

*City of Burien*

BURIEN PLANNING COMMISSION MEETING

October 28, 2008

7:00 p.m.

Shared Conference Room

MINUTES

**Planning Commission Members Present:**

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

**Absent:** Jim Clingan

**Others Present:**

David Johanson, senior planner; Scott Greenberg, Community Development Department director; Chris Bacha, city attorney

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**Roll Call**

Chair Shull called the meeting to order at 7:00 p.m. At the call of the roll, all commissioners were present except Jim Clingan and Rebecca McInteer. Commissioner McInteer arrived at 7:07 p.m.

**Agenda Confirmation**

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

**Public Comment**

None

**Approval of Minutes**

A. October 14, 2008

Commissioner Grage moved to approve the minutes as amended; Commissioner Fitzgibbon seconded and the motion carried unanimously.

**Old Business**

A. 2008 Comprehensive Plan Map Amendments, Deliberation and Recommendation

Chair Shull explained that although there was a motion on the proposed amendments that failed at the last meeting, the commissioners did not actually make a recommendation to the City Council and therefore needs to do so tonight.

Senior Planner David Johanson read a script prepared by the city attorney for the commission's consideration. The commissioners were asked to answer the following questions: 1) Do any of you have a personal or financial interest in the project? and 2) Have any of you had ex parte contacts with proponents or opponents of the project? All commissioners answered in the negative.

Continuing, Mr. Johanson stated that this evening the Planning Commission would potentially render its final recommendation to the City Council for approval or disapproval of the rezone request.

He reminded the commissioners that their decision must be based on the record established before and during the public hearing; no evidence or testimony outside the written record may be considered.

Scott Greenberg, Community Development Department director, introduced Chris Bacha, city attorney, who was attending the meeting to answer any questions about procedure or legalities to help the commissioners form their recommendation.

Mr. Greenberg called the commissioners' attention to a memo he sent to them, dated October 27, 2008, addressing a request by the Ruth Dykeman Center (RDC) to modify its amendment application by removing the proposed multi-family rezone portion. The center is asking the commission to recommend to the City Council only the single-family rezone portion of the application. Mr. Greenberg explained that the City's zoning code does not have any specific procedures for an applicant modifying their application after they've submitted it for a Comprehensive Plan amendment or rezone. He said the only way to do so is for the commission to decide it would like to consider a modification to the application, and if so, direct staff to schedule a new public hearing on the item. Notice would be sent as it was for the first hearing, the commission would hold a new public hearing on the revised proposal and then make a recommendation on the revised proposal.

He added that if the commission decides to go that route, it will not need to consider the multi-family portion of the request this evening.

He clarified that the commission has two options: consider the application as it was submitted originally and make a recommendation to the City Council, or agree to consider the requested modified application.

Vice Chair Grage moved the Planning Commission recommend to the City Council denial of Comprehensive Plan amendment reference number 2008-7 and adopt the findings and conclusions of the draft Planning Commission recommendation report. Commissioner Fitzgibbon seconded the motion.

Vice Chair Grage said she felt the proposed amendment does not fit in with the intent of the other pending proposed text amendments regarding commute trip reduction and low-impact development.

Commissioner Bennett asked if the applicant could reapply next year if the proposed amendment is denied by the City Council this year. Mr. Greenberg said yes, a new application, even the same one, could be filed next year by June 1 and go through this process again.

Commissioner McInteer asked if by voting to recommend denial of the original application the commission is then prohibited from considering the modified application. Mr. Greenberg replied that is does.

Commissioner Fitzgibbon asked what sort of notification would go out to the public if the commission decided to consider the modified application and conduct another hearing. Mr. Johanson explained that, per procedure, the notice would be mailed to property owners within 500 feet, posted on site, published in the newspaper, and mailed to everyone who testified at the last hearing or submitted written comments, 14 days prior to the hearing.

Commissioner McInteer asked when decisions are due on the Shoreline Master Program update, given that that had been mentioned in consideration of this proposed amendment. Mr. Johanson noted that Department of Ecology approval, which is the point at which the Shoreline Master Program becomes effective, is 2010 if things go according to plan.

Commissioner McInteer asked if development of the RDC property would go forward under the current Shoreline Master Program if the rezone was approved by the City Council. Mr. Johanson explained that any development of the property would be reviewed under the Shoreline Master Program in effect at the time of development application.

Commissioner Fitzgibbon stated that is still his concern; he would prefer to see any new development along the lakefront be governed under the new Shoreline Master Program, which may be clearer and more stringent than the current program.

Commissioner Bennett asked the City Council's timeline on deciding the 2008 proposed Comprehensive Plan amendments. Mr. Greenberg explained that while technically the council could delay until early 2009 to decide on the 2008 Comprehensive Plan amendments package, doing so would preclude the consideration of any new Comprehensive Plan amendments until 2010. The annual June 1 date is the deadline for applications for Comprehensive Plan amendment applications for a given year.

Chair Shull said she is uncomfortable with denying the proposal. She allowed that there are a lot of legitimate concerns regarding shoreline development and she said she understands the concern of the residents around the lake about what new development could bring to the quality of the lake and what level of new access would be allowed. However, she said, she feels uncomfortable denying the application based on waiting for the Shoreline Management Program update to be completed, noting that perhaps a moratorium on new construction would be more appropriate to that goal as it would treat all shoreline properties equally. She said she would be interested in considering the modified proposal.

Commissioner Bennett asked if commissioners want to consider the modified proposal, then should they vote no on the motion currently on the table. Chair Shull explained that an affirmative vote on the motion on the table would deny the proposal. A nay vote on the motion would allow the commission to potentially consider the modified proposal.

Chris Bacha, city attorney, clarified that if the motion to recommend denial fails, the commission will not be able to consider it again at this meeting. He suggested that if the commission wants to consider a modified proposal the commissioner who made the motion currently on the table could withdraw it, therefore ensuring the commission could consider it again later in the meeting.

Vice Chair Grage withdrew her motion.

Commissioner McInteer moved the commission direct staff to give notice of and schedule a new public hearing to consider the requested modification of the RDC application. Commissioner Fitzgibbon seconded the motion.

Vice Chair Grage reiterated her opposition to the application, feeling the proposed amendment does not fit in with the intent of the proposed text amendments regarding commute trip reduction and low-impact development.

Commissioner McInteer said that in making the motion she would like to hear more from the RDC about why it would decided to modify the application – was it motivated by economics and how that would impact the community? She'd like to see the whole picture.

Motion carried 4 to 1.

#### B. 2008 Comprehensive Plan Text Amendments, Deliberation and Recommendation

Mr. Johanson briefly recapped the work done on the proposed text amendments to date, including the public hearing that was conducted at the last Planning Commission meeting.

Vice Chair Grage moved the Planning Commission recommend to the City Council approval of comprehensive plan amendment reference number 2008-2 and adopt the findings and conclusions

of the staff recommendation report. Commissioner Fitzgibbon seconded the motion. The amendment deals with the plan's Economic Development Element.

Commissioner Bennett asked if there are other planning policies that balance protection of critical areas with economic development that should be considered in tandem with the proposed amendments. Mr. Greenberg explained that this is policy, not law; development in a critical area is regulated by the City's critical areas ordinance.

Motion carried 5-0.

Vice Chair Grage moved the Planning Commission recommend to the City Council approval of comprehensive plan amendment reference number 2008-3 and adopt the findings and conclusions of the staff recommendation report. Commissioner Fitzgibbon seconded the motion. The amendment deals with commute trip reduction.

Motion carried 5-0.

Vice Chair Grage moved the Planning Commission recommend to the City Council approval of comprehensive plan amendment reference number 2008-4 and adopt the findings and conclusions of the staff recommendation report. Commissioner Fitzgibbon seconded the motion. The amendment deals with low-impact development.

Commissioner Bennett asked what is meant by "if no feasible alternative exists." Mr. Johanson explained sometimes a wetland or stream may have to be altered to facilitate, for instance, a workable gravity sewer line flow, but the key in this amendment is the new language "...shall not result in a net loss of associated natural functions and values of those systems." It expands protection of wetlands by looking at system-wide planning, not simply site-by-site planning.

Chair Shull asked about the status of the low-impact development implementation framework. Mr. Johanson said this amendment is the first step in implementation.

Commissioner Fitzgibbon cited a case before Pollution Control Hearings Board where some groups are seeking to require the use of low-impact development; are these proposed amendments in answer to that? Mr. Greenberg said he is not aware of that specific case, but these proposed amendments would not have a direct relationship to that.

Motion carried 5-0.

Vice Chair Grage moved the Planning Commission recommend to the City Council approval of comprehensive plan amendment reference number 2008-6 and adopt the findings and conclusions of the staff recommendation report. Commissioner Fitzgibbon seconded the motion. The amendment deals with traffic impact fees.

Motion carried 5-0.

Vice Chair Grage moved the Planning Commission recommend to the City Council approval of comprehensive plan amendment reference number 2008-8 and adopt the findings and conclusions of the staff recommendation report. Commissioner Fitzgibbon seconded the motion. The amendment deals with transit.

Motion carried 5-0.

### **New Business**

None

### **Planning Commission Communications**

Chair Shull reported on the Oct. 23<sup>rd</sup> public meeting on the Northeast Redevelopment Area strategy. Mr. Greenberg expanded on that, reporting on the stakeholder meetings with city staff,

Port of Seattle staff, the Burien Business and Economic Partnership, auto dealers, and representatives from the City Council and the City of Seatac.

Chair Shull stated she received an e-mail from Commissioner Bohn stating his intention to resign from the Planning Commission.

She also stated she would like the commission to take up the topic of sustainability again.

**Director's Report**

Mr. Greenberg announced that the superstructure for the transit center has been erected and work is continuing at a good pace. He also noted that work on the City Hall/library is moving along well and the City anticipates a move-in date around May 1.

He noted that the next regularly scheduled Planning Commission falls on Veterans Day and therefore is canceled.

**Adjournment**

Motion to adjourn was made by Commissioner Grage. Second was by Commissioner Fitzgibbon and the motion carried unanimously. Chair Shull adjourned the meeting at 8:10 p.m.

Approved: \_\_\_\_\_

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Janet Shull, chair  
Planning Commission