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CITY OF BELLINGHAM PLANNING STAFF REPORT

Agenda Topic:	<i>A public hearing to consider a comprehensive plan amendment to rezone four (4) residential multi-family zones in the Silver Beach Neighborhood (Areas 8, 9, 13, and 18) and amendments to BMC 16.80 to require development and redevelopment of multi-family units to address existing and new impervious surfaces and establish a phosphorous reduction requirement equal to that of single-family development in the Lake Whatcom watershed.</i>
For:	<i>March 21, 2024 Planning Commission Public Hearing</i>
Staff Contacts:	<i>Steve Sundin, Senior Planner, Planning Dept. ssundin@cob.org Jason Porter, Storm and Surface Water Manager, Public Works Department jporter@cob.org Sydney Prusak, AICP, Planning Department skprusak@cob.org</i>

I. SUMMARY OF PROPOSAL

The purpose and intent of this public hearing is to consider two sets of amendments relating to development of multi-family units in the Lake Whatcom watershed. The first proposes amendments to the Silver Beach Neighborhood zoning table that would change the density ranges in three of the four multi-family zones from “high” to “medium” in areas 8, 9 and 13. This essentially constitutes a rezone of these areas and is considered a comprehensive plan amendment and rezone. No Change to the density in area 18 is proposed.

The second set of amendments are to Lake Whatcom Reservoir Regulatory Chapter (BMC 16.80) to establish specific rules for development of new units and redevelopment of existing multi-family units in the watershed.

Currently, the regulation of impervious surfaces that are associated with development of multi-family units is addressed on a case-by-case bases using the State Environmental Policy Act (SEPA). The proposed amendments would require multi-family development to be at least as protective as those rules for development of single-family units. In addition, the proposed amendments would require existing multi-family sites to come into full compliance regarding protections of water quality and implementation of new stormwater management if additional units were added or replaced.

Other minor clarifying, non-substantive revisions to BMC 20 are necessary to facilitate the proposed amendments.

Multi-family zones (Areas 8, 9 13 and 18) in the Silver Beach Neighborhood are provided at **Exhibit A**.

Staff’s conclusions and recommendation for the proposed amendments to the Bellingham Municipal Code (BMC) are provided in section IX on pages 16-17 of this staff report and specifically identified within the DRAFT Ordinance at **Attachment 2**.

1 **II. PLANNING COMMISSION ROLE**
2

3 The proposal before the Commission is a legislative Comprehensive Plan Amendment and
4 Rezone requiring a Type VI process. The Planning Commission must hold a public hearing
5 and issue findings of fact and conclusions and recommendation to the City Council. A draft
6 Findings of Fact, Conclusions, and Recommendations document is included at **Attachment**
7 **3**. The Commission may adopt or modify the document, as needed, to support the
8 Commission’s recommendation.

9 **III. BACKGROUND AND CHRONOLOGY**
10

11 Background
12

13 There are four (4) Residential Multi (RM) neighborhood zones in the Silver Beach
14 Neighborhood. Areas 8, 9, and 13 are zoned high-density, and Area 18 is zoned medium
15 density. These areas, generally, have been developed at different times, under different
16 zoning/land use requirements, beginning in the 1970s.

17
18 When the City initiated, and completed, the “Multi-family Zoning: Achieving Intended
19 Densities” Project in 2021, all RM zones in the City were simplified and assigned values of
20 high, medium, or low. All RM zones require that a *minimum* number of units be developed on
21 the subject site, and high-density areas have an unlimited density amount, provided that
22 parking, stormwater, height, shoreline and critical area regulations are met.

23
24 High-density zones require a minimum of one residential unit per 3,599 square feet of gross
25 land area. Medium-density zones require a minimum of one unit per 7,200 square feet, up to
26 a maximum of one unit per 3,599 square feet. Low Density zones require a minimum of one
27 unit per 7,201 square feet, up to a maximum of one per 3,600 square feet.

28
29 Examples of the minimum and maximum density based on a one-acre (43,560 SF) lot have been
30 provided below for clarity:

- 31 ➤ High Density: $43,560 \text{ SF} / 3,599 \text{ SF} = 12$ units minimum – unlimited maximum
- 32
- 33 ➤ Medium Density: $43,560 \text{ SF} / 7,200 \text{ SF} = 6$ units minimum – 12 units maximum
- 34
- 35 ➤ Low Density: $43,560 \text{ SF} / 7,201 \text{ SF} = 6$ units required minimum and maximum
- 36

37 The result of the RM update to the BMC resulted in each RM Area in the Silver Beach
38 Neighborhood being rezoned into the zoning densities specified above.

39
40 In approximately April of 2022, the present owner’s representative approached the City
41 regarding the development potential of the Old Mill Village property. Existing development
42 contracts and ordinances from approximately 1970 specified that a total of 709 units were
43 possible in a variety of housing forms on the Old Mill Village site. However, if there was ever
44 a 5-year period during which no building permits were issued for new units the contract would
45 expire and any future development would revert to the underlying zoning. It was at this time
46 that City staff recognized that the “high” density designations for the multi-family zones in the
47 Silver Beach Neighborhood may conflict with previously established goals, policies and
48 regulations aimed at protection of water quality in Lake Whatcom.

1 Chronology

2
3 On July 11, 2022, the City Council adopted Ordinance #2022-07-019 enacting a 12-month
4 emergency moratorium on the acceptance of processing applications to redevelop existing,
5 or develop new, multi-family residential (RM) housing within the four RM Zones in the Silver
6 Beach neighborhood. The moratorium was adopted by Council to allow City staff to determine
7 if the existing multi-family densities in the Silver Beach neighborhood are consistent with
8 existing City policies for protection of water quality in the Lake Whatcom watershed or if
9 amendments are necessary.

10
11 On June 5, 2023, the City Council adopted Ordinance #2023-06-017 which extended the
12 moratorium for an additional six months until January 10, 2024.

13
14 The City Council performed third and final reading of Ordinance #2023-12-037 on December
15 4, 2023, which extended the moratorium an additional six months until July 10, 2024. Council
16 also directed City staff to initiate and complete a Type VI process that considers the medium-
17 density and low-density options in each of the multi-family zones in the Silver Beach
18 Neighborhood prior to the expiration of the moratorium in July 2024. Council further found
19 that the docketing request met the criteria in the BMC 20.20.030 and, accordingly, added the
20 proposal to the annual docket.

21
22 Per BMC 21.10.040, comprehensive plan and neighborhood plan amendments, development
23 regulation amendments, and legislative rezones are Type VI decisions, which are made by
24 the City Council after review and recommendation by the Planning Commission.

25
26 On February 19, 2024, the notice of public hearing was published in the Bellingham Herald.

27
28 On February 20, 2024, the PCDD issued a notice of public hearing before the Planning
29 Commission to property owners within the four multi-family sub-areas in the Silver Beach
30 Neighborhood and 12 public hearing notice signs were posted throughout the four multi-family
31 zones.

32
33 On February 23, 2024, the PCDD issued a non-project SEPA determination of non-
34 significance on the proposed amendments.

35
36 On February 23, 2024, the PCDD posted public hearing notice on the City website and issued
37 the notice of public hearing before the Planning Commission to all neighborhood association
38 representatives and MNAC members.

39
40 On February 23, 2024, the PCDD made the following materials available for the Planning
41 Commissioners and the general public; the non-project SEPA determination of non-
42 significance and checklist including part D, Planning Commission cover sheet, staff report, a
43 draft ordinance and draft Planning Commission findings of fact, conclusions and
44 recommendation.

45
46 On approximately February 26, 2024, the PCDD issued a notice of intent to adopt the
47 proposed amendments to the Washington State Department of Commerce.
48

1 On March 12, 2024, City staff attended a meeting with the Silver Beach Neighborhood
2 Association and members of the general public. City staff were invited to discuss
3 transportation issues and concerns within the neighborhood and the proposed amendments
4 specified herein.

5
6 On March 21, 2024, the Planning Commission held the public hearing and took testimony on
7 the proposed comprehensive plan amendment, rezone for the four multi-family zones in the
8 Silver Beach Neighborhood and proposed revisions to BMC 16.80 (Lake Whatcom Reservoir
9 Regulatory Chapter).

10
11 **IV. ISSUES**

12
13 Lake Whatcom is the drinking water reservoir and resources for approximately 100,000
14 residents in Bellingham and Whatcom County and has been listed as an impaired water body
15 under section 303(d) of the Federal Clean Water Act for low levels of dissolved oxygen, total
16 phosphorus, dieldrin, mercury, and total PCBs. Due to declining concentrations of dissolved
17 oxygen, the Washington State Department of Ecology developed a total maximum daily load
18 (TMDL) for total phosphorus (TP). The TMDL calls for large reductions in TP loads to meet
19 the state water quality criteria for dissolved oxygen in the lake. The City, Whatcom County,
20 and the Lake Whatcom Water and Sewer District have adopted plans, enacted regulations,
21 programs, and multi-agency coordination efforts that are intended to protect and improve the
22 water quality of Lake Whatcom. The Lake Whatcom Management Program Work Plans
23 represent this coordinated endeavor, bringing together the planned efforts of the City of
24 Bellingham, Whatcom County, and the Lake Whatcom Water and Sewer District and
25 consolidating them in one place to ensure actions are efficient and effective. This document
26 outlines the efforts that these local entities will implement over five years to further the goals
27 of the Lake Whatcom Management Program.

28
29 The 2020-2024 Lake Whatcom Management Program includes multiple focus areas such as but
30 not limited to land preservation, monitoring and data, recreation, education and engagement and
31 aquatic invasive species. All of the program areas are aimed at protecting water quality.

32
33 In addition, through the Lake Whatcom Land Acquisition and Preservation Program, the City
34 purchases properties in the watershed so that development potential is eliminated, and the
35 properties can be preserved in their natural state or restored to a forested condition. All these
36 efforts to protect the water quality of Lake Whatcom are consistent with a variety of goals and
37 policies in the City's Comprehensive Plan.

38
39 Prior to the initial emergency moratorium, and as stated in the 'background' section above,
40 City staff recognized a potential inherent conflict between the potential for high-density
41 development in the four (4) RM Zones in the Silver Beach Neighborhood and the City's on-
42 going effort to improve and protect the water quality of Lake Whatcom.

43
44 City staff and the City Council recognize the need for additional housing in Bellingham. In
45 fact, the City Council adopted Resolution No. 2023-19 in July 2023, which "*declares that*
46 *housing affordability and homeless constitute a public health crisis in our community.*"

47
48 The City's comprehensive planning efforts are underway and City staff have already
49 acknowledged that there will need to be an effective integration between providing additional

1 housing opportunities and protection of environmentally sensitive areas throughout the City,
2 including Lake Whatcom.

3
4 BMC 15.42, Stormwater Management and BMC 16.80, the Lake Whatcom Reservoir
5 Regulatory Chapter include regulations that limit the amount of phosphorus transport from
6 individual properties in the Lake Whatcom Watershed. These chapters require
7 implementation of stormwater management best management practices that aim to reduce
8 the amount of phosphorous entering Lake Whatcom.

9
10 Currently there is a discrepancy between the stormwater management requirements and
11 development regulations that apply to the development of single-family properties and multi-
12 family properties in the Lake Whatcom watershed. Development of single-family properties
13 are held to a higher standard of regulations relating to impervious surfaces and stormwater
14 runoff, as well as preservation of open space on site compared to multi-family properties in
15 the Lake Whatcom watershed.

16
17 Single family development provides two options for stormwater management; the
18 “engineered method” or, the “forested method,” both of which are specified in BMC 16.80.080
19 E. (*Specific* requirements can be found int BMC 15.42.060 A 3)

20
21 Generally, the “engineered method” requires a stormwater treatment system that mimics a
22 fully forested predeveloped condition on the subject property such that the maximum amount
23 of phosphorus leaving the site is restricted to .15 pounds of phosphorus per acre per year.
24 This method does not outright restrict the amount of impervious surface per se, but it does
25 come with an additional requirement to maintain or create a “natural forested condition” on
26 30% of the subject property. Generally, the “forested method” specifies that natural forested
27 condition must be maintained or created on 75% of the single-family property. The regulations
28 in BMC 15.42 also require mitigation if certain thresholds of new or replaced impervious
29 surface square footages are exceeded. If impervious surfaces are added that cause a site to
30 exceed allowable square footages (generally 300 or more square feet) the entire site must
31 be brought into conformance utilizing either the engineered or forested method. The intent of
32 this “retro-active” requirement is to bring single-family properties into compliance over time
33 and in theory, will help improve the water quality in Lake Whatcom.

34
35 Conversely, impervious surfaces associated with multi-family development are addressed on
36 a case-by-case basis utilizing SEPA to ensure that proper water quality mitigating measures
37 are assigned. This is specified in BMC 16.80.090 D which states:

38
39 *“The maximum impervious limit for residential multi and commercial development shall be*
40 *determined during the SEPA review process. The SEPA process shall consider stormwater*
41 *impacts, ambient water quality, contaminant and nutrient loading and the adopted goals and*
42 *policies for the Lake Whatcom watershed in effect at the time of application. All residential*
43 *multi and commercial development review shall emphasize best management practice*
44 *prevention efforts over treatment strategies for the minimization of water quality impacts and*
45 *a finding of fact must be made that no increase in phosphorus or fecal coliform loading will*
46 *result from the approval of the development.”*

47
48 This discrepancy is proposed to be corrected to ensure that development or redevelopment
49 on multi-family zoned properties in the Silver Beach Neighborhood are, at a minimum,

1 required to adhere to the same standards for phosphorus reduction and retro-active
2 compliance as single-family properties.

3
4 The proposed correction is to delete the reference to multi-family development in BMC
5 16.80.090 D and create a new subsection BMC 16.80.085 that includes the existing
6 regulations pertaining to stormwater management in 16.80.080 and BMC 15.42 that are used
7 for single-family development and redevelopment. These amendments can be found in the
8 DRAFT Ordinance at Exhibit B.

9
10 The result would be that new multi-family development and additions to, or redevelopment of
11 existing multi-family buildings would trigger mitigation in a variety of forms or, require a multi-
12 family site to meet the .15 pounds of phosphorus per year metric.

13
14 Please note that the density or number of units allowed on a multi-family property may not
15 always bear a direct relationship to the amount of impervious surface on a subject site.
16 Greater height allowances and underbuilding parking can reduce the overall amount of
17 impervious surface while accommodating a substantial number of units.

18
19 For example, the Old Mill Village site in area 13, which currently has no on-site stormwater
20 treatment of its impervious surfaces could, potentially accommodate a substantial number of
21 units and minimize the amount of impervious surface because there are no height restrictions.
22 If the proposed changes were made, new development and associated impervious surface
23 on this site and the *existing impervious surfaces* would be required to meet the .15 pounds
24 metric.

25
26 In comparison, area 8 may not be able to develop additional units due to height restrictions
27 within the shoreline jurisdiction, property line setbacks and parking requirements. However,
28 a future action may include completely redoing surface parking areas. But this action alone
29 would not require SEPA so there would be no opportunity to realize mitigation. If the
30 amendment to BMC 16.80 were adopted (direct reference to BMC 15.42), mitigation would
31 be required and depending on the total square footage of redone parking area the site may
32 be required to come into full compliance.

33
34 The proposed amendments intend to achieve a balance between protecting Lake Whatcom,
35 the City's drinking water reservoir AND providing opportunities for additional housing units.

36 **V. COMPREHENSIVE PLAN GOALS AND POLICIES**

37
38
39 The City's Comprehensive Plan identifies the goals and policies that are used as a guide for
40 legislative and administrative decisions regarding changes to the Comprehensive Plan and
41 development codes.

42
43 **GOAL LU-1:** Support a sense of place in neighborhoods.

44
45 **Policy LU-2:** The Multi-Family Residential designation is intended for areas that are able to
46 support higher concentrations of people, while encouraging a desirable living environment within
47 and adjacent to these districts. This zoning also provides a compatible mixture of residential
48 housing types, typical accessory uses, public and semi-public uses, office uses and limited
49 neighborhood commercial uses in appropriate areas.

1 **Policy LU-3:** Residential densities are permitted as follows:
2

3 Residential, Low Density – 7,201 or more square feet per dwelling unit (5 or less units per
4 acre). The Low-Density Residential designation should be used for land that is not suited
5 for more intense urban development because of environmentally sensitive areas and/or
6 public facility or utility capacity limitations.
7

8 Residential, Medium Density – 3,600 to 7,200 square feet per dwelling unit (6 to 12 units
9 per acre). The Medium-Density Residential designation should be used for land that is
10 suitable for moderate density development.
11

12 Residential, High Density – 0 to 3,599 square feet per dwelling unit (more than 12 units
13 per acre). The high-density residential designation should be used for land near existing
14 or potential high-frequency transit service and/or adjacent to or near employment and
15 commercial areas
16

17 **GOAL LU-5:** Support the Growth Management Act’s goal to encourage growth in urban
18 areas.
19

20 **Policy LU-62:** Evaluate all rezone proposals for potential impacts on the available supply of
21 residential, commercial, and industrial zoned land.
22

23 **GOAL LU-7:** Protect and restore our community’s natural resources (land, water and air)
24 through proactive environmental stewardship.
25

26 **Policy LU-67:** Establish land uses, development densities, impervious surface coverages
27 and stormwater standards that minimize flooding, streambank erosion, and loss of aquatic
28 and other habitat.
29

30 **Policy LU-68:** Through redevelopment opportunities, promote the restoration of streams,
31 creeks, and other environmentally sensitive areas. Improve public access to these sites
32 (when appropriate) and educate the public about their benefits.
33

34 **GOAL LU-8:** Protect and improve Lake Whatcom and its watershed to ensure a long-term,
35 sustainable supply of water.
36

37 **Policy LU-73:** Continue implementing low impact development techniques in the Lake Whatcom
38 Watershed and encourage LID approaches in new and redevelopment projects elsewhere
39 throughout the City and UGA.
40

41 **GOAL H-1:** Ensure that Bellingham has a sufficient quantity and variety of housing types and
42 densities to accommodate projected growth and promote other community goals.
43

44 **Policy H-13:** Consider the impacts on Citywide housing capacity, affordability and diversity
45 when making land use policy decisions and code amendments.
46

47 **GOAL EV-1:** Protect and improve drinking water sources.
48

49 **GOAL EV-2:** Limit development in the Lake Whatcom watershed.

1
2 **Policy EV-1:** Focus on protection over treatment in managing Lake Whatcom and its watershed.

3
4 **Policy EV-6:** Implement programs, regulations, and incentives that result in sustainable land use
5 practices, such as LID, that prevent the degradation of water quality in the lake.

6
7 **GOAL EV-4:** Limit urban sprawl and promote sustainable land use planning.

8
9 **Policy EV-9:** Use best available science to preserve and enhance the functions and values of
10 critical areas through policies, regulations, programs, and incentives.

11
12 **GOAL EV-5:** Protect and improve the health of lakes, streams, and the Salish Sea.

13
14 **Policy EV-21:** Maximize the use of LID techniques to protect water quality and sustain watershed
15 processes

16 17 **VI. ANALYSIS – DECISION CRITERIA**

18 19 **Comprehensive and Neighborhood Plan Amendment Criteria** 20 **BMC 20.20.040**

21
22 Petitioners requesting amendments to the Comprehensive Plan and/or a neighborhood plan
23 shall be prepared to offer justification for the request using the following criteria. These criteria
24 will be used by the Planning Commission and the City Council to evaluate amendment
25 requests. In this case, the amendments to the Silver Beach Neighborhood Plan, which will
26 lead to Comprehensive Plan Land Use amendments, are City initiated.

27 28 **A. There exists an error, omission, or inconsistency in the pertinent** 29 **comprehensive plan or neighborhood plan provision; OR**

30
31 **Staff Response:** The inconsistency between the high-density classifications and protection
32 of Lake Whatcom. This is the reason that the City has come forward with this analysis and
33 the proposed amendments. Staff intend to address the criteria in B 1-6, below.

34 35 **B. All of the following criteria have been met:**

36 37 **1. The proposed amendment is consistent with the Growth Management Act** 38 **(GMA) and other applicable laws.**

39
40 **Staff Response:** The amendments are consistent GMA. The Bellingham Comprehensive
41 Plan, developed in accordance with the GMA, contains several policies that speak to creating
42 more housing options and protecting the environment and natural resources. Maintaining the
43 residential multi-family zoning in the four sub-areas continues to implement land use and
44 housing goals and policies of the Comprehensive Plan (Policy LU-62, Policy LU-67-68, Goal
45 LU-8, Goal H-1, Policy H-13, Goal EV-1). Additional analysis is provided in criteria #2, below
46 regarding the density ranges of high, medium and low.

47
48 The proposed amendments to BMC 16.80 are intended to ensure that regardless of the
49 number of dwelling units on a multi-family property, the amount of impervious surface and

1 forested areas becomes a standard percentage of a development site. If approved, any new
2 or redeveloped multi-family property will be reviewed under stricter environmental standards
3 than what currently exist in terms of water quality protection.

4
5 **2. The proposed amendment addresses changing circumstances, changing**
6 **community values, and is consistent with and will help achieve the**
7 **comprehensive plan goals and policies.**

8
9 **Staff Response:** The proposed amendments will continue to achieve comprehensive plan
10 goals and policies. The amendments will improve protection of water quality of Lake Whatcom
11 and, in two of the subareas, provide opportunities for additional multi-family units to meet
12 housing and growth demands. Given the environmental constraints in each of the sub-areas,
13 including wetlands and shorelines, medium or low-density development is more appropriate
14 for the multi-family areas than the unlimited high-density designation. The Bellingham
15 Comprehensive Plan Policy LU-17 provides guidance for such instances:

16
17 Residential, Low Density – 7,201 or more square feet per dwelling unit (5 or less units
18 per acre). The Low-Density Residential designation should be used for land that is not
19 suited for more intense urban development because of environmentally sensitive areas
20 and/or public facility or utility capacity limitations.

21
22 Residential, Medium Density – 3,600 to 7,200 square feet per dwelling unit (6 to 12 units
23 per acre). The Medium-Density Residential designation should be used for land that is
24 suitable for moderate density development.

25
26 Residential, High Density – 0 to 3,599 square feet per dwelling unit (more than 12 units
27 per acre). The high-density residential designation should be used for land near existing
28 or potential high-frequency transit service and/or adjacent to or near employment and
29 commercial areas.

30
31 City staff provide the following analysis of the three high density sub-areas regarding
32 stormwater management and development potential under the low, medium and high-density
33 ranges.

34
35 **Area 8: Multi-family units on five separate parcels at the north end of Lake Whatcom**

- 36
37 ➤ Existing zoning: Residential, Multi, High Density
38 ➤ Overall existing unit count: Approximately 48 units
39 ➤ Overall area density: Approximately 3,383 square feet per unit (high-density)

40
41 Generally, the units in Area 8 were constructed in the late 1970's and early 1980's and
42 therefore, no apparent stormwater management treatment features exist within the area.
43 There is one conveyance pipe that outfalls directly to Lake Whatcom at the east end of
44 Area 8.

45
46 RM, HIGH: All five parcels currently have more units than the minimum required by the
47 high-density designation. All parcels within Area 8 are condominium units (ownership)
48 except for one four-plex apartment building at 618 Northshore Drive. All parcels are
49 unlikely to redevelop or add additional units due to outright ownership (condo owners

1 would have to agree) and/or additional restrictions due to shoreline regulations pertaining
2 to height and buffers.

3
4 RM, MEDIUM: All parcels would be capped at their current density and unit count.

5
6 RM, LOW: All parcels would be capped at their current density and unit count.

7
8 **STAFF RECOMMENDATION FOR AREA 8:** Assigning a medium density range is
9 appropriate for this sub-area. Adding units will be challenging due to rules regarding height
10 in shoreline jurisdiction (35' maximum) and the ability to provide additional parking.
11 Amendments to 16.80 would require any type of redevelopment on any of these sites -
12 including replacing parking areas or other impervious surfaces – to be compliant with the
13 standards in BMC 15.42 regarding stormwater mitigation.

14
15 **Area 9: Lakeside Condos on Alabama comprising 3 separate parcels;**
16 **'west'/'central'/'east'**

- 17
18 ➤ Existing Zoning: Residential, Multi, High Density
19 ➤ Existing unit count: Approximately 72 units all within the 'west' parcel
20 ➤ Overall area density: Approximately 2,875 square feet per unit (high-density)
21 ➤ Density of Area 9 west: Approximately 1,500 square feet per unit (high-density)

22
23 These condominiums were built in approximately 1980 and therefore, no apparent
24 stormwater management treatment features exist within any of the parcels. On-site
25 stormwater conveyance pipes discharge to City stormwater mains that outfall to the
26 Scudder's Pond complex.

27
28 RM, HIGH: A minimum of 30 units are required in Area 9 'west.' This parcel exceeds the
29 minimum required density because 72 units exist. Area 9 west does not drain to basin one
30 of Lake Whatcom and therefore is not subject to the regulatory requirements in BMC 15.42
31 or 16.80 pertaining to impervious surfaces and phosphorous reductions.

32
33 Area 9 'central' would require a minimum of 22 units. Development on the Area 9 central
34 parcel may be somewhat encumbered by height, existing public access easements and
35 critical area buffers from Scudder's Pond and may - depending on site design - drain into
36 basin one of Lake Whatcom.

37
38 Area 9 'east' is the common use space for the Lakeside Condos on the shoreline of Lake
39 Whatcom and could not be developed due to shoreline regulations pertaining to height
40 and buffers.

41
42 RM, MEDIUM: Area 9 west would essentially be capped at its current density and unit
43 count. Area 9 central would be required to develop a minimum of 11 units up to 22 units
44 maximum. Area 9 east cannot be developed as described above.

45
46 RM, LOW: Area 9 west would essentially be capped at its current density and unit count.
47 Area 9 central would be capped at a maximum of 11 units. Area 9 east cannot be
48 developed as described above.

1 **STAFF RECOMMENDATION FOR AREA 9:** Given the existing densities in this area, and
2 overall development potential, staff believe the RM, Medium designation is appropriate.
3 Given the need for additional housing, an RM, Medium designation prevents “unlimited
4 density”, while still providing housing options consistent with the existing character of
5 development. Amendments to 16.80 would require any type of redevelopment on any of
6 these sites - including replacing parking areas or other impervious surfaces – to be
7 compliant with the standards in BMC 15.42 regarding stormwater mitigation.
8

9 **Area 13 (Property #1): Mill Wheel Village Mobile Home Park**

- 10
- 11 ➤ Existing zoning: Residential, Multi, High Density
 - 12 ➤ Available mobile-home spaces: 136. (Low)
 - 13 ➤ Multi-family units are not allowed in a manufactured home park zoning overlay
14 districts unless granted approval via a Type III-A process before the Hearing
15 Examiner pursuant to the criteria in BMC 20.35.145C.
- 16

17 No apparent stormwater management treatment features exist within the area 13 south
18 parcels. Mill Wheel Creek flows through the area from south to north. Mill Wheel Creek
19 has two forks (east and west) both of which originate approximately one-half mile south
20 of Lakeway. The site’s stormwater appears to flow into open-channel drainage swales
21 before entering Mill Wheel Creek. Mill Wheel Creek continues north through a culvert in
22 Flynn Street before emptying into Lake Whatcom at the south end of the Old Mill Village
23 site.
24

25 This site is surrounded by residential single-family zoning on the east, west and south.
26 This restricts height to 35-feet within 200-feet of that single-family zoning. The northern
27 portion of the site is encumbered by wetlands associated with Mill Wheel Creek.
28

29 If the Hearing Examiner granted approval to redevelop the site, the following density
30 scenarios are possible:
31

32 RM, HIGH: A minimum of 311 units would be required.

33 RM, MEDIUM: A minimum of 155 units would be required up to a maximum of 311 units.
34

35 RM, LOW: A maximum of 155 units would be allowed.
36
37

38 **Area 13 (Property #2) – 3903 – 3911 Flynn Street**

- 39
- 40 ➤ Existing zoning: Residential, Multi, High Density
 - 41 ➤ Existing unit count: 32 apartment units on one parcel
 - 42 ➤ Overall parcel density: approximately 1 unit per 5,390 square feet (medium)
- 43

44 These units were constructed in 1991 and therefore, no apparent stormwater
45 management treatment features exist on the subject parcel. There is one on-site
46 conveyance pipe that discharges site stormwater into abutting wetlands at the south end
47 of the Old Mill Village site. Similar to the Mill Wheel Village site, the western property line
48 is within 200-feet of a residential single-family zone. The three existing buildings are all

1 within the 35-foot height restricted area. The western portion of the property is the most
2 likely location for additional units although setback requirements from Flynn Street may
3 be further restrictive. Any further encroachment towards the east would likely result in
4 impacts to wetlands and/or buffers.

5
6 RM, HIGH: A minimum of 48 units would be required.

7
8 RM, MEDIUM: A minimum of 24 units would be required up to a maximum of 48 units.

9
10 RM, LOW: A maximum of 23 units would be allowed therefore subject site would be
11 capped at its current unit count of 32.

12
13 **Area 13 (Property #3) – Old Mill Village Site**

- 14
15 ➤ Existing zoning: Residential, Multi, High Density
16 ➤ Existing unit count: 112 units on multiple parcels under common ownership
17 ➤ Existing density across all parcels: approximately 1 unit per 13,270 square feet (low)

18
19 The last multi-family building was constructed in 1987 and there are no apparent stormwater
20 management treatment features on the subject parcel. There is one on-site conveyance pipe
21 that discharges a small percentage of the overall site into abutting wetlands in the central
22 portion of the site.

23
24 Future development on the interior of the site (where it may be most feasible) does not have
25 height limitations which could facilitate unit counts while minimizing impervious footprints.
26 Wetlands, shorelines and their associated buffers are present around the perimeter of the
27 existing footprints on the subject site which could potentially affect site layout and
28 configuration but not necessarily unit count.

29
30 The proposed amendments to BMC 16.80 would require any future development to provide
31 stormwater management treatment mechanisms for any new and / or replaced impervious
32 surfaces as well as existing impervious areas which would result in a net-benefit reduction of
33 phosphorus.

34
35 RM, HIGH: A minimum of 429 total units would be required. (317 additional units + the 112
36 existing units.)

37
38 RM, MEDIUM: A minimum of 214 additional units would be required up to the maximum of
39 429 additional units. There are 112 existing units, so the range of additional new units is a
40 minimum of 102 up to a maximum of 317.

41
42 RM, LOW: A maximum of 214 units would be allowed therefore, 102 additional units could be
43 developed at this site.

44
45 **STAFF RECOMMENDATION FOR ALL OF AREA 13:** Given the existing densities in this
46 area, and overall development potential, staff believe the RM, Medium designation is
47 appropriate. Given the need for additional housing, staff does not believe that changing
48 the designation from RM, High to RM, Low is consistent with community values or the
49 goals and policies in the Comprehensive Plan. An RM, Medium designation prevents

1 “unlimited density”, while still providing housing options consistent with the existing
2 character of development.

3
4 Staff also recommends that the zoning table for Area 13 include a ‘special condition’ in
5 order to address potential off-site impacts associated with new or redevelopment of the
6 multi-family sites in Area 13.

7 8 **Area 18 – Spring Land Estates Subdivision & Grace Lane south of Barkley Boulevard**

9
10 Area 18 currently has an RM, Medium designation and is predominantly developed with
11 detached single-family residences, built between 2003 and 2005. There are no private
12 vacant properties within Area 18. Given the City’s need for additional housing and the low
13 likelihood of large-scale redevelopment in Area 18, City staff recommend maintaining the
14 multi-family medium density designation.

15
16 **SUMMARY:** The overall goals in the existing Comprehensive Plan are to provide additional
17 housing units and protect the water quality of Lake Whatcom. Staff acknowledges assumptive
18 correlations between the number of residential units and environmental impacts, and
19 specifically in the watershed, impacts to water quality in Lake Whatcom.

20
21 The proposed amendments do not intend to *prevent* development but rather limit the impacts
22 associated with development while at the same time provide opportunities to accommodate
23 additional units and achieve increased water quality protection in Lake Whatcom.

24
25 Staff have considered the possible densities under the RM, Low and RM, Medium
26 designations. Staff believes that the RM, Medium designation, coupled with the proposed
27 amendments to BMC 16.80, is consistent with and will help achieve the comprehensive plan
28 goals and policies as stated in Section V.

29
30 The Medium density designation provides the opportunity for a significant number of
31 additional housing opportunities throughout the three existing RM, high density zones when
32 those properties develop or redevelop in the future (Goal H-13 and Goal EV-4. Policy LU-2,
33 Policy LU-3, Policy LU-5.) Reducing the density from high to medium limits the potential
34 impacts of development in the Lake Whatcom watershed consistent with Goals EV-1 and EV-
35 2. In addition, these areas have proximity and adjacency to transit which provides access to
36 services. This has the potential to reduce vehicle trips.

37
38 The multi-family zones are also proximate to parks such as Bloedel Donovan, Whatcom Falls,
39 Big Rock Open Space and the Klipsun Greenway and the trail system that connects them,
40 Silver Beach Elementary School. These public features can add to the desirability of future
41 units in these multi-family zones.

42
43 Assigning a low-density designation in the multi-family zones caps many of the existing
44 parcels at their current unit count, as described above. The low-density designation would
45 “limit development in the Lake Whatcom watershed” (Goal EV-2) but may not provide a
46 significant enough opportunity for future units and would not necessarily result in less
47 impervious surface than the medium density. The potential unit count difference between low
48 and medium density throughout all multi-family zones is approximately 215 units.

1 Additionally, updating BMC 16.80 to ensure that multi-family development in the Lake
2 Whatcom watershed is as protective as the development standards for single-family
3 properties will further protect and potentially improve the water quality in Lake Whatcom
4 especially since any new development on multi-family sites will require ‘retro-active’
5 compliance. Application of these revised stormwater requirements would potentially move the
6 City closer to achieving its phosphorus reduction measures specified in the Lake Whatcom
7 TMDL. (Goal LU-8, Goal EV-1 and EV-5. Policy LU-67-68.)
8

9 **3. The proposed amendment will result in long-term benefit to the community
10 and is in the community's overall best interests.**
11

12 **Staff Response:** The proposed amendments have the potential to result in a long-term
13 benefit to the community and are in the community’s overall best interest. If the proposed
14 amendments to BMC 16.80 are instituted, development of new and/or redevelopment of
15 existing multi-family zones in the Silver Beach Neighborhood would be required to provide
16 new or improve existing stormwater treatment mechanisms that are expected to result in a
17 net benefit to water quality in basin one. In addition, adjusting the density from RM, High
18 area to RM, Medium retains the ability to develop a significant number of units while also
19 requiring further protection of Lake Whatcom and the city’s drinking water. Allowing more
20 housing options, while furthering watershed protection, is consistent with this standard.
21

22 **4. The amendment will not adversely affect the public health, safety, or general
23 welfare.**
24

25 **Staff Response:** The ongoing point source phosphorus loading emanating from areas 8
26 and 13 in the Silver Beach Neighborhood may be currently adversely affecting water quality
27 in Lake Whatcom. Recall from the analysis above, areas 8, 9 and 13 do not have
28 stormwater management treatment mechanisms in place. The proposed amendments to
29 BMC 16.80 are expected to improve public health, safety, and general welfare by virtue of
30 improving, over time, the water quality in Lake Whatcom by applying the single-family
31 stormwater requirements. Maintaining opportunities for a significant number of housing units
32 (particularly in area 13) also addresses a public welfare need by providing housing.
33

34 **5. If a concurrent rezone is requested, the proposal must also meet the criteria
35 for rezones in [BMC 20.19.030](#).**
36

37 **Staff Response:** See below.
38

39 **REZONE REVIEW CRITERIA**
40 **BMC 20.19.030**
41

42 In evaluating proposed rezones, the Planning Commission and City Council should consider
43 the following criteria:
44

45 **A. It is consistent with the comprehensive plan or corresponds to a concurrent
46 comprehensive plan amendment application.**
47

48 **Staff Response:** See the discussion under Comprehensive Plan amendment criterion B.1.
49 and B. 2.

1 **B. It will not adversely affect the public health, safety, or general welfare.**

2
3 **Staff Response:** See the discussion under Comprehensive Plan amendment criterion B. 4.

4
5 **C. It is in the best interests of the residents of Bellingham.**

6
7 **Staff Response:** See the discussion under Comprehensive Plan amendment criterion B. 2
8 and 3.

9
10 **D. The subject property is suitable for development in general conformance with**
11 **zoning standards under the proposed zoning district.**

12
13 **Staff Response:** There are four residential multi-family zones in the Silver Beach
14 Neighborhood. As stated above, on pages 9-11, sub-areas 8, 9 'west' and 18 are built out
15 with existing units. Redevelopment is possible but unlikely. There are two sites that may be
16 most appropriate for future development. Area 9 'central,' and the Old Mill Village site. (Mill
17 Wheel Mobile Home Park may have redevelopment opportunity but requires other procedural
18 steps for that to be allowed to occur.) Each of these are likely to be suitable for development
19 under the medium density range, particularly if the amendments to BMC 16.80 are also
20 adopted. Any future development proposal will have to meet requirements and development
21 standards in the Bellingham Municipal Code.

22
23 **E. Adequate public facilities and services are, or would be, available to serve the**
24 **development allowed by the proposed zone.**

25
26 **Staff Response:** The subject site can be adequately served by City public facilities and
27 existing life safety services.

28
29 **F. It will not be materially detrimental to uses or property in the immediate**
30 **vicinity of the subject property.**

31
32 **Staff Response:** See the discussion Comprehensive Plan amendment criterion B. 4.

33
34 **G. It is appropriate because either:**

- 35
36 **1. Conditions in the immediate vicinity have changed sufficiently since the**
37 **property was classified under the current zoning that a rezone is in the public**
38 **interest; or**

39
40 **Staff Response:** See the discussion under Comprehensive Plan amendment criterion B.2
41 and B.3.

- 42
43 **2. The rezone will correct a zone classification or zone boundary that was**
44 **inappropriate when established; or**

45
46 **Staff Response:** See the discussion under Section IV of this report and Comprehensive
47 Plan amendment criterion A. and B. 2.

- 48
49 **3. The rezone will implement the policies of the comprehensive plan.**

1
2 **Staff Response:** See the discussion under Comprehensive Plan amendment criteria B. 1.
3 and B. 2.
4

5 **VII. PUBLIC COMMENT**
6

7 Public comments that are submitted will be presented to the Planning Commission as they
8 are received. Public comments that are provided up City staff will have responses prepared
9 for the public hearing.
10

11 **VIII. STATE ENVIRONMENTAL POLICY ACT (SEPA)**
12

13 A non-project Determination of Non-Significance was issued on February 23, 2024. A 14-day
14 comment period was provided.
15

16 **IX. STAFF CONCLUSION AND RECOMMENDATION**
17

18 City staff have analyzed the medium and low-density ranges for the four multi-family zones
19 in the Silver Beach Neighborhood. Staff have also developed amendments to the
20 impervious surface limits and stormwater management regulations pertaining to multi-
21 family development and redevelopment.
22

23 The multi-family high density sub-areas in the Silver Beach Neighborhood should be
24 rezoned to medium density and the multi-family impervious surface limits and stormwater
25 management requirements in BMC 16.80 that reflect greater protection and retro-active
26 compliance should be approved because:
27

- 28 • The demand for additional housing units in the City has increased significantly in the
29 last several years and the City Council has declared a “housing crisis” in Bellingham;
30
- 31 • The proposed amendments to the density ranges provide opportunity for additional
32 housing units that can be adequately served by existing infrastructure;
33
- 34 • Redevelopment of existing or development of new units in any of the multi-family
35 zones would allow the City to apply the proposed revisions in BMC 16.80 which
36 could significantly reduce ongoing point source phosphorous loading to Lake
37 Whatcom from multi-family areas;
38
- 39 • Reductions in phosphorous loading that is addressed via development or
40 redevelopment could allow the City to redirect its resources and efforts to other
41 protection and treatment mechanisms that would continue to achieve the
42 phosphorus reduction targets set in the TMDL for Lake Whatcom;
43
- 44 • The proposed changes are consistent with the intended direction of the 2025
45 comprehensive plan which intends to achieve integration of providing additional
46 housing units and protecting the environment;
47

- 1 • These legislative actions are consistent with the Growth Management Act which
- 2 requires local governments to achieve balance among the 14 goals including
- 3 providing additional housing inventory and environmental protection;
- 4
- 5 • The proposed amendments are consistent with the criteria for neighborhood and
- 6 comprehensive plan amendments in BMC 20.20.040 and criteria for rezones in BMC
- 7 20.19.030; and therefore:
- 8

- 9 1. City staff recommend that the Planning Commission forward a recommendation of
- 10 approval to rezone areas 8, 9 and 13 from residential multi high-density to residential
- 11 medium density as reflected in the draft ordinance. (Area 18 will remain at 'medium.');
- 12
- 13 2. City staff recommend that the Planning Commission forward a recommendation of
- 14 approval for amendments to subsections 16.80 and BMC 20 pertaining to impervious
- 15 surface limits and stormwater management requirements in multi-family zones.
- 16

17 The proposed amendments are provided in the Draft Ordinance at Exhibit B.

18

19 **X. LIST OF EXHIBITS**

20

- 21 A Current Silver Beach Neighborhood Zoning Map
- 22 B Draft Ordinance Reflecting Amendments to the:
 - 23 ➤ Comprehensive Plan's Silver Beach Neighborhood Zoning Map;
 - 24 ➤ Silver Beach Neighborhood Plan zoning text;
 - 25 ➤ Silver Beach Neighborhood zoning table for areas 8, 9, 13;
 - 26 ➤ Amendments to BMC 16.80; and
 - 27 ➤ Minor clarifying non-substantive revisions to BMC 20 to facilitate the amendments
 - 28 above.
- 29 C Draft Planning Commission Findings of Fact, Conclusions and Recommendations
- 30 (*See Attachment 2 City Council Packet*)
- 31 D Non-Project SEPA Determination of Non-Significance