

*City of Burien*

BURIEN PLANNING COMMISSION MEETING

November 10, 2009

7:00 p.m.

Miller Creek Room, Burien City Hall

MINUTES

**Planning Commission Members Present:**

Joe Fitzgibbon, Brian Bennett, Stacie Grage, Rachel Pizarro, Jim Clingan

**Absent:** Janet Shull, Rebecca McInteer

**Others Present:**

Scott Greenberg, Community Development Department director; Chip Davis, planner

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Chair Fitzgibbon called the meeting to order at 7:00 p.m. At the call of the roll all commissioners were present except Commissioners Shull and McInteer.

**Agenda Confirmation**

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

**Public Comment**

**Daryl Tapio, 16833 40<sup>th</sup> Lane S, Seatac**, owns property within the annexation area. He said under King County it is zoned R-48 and it appears Burien zoning also would be R-48; he does not want his property downzoned. He said he would be interested in finding out details about Burien's R-48 zone such as setbacks and building height limits. He noted that King County has density incentives and he would like to see Burien offer as equal incentives as possible to maintain the development potential of his property because several realtors have told him a "downzone" will significantly impact the value of it.

**Gerald Robison, 1228 SW 119<sup>th</sup> St, Burien**, said he wants to make sure Burien takes into account the special overlay zoning in the Salmon Creek area, added by King County to accommodate the established businesses that didn't fit into the zone designated in the King County Code when it was amended in the early '90s.

**Approval of Minutes**

None

**Old Business**

- a. *Discussion and recommendation on proposed NERA comprehensive plan and zoning code/map amendments.*

Scott Greenberg, Community Development director, introduced the agenda item, noting that the commissioners have all the public comment received by the City on the proposed NERA amendments. All of the comments will be responded to in the NERA Final Supplemental Environmental Impact Statement. He urged the commissioners to at least make a recommendation on the proposed comprehensive plan amendments, which would allow the amendments to meet the deadline for the annual

adoption of comprehensive plan amendments by the end of 2009. He told the commissioners that if they need more time to consider the comprehensive plan amendments it is possible to schedule special meetings before the end of the year so they can complete their work. He further explained that the zoning code amendments do not have an end-of-the-year deadline, so the commissioners can take more time considering them, if necessary, as long as they get the comprehensive plan amendments out of the way.

Mr. Greenberg pointed out that the only change made from the packet the commissioners saw at their Oct. 24<sup>th</sup> meeting is a proposed storm drainage impact fee in return for the zoning code up to 95 percent of impervious surface coverage. The fees would help fund regional storm drainage facilities in the NERA that would be more efficient and cost-effective than building full storm drainage control on a particular property. He characterized it as a win-win situation.

Commissioner Bennett asked what the response will be to a comment letter expressing an assumption that the writer's house will be demolished for an auto mall. Mr. Greenberg replied that the house in question is located to the west of where an auto mall would be constructed, in an area of privately owned properties. A developer would have to buy a large number of small properties in the area to be able to build a project, and the decision to sell would be the individual homeowner's. The Port and the City have no plans to buy properties in that area. Commissioner Pizarro asked if an auto mall would surround the writer's home; Mr. Greenberg replied that if the writer was the only person on the block that does not sell – should a developer buy up properties for an auto mall – then yes, potentially that one house could be surrounded by an auto mall.

Commissioner Bennett then asked what kind of buffers there would be between an auto mall and a “hold-out” house. Mr. Greenberg responded that there would be a 10-foot-wide screening landscape strip of evergreen and deciduous trees, shrubs and ground cover, all of which is part of current code. He added that from a policy standpoint, staff is recommending that the Planning Commission and City Council send a message to that part of the community that in the long term the City believes it's not a good location to be living in and in the long term the City envisions the NERA area to be business-oriented because of the impact from the airport. Requiring larger buffers would send a message to business owners that they are constrained in how much of their property they can use while protecting single family homes that in the long term probably shouldn't remain there.

Commissioner Bennett asked what the City's response will be to the e-mail comment asking that the PR zone be extended to South 136<sup>th</sup> Street. Mr. Greenberg replied that in the past, the people between 138<sup>th</sup> and 136<sup>th</sup> have wanted to remain as a neighborhood. Also, the idea has been to keep access to the area off of 136<sup>th</sup>, focusing it onto 140<sup>th</sup> Street; extending the PR zone would add considerable vehicle traffic to 136<sup>th</sup> Street. Mr. Greenberg pointed out that all of the land between 138<sup>th</sup> and 136<sup>th</sup> is privately owned, smaller parcels; he said at this time there is not an obvious benefit to the community to extend the NERA at this time.

Chair Fitzgibbon asked for a clarification of the environmental impacts of the proposed NERA comprehensive plan and zoning code/map amendments in general. Mr. Greenberg replied that it is hard to characterize quickly what the impacts would be and referred commissioners to a table beginning on page 1-18. The table lists each area of the environment that was analyzed and whether mitigating measures would be required. For most of the areas, except transportation, it was determined that no mitigating measures are required. He said that based on the study, the City is not expecting any “probable significant adverse” environmental impacts, terms defined in state SEPA law. For the most part, he added, there is no additional probable significant adverse environmental impact by the preferred alternative over the current land use regulations.

Commissioner Pizarro moved that the Planning Commission adopt the findings and conclusions contained in Attachment 1 recommending approval of Comprehensive Plan Text and Map Amendment and Rezone Alternative 1. Commissioner Grage seconded. The motion carried 5-0.

Commissioner Pizarro then moved that the Planning Commission adopt the findings and conclusions contained in Attachment 2 recommending approval of Zoning Code Text Amendments Alternative 1. Commissioner Grage seconded. The motion carried 5-0.

### **New Business**

- a. *Introduction on conversion of King County zoning classifications to Burien zoning classifications in the North Highline Annexation Area.*

Chip Davis, planner, introduced the agenda item, noting that in August 2009 56 percent of the registered voters in the North Highline Annexation Area voted to join the city of Burien. Since then, City staff has been working on the transition of the annexation area into the city; zoning is one of the issues that must be addressed. The City's zoning regulations for the area must be ready to go into effect upon the formal annexation of the area, currently planned for on or about March 2, 2010.

Mr. Davis noted that Comprehensive Plan Policy AN 1.2 states that if annexation is approved the City should adopt interim zoning and comprehensive plan land use designations comparable to existing King County designations. Within two years of annexation the City should complete a process to confirm or change the interim designations. Therefore, staff is recommending a simple conversion from the existing King County zoning designations to comparable City of Burien zoning designations, as outlined on a chart included in the commissioners' meeting packet.

He noted two exceptions. The first is the county's R-8 Urban Residential designation. There are few properties that have that designation, one is a nursery; staff is proposing incorporating those properties into the City's RS-7,200 zone. The other exception is the county's RM-48 Residential Multifamily designation; the highest multifamily density allowed in Burien's code is RM-24. Staff is proposing to create an RM-48 designation in the City's existing zoning code and apply that only in the North Highline area.

Mr. Davis then reviewed the tentative schedule; the Planning Commission will have a public hearing on the conversion on November 24<sup>th</sup>, with discussion and possible recommendation on December 8<sup>th</sup> or December 15<sup>th</sup>. The Planning Commission's recommendation would be presented to the City Council in January and they would work toward adoption sometime in February.

He reiterated that this is interim zoning. A second phase of the conversion will involve the City's regular annual Comprehensive Plan update cycle and a neighborhood planning and zoning effort, where further adjustments to the designations will be considered.

Councilmember Kathy Keene, in the audience, asked whether the nursery parcel falls into the RS-7,200 zone will it change its tax liability or put pressure on it to leave. She noted that the nursery has been there a very long time. Mr. Davis replied that technically it is a downzone, so there would be less pressure for them to convert it to another use. Commissioner Bennett asked how the R-8 lots came into being; Gerald Robison, in the audience, explained that many of them are the result of individual applications for rezones to allow lots to be developed smaller than the County's minimum lot size under its former RS-7,200 zone (now R-6).

Commissioner Fitzgibbon asked what the County's special overlay entails. Mr. Robison explained that the special overlay is a Commercial/Industrial overlay the area was zoned general commercial, which under the old King County code allowed a wide range of businesses including machine shops, light manufacturing and others that required industrial zoning after the rezone. Instead of rezoning the area to industrial, the County put the overlay in place to allow the existing uses to become legal. Mr. Robison listed several of the existing businesses in the overlay area including a boat and RV storage, truck rental, construction contractor, a small manufacturing company and others. Commissioner Fitzgibbon expressed

concern that the City doesn't have a zone that closely fits the uses in that area. Mr. Greenberg said that if the commissioners would like staff to look into, staff can bring to the commission something that maintains that same idea. Mr. Robison noted that if Burien annexes the rest of North Highline there are a number of additional zoning overlays in that area.

Mr. Tapio, in the audience, said he is in favor of the building height limits that the county has in its RM-48 zone; Burien's height limit of 35 feet wouldn't allow builders to reach maximum density. Chair Fitzgibbon asked staff to find out about the height limits and density incentives in the county's RM-48 zone and whether the City can continue offering what the county offers.

Mr. Greenberg said staff can provide the information. He noted that any business use already established that is not allowed in the zone it is in by the City's code would be a "continuing use" as opposed to a "nonconforming use," the distinction being that continuing uses can be expanded whereas a nonconforming use can be expanded by only a small amount or only by special permission.

A woman in the audience asked if the City will enforce nuisance laws, such as cleaning up junk vehicle storage on vacant lots. Mr. Greenberg confirmed that the City will enforce its laws.

### **Planning Commission Communications**

None

### **Director's Report**

Mr. Greenberg announced that the City is winning an award from the state chapter of the American Planning Association for its Town Square project, to be presented at the annual chapter conference later in the week.

### **Adjournment**

Motion to adjourn was made by Commissioner Grage. Commissioner Pizarro seconded the motion. The meeting was adjourned at 8:01 p.m.

Approved: December 15, 2009

/s/ Joe Fitzgibbon, chair