

**CITY OF BURIEN
AGENDA BILL**

209

Agenda Subject: Discussion of Amendment to BMC 14.10.050 Modifying Existing SEPA Planned Action Provisions for the Northeast Redevelopment Area

Meeting Date: December 7, 2009

Department: Community Development	Attachments: <u>Draft Ordinance</u>	Fund Source: N/A
Contact: Scott Greenberg, Community Development Director		Activity Cost: N/A
Telephone: (206) 248-5519		Amount Budgeted: N/A
		Unencumbered Budget Authority: N/A

Adopted Initiative: <u>Yes</u> No	Initiative Description: NE Redevelopment Area
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PURPOSE/REQUIRED ACTION: The purpose of this item is for City Council to discuss a proposed modification to Burien Municipal Code (BMC) Section 14.10.050 relating to State Environmental Policy Act (SEPA) planned actions within the Northeast Redevelopment Area (NERA). No action is required at this meeting.

BACKGROUND (Include prior Council action & discussion):
The proposed "housekeeping" amendments would change the names of several existing Comprehensive Plan and zoning designations referenced in BMC 14.10.050 to reflect the proposed designations for the NERA and replace an old FEIS reference. The proposed changes are:

ITEM BEING CHANGED	CURRENT	PROPOSED
Comprehensive Plan Designation	Special Planning Area 4	Northeast Redevelopment Area
Zoning Designation	Special Planning Area 4	Airport Industrial and Professional Residential
Date of Referenced Final SEIS	Nov. 12, 2003	Nov. 23, 2009

The adoption of the proposed ordinance should occur after the adoption of the proposed NERA-related Comprehensive Plan text and map amendments, and the proposed zoning text and map amendments. If Council is ready on December 14th, we propose that the Comprehensive Plan, zoning and planned action amendments all be adopted at the same meeting. Otherwise, action can be rescheduled for a later date.

OPTIONS (Including fiscal impacts):
N/A

Administrative Recommendation: Receive staff presentation and provide direction to staff.

Committee Recommendation: N/A

Advisory Board Recommendation: N/A

Suggested Motion: N/A

Submitted by: Scott Greenberg Administration <u>SG</u>	Mike Martin City Manager <u>[Signature]</u>
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Today's Date: November 30, 2009	File Code: R:\CC\Agenda Bill 2009\120709cd-1 NERA Planned Action.docx
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CITY OF BURIEN, WASHINGTON**ORDINANCE NO. xxx**

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON AMENDING BURIEN MUNICIPAL CODE SECTION 14.10.050 RELATING TO PLANNED ACTIONS, DESIGNATING THE NORTHEAST REDEVELOPMENT AREA AS A PLANNED ACTION AREA, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the State Environmental Policy Act, at RCW 43.21C.031, authorizes cities to review certain development proposals as “Planned Actions”, subject to compliance with legislation and regulations guiding review of such projects; and

WHEREAS, RCW 43.21.C.031 expressly provides that the term “Planned Action” means one or more types of project action that have had the significant environmental impacts related to the project adequately addressed in an environmental impact statement prepared in conjunction with a comprehensive plan or subarea plan adopted under RCW 36.70A, among other requirements; and

WHEREAS, on April 18, 2005, the Burien City Council adopted Ordinance 432 establishing a Planned Action for the “Northeast Special Planning Area” (now known as the Northeast Redevelopment Area); and

WHEREAS, on November 23, 2009, the City of Burien issued a Final Supplemental Environmental Impact Statement (SEIS) under the State Environmental Policy Act (SEPA), Chapter 43.21C RCW that considered the impacts of anticipated development within the Northeast Redevelopment Area (NERA), provided for mitigation measures, and other conditions to ensure that future development will not create adverse environmental impacts; and

WHEREAS, on December 14, 2009 the Burien City Council adopted comprehensive plan policies and environmental mitigating measures for the NERA; and

WHEREAS, on December 14, 2009 the Burien City Council adopted development regulations and design guidelines for two new zones within the NERA: Airport Industrial (AI) and Professional Residential (PR); and

WHEREAS, the City of Burien conducted an extensive public participation and review process for preparation of the SEIS and related Comprehensive Plan amendments, development regulations and design guidelines;

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

Section 1: Findings. The City Council finds that:

1. Environmental impacts of the planned action have been identified and adequately addressed in the Final Supplemental Environmental Impact Statement for the Northeast Redevelopment Area (NERA) issued November 23, 2009 (hereafter "SEIS") that was prepared and issued pursuant to Chapter 43.21C RCW in conjunction with the adoption of Comprehensive Plan policies and development regulations related to the Northeast Redevelopment Area.
2. The Comprehensive Plan policies, development regulations, SEIS and adopted mitigation measures have addressed all significant environmental impacts associated with planned actions within the NERA.

Section 2: Amendments to BMC 14.10.050 (Planned Actions). The City Council of the City of Burien hereby amends BMC 14.10.050 as shown on attached Exhibit A and incorporated by this reference as if fully set forth herein.

Section 3: 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 4: 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 5: 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 DECEMBER, 2009, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS _____ DAY OF DECEMBER, 2009.

CITY OF BURIEN
/s/ Joan McGilton, Mayor

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

Approved as to form:
/s/ Christopher Bacha
Kenyon Disend, PLLC
Interim City Attorney

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

**ORDINANCE XXX
EXHIBIT A**

14.10.050 Planned actions.

- (1) The purpose of this section is to streamline and expedite the permit review process for projects that qualify as planned actions.
- (2) Development proposals within ~~Special Planning Area 4~~ the Northeast Redevelopment Area as designated in the Burien Comprehensive Plan are designated to be planned actions if:
 - a. The significant environmental impacts of the proposal have been adequately addressed in the Final Supplemental Environmental Impact Statement (hereafter "SEIS") prepared for the Northeast ~~Special Planning~~ Redevelopment Area issued November ~~12, 2002~~ 23, 2009; and
 - b. The proposed project includes appropriate mitigating measures included in the SEIS; and
 - c. The development proposal implements the Comprehensive Plan policies relating to ~~Special Planning Area 4~~ the Northeast Redevelopment Area; and
 - d. The development proposal is for uses allowed in BMC 19.15.070, ~~Special Planning Area 4~~ Airport Industrial zone or BMC 19.15.030 Professional Residential zone; and
 - e. The project is not an essential public facility as defined in RCW 36.70A.200; and
 - f. The thresholds for total development analyzed in the SEIS would not be exceeded; and
 - g. The requirements of RCW 43.21C.031 and WAC 197-11-164 through 197-11-172 are met.
- (3) Planned action determination.
 - a. Application. To assist the director in making his/her determination, the applicant shall submit a planned action environmental checklist and supporting information. The director shall specify the submittal requirements on a submittal checklist. Within 28 calendar days after a complete submittal, the director shall issue a written determination on whether the proposed development qualifies as a planned action pursuant to subsection (2) of this section. A request for a planned action determination shall not require the issuance of a threshold determination under SEPA, as provided by RCW 43.21C.031, WAC 197-11-172(2)(a) and this chapter.
 - b. Positive Determination. If the director determines that the proposed project qualifies as a planned action, no further environmental review is required under this chapter.
 - c. Negative Determination. If the director determines that the proposed project does not qualify as a planned action, the proposed project shall require additional environmental review and appropriate mitigation.
 - d. Appeals. There is no administrative appeal of the director's determination to approve, conditionally approve, or deny the request to have the development processed as a planned action.
- (4) Nothing in this section limits the city from using this chapter or other applicable law to place conditions on the project in order to mitigate nonsignificant impacts through the normal project review and permitting process.