

RECORD OF PROCEEDING OF THE
Planning Commission
PUBLIC HEARING
CITY OF BELLINGHAM, WASHINGTON

THURSDAY, MAY 13, 2004 07:00 P.M.
COUNCIL CHAMBERS

CALL TO ORDER: The PUBLIC HEARING of the Planning Commission was called to order by Doug Starcher - (Chair).

ROLL CALL:

Commission Members Doug Starcher - (Chair)

Joan Beardsley

Nick Zaferatos

Michael Kohl

Chris Morgan

Jim Bishop

Commission Members

Absent Julie Muyllaert

Planning Staff Members Jorge Vega, Director, Pat Carman, Planner, Jackie Lynch, Planner, Greg Aucutt, Senior Planner, Cheri Moniz, Recording Secretary

APPROVAL OF MINUTES: None to approve.

PUBLIC HEARING

1. ZON2004-00005: Continuation of the April 15, 2004 Planning Commission hearing regarding a request to change the current zoning from Auto Commercial to Residential Multi at 1,000 square feet per dwelling unit for approximately 1.6 acres located in Area 1 of the Samish Neighborhood. The subject properties are adjacent to and west of Ashley Street between Byron Avenue and Consolidation Street. If the rezone is approved, up to 69 dwelling units could be built. The applicant is Al White.

STAFF PRESENTATION

Pat Carman stated that the Planning Commission asked the applicant to determine if they could develop the property at 1,500 square feet per dwelling unit, which is a total of 48 units. The applicant submitted a new design with a total of 50 units. The proposed density is approximately 1,379 square feet per unit (31 units/ acre). The applicant addressed the creek setback concerns by locating the new building 50 feet from Lincoln Creek. The issue of the setback will ultimately be decided by the City of Bellingham and the Department of Fish and Wildlife. In regard to parking, the new proposal has 108 spaces on site. This nets an additional 8 spaces on site above the 2 spaces per bedroom recommended by the Commissioners. There is an additional 17 spaces shown on Ashley Street. Per the Commissioners

request, the applicant initiated a dialogue with Western Washington University. The University submitted a letter which summarizes that discussion. Staff supports the new proposal.

APPLICANT

PRESENTATION

Michael Smith, 209 Prospect Street, said that the plan includes 50 units, 108 parking stalls on-site including 20 tandem spaces per the Planning Commissioners comments. He pointed out that with 108 stalls, there are eight extra spaces. He commented that the Commission could consider allowing the owner to design the buildings to have 54 units, thus balancing out the 108 parking spaces. The financial analysis determined that a Commercial development would yield the greater financial return. In order to obtain a better return on the investment for residential development, the number of units needs to be greater. The parking under the building was eliminated in the new proposal due to construction costs. In the discussion with WWU, they agreed that residents throughout the area will be able to use the park-and-ride. Initially access to the park-and-ride may be limited to 5:00 a.m. to 9:00 p.m. After full capacity development, a parking fee could allow students full access to the lot 24 hours a day, seven days a week. This would eventually take more cars out of the entire neighborhood.

Nick Zaferatos asked what the financial analysis was for the original proposal of 69 units. Michael Smith said the new proposal was better due to the removal of the structured parking.

Nick Zaferatos expressed his concern about losing the underground parking. He asked if they were changing the architectural style and quality that was originally presented. Michael Smith stated that the footprint that is represented here is identical to the previous plan.

There was discussion on the planned separation requirement between the parking stalls. They concluded that the stall size is 8½ feet by 18 feet.

The discussion turned to the usable open space. Michael Smith stated that the requirement is 250 square feet per unit. He clarified that each unit has a private 4 foot by 10 foot deck, which counts towards the open space requirement as 80 square feet. The balance of open space is on site. It is the intent to protect the creek. There is a significant amount of open space by the creek that would count towards that calculation. Pending Planning Commission approval a detailed property survey will be done. They intend to save as many of the trees as possible.

The Commission asked if the applicant is developing the on-site parking. Michael Smith clarified that they are working with Public Works to develop 17 spots on Ashley. These are potential spots and are not counted in the requirement. He commented that there are some trees in the right-of-way. It may be prudent to not put in those stalls in order to save the trees. Pat Carman clarified that Public Works is reviewing the possible improvements to Ashley Street. They will determine if on-street parking will be available. The consensus was that Ashley would be widened on one side through the planned contact.

Joan Beardsley asked why the owner wanted to have this rezoned to residential if a commercial development would net more of a return on the investment. Michael Smith stated that the owner felt that residential was the best use of the property as there are residential uses across the street and the proximity to the park-and-ride.

Mike Kohl asked if a variance would be required for the tandem parking. Pat Carman said that she was unsure, but that code issues would be addressed in the planned contract process.

PUBLIC

HEARING

OPENED

Tom Barrett, 1304 39th Street, Samish Neighborhood Association President, stated that the Association is against the revised proposal. They feel that the density of 1397 square feet per unit is not in compliance with the neighborhood. This development will translate to 200 residents and there is not enough parking planned for that. He stated that students would not be willing to park in the park-and-ride if they do not have access to their vehicles overnight.

George Sanders, 4062 Consolidation, expressed concern about the trees on the property and Lincoln Creek. He stated that it is apparent that the existing pavement on Ashley Street is on the extreme western edge of the City's Right of Way. On the eastern portion, Lincoln Creek flows in the ROW. His concerns include the crossing of Lincoln Creek and the intersection of Consolidation and the proposed entrance to the complex. In his opinion, the on-street parking is not feasible. The set backs against the ROW will create a problem for Ashley Street. He commented that he appreciated that this is a planned contract. He is concerned that the widening of Ashley Street will damage Lincoln Creek.

Nick Zaferatos stated that in the revised plan there is a line that runs the full width of the creek and there is no on-street parking there. He asked if Mr. Sanders wanted that area protected.

George Sanders said that he would extend the line south to the point where Lincoln Creek leaves the ROW. That would potentially double that zone of no on-street parking.

Jim Bishop asked if Mr. Sanders would be willing to be the point man to save the trees.

George Sanders stated he would. In his opinion, the trees currently act as a buffer to the neighborhood. They are mature and used by several species of birds.

Nick Zaferatos clarified that they were looking at a portion of Lincoln Creek off the site map on the other side of Ashley Street. This was not addressed, but could be in the planned contract.

Marcia Merth, 214 Jerome Street, asked how this development could be considered a buffer to the park-and-ride. At that density, the number of vehicles and noise will increase. She pointed out that the 17 spots on-street are already in use. She felt that students are unwilling to pay for parking. At 1,400 square feet there will be 4 students per unit. Staff has not addressed the social, parking, noise and hazardous conditions on the streets. She expressed concerns that Planning Commissioner Pat Carman suggested this density to the developer. She asked why a Commissioner would be making a recommendation to a developer. Nick Zaferatos clarified that Pat Carman is not a member of the Planning Commission, rather she is staff. Zoning changes are not made at the staff level. Decisions are made by the City Council with recommendations from the Planning Commission.

Bob Merth, 214 Jerome Street, pointed out that the last owner occupied house on Byron is now up for sale. There are 13 apartment houses in this area with the possibility of another 5 houses being built. Currently parking is at a minimum. He suggested that the Commission wait to see what happens to the neighborhood instead of approving this now. There are many problems associated with non-owner occupied homes.

Christy Emory, 4203 Byron Avenue, corrected the comment that Mr. Merth made regarding owner occupied homes. She stated that there are 3 owner occupied homes on Byron Avenue. One is in the process of being sold and the other is up for rent. Hers is the last owner occupied. She is against the density. In her opinion, there will be 4 students in each apartment.

Dave Ebenal, 150 Northshore Drive, encouraged the Commission vote in favor of this project. The architect and owner have presented a thoughtful proposal. This proposal is the best use for the site. In regard to the concerns for Lincoln Creek, the Planning Department will see that it is not damaged. This housing is needed in Bellingham.

Beth Fryback, 200 Mountain Street, said this project will increase the impact on the traffic. She stated that the 17 spots on Ashley Street are already in use. This density will increase the number of vehicles in the neighborhood.

Lynn Smith, 141 S. 42nd Street, stated that when they moved into their house, most were single family owner occupied houses. The neighborhood has become boarding housing for students. The quality of life is decreasing and subsidizing the University. She suggested that the Commission determine a better use for this site.

PUBLIC

HEARING

CLOSED

DISCUSSION

Mike Kohl addressed Tom Barrett and asked if there was discussion at the neighborhood meetings as to the neighborhoods attitude to this becoming a Commercial strip center.

Tom Barrett said that many neighbors would prefer a Commercial center. The neighbors felt that this would be less destructive to the neighborhood at night due to fewer vehicles.

Michael Smith stated that few people preferred a Commercial center at the neighborhood meeting. They reviewed the Institute of Traffic Engineers Traffic Manual and determined that a 20,000 square foot commercial building would generate significantly more traffic than residential development. Residential generates 455 daily trips. A fast food restaurant amounts to 992 daily trips. A convenience store generates 1,476 daily trips. The owner felt that the best use is residential as it has a lower impact on traffic. This has been approached as a Transit Orientated Development where high density projects are located near transit centers. The Commission asked for clarification as to the actual square footage of the units. Michael Smith commented that density does not equate to unit size. Each unit is proposed to be 680 square and each bedroom approximately 10 feet by 12 feet.

The discussion turned to the parking when Jim Bishop asked if all the proposed underground parking was removed in the new proposal. Michael Smith said that the cost of structured parking was prohibitive. He pointed out that the new proposal exceeds the minimum code required parking. Pat Carman said the 17 additional parking spaces on Ashley Street have not been determined yet. Through the planned contract, there will be a Technical Review Committee meeting at which time Public Works will make a determination. This concern about the behavior

of students is a social issue, not in the prevue of the Commission. There are many neighborhoods that have to deal with these social issues associated with these types of houses and residents.

Pat Carman clarified that planning staff did not recommend the 1,000 square feet density. That came to the Commission as one option to consider from the TRC meeting which included Police, Fire, Planning, Public Works, and Building Services. They discussed the area, its proximity to the transit hub, the two large commercial centers within walking distance and then made that recommendation. This project is an appropriate use for this location. It is on the fringe of a single family neighborhood. City code does not prevent the multi-room single family homes from being developed. Those should not affect what will happen on this site.

Joan Beardsley asked if there was a City Ordinance which states that no more than 3 unrelated individuals can live together in a house zoned single family. She asked how the department fosters construction of buildings that break the code. Jorge Vega said that City regulations currently allow development of single family residences with the number of bedrooms some of these houses presently have. The Mayor and the Legal Department are developing an ordinance that would sanction the landlord or owner of the property when violations occur. Staff understands that these are major concerns.

Jim Bishop pointed out that many who gave testimony expressed concern about the problems with the single family homes, not the other apartment complexes.

Joan Beardsley stated that the Commission cannot control the social aspects, but knows that this could have an impact on the neighborhood. This is a good site for residential development. She is unsure if this would be a good site for commercial uses.

Nick Zaferatos pointed out that the proponent responded to all of the Planning Commissioner's recommendations. He felt that it was a step in the right direction that the University is trying to implement programs to encourage students not to bring cars to the campus. Commercial or retail development on this site could be disastrous to the neighborhood and would increase traffic. This site is well suited for residential. He said that neighborhood villages are dependent on higher density than is found here. Per the Commission's recommendation the parking requirement was increased from 1.5 to 2 per unit. The slope of this site will help avoid having the parking exposed to the neighborhood. This has good connection to the public transit.

MOTION: NICK ZAFERATOS MOVED TO SUPPORT THE REZONE REQUEST AS PRESENTED IN THE REVISED PROPOSAL WITH THE ADDITIONAL UNDERSTANDING THAT THE FOLLOWING ISSUES WILL BE ADDRESSED BY THE TECHNICAL REVIEW COMMITTEE IN THE PLANNED CONTRACT PROCESS: (1) PRESERVATION OF ALL TREES NOTED ON MR. SANDERS DRAWING TO THE EXTENT POSSIBLE AND (2) PROTECTION OF LINCOLN CREEK ON BOTH SIDES OF ASHLEY STREET. CHRIS MORGAN SECONDED.

AMENDMENT: CHRIS MORGAN AMENDED THE MOTION TO INCLUDE A RECOMMENDATION TO BRING WESTERN WASHINGTON UNIVERSITY INTO THE PROCESS TO ESTABLISH A RELATIONSHIP BETWEEN THE HOUSING PROPERTIES ADJACENT TO THE PARK-AND-RIDE AND THE ABILITY OF THE UNIVERSITY TO HELP OFFSET THE IMPACT OF THAT PARKING. THIS IS NOT A REQUIREMENT THAT WWU PROVIDE ALL OF THE OVERFLOW PARKING. NICK ZAFERATOS AGREED TO THE AMENDMENT.

Chris Morgan pointed out that the Commission cannot change behavior. He stated that he appreciates the work the owner and architect have done. He said this development faces away from the neighborhood and acts as a barrier. The City needs more density. It is near a transportation opportunity.

Michael Smith commented that there is an interior circulation corridor. The buildings are accessible from Ashley Street. The site is orientated to the on-site parking.

Joan Beardsley said that this is a reasonable use of this property. She understands the concerns of the neighbors. She suggested saving the trees and requiring a manager on-site. She wondered if there should be a nuisance ordinance. She clarified that those issues are not a part of the proposal, but they will need to be addressed.

Mike Kohl asked for clarification on the internal hallway. Michael Smith stated that it is a double loaded corridor.

Mike Kohl pointed out that managers in apartments like this are usually students. He said these units are back to back, which means that half of them face the neighborhood. The park-and-ride will be fenced and accessed only from Lincoln. This is adjacent to that parking, but these residents will not have access. He cannot support the density, the location, or the design.

Jim Bishop said that he felt that this proposal was appropriate for this location. Half of Bellingham is rental property. He stated that parking issues must be addressed with more transit. He agreed that attention should be paid to the creek and the trees. He suggested that the creek be enhanced.

Doug Starcher stated that the greatest impact on the neighborhood are the single family "rooming houses". He pointed out that the parking requirement was increased. Developments similar to this that are closer to the University are 600 square foot units and generally don't have more than 2-3 residents. Residential development has less impact than Commercial.

VOTE: 5 AYES, 1 NAY (MIKE KOHL).

2. ZON2004-00007: A request to change the zoning of 17,000 square feet on the northwest corner of 10th and Mill from Marine Industrial to Neighborhood Commercial in Area 1 of the Fairhaven Neighborhood. The applicant is City Staff.

STAFF PRESENTATION

Jackie Lynch said this proposal is to rezone 17,000 square feet from Marine Industrial to Neighborhood Commercial for lots 5-10 in Area 1 of the Fairhaven Neighborhood. Neighborhood Commercial is adjacent to this site. It is possible that the original zoning was in error. The proposed zoning change is supported by the Comprehensive Plan goals and policies, especially in regard to the Marine uses. Marine Industrial zoning is designed to accommodate water dependant or related industrial uses on the shoreline or accessible to the shoreline; neither one of which this site is. Marine uses are inappropriate as they would negatively impact 10th Street. Staff is concerned that warehousing could be built, but would be inappropriate in the Fairhaven Core. If rezoned, a concern is that the property may be impacted by noise, light, glare and the other impacts of existing industrial uses on the adjacent Port property. In regard to buffers and set backs, the Port would have to put up a 25 foot buffer between the base of this hill and the Port property. This could be addressed when the Land Use Code is revised. Staff recommends approval with the condition that warehouse uses be allowed only on the western-most portion of the property (the base of the slope) and only accessible from the west. This would keep industrial traffic off of 10th Street. There

could be multi-story mixed use buildings on 10th Street that provide a better use of land, encourage design flexibility and allow infill. Staff has not received any public comment on this proposal.

Nick Zaferatos asked if staff would recommend a stipulation similar to an agricultural nuisance, which protects that existing industrial uses from encroaching commercial. That could address the concerns of the Port. Jorge Vega clarified that this could be addressed in the covenants.

Ginger Essex, 2004 Lindsay Loop, Mt. Vernon, represents the owner. She stated that there will be covenants, conditions, restrictions and reservations for the condominiums and retail spaces. It will state the usage, times of operations allowed, height, the traffic generated, lighting and noise. If a complaint is filed, the association will fine the tenant \$1,500 per complaint.

Jorge Vega clarified that the Port is concerned that if there was industrial on the bottom that there would be a greater chance of lawsuits from the uses on the upper portion. The owner has been responsive to these concerns.

Chris Morgan asked if the Port has seen this presentation. Ginger Essex stated that the Port Commissioners have, but Bill Hager has not although he is aware of the proposal.

PUBLIC TESTIMONY OPENED

No testimony recorded.

**PUBLIC TESTIMONY CLOSED
DISCUSSION**

The Commissioners discussed transportation access. If this goes through as proposed, the only access to warehousing would be an easement from the Port. Staff is concerned about industrial traffic along 10th Street. Staff has talked with Bill Hager and he expressed the Port's concern regarding an easement. Jackie Lynch pointed out that there is a 30 foot drop from the top of the property to the bottom so access could not be easily gained there. They concluded that for industrial uses access, from the bottom of the bank, would be preferred.

**MOTION: MIKE KOHL MOVED TO ACCEPT THE STAFF RECOMMENDATION.
JOAN BEARDSLEY SECONDED.**

AMENDMENT: DOUG STARCHER AMENDED THE MOTION TO ADD THE COVENANTS THAT GINGER ESSEX BROUGHT FORWARD. MIKE KOHL AND JOAN BEARDSLEY AGREED TO THE AMENDMENT.

VOTE: ALL AYES.

GENERAL BUSINESS

1. Doug Starcher said an intern was assigned to work with Chris Comeau to develop an emergency/ interim ordinance that will be used to come up with alternative land use plans. They will be looking at ways to do some "pilot projects". They could be sunsetted by time or the number of units. He pointed out that Seattle has a "special circumstances" ordinance. They are looking to get staff approval and move to Council. Mike Kohl said there is an entity in the private sector preparing a draft "special circumstance" document that will be presented to the Commission. Jorge Vega commented that he has had conversations

with John Watts who said that the City Council does support this although there has been no formal vote. Staff is working on this as they realize that this is a priority.

2. Nick Zaferatos stated that the consultant hired for the Growth Forum is Studio Cascade. They are working with staff to schedule 5 community workshops. They will be evaluating infill for Bellingham. The Conference will be concluded by the end of June. Greg Aucutt described the drop-in information center within the Market Place building on Railroad Avenue. The grand opening is on May 28th at 5:00 p.m.

ADJOURNED: 9:15 p.m.

Minutes prepared by:

Cheri Moniz, Recording Secretary

Minutes edited by various Planning Staff_

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