



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Aging and Long-Term Support Administration
Home and Community Services Division
PO Box 45600, Olympia, WA 98504-5600

March 10, 2020

Mayor Jimmy Matta
Burien City Council

Dear Mayor Matta and City Council Members:

The Department has been working with the City of Burien for several months, as the City Council considers zoning options for Enhanced Services Facilities (ESF). I understand the City Council is preparing to make a decision on zoning for ESFs at your March 16, 2020, meeting and want to provide some additional information for your consideration.

The City Council, at your meeting on February 3, 2020, removed single-family zones from the potential ESF zoning options identified by the City's Planning Commission. The City Council asked its staff to further develop two options:

- All commercial and multi-family zones where residential uses are allowed; and
- More intensive zones (basically, the downtown and surrounding neighborhoods).

The Legislature instructed the Department to expand home and community based options for Medicaid beneficiaries and specifically funded the development of ESFs. ESFs were developed to provide additional supports and staffing to serve individuals whose needs can be met outside of a hospital that provides psychiatric treatment services for acute needs. When local jurisdictions adopt overly restrictive regulations, it harms the ability of individuals to live in less restrictive settings where they are able to integrate into their community.

The Department has concerns about the City's current and potential restriction of ESFs to only certain zones. ESFs are essential public facilities under the Growth Management Act (GMA). As you almost certainly know, the GMA prohibits local jurisdictions from enacting development regulations that preclude the siting of essential public facilities. Local plans and regulations may not render essential public facilities impossible or impracticable to site, either by the outright exclusion of such uses, or by the imposition of process requirements or substantive conditions that render the essential public facilities impracticable.¹

¹ *King Cty. and City of Renton v. Snohomish Cty.*, CPSGMHB No. 03-3-0011, Final Decision and Order (Oct. 13, 2003), at 17.

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In addition, the Growth Management Act and the Washington Housing Policy Act prohibit cities from treating a residential structure occupied by persons with disabilities differently than a similar residential structure occupied by a family or other unrelated individuals. Such actions by the City may also violate federal laws such as the Fair Housing Amendments Act, the Rehabilitation Act, and the American with Disabilities Act.

Properties within commercial zones are typically more expensive than in other residential-type zones and are limited in terms of availability. In addition, many properties in commercial zones will have buildings that would need to be demolished or require extensive remodeling, further increasing the cost. Finally, a commercial zone does not promote a residential or home-like setting for our long-term care residents.

In light of the foregoing, we urge your careful consideration of zoning restrictions and options for ESFs in the City of Burien. If you have any questions, please contact me at 360-725-2272.

Sincerely,

A handwritten signature in black ink that reads "Bea Rector". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Bea Rector, Director
Home and Community Services Division

cc: Bill Moss, Assistant Secretary

By e-mail