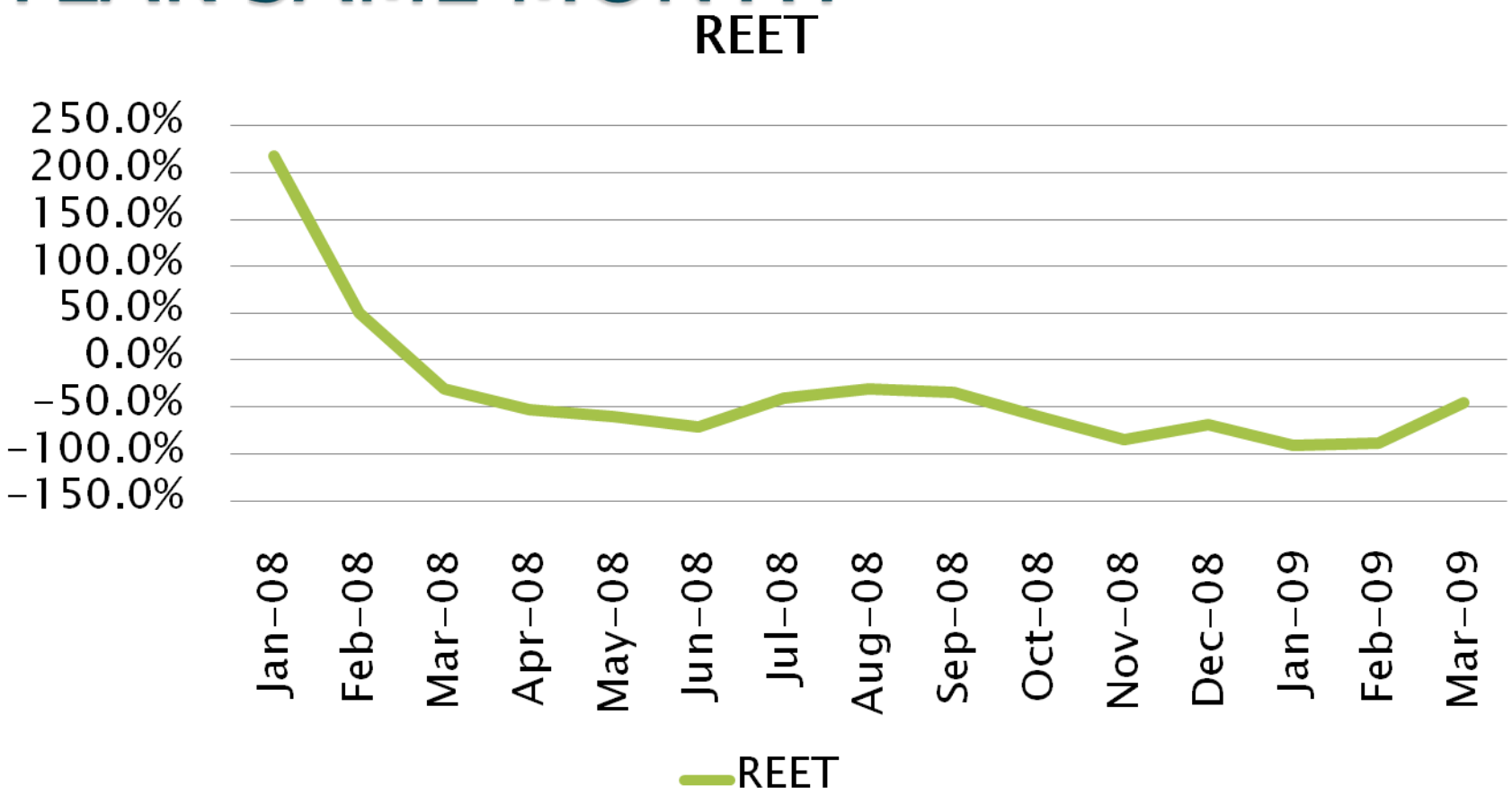
WHAT'S HAPPENING IN BURIEN

- Sales Tax ↓ 9.3% Year to Date (YTD)
  - Including SST mitigation
- Real Estate Excise Tax ↓ 83% YTD
  - Budgeted to pay debt service
- Burien March 2009 Unemployment 8.5%
- Increase in Expenditures
  - King County Sheriff's Contract
  - Litigation Expenses
  - Facilities Maintenance & Operations
- Projected $2 million plus General Fund Deficit each year

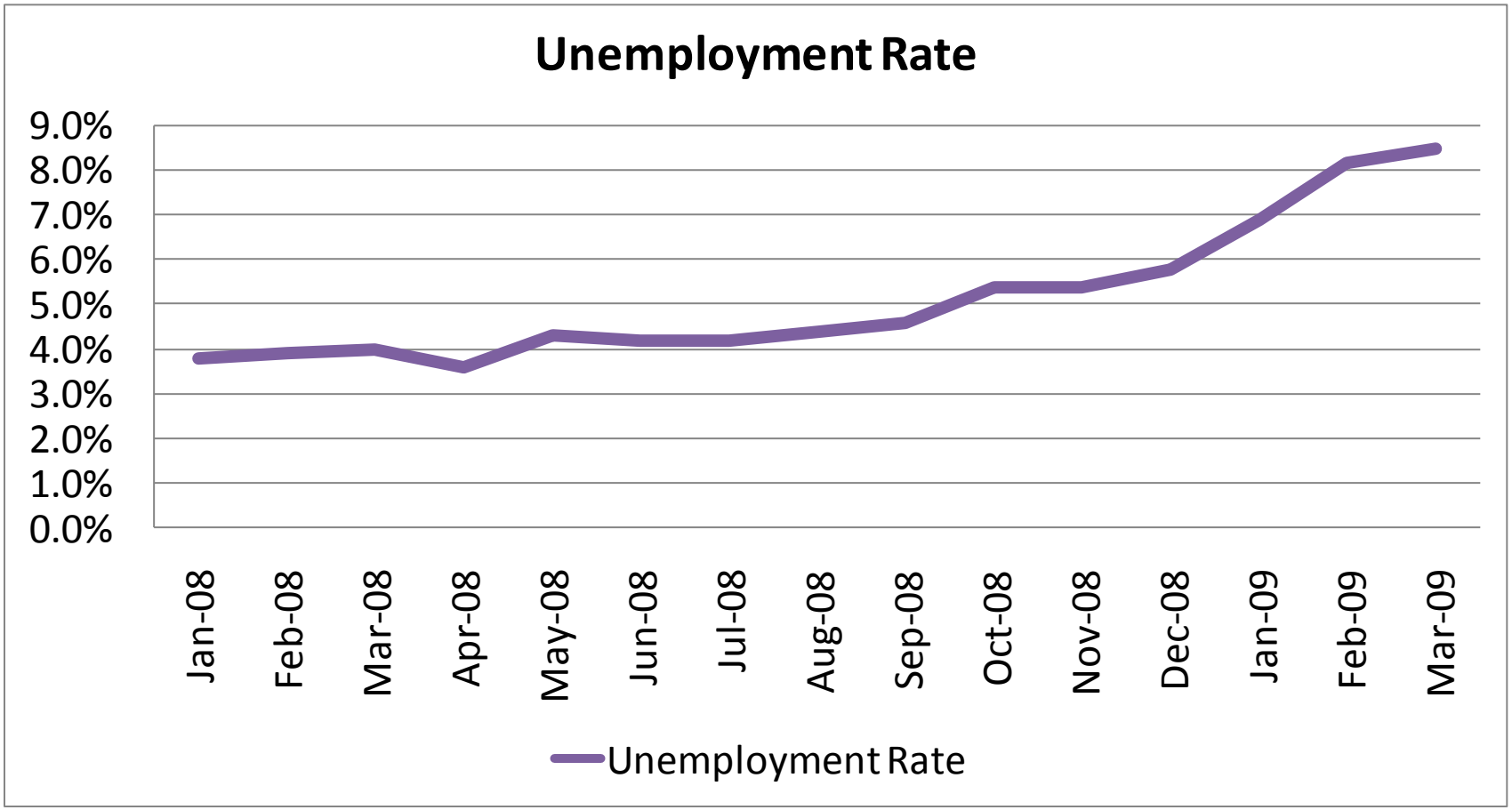
SALES TAX PERCENTAGE CHANGE FROM PRIOR YEAR SAME MONTH



REAL ESTATE EXCISE TAX PERCENTAGE CHANGE FROM PRIOR YEAR SAME MONTH



CITY OF BURIEN UNEMPLOYMENT RATE



City of Burien
General Fund – Current Outlook
(in thousands)

	2008	2009	2010	2011	2012
Beginning Fund Balance	$ 2,169	$ 3,768	$1,644	$ (855)	(3,482)
Revenues & Transfers In	17,919	14,943	15,329	15,578	16,075
Total Resources	20,088	18,711	16,973	14,723	12,593
Expenditures & Transfers Out	16,320	17,067	17,828	18,205	19,053
Net Revenues	$1,599	$(2,124)	$(2,499)	$(2,627)	$(2,978)
Ending Fund Balance Reserve*	1,657	1,480	1,518	1,542	1,592
Discretionary Fund Balance	$ 2,111	$ 164	$ (2,373)	$ (5,024)	$ (8,052)

Revenue forecast updated April 2009 to reflect economic environment & additional anticipated expenditures.
**Reserve set at 10% of Revenues by Council Policy, excluding transfers in.*

POTENTIAL ACTION PLAN

- Reduce Travel & Conference Budgets
- Reduce Office Supplies
- Reduce Purchased Services in Every Department
  - MIS Plan
  - Parks Maintenance
  - Memberships & Associations
  - Federal & State Lobbyist
  - Sheriff's Contract
  - Community Contributions
  - Attorney @ Council Meetings
  - Contracted Services

POTENTIAL ACTION PLAN (CONTINUED)

- Salary & Benefit Cost Controls
  - Hiring Freeze
  - Limited or no COLAs for 2010
  - Voluntary/Mandatory Furloughs
  - Benefits cost controls
- Reallocate Revenue from Street Fund to General Fund
  - Solid Waste Utility Tax
  - Cable Franchise Fees
- Utilize One-time Reserves
  - Required Fund Balance Reserve
  - Discretionary Fund Balance

WHERE DO WE FIND $2.5 MILLION?

Expenditure Budget Reductions	2009	2010
Office Supplies	$15,000	$30,000
Professional Services	$143,030	$321,697
Department Travel	$2,660	$14,150
Sheriff's Contract	$110,972	$450,842
Benefit & Salary Controls	$187,680	$309,062
Community Support	-	$92,504
Memberships	-	$61,648
Park Maintenance	$36,821	$73,643
Total Expenditures Reductions	$496,163	$1,353,546
Re-allocation of Budgeted Revenues	**2009**	**2010**
Garbage Utility Tax	$360,000	$372,600
Cable Franchise Fees	$360,000	$372,600
Total Revenues Re-Allocations	$720,000	$745,200
One-Time Resources	**2009**	**2010**
Discretionary Fund Balance	$907,837	$400,254
Fund Balance Reserves	-	-
Total Budget Adjustments	$2,124,000	$2,499,000

City of Burien
General Fund incorporating Potential Action Plan
(in thousands)

	2008	2009	2010	2011	2012
Beginning Fund Balance	$ 2,169	$ 3,768	$2,860	$ 2,460	$2,003
Revenues & Transfers In	17,919	15,663	16,074	16,364	16,900
Total Resources	20,088	19,431	18,934	18,824	18,903
Expenditures & Transfers Out	16,320	16,571	16,474	16,821	17,605
Net Revenues	$1,599	$(908)	$(400)	$(457)	$(705)
Ending Fund Balance Reserve*	1,657	1,552	1,593	1,621	1,674
Discretionary Fund Balance	$ 2,111	$ 1,308	$ 867	$ 382	$ (376)

**Reserve set at 10% of Revenues, excluding transfers in.*

Next Steps…

- Discussion and feedback only on May 4th
- Staff will incorporate feedback and suggestions
- May 11, 2009
  - Present updates and incorporate Council suggestions
  - Discussion only– no action requested
- June 1, 2009
  - Present Council with formal budget amendment for action

CITY OF BURIEN
AGENDA BILL

Agenda Subject: Update on the status of the Paperless Packet		**Meeting Date:** May 4, 2009
Department: Finance Department **Contact:** Dean Tatham, IS/GIS Manager **Telephone:** 206-248-5511	**Attachments:**	**Fund Source:** N/A **Activity Cost:** N/A **Amount Budgeted:** N/A **Unencumbered Budget Authority:** N/A
Adopted Work Plan Priority: Yes X No	**Work Plan Item Description:** Investigate conversion to paperless City Council packets	

PURPOSE/REQUIRED ACTION:

The purpose of this agenda item is for Council to receive an update on conversion to paperless Council meeting packets.

BACKGROUND (*Include prior Council action & discussion*):

On November 17, 2008, the Council adopted the 2009 Work Plan, which includes investigating conversion to paperless Council packets. The investigation consisted of contacting King County cities who currently use paperless packets (software and delivery method used). Eleven responses were received: four use Adobe Acrobat, and the remainder use software such as Stellent, Granicus, and iCompass. All agreed that the paperless packet reduced the amount of paper used and staff time and resources.

OPTIONS (*Including fiscal impacts*):
N/A

Administrative Recommendation: Receive update.

Committee Recommendation: N/A

Advisory Board Recommendation: N/A

Suggested Motion: None required.

Submitted by: Dean Tatham, IS/GIS Manager **Administration** DT	Mike Martin **City Manager** MM
Today's Date: April 29, 2009	**File Code:** R:\CC\Agenda Bill 2009\050409ad-2 Paperless Packet Status.docx

2009-2010 BUDGET FINANCIAL UPDATE

Finance Department
April 28, 2009

WHAT'S HAPPENING IN BURIEN

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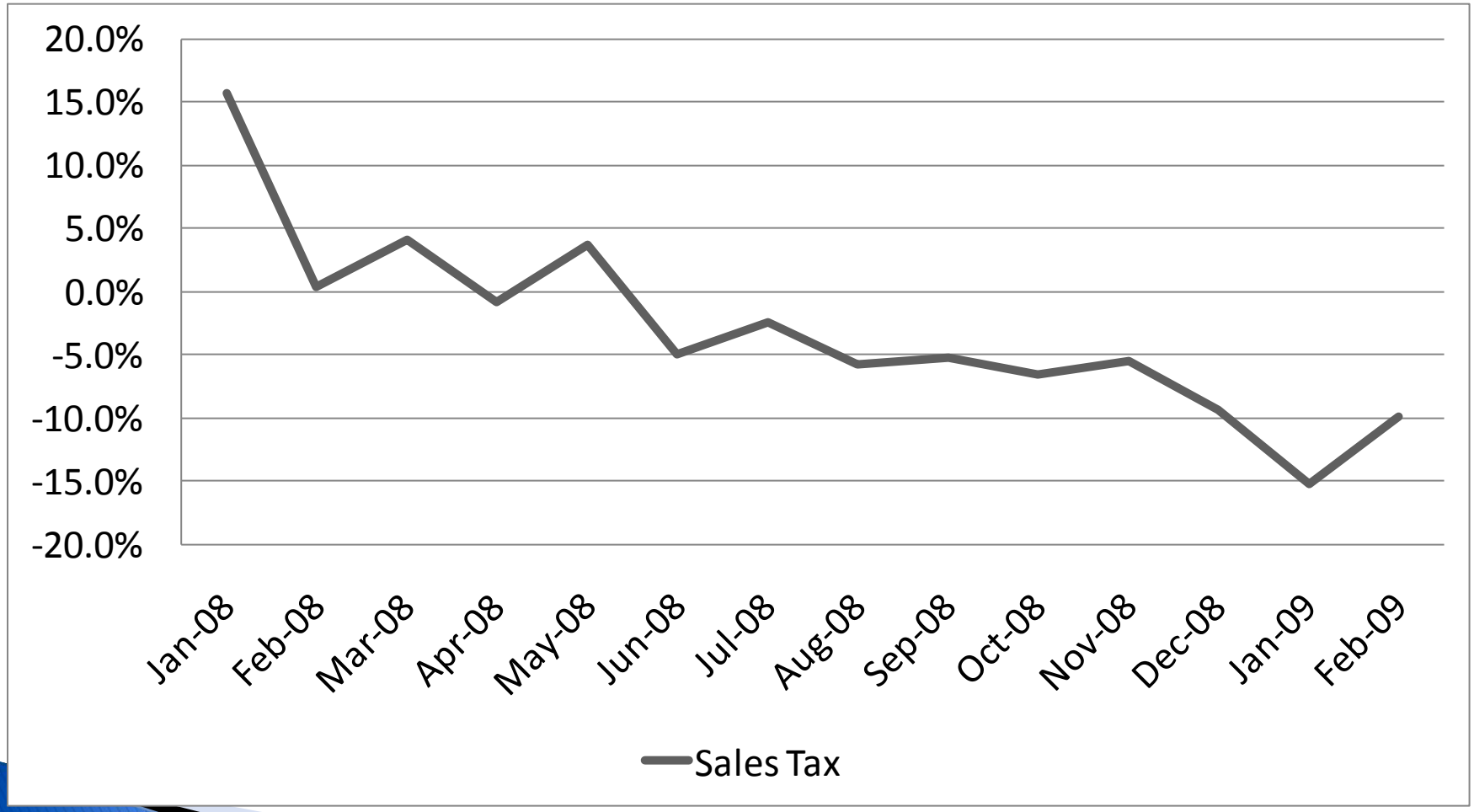

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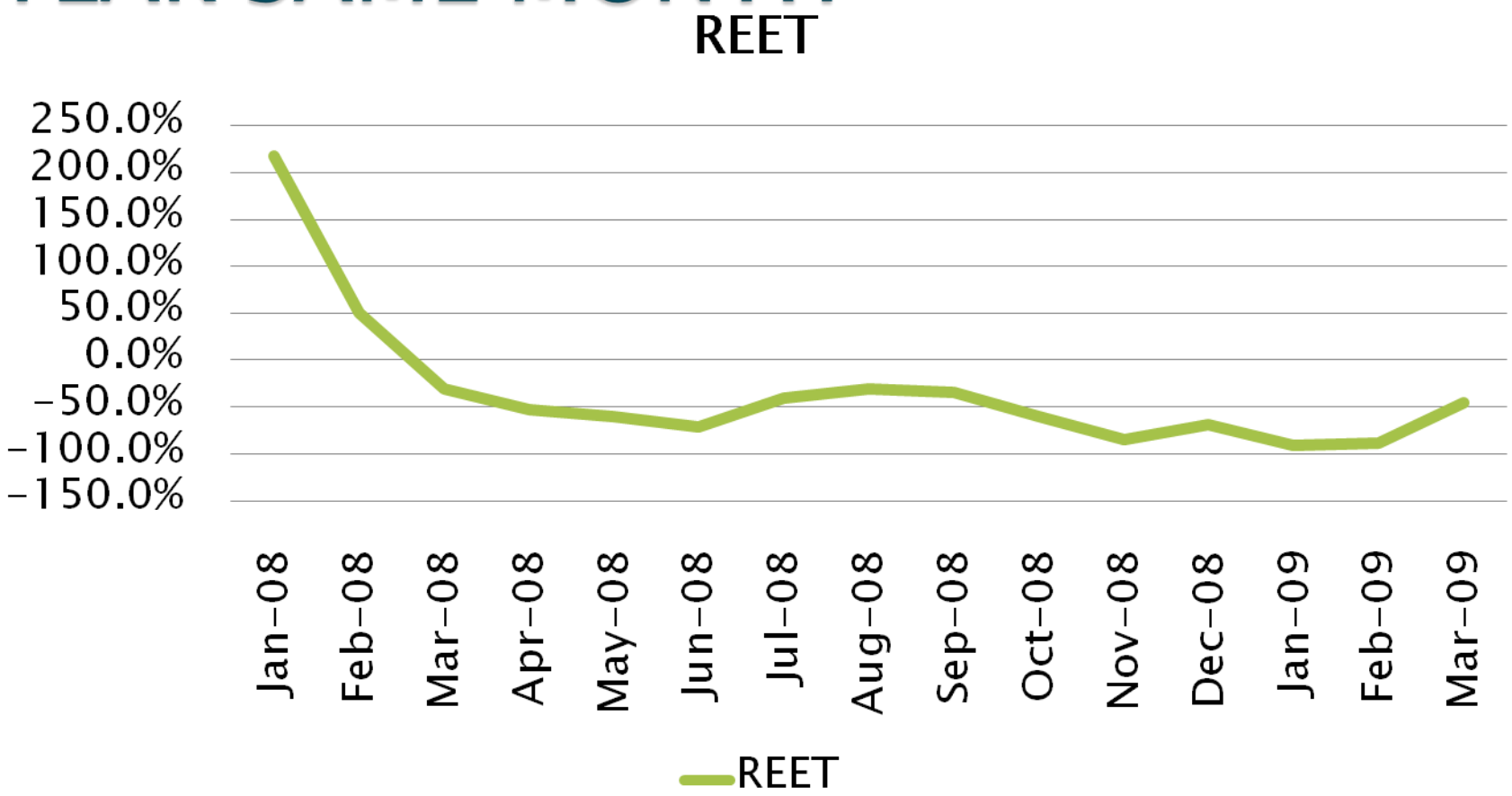

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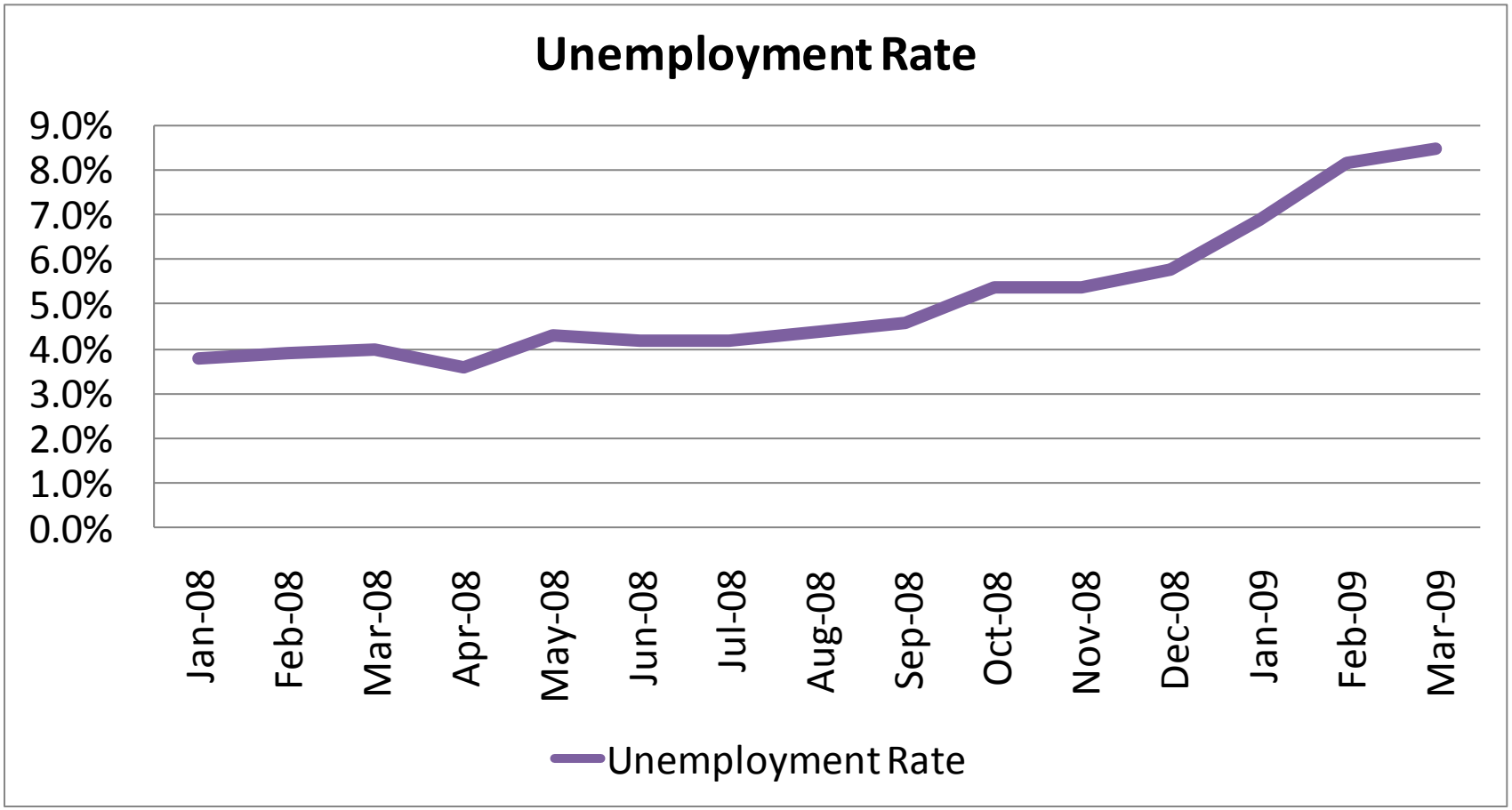

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