

**RECORD OF PROCEEDINGS OF THE
PLANNING AND DEVELOPMENT COMMISSION
CITY OF BELLINGHAM, WASHINGTON
PUBLIC HEARING**

THURSDAY
July 23, 2009
Video-taped & Audio-recorded

7:00 P.M.
CITY COUNCIL CHAMBERS
www.cob.org

CALL TO ORDER:

The meeting was called to order by Tom Barrett, Chairman of the Planning Commission.

ROLL CALL:

Tom Barrett, Jim Bishop, Sharon Robinson, Kurt Baumgarten, Edie Norton, Allen Matsumoto, and Danne Neill.

Present: Tom Barrett, Jim Bishop, Sharon Robinson, Kurt Baumgarten, Edie Norton, and Allen Matsumoto.

Absent: Danne Neill

Staff Present: Tim Stewart, Director of Planning and Community Development; Tara Sundin, Special Projects Manager; Darby Galligan, Development Specialist; Marilyn Vogel, Senior Planner; Chris Koch, Planner II; and Heather Aven, City Recording Secretary.

APPROVAL OF MINUTES:

Minutes for May 14, 2009 and June 11, 2009 were submitted for approval.

MOTION: Edie Norton moved to approve the May 14, 2009 minutes with corrections. SECONDED. VOTE: 5-0-1 (BARRETT ABSTAINED)

MOTION: Sharon Robinson moved to approve the June 11, 2009 minutes with corrections. SECONDED. VOTE: ALL AYES

15 MINUTE PUBLIC COMMENT PERIOD:

No testimony given.

PUBLIC HEARING #1:

ZON2009-00001: A public hearing to continue the consideration of the adoption of the Samish Way Urban Village Sub-Area Plan and implementing development regulations. This includes new zoning for a portion of Sehome Neighborhood Area 14 and all of Areas 15 and 16; and a portion of York Neighborhood Area 5 and all of Area 8. The project boundary is generally west of Interstate 5, north of Bill McDonald Parkway, east of 34th Street and south of Edwards Street.

STAFF PRESENTATION

Darby Galligan provided an overview of the required notification process as well as the things staff did in an effort to include the public in the planning process. She reviewed the top four issues that stemmed from the Public Hearing and written public comments, and summarized the changes that staff has agreed to make.

Permitted Uses within the Residential Transition (RT) Area: Darby explained that staff originally proposed that this transition area would allow single-family residences, at a uniform density of 5,000 square feet per unit and held to the same regulations currently permitted throughout the City for single-family development; as well as the Infill Toolkit housing forms at density of 2,000 square feet per unit and held to the regulations outlined in the Infill Toolkit. She pointed out that based on public input, staff has proposed to split the residential transition area into three different parts to help preserve the character and interest of the surrounding neighbors.

RT1 - She stated that this area includes Area 5 of the York Neighborhood with the exception of the one property proposed to be part of the Commercial Transition Zone. She stated staff proposes allowing single-family at the density of 5,000 square feet per unit, but only allowing the Infill Toolkit housing forms of small/smaller lot, cottage, carriage, and accessory dwelling units.

RT2 - She explained that this area is currently zoned multi-family at a density of 2,000 square feet per unit. She stated that staff has proposed also allowing single-family residential, excluding apartments, but including all of the Infill Toolkit housing forms.

RT3 - She stated that this area includes the Sehome Neighborhood. She stated that staff is proposing to keep the single-family designation, but at a density of 5,000 square feet per unit, instead of the 10,000 square feet per unit currently allowed. She explained that the Infill Toolkit housing forms would also be allowed in this area excluding Duplex / Triplex and Townhouse forms.

Transitions between the Commercial Transition Areas and the Residential Transition Area: Darby stated that the original staff recommendation has been maintained and reiterated that the setback requirements and the design standards will be added into the Samish Way Development Code. She pointed out that, based on feedback, this code requirement has been expanded to apply to buildings that are within 30' of a property line that is abutting, or across the right-of-way from, a residential zone. She explained that staff is also proposing to split the commercial transition area into two parts to allow for different height limits which would reflect varying topography.

CT1 – She stated that this area (within the York Neighborhood) would have a height limit that is reduced to 45'.

CT2 – She stated that this area (within the York Neighborhood) would remain at the proposed 55' height limit.

Darby expressed staff's concern that the 45' height limit may not allow for structured parking and still be economically feasible.

Non-conforming Uses: Darby stated that staff is continuing to recommend that drive-thrus be permitted in the "approach" but prohibited in the Core Area; however staff has revised their position on existing drive-thrus. She explained that those that are currently existing would have a permitted designation, allowing them to rebuild in their existing configuration. She explained how the non-conforming regulation would apply in the event of voluntary or accidental destruction.

Extension and Construction of 35th Street: Darby stated that staff proposes 35th Street be considered a Type II street; which is a 60' right-of-way with sidewalks and parking on both sides. She explained that the proposal includes the qualifier that upon redevelopment, the property owner would be required to dedicate a 30' right-of-way and perform the sidewalk and street improvements for that half. She mentioned that additional language has been included that would allow the owners to retain all of the development rights. She emphasized that the right-of-way is very important to create the Urban Village and bring many benefits to the surrounding property owners.

PUBLIC HEARING OPENED

Phil Serka representing Albar, LLC – He stated that, in his opinion, the code on the 35th Street extension is ill-advised. He referred to the language which states that anyone along that right-of-way would have to dedicate and build a half standard street upon redevelopment. He pointed out that since redevelopment is not defined in this section, it is not clear what triggers the requirement, nor does the language comply with RCW 82.02.020, in his opinion, since no analysis to determine if the impacts from the development itself would cause an issue prompting additional traffic improvements is being required. He commented that the city does not currently have a right-of-way in this location and expressed concern that a road may be started and never completed if other developers do not come. He suggested the concept of a LID agreement, rather than requiring each developer to build a portion of the road separately. He reiterated his request that signage requirements be a bit more flexible.

Eddie Norton asked Phil to clarify his position on the signage issue.

Phil Serka replied that, although staff has made the existing drive-thrus an allowable use in the Transitional Core Area, the proposed signage restrictions are too limiting for those facilities.

John Canterbury expressed his concern regarding the proposed signage regulations. He stated that, in his opinion, the regulations will not entice potential regional and national food/restaurant tenants. He stated that the repressive regulations impact the property, and encouraged the Planning Commission to consider the language that Phil Serka provided.

Tim Hostetler, Sehome Neighborhood MNAC Representative commended the staff for an excellent process. He expressed concern regarding the existing mobile home park gaining access onto 34th street at some point in the future, and pointed out that this road is a major pedestrian corridor to Sehome Village. He stated that if the traffic along 34th Street increased, improvements to both the road and pedestrian safety should be required.

Don Keenan, President of Sehome Neighborhood Association reported on the consensus derived from the neighborhood meeting. He referenced the Samish Way Urban Village decision agenda:

- **1b, line 32.** He stated that the association recommended changing “facing” to abutting. He commented that the association also requests that the entrances/exits to the properties along 34th Street be by means of 35th Street and not via 34th. He expressed concern that access from 34th would result in snout houses with the most prominent feature being the garage, which would not fit with the characteristics of the neighborhood. He explained that the association also encouraged the minimum lot size to be 3,000 sq. feet.
- **1d, line 41.** He suggested that “should consider” in that sentence be replaced with shall. He explained why the association would like to see the stronger language used in this instance.
- **1g, line 11.** He suggested including modifying the sentence to reflect the potential for collision with vehicles attempting to enter or exit the roadway.
- **1m, line 35.** He stated that the association would like to additional language that would clearly state the vision for this area is focused on bicycle and pedestrian, not motorized vehicles.
- **2a, line 3.** Don stated that “construction” should be replaced with destruction.
- **2e.** He stated that the association would like to see additional language added that would move along the transition from auto-orientation to pedestrian-orientation; especially in the northern core.
- **2f.** He commented that although there is agreement with the proposed changes that staff made regarding the topography issue, the association expressed concern over the impact that a future sub-division of the Aloha Motel property might bring. He requested clarification language be

included that would explain where the height limit would be measured from – the highest point or the lowest point of the property.

- **2k.** He pointed out that “any development” should be clarified in that sentence to remove the need for interpretation.

He commended the staff for their work and the fact that they were willing to go beyond what would normally be expected of them. He also commended the Commission for being willing to visualize the changes, in an effort to see and understand, and not just merely listen to the comments.

Harriet Spanel thanked the Commission for the time spent on improving the plan. She emphasized that 34th Street is currently very pedestrian oriented, and in an effort to keep the children safe that use that roadway as a path to school, it should not have increased auto traffic. She mentioned that the lots between 34th Street and 35th Street do not have access for garbage trucks or for commercial deliveries, but pointed out that there is an alley for businesses on the other side of the highway. She agreed with the changes that staff made related to the topography as it relates to the height restrictions.

Dave Cole commended staff on their work; as well as the neighborhood volunteers that have worked on this process. He commended the Commission for taking time out of their own schedule to “walk” the neighborhood and hear what the community had to say. He clarified what he meant by some of the language in his written submittal. He stated that “urban village” would encompass anything beyond the residential transition. He requested that since there is consensus about the vehicle access onto 34th, language reflecting that fact should be added into the plan.

Dominique Zervas suggested removing the word “sudden” from the non-conformity section to allow for those damages that happen over time, such as water behind walls, or carpenter ants; as well as, include “or destroyed” for consistency sake. She expressed her concern about the requirement of constructing 35th as development occurs, and suggested that the Commission consider the LID option. She recommended striking “or renovations of 50% or more of an existing structure” as it relates to redevelopment.

Tom Scott, President of the York Neighborhood Association referenced the written letter dated July 21, 2009. He stated that the York Neighborhood agrees with the retention of setbacks and the parking requirements for those properties that abut or are adjacent to residential single-family zoning. He commented that the majority of the homeowners in Area 5 are opposed to having the zoning changed from single-family, residential; in fact, they would like to see all of Area 5 be retained as it is currently, including those properties that go beyond Edwards Street. He expressed his concern regarding Area 8 becoming a transition zone that would allow the sliding height limit, and would like to see gradual height changes instead.

Lisa Anderson stated that, as she understands it, she is being removed from the York Neighborhood; and she does not support that, she would like to remain in the York Neighborhood. She would like to remain in the single-family neighborhood, and not part of a transition zone. She urged the Commission to consider what the York Neighborhood Association has proposed.

Ann Mackie reiterated that the York Neighborhood supports the Samish Way Urban Village. She stated that if the single-family zoning along Edwards Street is maintained, it will provide protection for those single-family homes that have been identified in the City’s Preserve America Survey of Historic Housing. She stated that the nature of the street would be changed if the transition zone was allowed. She encouraged the Planning Commission to ensure that the notification process was followed that informed the neighborhood that a rezone is taking place in Area 5. She referenced item 2d on the decision

agenda and pointed out that it states "RT1 (formally York Neighborhood)" and expressed her concern about the notification process regarding this rezone.

PUBLIC HEARING #2:

Amendments to the Bellingham Municipal Code 20.25 to require a design review process and establish design standards for development in Urban Village districts. The design standards would be applied as appropriate through Urban Village development regulations such as the Samish Way Urban Village.

PUBLIC HEARING OPENED

Dominique Zervas explained that the information she sent to the Commission earlier reflects a proposed change that cannot happen because it was not noticed.

Tara Sundin clarified that the information that Dominique submitted includes the City Center Design Review, which was not noticed as being part of this public hearing. She explained that the only change that was noticed was the addition of "Urban Village Districts" to the heading.

Dominique Zervas explained her concerns, but since it could not be considered by the Commission was not included in the minutes.

Darby Galligan responded to the comments provided during the Public Hearing. She stated that she will comment on three items at this time, and provide information on the other items during the discussion of the decision agenda. She clarified that the definition of redevelopment is provided under BMC 13.08.030 (outlined on page 11 and 12 of the Commission packet), and stated that staff would be willing to provide clarifying language in the appropriate section. She responded to the concerns about the non-conforming signage, and referenced that the existing code would allow the signage to remain and explains at which time the signage would have to be changed. She also clarified that Area 8 would remain in the York Neighborhood, and apologized for the mis-leading language.

BOTH PUBLIC HEARINGS CLOSED

10 minute break

DISCUSSION:

Issue 1 – Sub-Area Plan

A - Darby stated that this item reflects the changes that were made to the maps to reflect the residential and commercial transition zones.

Jim Bishop wanted to know how important Residential Transition (RT) Zone 1 is to the scope of the Urban Village Sub-Area Plan.

Darby Galligan replied that the transition areas are all equally important to the plan; however, they are the fringe of the transition zone and they are intended to be that buffer between the single-family residential zones and the commercial core.

Kurt Baumgarten wanted to know the current zoning for the Commercial Transition zone.

Darby Galligan replied that it is zoned auto-commercial with a 3-story height limit with no residential allowed, with the exception of one lot that is currently within the residential single-family zone.

Edie Norton confirmed that the housing types proposed for RT1 are all single-family units.

Darby Galligan responded that there are no multi-family units being proposed in RT1, the only Infill Toolkit housing forms that would be allowed would be small lot, cottage, carriage, and detached ADU's. Sharon Robinson suggested that RT1 be removed from the plan.

Allen Matsumoto pointed out that if RT1 retained the single-family zoning designation, a 5,500 square foot home could be built on a 3,000 sq. ft. lot. He stated that on the other hand, if RT1 was established, the homes that could be built would only be 1,050 sq. ft on a 3,000 sq. ft. lot. He suggested that RT1 remain part of the plan, because he is not convinced that the York Neighborhood is aware of the unintended consequences removing it could bring.

Tom Barrett would like to see the RT1 area removed from the plan, and leave the zoning for the Master-Lube property as it is today.

STRAW VOTE: To leave the Master-Lube property, the house behind it, and Area 5 of the York Neighborhood exactly as it is zoned today, and remove them from the Sub-Area Plan. VOTE: 4-2-0 (Matsumoto, Baumgarten opposed)

Allen Matsumoto stated that, in his opinion, it is pre-mature to come to the above decision without more discussion and analysis done.

B – Darby explained that this section reflects language that clarified the types of uses that would be allowed in RT3 along 34th Street. She stated that staff will change “facing” to abutting and include language that prohibits through access from 34th Street into the Commercial Zone.

F – Darby pointed out the revisions that happened.

B (DR) – Darby commented that the maps had been revised to reflect the transition zone changes.

D (DR) – Darby explained that this was the permitted uses table that had revisions done to reflect the non-conforming use changes.

Allen Matsumoto referenced page 5, line 23 of the permitted use table, and wanted to clarify that the a detached single-family dwelling unit can be 5,500 sq. ft. or more total floor area.

Darby Galligan replied that this section reflects the existing residential development code. She explained that all zones permit residential less than 5,500 sq. ft., and allow larger than 5,500 sq. ft with a conditional use permit.

Sharon Robinson is in favor of staff's recommendations.

Tom Barrett expressed concern that RT2 does not allow multi-family housing forms, since it is currently zoned multi-family. He suggested changing #27 from “N” to P.

Darby Galligan stated that it is currently zoned multi-family, but staff's recommendation was to discontinue that use and only allow the Toolkit housing forms; however if the Commission would like to continue to allow multi-family, staff would be supportive of that. She explained that by doing that a property owners would be able to choose to follow the multi-family regulations or the Toolkit development standards.

STRAW VOTE: To change the indicator from N to P, to allow multi-family zoning in RT2.
VOTE: 6-0-0

Jim Bishop stated that 34th Street should remain primarily pedestrian, and uses that would add intense traffic should be limited.

Darby Galligan stated that staff would bring language to the worksession that addresses prohibition of access from the Commercial Transition zone to 34th Street.

Sharon Robinson commented that 35th Street and the dedication of a right-of-way should be discussed.

Darby Galligan stated that the information received from the public would be discussed with the legal department and language can be brought to the worksession concerning that issue.

Sharon Robinson stated that she is in favor of the LID.

Kurt Baumgarten also was in favor of the LID option over the way it has been proposed.

Edie Norton suggested that the implications of the LID agreement also be weighed.

Tom Barrett requested additional information on signage.

Sharon Robinson would like to consider comments made by Don Keenan relating to the Aloha Motel.

Darby Galligan replied that to satisfy community concern, staff would suggest moving that property into the Commercial Transition Zone rather than the Commercial Core.

GENERAL BUSINESS:

Planning Director's Report – Tim Stewart
Nothing to report.

Staff Discussion

Commissioner Discussion

There was a discussion about how materials should be put together and distributed.

ADJOURNED: 10:10 p.m.

NEXT MEETING: August 6, 2009 in City Council Chambers

Minutes prepared by:

Heather Aven, Recording Secretary

Minutes edited by Planning Commission members and various Planning Staff.