

*City of Burien*

BURIEN PLANNING COMMISSION MEETING

October 13, 2009

7:00 p.m.

Miller Creek Room, Burien City Hall

MINUTES

**Planning Commission Members Present:**

Joe Fitzgibbon, Brian Bennett, Stacie Grage, Janet Shull, Rebecca McInteer, Rachel Pizarro

**Absent:**

Jim Clingan

**Others Present:**

Scott Greenberg, Community Development Department director; David Johanson, senior planner; Stephanie Jewett, planner; Jeremy Hammar, planning intern

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Chair Fitzgibbon called the meeting to order at 7:02 p.m. At the call of the roll all commissioners were present except commissioners Clingan, Bennett and Pizarro.

**Agenda Confirmation**

Motion to approve the agenda as presented was made by Commissioner Grage. Second was by Commissioner Shull and the motion carried unanimously.

Commissioner Pizarro arrived at 7:05 p.m.

**Public Comment**

None

**Approval of Minutes**

It was noted that the minutes of September 22, 2009, incorrectly state that Chair Fitzgibbon opened the meeting when, in fact, he was absent and Vice Chair Clingan presided. Motion to approve the minutes as corrected was made by Commissioner Grage; second was by Commissioner Shull. The motion carried unanimously.

**Public Hearing**

David Johanson, senior planner, introduced the proposed map amendments and rezone requests. He noted there are two proposed map amendments – one to the Comprehensive Plan map, which has a set of criteria to meet, and the other, a rezone request, which is quasi-judicial and has a different set of criteria to meet.

Chair Fitzgibbon opened the public hearing on Comprehensive Plan amendment docket item 2009-5, a Comprehensive Plan and rezone request submitted by Ambaum Partners, LLC, at 7:08 p.m. He then stated the rules of testimony for the hearing.

Stephanie Jewett, planner, explained the proposed amendment and rezone request. The applicant, represented by Broderick Architects, is requesting a change in the Comprehensive Plan designation for

the parcel at 14001 Ambaum Blvd. SW from Office to High Density Multi-family Neighborhood and a rezone from Office to RM-18, residential multi-family. Currently, the property contains a vacant office building. It is adjacent to the Heights at Burien apartment complex and the applicant intends to combine the parcel with the Heights at Burien parcel and develop a leasing center and recreation center, including use for special events by the social service agency New Futures. She showed a site plan indicating the size and location of the proposed leasing center and the related landscape buffer.

Ms. Jewett stated that after reviewing the criteria for both the Comprehensive Plan amendment and the rezone request, staff is recommending that both be granted.

Commissioner Bennett arrived at 7:15 p.m.

Commissioner McInteer asked for clarification about the proposed fitness center. Genevieve Theriault, with Broderick Architects, explained that the planned two-story building will house the leasing center. If the Comprehensive Plan amendment and rezone request is approved, then the building's amenities would include a fitness room for the Heights at Burien residents and a common "party" room. She noted that the building was designed with the more restrictive multifamily zoning regulations regarding things such as height and setbacks rather than the office regulations, in the hope that the rezone will be approved.

There being no further testimony, Chair Fitzgibbon closed the hearing at 7:18 p.m.

At 7:19 p.m., Chair Fitzgibbon opened the hearing on Comprehensive Plan amendment docket item 2009-6, a Comprehensive Plan map amendment and rezone request submitted by Terry Wilson of Cramer NW on behalf of property owners Larry and Karla Ohrt.

Ms. Jewett explained that the requested amendments, both relating to a parcel at 640 S. 160<sup>th</sup> Street, are to change the Comprehensive Plan designation from Moderate Density Single-Family to Intersection Commercial and to change the zoning designation from RS-7,200 (Residential Single-Family) to CI (Intersection Commercial). She went on to describe current conditions on and adjacent to the site. She noted that any commercial development adjacent to a single-family zone is required to install a 20-foot landscape buffer to mitigate the impact. Ms. Jewett said that based on review of the criteria for the requested amendments and rezone, staff is recommending approval of the requests.

Commissioner Pizarro asked if the Ohrts own any other property in the vicinity of the parcel in question; Ms. Jewett indicated on a map the Ohrts' ownership of the subject parcel and two parcels immediately south of it.

Commissioner McInteer asked when the City of Seatac changed its zoning on parcels across the street from the subject parcel from single-family residential to Aviation Commercial; Ms. Jewett replied that it occurred around the year 2000. Commissioner McInteer then asked if the Seatac zoning is similar to the requested zoning; Ms. Jewett replied that Seatac's Aviation Commercial zone requires that the businesses be airport-related, whereas Burien's Intersection Commercial zone requires smaller-scale uses supporting the surrounding neighborhood.

Chair Fitzgibbon asked if someone is living on the parcel currently; the answer was yes. He then asked if single-family residential is an allowable use in the Intersection Commercial zone; the answer was the existing house would be legal non-conforming, but a new single-family home could not be built there.

Commissioner Bennett asked what kind of notice was sent to the surrounding property owners. Ms. Jewett explained that notices were sent to neighbors within a 500-foot radius of the subject parcel. She said she received a few phone calls from neighbors wondering what potentially could be developed on the site.

Chair Fitzgibbon then called for public testimony.

**Shelley Gaines, 627 S. 159<sup>th</sup> Street**, asked what would be developed on the site if the rezone is approved. Ms. Jewett said the applicant had not stated any specific use. She then asked if the applicants live in the

house on the property; Mrs. Ohrt stated that she grew up near the property but the airport noise became too loud and she moved. Ms. Gaines then stated the following concerns:

- The site is located adjacent to an existing single-family neighborhood to the north and west, and the neighbors would like to keep this existing single-family neighborhood intact at a time when many neighborhoods have been destroyed by construction of the third SeaTac Airport runway.
- Land currently is available for commercial uses close by on 1<sup>st</sup> Avenue South and on Des Moines Memorial Drive, indicating there is not a need for additional commercially zoned property in the area.
- Single-family housing recently has been built in the area, including her home, built in 2007, indicating that the area has potential for future single-family development.
- The “aura” of the neighborhood would be destroyed by commercial development, noting the presence of wetlands and associated wildlife on the parcel of land east of the site, across Des Moines Memorial Drive.
- How future commercial redevelopment of the site might affect the value of her home and land.

**Rita Anthony, 641 S. 159<sup>th</sup> Street**, said her property is adjacent to the subject property. She asked what development is planned for the property if the rezone is approved and asked if there was a possibility of apartments being built there.

David Johanson, senior planner, stated that apartments are not included in the range of uses listed for the Intersection Commercial zone in the Zoning Code. Ms. Jewett read a list of some of the uses that would be allowed, including convenience retail, office, eating and drinking establishment, auto service, daycare centers and mixed use, which could include residential units atop a ground floor of retail or office space.

Ms. Anthony said the proposed rezoned property added to the adjacent commercial property also owned by the Ohrts would allow for a large development. She said the subject property should stay single-family residential.

**Terry Wilson, Cramer Northwest, 945 N. Central, Suite 104, Kent**, spoke representing the Ohrts. He stated the owners do not have a specific use or development planned for the property at this time. He said the changes in the area because of the third runway have resulted in an inability to short plat and develop the parcel as single-family property. He noted that his understanding of the intention of the Intersection Commercial zone is to serve the neighborhood while not making a detrimental impact to it. Although the applicants do not have a specific use in mind, they would like to have the flexibility that the rezone would provide in seeking a development opportunity for the parcel.

Commissioner McInteer asked what would be the total size of the Ohrts’ parcels combined. Mr. Wilson estimated approximately 1.2 acres total. Commissioner Bennett asked how many lots could be created from the parcel in question at the current single-family residential zoning; the answer was two.

Commissioner Shull asked staff if there are plans to do any comprehensive review of that general area in the major Comprehensive Plan update scheduled in 2011, since the area has undergone a great deal of change since the last major update. Mr. Johanson replied that there has not been any discussion to date of what that update will entail.

Mr. Wilson noted that there is difficulty in providing safe vehicular access from the property to Des Moines Memorial Dr. S., but if the property were to be developed with the adjacent properties, that difficulty would lessen considerably.

Commissioner McInteer asked if it is true that the land across the street, in the city of Seatac, is undevelopable because it's a wetland. Mr. Wilson and Ms. Jewett stated that in conversations they both had with City of Seatac staff they were not told that.

Commissioner Bennett asked the neighbors who had testified if their views have changed at all after hearing the testimony of the applicants. Ms. Gaines said she believes it is, in fact, possible to build a single-family home on the Ohrts' parcel since other new homes are being built further south on Des Moines Memorial Drive, and she requested the City install sidewalks for the children to walk to Sunnydale Elementary School or wait for a bus. She said that no one would ever want to buy her house for what it's worth with a commercial building looming over her small backyard.

There being no further testimony, Chair Fitzgibbon closed the hearing at 7:56 p.m.

Chair Fitzgibbon opened the public hearing on the 2009 policy amendments, items 2009-1, 2009-2 and 2009-4, at 7:58 p.m.

Mr. Johanson introduced the three proposed text amendments, relating to economic development, sustainability and capital facilities. The first, he said, an updating of the Economic Development Element by the Burien Business and Economic Development Partnership (BEDP), is for the most part a replacement of the current Economic Development Element. He noted that the overall objective of the Economic Development Element – to “ensure Burien is the best place to live, work, shop and visit” – did not change. He added that the key focus of the element is livability. One component of that is clustering, such the current wellness cluster and possible future performing arts, higher education, green-collar jobs and nonprofit organizations clusters. The element also embraces sustainability as a possible marketing tool for the City and arts and culture as complementary to the business environment. Also included in the element is the monitoring and reporting of unemployment, retail sales, new business license and graduation rates, and infrastructure investments.

Jeremy Hammar described the second item, Sustainability Goal and Policy Amendments, which was selected to be included in the Comprehensive Plan because sustainability is mentioned in the introduction to the Comprehensive Plan as a key objective, but is not otherwise mentioned in the document. The proposed amendments will help tie together all mention of sustainability in the plan. The high-level goals being incorporated into the amendments address sustainability and decision-making, community participation, reduction of carbon emissions, protection of ecosystems, improved quality of life and sustainable development.

Mr. Johanson described the third and final item, the Capital Facilities Element test amendments, a change that would make the Comprehensive Plan reflective of the City's move to a biennial budget process. A more detailed update of the element will take place during the major plan update in 2011.

Commissioner Shull expressed concern that not all readers of the proposed Economic Development Element amendment would understand Policy ED 3.4 “Promote mercado/plaza development zones.” Also, she said the phrase “...clusters include airport related, ‘green collar’ jobs and non-profit organizations” sounds as if it is saying the “green-collar” jobs have to be airport-related, which she doesn't think is the intent. She said Policy ED 9.3 should say have “the” inserted between “on” and “City.” Mr. Johanson recommended that because the public hearing was still open those observations should be tabled until the hearing is closed.

There being no public testimony, Chair Fitzgibbon closed the hearing at 8:11 p.m.

## **Old Business**

- a. Recommendation on 2009 Comprehensive Plan map amendments and rezone requests.*

The commissioners expressed their readiness to forward a recommendation to the City Council regarding item 2009-5, Ambaum Partners, LLC. Ms. Jewett read an appearance of fairness statement and asked the commissioners to answer several questions; each commissioner answered no to all the questions.

Commissioner Shull moved the Planning Commission recommend to the City Council approval of Comprehensive Plan amendment reference number 2009-5 and adopt the findings and conclusions of the staff recommendation. Commissioner Pizarro seconded the motion. The motion carried 6-0.

The commissioners expressed their readiness to forward a recommendation to the City Council regarding item 2009-6, Terry Wilson, Cramer NW for Larry and Karla Ohrt. Ms. Jewett read an appearance of fairness statement and asked the commissioners to answer several questions; each commissioner answered no to all the questions.

Commissioner Grage moved the Planning Commission recommend to the City Council approval of Comprehensive Plan amendment reference number 2009-6 and adopt the findings and conclusions of the staff recommendation. Commissioner Shull seconded the motion.

Commissioner Shull said she had conflicting feelings about the proposed rezone and Comprehensive Plan amendment. She said she felt it met some, but not all, of the criteria for a Comprehensive Plan amendment, for example, the requirement for public need and whether it will result in a net benefit to the community. She said one of her concerns is not knowing what would be built there, and that makes it difficult for her to vote in favor of the proposal.

Commissioner Pizarro concurred with Commissioner Shull's comments.

Chair Fitzgibbon said he believed the applicants had made their case for the rezone. He said the required 20-foot landscape buffer would be a benefit to the community if a new use was developed on the Ohrts' property.

Commissioner McInteer said she also concurred with Commissioner Shull's comments. She said she needed better definition about potential impacts of commercial development on the parcel.

Commissioner Grage said she has worked as a school nurse with families who have lost their homes to the airport and she appreciates hearing how families feel about the impacts to their neighborhoods from the airport and commercial development. She said she cannot support the request as presented.

Commissioner Bennett said it would be difficult to satisfy both the property owners and the neighbors, but he is concerned for the neighbors, not knowing what the development would be, and cannot support the proposal as presented.

Before the vote, Mr. Johanson said that he was hearing the commission choose the third option presented in the staff memo – to deny the requests and outline the findings and conclusions in support of the decision and direct staff to prepare a Planning Commission recommendation that would then be presented to the commission for action at its next meeting.

The motion to recommend approval of Comprehensive Plan amendment reference number 2009-6 failed by a 1-5 vote. The commissioners instructed staff to cite the proposal's inability to fully meet Comprehensive Plan amendment criteria B, E and I in the written recommendation to the City Council to deny the request. Commissioner McInteer asked that Ms. Jewett speak again with a planner from the City of Seatac to determine if the land across the street is, in fact, a wetland and if it is developable. She also said she would like better information on the impact of increased traffic in the area resulting from a commercial development.

Scott Greenberg, Community Development director, said he was confused as to the commission's intentions – in the vote rejecting approval, was the commission recommending denial or was it asking staff for more information? He explained that staff is there to write the commission's decision on its behalf in a way that reflects the commission's reasoning.

Commissioners agreed they wished to deny the request.

Commissioner Pizarro noted that while in reading the applicants' response to criteria B and J regarding additional residential development it seemed reasonable, but hearing the testimony of the neighbors regarding new residential development that has occurred in the neighborhood has made her question the assumption that no further residential development is possible.

Mr. Johanson said staff would bring the findings and conclusions in support of the commissioners' decision to deny to the commission at its Oct. 27 meeting.

*b. Recommendation of 2009 Comprehensive Plan policy amendments.*

The commission agreed table the agenda item until the Oct. 27<sup>th</sup> meeting.

*c. Introduction of proposed NERA Comprehensive Plan amendments, zoning map and code amendments*

Mr. Greenberg presented a brief presentation on the proposed Comprehensive Plan and zoning amendments for the Northeast Redevelopment Area (NERA). He reminded the commissioners that they will be conducting a public hearing on the NERA on the evening of Tuesday, Oct. 20<sup>th</sup>.

Commissioner Bennett asked if Burien businesses moved to Port-owned land in the NERA, would it effect Burien's tax base. Mr. Greenberg replied that the City would still collect sales tax, and if the land is leased from the Port, the City would receive a leasehold tax.

**New Business**

None

**Planning Commission Communications**

Commissioner Grage reported that Seattle/King County Public Health and some other entities are going to be at the Highline School District headquarters on Oct. 24 and a few other days to administer immunizations to the community free of charge. Further information should be available on the school district's website.

**Director's Report**

None

**Adjournment**

Motion to adjourn was made by Commissioner Shull; second by Commissioner Grage. The meeting was adjourned at 8:56 p.m.

Approved: October 27, 2009

/s/ Joe Fitzgibbon, chair