

July 27, 2023

Dear Mayor Aragon, City Councilmembers, and City Manager Bailon,

I am writing to express strong concerns that, despite sharing pertinent information in advance, at your July 17<sup>th</sup> City Council meeting the Burien City Council passed a motion to “direct the City Manager to investigate the NERA site... for potential use as a temporary site for limited-term housing in partnership in utilization of the \$1 million from KCRHA,” and that this potential use was reinforced as a possibility at your council meeting earlier this week.

Since the Port did not receive advanced notification that the Council was going to take action related to the Port of Seattle’s Northeast Redevelopment Area One (NERA 1) property, I was not prepared to offer public comment on the 17<sup>th</sup>. And after our local government relations manager, Dave Kaplan, again stated the unavailability of the property to City Manager Bailon following last week’s meeting, I want to make sure the Port is on record with the information we have already provided. The information makes clear that this property is not an option for any type of residential or housing use (whether temporary or permanent) as, among other concerns, it is not compatible with Federal Aviation Administration (FAA) safety requirements, existing soil and groundwater contamination and associated Department of Ecology site requirements, and high airport noise levels.

**Incompatible with the Runway Protection Zone**

The northeastern corner of the NERA 1 site falls within the Runway Protection Zone (RPZ) at the north end of the Third Runway. The purpose of the RPZ is to protect people on the ground. This safety area is to be free of obstructions, and not supposed to be a gathering space.



The U.S. Department of Housing and Urban Development makes clear that residential uses are incompatible in noting the FAA's requirements for **Runway Protection Zones**. To cite from the document "The following land use criteria apply within the RPZ: (a) While it is desirable to clear all objects from the RPZ, some uses are permitted, provided they do not attract wildlife, are outside the Runway OFA, and do not interfere with navigational aids. Automobile parking facilities, although discouraged, may be permitted, provided the parking facilities and any associated appurtenances, in addition to meeting all of the preceding conditions, are located outside of the object free area extension. **(B) Land uses prohibited from the RPZ are: residences and places of public assembly. (Churches, schools, hospitals, office buildings, shopping centers, and other uses with similar concentrations of persons typify places of public assembly.)**"

#### **Incompatible with the Department of Ecology Consent Decree for the Lora Lake Apartments Cleanup Site**

As was shared with the city in advance of your meeting last week, the Lora Lake Apartments Site was a hazardous waste site that was remediated under Washington's Model Toxics Control Act (MTCA). The cleanup involved remediating and capping the northern portion of the NERA 1 site where the former apartments were located<sup>1</sup>, capping Lora Lake and restoring wetlands (on the east side of Des Moines Memorial Drive), and containing the dredged materials in the area just north of the former lake. The contaminants found include: polycyclic aromatic hydrocarbons; lead; petroleum products; arsenic; pentachlorophenol; and dioxins/furans. The remediation criteria for the Site were set assuming future use of the property is limited to commercial/industrial use scenarios.

The Port removed approximately 42,000 tons of highly contaminated soil for off-site disposal, and placed a temporary barrier over low-concentration (yet still contaminated soil) present across the majority of the parcel. This is the current condition of the property. This temporary barrier prevents wildlife and Port workers from coming in contact with the contaminated soil until the permanent barrier for the Site is constructed. A permanent barrier is required, and will be constructed at the time of commercial/industrial development on the site, as described in the Ecology-approved Cleanup Action Plan for the Site. A deed restriction (environmental covenant) is in place for each parcel affected by the cleanup Site. These documents are recorded with King County, prohibit any residential use on the property outright, and limit the use of the site to industrial and commercial activities, and ensure future activities will not expose the capped contamination.

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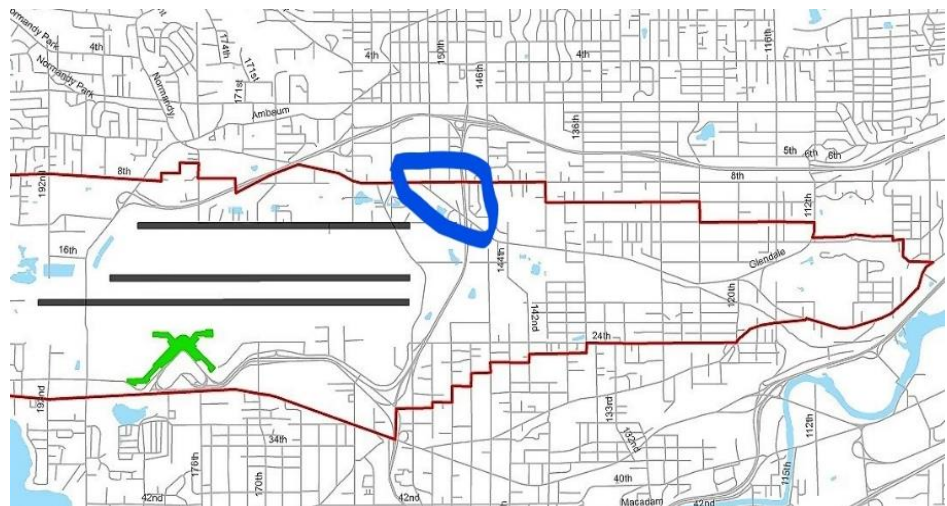
<sup>1</sup> Note the Department of Ecology-managed cleanup Site consists of the parcel that previously housed the Lora Lake Apartments, and the northeast corner of the parcel that previously contained the Puget Sound Energy Sunnydale Substation.

Because of the nature of the materials remediated and the existing environmental covenant that restricts use of the property to commercial/industrial uses, any residential use would be incompatible on that site and a violation of the legally binding obligations tied to the cleanup. To confirm that restriction, and consistent with the 2013 Interlocal Agreement between the Port and the City, Burien adopted an Airport Industrial zoning designation which specifically prohibits any new residential housing on the property (**BAC 19.15.070.1.F**).

You can find the information on the Lora Lake Cleanup at the Washington State **Department of Ecology's website**, and the **Port of Seattle's public website**. The Environmental Covenants for the Lora Lake Apartments Parcel and Sunnydale Substation Parcel are available from King County's website (Instrument Numbers 20220128001336, and 20220128001329).

### **Incompatible with Aviation Noise**

The entire NERA 1 property is within SEA Airport's current Part 150 Noise Remedy Boundary, where the FAA considers residential housing to be incompatible with aircraft noise levels unless they are sound insulated.



Although noise monitoring levels are not the basis for the establishment of noise boundaries, NERA 1's proximity to the airfield and end of the runway would show high aircraft noise decibel levels. The noise levels would be higher than those from the closest Port noise monitor at Cedarhurst Elementary, which is a mile and a half almost directly north. The readings for aircraft overflights at Cedarhurst are consistently in the high-70's to low-80's decibels for Sound Exposure Levels (SEL). That is not conducive to residential purposes, especially when it is highly unlikely that any temporary housing structures (let alone permanent structures) could be modified to attain the City of Burien's stringent noise mitigation code for new residential and commercial construction east of 1<sup>st</sup> Avenue South, with a required reduction of 35 decibels attained (**BAC 15.12.080** and **BAC 15.12.090**).

Also, contrary to what was stated/IMPLIED at the July 17<sup>th</sup> Council meeting, there would be no federal funding available for sound insulation of these structures. Burien adopted its sound code long ago, and all new residential construction is required to comply with the code. Federal funding of noise programs in our area is available for residential structures built prior to 1987, but still not guaranteed.

It is my understanding that the City has now identified an option available to you, which I'm sure is a very positive step. Regardless, the information we have provided about Port property is very clear that "temporary ... limited-term housing" is incompatible on the NERA 1 property, and should not have been included as a potential option. I would ask that you remove the property from any list of possible options the City may consider to site housing now or in the future on that property.

Cordially,

***Sarah Cox***

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