

LAND USE BULLETIN



VOL. 17,
ISSUE 4

April 2008

This bulletin provides an update on all pending land use actions ranging from opportunities for citizen involvement and appeal of proposed development projects, to the meeting calendar for land use and planning related activities.

APPLICATIONS IN PROCESS

Planning Commission – is scheduled for **Wednesday, April 16, 2008 at 7:00 p.m.** in the City Council Chambers located at 833 S. Spruce Street.

 Public hearing to hear comments on a proposed comprehensive plan amendment from Commercial Business (C-B) to Heavy Commercial and Industrial (HC-I) and rezone from General Commercial (C-1) to Heavy Commercial (C-2) for the property located at **120 Fountain Street**. Applicant is the Starlight Group LLC.

 Public hearing on a proposed conditional use permit to authorize construction of four 1650 square foot, two-story buildings with commercial/industrial space on the ground floor and residential apartments on the second story to be located at **501 North Oak Street** in the C-2 Heavy Commercial Zoning District. Applicant is Skagit Synergy LLC.

Board of Adjustment – is scheduled for **Wednesday, April 16, 2008 at 6:00 p.m.** in the City Council Chambers located at 833 S. Spruce Street.

 Public hearing to hear comments on a proposed variance from the sign code to allow a 19 foot pole sign that is 73 square feet in area, located adjacent to the Krispy Kreme Doughnut driveway at **711 Haggan Drive** to restore Freeway visibility to the business. Applicant is Krispy Kreme Doughnuts.

How to Get Involved



If you are interested in keeping up on events and issues in Burlington, please contact the Planning Department at 755-9717 or stop by the office at 833 South Spruce Street. If you have neighbors who are interested in what is happening, we will be happy to put them on our mailing list!

MEETING CALENDAR FOR APRIL

- ▶ **CITY COUNCIL**—*Thursday, April 10 & 24, 2008*; at 7 p.m.
- ▶ **PLANNING COMMISSION**—*Wednesday, April 16, 2008* at 7 p.m.
- ▶ **BOARD OF ADJUSTMENT**—*Wednesday, April 16, 2008* at 6 p.m.

Meetings are held in the City Council Chambers at 833 S. Spruce Street
Burlington WA 98233



APPLICATIONS IN PROCESS WITH NO ACTION TAKEN

► CITY OF BURLINGTON AND SKAGIT COUNTY DETERMINATION OF SIGNIFICANCE AND REQUEST FOR COMMENTS ON SCOPE OF EIS

Description of proposal: An amendment to the Burlington Floodplain Management and Natural Hazard Mitigation chapter of the Skagit County Natural Hazard Mitigation Plan to upgrade the existing levees and construct new levees as necessary to result in 100-year Certified Levees around the City of Burlington's Urban Area.

The proposed action is to complete the construction of 100-year certified levees based on the Federal Emergency Management Agency (FEMA) final Flood Insurance Rate Maps (FIRM) when they are adopted following resolution of any appeals. Other alternatives include amendments to the Urban Growth Area boundaries for a future school site and No Action.

Status: Development of the Draft Environmental Impact Statement and amendments to the Natural Hazard Mitigation Plan is in process. Consultation with state and federal agencies with respect to compliance with the Endangered Species Act is in process.

► NOTICE OF APPLICATION FOR ENVIRONMENTAL REVIEW AND REQUEST FOR COMMENTS BEFORE A THRESHOLD DETERMINATION OF SIGNIFICANCE OR NONSIGNIFICANCE IS PREPARED

Description of Proposal: Environmental review of proposed contract rezone to establish a fueling facility with a 3,956 square foot canopy, cashier's kiosk, and five fuel dispensers with ten fueling positions. The proposed action includes installation of one 20,000 gallon fuel tank and one 16,000 gallon dual tank for underground storage.

Proponent: The Kroger Company/Fred Meyer Stores, Inc.

Location of Proposal: 1024 South Burlington Boulevard.

Lead agency: City of Burlington

Background: This project is located on the Fred Meyer site along Burlington Boulevard and consists of a 3,956 square foot canopy with a cashier's kiosk and five fuel dispensers with ten fueling positions, and the installation of two underground fuel tanks, one at 20,000 gallons and one dual tank at 16,000 gallons. This is viewed by Fred Meyer as an accessory use, comparable to adding another department to the store.

Access to the site is available at several remote locations and immediately adjacent to the site by a right-in, right-out only access driveway. The site is located in the existing parking lot between a bank and a multiple tenant strip center.

A traffic study was prepared for the project, recommending that left turns be permitted onto the site, with only right turns

allowed from the driveway onto Burlington Boulevard. This is based on their determination that many are making the left turn illegally today, and that southbound traffic queues extend beyond this location so right out is appropriate. Using the assumptions in the traffic engineering handbook, the study states that there will not be a decrease in level of service. There is an estimated 1,686 daily trips generated by the gas station and 139 total trips in the P.M. peak hour. City review of the traffic engineering report and recommendations is in process. One concern is the impact of these trips on the existing businesses, who rely on this location for the access to their businesses; a modest increase in traffic might be good for business, but 139 p.m. peak hour trips might be devastating as people avoid the area because of traffic.

This site is located in a high traffic impact corridor and the Burlington Comprehensive Plan specifically states that right turn in and out ONLY should be allowed. If anything, the existing poorly designed turning pocket needs to be upgraded to really prohibit left turn movements. The curb cut is more than 150 feet from the intersection and that conforms to the current code.

One of the interesting components of the Fred Meyer site development is that the only access to a signal is on Gilkey Road. This project was built before the city knew how clever drivers are when faced with a right turn in and out limitation.

Gas stations are not permitted in the C-1 General Commercial zoning district and a contract rezone is also requested to allow the use.

The lead agency for this proposal has NOT yet made a threshold determination of whether or not the proposed project has a probable significant adverse impact on the environment. An environmental impact statement (EIS) may be required under RCW 43.21C.030(2)(c), or it may be possible to prepare a Mitigated Determination of Nonsignificance. If a Mitigated Determination of Nonsignificance is prepared, it would be subject to the following conditions, along with others you recommend in your comments:

1. Comply with Title 14, surface water management standards for temporary construction and long term runoff quantity and quality.
2. Construct utility and access improvements as required by the City Engineer, including upgrading the right turn in and out to better restrict illegal turning movements.
3. Provide additional traffic data as needed to complete the analysis by the city's traffic engineer.
4. OTHER??

*Comments must be submitted by **April 8, 2008** on environmental concerns.*

Responsible Official: Margaret Fleek
Position/Title: Planning Director
Address for comments: 833 S. Spruce Street
 Burlington, WA 98233
Date: March 26, 2008

► **MITIGATED DETERMINATION OF NONSIGNIFICANCE**

Description of Proposal: Environmental review of 2.26 acre site to develop a 30,875 square foot building with 24,700 on the main floor and a 6,175 square foot mezzanine with 96 parking spaces. The applicant is proposing a reduced wetland buffer; 25' proposed and 50' required, and an Eagle Management Plan is proposed because of the location of an active bald eagle nest within 400 feet of the site. Off-site mitigation of the reduced buffer is proposed at another location in the Gages Slough habitat corridor.

Proponent: Goldenrod TIC

Location of Proposal: 1061 Goldenrod Road

Lead agency: City of Burlington

Background: This project is to complete environmental review of a 2.26 acre site to develop a 30,875 square foot building with 24,700 on the main floor and a 6,175 square foot mezzanine with 96 parking spaces. The applicant is Goldenrod TIC and the site is located at 1061 Goldenrod Road.

A traffic generation report was provided that assumed full occupancy of the two floors for retail and office use and this is not feasible without providing additional parking.

The site abuts a Category 3 wetland. The site was filled under a Corps of Engineers permit in the mid-1990's. The Wetland Site Assessment submitted by the applicant makes reference to a conversation with the Department of Ecology where it is stated that the department will not require a buffer because it is a filled site. The Department of Ecology does not have jurisdiction over the city's Critical Areas Ordinance and the city does not exempt previously filled wetland sites from buffer requirements. In 2002, the City of Burlington adopted an updated Critical Areas Ordinance, consistent with the Skagit County Critical Areas ordinance. This requires a 50 foot wetland buffer for a Category 3 wetland, and it also provides a process for a Reasonable Use Exception when certain conditions.

The Critical Areas Ordinance Section 15.15.150 establishes the requirements for exceptions to the code. A Reasonable Use Exception is required for a proposed reduced buffer width from the edge of the wetland; 25' proposed and 50' required. The applicant has stated that a buffer width reduction is needed to allow the additional 25 feet on the building because it would "have a significantly lower level of financial viability". This site is the last in a series of projects that includes the motel, office building, and a retail building. In order for all the sites to function efficiently in light of their location adjacent to the wetland with streets on the other side, joint use of parking is very helpful. The reduced buffer width provides substantially greater flexibility in identifying prospective tenants.

As mitigation for the reduced buffer width, an offsite wetland buffer restoration project is proposed in the Gages Slough corridor, and detailed plans have been presented for that work. This is a very significant step forward for improving the quality of the overall habitat corridor, which is the primary opportunity in Burlington for environmental restoration and habitat improvement.

An Eagle Management Plan is required and has been submitted, because of the location of an active bald eagle nest within 400 feet of the site. The eagle nest was vacant for a number of years, and has now been active for several years. The use of the nest is at the edge of a wetland site, with an old pasture to the south and the vacant filled site that is the subject of this application to the west. This site was filled under a Corps permit and incidental weeds, grasses, and trees have begun to grow. The proposal to enhance the 25 foot buffer with evergreen trees will provide permanent screening of the bald eagle nest site from this area and the building with associated parking will face west. No impact is expected on the bald eagle nest.

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request. This determination is subject to the following conditions:

1. Prepare a detailed landscaping and maintenance plan for the site per code prior to final plan review by the Planning Commission to include street trees, perimeter landscaping and wetland buffer enhancement plantings.
2. Construct curb, gutter and sidewalk as required by the City Engineer
3. Comply with Title 14, surface water management standards for temporary construction and long term runoff and water quality.
4. Issuance of a Reasonable Use Exception for reduced buffer width and offsite mitigation through a wetland buffer restoration project in the Gages Slough corridor.
5. Compliance with Bald Eagle Management Plan with the additional condition that there shall be no construction during the early nesting period, including February and March.

This DNS is issued under 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date below.

Responsible Official: Margaret Fleek
Position/Title: Planning Director
Address: 833 S. Spruce Street
Burlington, WA 98233
Date: April 2, 2008

CODE CHANGES AND NEIGHBORHOOD PLANNING ISSUES



Work is in process on updating the zoning code and developing design standards and street standards for Downtown. Later this spring, the Comprehensive Transportation Plan is going to be updated to include new Residential Street Standards. The acquisition of Railroad Park for the public centerpiece in old Downtown is in process.

Look for new public information brochures this spring and summer on best management practices for gardening and yard care, maintenance and repairs, caring for your automobile. This is part of the city's program to improve water quality!

GAGES SLOUGH AND SKAGIT RIVER CORRIDOR UPDATE

► **New opportunities for Gages Slough are here!** With the identification of a number of sites along Gages Slough for wetland restoration, there is growing interest in public/ private partnerships to get these projects done and maintained. The Gages Slough Management Plan includes a program for wetland restoration and buffer enhancement on sites that have been identified along the corridor. Improving the habitat characteristics and water quality of Gages Slough is a very high priority for the City of Burlington as part of the city's Comprehensive Surface Water Management Plan as well as the Parks and Recreation Comprehensive Plan. Gages Slough outfall is into the Skagit River, home to several endangered and threatened species, and cleaning up the water while upgrading habitat in this old river slough area, and providing appropriate opportunities for public access is a key component of the city's

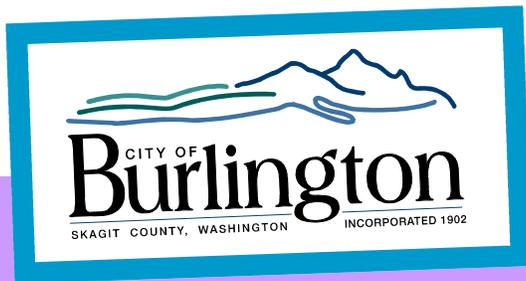
long range plan. In order to be viable, monitoring and routine maintenance by qualified wetland specialists is very important.

A mitigation site will be identified in coordination with the Planning Department based on the Gages Slough Wetlands Study and maps. A mitigation plan will be prepared by a qualified wetland assessment and mitigation professional for approval by the Planning Department. The plan shall address the wetland mitigation criteria in the critical areas code. An area ratio of 2:1 is required to compensate for either wetland or buffer reductions. The cost of the mitigation project including design, construction and five years of monitoring and maintenance will be paid for by the applicant and reviewed by the Planning Department. The cost of the required 2:1 mitigation area will be deducted from the overall wetland mitigation project and if there is a balance, this will be available for Park Impact Fee Credit following the city's standard impact fee credit procedure. Total costs shall be divided by the site area to get a cost per square foot for the purpose of calculating the mitigation fee credit.

► **New Flood maps are still in development.** The proposed new Flood Insurance Rate Maps by the Federal Emergency Management Agency are still in development using new data and a new computer program. No date has been set.

► **Flood Insurance Rates need to be monitored. by YOU!** Watch your insurance renewal this year, and if you are seeing a change, please contact your insurance agent and the Planning and Building Department. There are many errors in policies and potential errors on Elevation Certificates, and the city will provide as much assistance as possible.

► **The Natural Hazard Mitigation Plan is being updated countywide.** There will be a series of 5 public meetings that will give you the opportunity for input. Watch the newspaper for dates, or call the Planning Department.



PLANNING DEPARTMENT
833 S. Spruce Street
Burlington, WA 98233

Phone: 360-755-9717
Fax: 360-755-9309
E-mail: bplanning@ci.burlington.wa.us



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