

East Bellevue Community Council
Summary Minutes of Regular Meeting

May 4, 2010
6:30 p.m.

Lake Hills Community Clubhouse
Bellevue, Washington

PRESENT: Chair Kasner, Alternate Vice Chair Erwin, and Councilmember Seal

ABSENT: Vice Chair Elwin and Councilmember Gooding

STAFF: Mike Upston, Development Services
Catherine Drews, Development Services

1. **CALL TO ORDER**

The meeting was called to order at 6:31 p.m. with Chair Kasner presiding.

2. **ROLL CALL**

Upon roll call by the Clerk, it was noted that Councilmember Gooding was absent and Vice Chair Elwin was excused. Chair Kasner led the flag salute.

3. **COMMUNICATIONS - WRITTEN AND ORAL:** None.

4. **APPROVAL OF AGENDA**

Councilmember Seal moved to approve the agenda. Councilmember Erwin seconded the motion, which carried by a vote of 3-0.

5. **PUBLIC HEARING**

- (a) Kelsey Creek Center Rezone Application

Chair Kasner opened the public hearing regarding City Council Ordinance No. 5946, which approves the Kelsey Creek Center rezone application submitted by Nat Franklin West, LLC.

Mr. Kasner reviewed the rules and procedures for the public hearing, and instructed Councilmembers to disclose any ex parte communications. Each Councilmember replied that he had not engaged in ex parte communications. Councilmembers indicated that they could consider the application in a fair and objective manner, and that they would not obtain any financial benefit or suffer financial loss with regard to the application. When asked, no one in the audience objected to the participation of any of the Councilmembers.

Mike Upston, Senior Planner, presented the staff report, noting that the City Council approved Ordinance No. 5946 on May 3, 2010, which approved the rezone application of Nat Franklin West, LLC with regard to the Kelsey Creek Center. The site is currently regulated by two concomitant zoning agreements, and the proposal is to replace these with a new concomitant zoning agreement (CZA). The new agreement removes a condition regarding the daylighting of Kelsey Creek under the shopping center, and instead provides an off-site mitigation plan. It also modifies acceptable land uses which are considered most appropriate for the neighborhoods.

Mr. Upston said the rezone would enable the redevelopment of the site, which will provide benefits for the community. It results in a new culvert under the property to enable improved fish passage. Developers have indicated that the creek daylighting requirement created an obstacle to the optimal redevelopment of the site. The off-site mitigation plan involves habitat enhancement at Larsen Lake, which is an additional benefit for the community.

The Hearing Examiner recommends approval of the rezone application, subject to conditions outlined on pages 8 and 9 of the Hearing Examiner's report.

No one came forward to provide public testimony.

Councilmember Erwin questioned the breakdown of the mitigation fee of \$585,252.76. Mr. Upston said approximately \$15,000 is for permits; \$451,000 is construction; \$107,000 for maintenance; and \$12,000 for monitoring over a five-year period.

Responding to Chair Kasner, Mr. Upston said the Larsen Lake mitigation plan is intended to be equivalent to or better than the project that would have been required under the creek daylighting provision in the existing concomitant agreement. Mr. Upston confirmed that the developer/property owner will replace the culvert under the shopping center and provide the mitigation project at Larsen Lake, in lieu of daylighting the creek under the center.

In further response to Mr. Kasner, Mr. Upston clarified that there was an original concomitant agreement in 1987 between the City and the previous property owner, and a later agreement that made minor revisions with regard to allowed uses.

Responding to Mr. Kasner, Nat Franklin briefly reviewed the rezone proposal, and noted that a development application will be submitted later.

Mr. Upston clarified that Ordinance No. 5946 repeals and replaces the previous two concomitant agreements and their respective ordinances. Also, a project-level SEPA (State Environmental Policy Act) review will be completed upon receipt of a development proposal. The culvert replacement project can be done only within a restricted time period, which is roughly July and August.

Responding to Councilmember Seal, Mr. Upston explained that the concomitant zoning agreement and the mitigation plan are two separate documents. Section 3 of Ordinance No. 5946 refers to both documents and requires that they be submitted to the King County Division of

Records and the Bellevue City Clerk for the official record. He explained that the next step for redevelopment of the property would be a project-level design review application. It would need to include all mitigation plan drawings along with the plans for the shopping center.

Patrick Mullaney, attorney for Costco Wholesale, said the \$585,252.76 mitigation fee is due within 60 days of the signing of the new concomitant zoning agreement (CZA).

Chair Kasner expressed frustration that such an agreement could not have been made years ago, which would have prevented the shopping center from sitting vacant for so long.

Carl Hadley, fisheries biologist, said he has met with the State on the site and discussed the replacement of the culvert. He noted that the new CZA must be approved before moving forward with SEPA review and obtaining the State's formal approval of the plan for the culvert.

Mr. Kasner noted his surprise that the public has not commented on the project. Mr. Upston said typically the City hears from the public only when they oppose a project. The City has received calls over the years from residents asking about the status of the property and indicating that they want redevelopment to occur.

Councilmembers concurred that in general, residents are eager to see the center redeveloped.

Staff responded to additional questions of clarification.

Chair Kasner reviewed the design criteria outlined on page 6 of the Hearing Examiner's report [Page 15 of the meeting packet].

Councilmember Seal moved to close the public hearing. Councilmember Erwin seconded the motion, which carried by a vote of 3-0.

COURTESY HEARINGS

- (a) Land Use Code Amendments to harmonize City's floodplain regulations with FEMA

Catherine Drews, Legal Planner, explained that on May 4, 2010, the East Bellevue Community Council will be asked to consider Land Use Code Amendments to harmonize the City's floodplain regulations with the Federal Emergency Management Agency's (FEMA) minimum requirements for floodplain management. A public hearing before the Planning Commission is scheduled for May 26. The City Council will discuss the amendments during its June 14 Study Session and is expected to take action on June 21.

Ms. Drews responded to brief questions of clarification. She and the Council reviewed Attachment B, a map of the approximate floodplain boundary within the Community Council's jurisdiction.

Chair Kasner opened the courtesy hearing. Seeing no one wishing to comment, the courtesy hearing was closed.

(b) Land Use Code Amendments related to electric vehicle infrastructure

Chair Kasner opened the courtesy hearing regarding proposed Land Use Code Amendments related to electric vehicle infrastructure.

Ms. Drews briefly described the proposed amendments, which will allow electric vehicle infrastructure as a use in all land use zones except residential and critical areas, as required under the State legislature's Second Substitute House Bill 1481 (SSHB 1481). This legislation supports the Electric Vehicle (EV) Project co-sponsored by Nissan. Staff recommends that the City take action to comply with the State's July 1 deadline for adopting this land use type.

Ms. Drews responded to questions of clarification.

Responding to Mr. Kasner, Ms. Drews said charging stations will be an allowed use for any business or facility not in a residential zone or in an environmentally critical area. In further response, she said the City's Comprehensive Plan includes policies related to facilitating the use of electric vehicles and alternative fuels.

Seeing no one wishing to comment on the proposed LUCAs, Chair Kasner closed the courtesy hearing.

6. **RESOLUTIONS**

- (a) Resolution No. 512/512A approving/disapproving City Council Ordinance No. 5946 approving the rezone application of Nat Franklin West, LLC (Kelsey Creek Center) to repeal the prior concomitant zoning agreements for Kelsey Creek Center and to replace them with a new concomitant zoning agreement.

Councilmember Seal moved to approve Resolution No. 512 approving City Council Ordinance No. 5946 regarding the approval of the rezone application of Nat Franklin West, LLC (Kelsey Creek Center). Councilmember Erwin seconded the motion, which carried by a vote of 3-0.

7. **REPORTS OF CITY COUNCIL, BOARDS, AND COMMISSIONS:** None.

8. **DEPARTMENT REPORTS:** None.

9. **COMMITTEE REPORTS:** None.

10. **UNFINISHED BUSINESS:** None.

11. **NEW BUSINESS:** None.

12. **CONTINUED COMMUNICATIONS:** None.

13. **EXECUTIVE SESSION**: None.

14. **APPROVAL OF MINUTES**

Councilmember Seal moved to approve the Summary Minutes of the April 6, 2010, East Bellevue Community Council meeting. Mr. Erwin seconded the motion, which carried by a vote of 3-0.

15. **ADJOURNMENT**

Mr. Erwin moved to adjourn, and Mr. Seal seconded the motion. The motion carried by a vote of 3-0.

At 7:40 p.m., Chair Kasner declared the meeting adjourned.

Michelle Murphy, CMC
Deputy City Clerk

/kaw