

ATTACHMENT 3

BELLINGHAM PLANNING COMMISSION FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS

JULY 7, 2022

SUMMARY

Following the public hearing on June 16, 2022, and a work session on July 7, 2022, the Bellingham Planning Commission has determined that the proposed amendments, with several modifications, comply with and will implement the goals and policies of the Bellingham Comprehensive Plan.

I. FINDINGS OF FACT

1. Project or Proposal Description:

This proposal identifies amendments to the Bellingham Municipal Code (BMC) to establish zoning regulations for some or all of the existing Manufactured Home Parks (MHP) in the City and additional regulations that would apply to all MHPs. The proposal includes multiple amendments but is generally intended to create a MHP overlay to preserve certain existing MHPs, establish permitted uses within the MHP overlay, and provide requirements relating to change of use, ownership, and closure of a MHP.

Proposed amendments to the Bellingham Municipal Code (BMC) are shown in the draft ordinance.

2. Background Information/Procedural History:

Why is MHP Preservation a City Council Priority?

MHPs offer Bellingham residents a relatively affordable and unsubsidized form of single-family housing. As home prices continue to rise, existing MHPs may face redevelopment pressure that could lead to the displacement of residents, including vulnerable populations, who may not have the means to relocate due to fixed incomes, low vacancy rates, and a low affordable housing stock.

After receiving testimony from MHP residents concerning the possibility of MHP redevelopment, City Council implemented an emergency redevelopment moratorium to preserve existing MHPs and allow time for City staff to evaluate methods to encourage the preservation of existing MHPs to ensure their continued provision of affordable housing. In 2019, City Council added a specific goal, policy, and supporting text relating to MHPs in the Housing Chapter of the Bellingham Comprehensive Plan that provided the policy basis to investigate strategies to preserve this affordable housing option.

Overview of MHPs in Bellingham

There are ten existing MHPs within the City serving approximately 1,448 residents across 884 dwelling spaces. Manufactured homes within MHPs make up approximately 2.1% of the City's housing stock. Nine MHPs are located within a residential zoning designation and one MHP is located in the Samish Way Urban Village. Details related to the ten MHPs are provided in **Table 1** below.

Table 1. Bellingham MHPs

MHP Name	Address	Acres	Zoning Area	Zoning Designation	Unit Count*	Population**
Bakerview Mobile Estates	4015 Eliza Ave.	18.7	Meridian, Area 8	Residential Single, 6,000 sf. min. detached lot size	126	206
Cresthaven Mobile Home & RV Park	2500 Samish Way	3.2	Samish, Area 5	Residential Single, 20,000 sf. min detached lot size (Cluster)	33	54
James Street Estates (55+)	3802 James St.	18.4	King Mountain, Area 11	Residential Single, 7,200 sf min. detached lot size (Cluster)	94	154
Lakeway Mobile Estates (55+)	1200 Lincoln St.	25.7	Puget, Area 15	Residential Multi, Planned, High Density	218	357
Maplewood Mobile Home Park	2625 W. Maplewood Ave.	0.7	Birchwood, Area 7A	Residential Multi, Planned, High Density	11	18
Mill Wheel Park	4000 Flynn St.	25.7	Silver Beach, Area 13	Residential Multi, Planned, High Density	134	219
Parkway Village (55+)	2015 24 th St.	15.9	South, Area 6	Residential Multi, Planned, Medium Density	102	167
Robin Lane Mobile Home Park	Robin Lane	8.0	South, Area 8	Residential Single, 7,200 sf. min. detached lot size	54	88
Samish Mobile Home Park	119 N. Samish Way	3.0	Sehome, Area 15	Samish Way Urban Village, CT2, RT2	28	46
South End Mobile Estates (55+)	2400 Donovan Ave.	10.0	Happy Valley, Area 9	Residential Single, 7,500 sf. min. detached lot size (cluster)	84	138

*Unit count is based on data from April 2022.

**Population is an estimate using the 2021 OFM Manufactured Home Occupancy Rate and Household Size.

MHP Ownership Structures

Each of the MHPs in Bellingham, except for James St. Estates, have one landowner who leases rental pads to residents. Most residents own their home and rent the land beneath it. A small percentage of residents rent both their home and the land. James St. Estates is collectively owned by residents, who each own a share of the land as part of a condominium ownership structure.

Overview of MHP Preservation Strategies

In 2019, the City hired a consultant to develop a menu of MHP preservation options, which included the following techniques:

- *Public/Non-profit/Blended Acquisition*

- Resident Acquisition
- Land Use Designation, Zone or Zone Overlay
- Expanded Closure Notification Requirements
- Relocation Assistance
- Inclusionary Housing

After evaluating each option, City staff identified “**Land Use Designation, Zone or Zone Overlay**” and a variation on the “**Expanded Closure Notification Requirements**,” as two of the most feasible, effective, and compatible techniques for near-term consideration.

Long-term, staff identified “**Resident Acquisition**” followed by “**Public/Non-profit/Blended Acquisition**” as highly effective strategies in preservation; however, these strategies are only feasible when a MHP owner is willing to sell and regulations are in place that enable residents, non-profits, and/or government agencies time to develop an acquisition strategy. While expanded closure notification requirements do not directly preserve MHPs, they may enable residents, non-profits, and/or government agencies more time to assess the feasibility of purchasing a MHP to ensure its long-term preservation.

Staff also identified “**Relocation Assistance**” as a strategy for future exploration, but this strategy was viewed as less effective in achieving the City’s comprehensive plan policy and goal around MHP preservation. Lastly, the City is exploring the potential for “**Inclusionary Housing**” regulations as part of the PCDD’s 2022 workplan, so this tool may be available in the future.

“Land Use Designation, Zone or Zone Overlay” Option: Lessons from Other Jurisdictions

To expand upon the 2019 preservation options described above, staff recently explored zoning techniques used in other jurisdictions across Western Washington. Zoning regulation details from several jurisdictions are described below.

Bothell: In 1996, the City of Bothell became the first jurisdiction in the state to adopt mobile home park overlay zoning. The City’s six, pad-leased parks are included in the overlay zone, and all are treated equally from a zoning perspective. Redevelopment of a mobile home park within the overlay zone requires a comprehensive plan amendment; however, there has been no redevelopment since the regulations were established.

Tumwater: The City of Tumwater adopted mobile home park zoning for six of its ten mobile home parks in 2008. Three parks were excluded from the zoning due to their small size and one was excluded due to its general commercial zoning designation. After the new zoning designation was established, the City faced legal challenges until 2012 when the Ninth Circuit Court of Appeals upheld the City’s regulations in *Laurel Park Community, LLC v. City of Tumwater*. The City’s regulations include a “use exception” clause that allows MHP owners the opportunity to request a use exception if they can demonstrate “they do not have a reasonable use of their property under the MHP zoning; or the uses authorized by the MHP zoning are not economically viable at the property’s location (Tumwater Municipal Code 18.49.070).

Kenmore: The City of Kenmore passed an ordinance to establish Manufactured Housing Community (MHC) zoning in 2019. The City’s six parks were divided into

two categories; Two parks on the south side of the City were zoned for long-term preservation and four parks in the City's downtown area were zoned for short-term preservation followed by upzoning for affordable housing after ten years. Soon after the ordinance passed, the City received an appeal to the Growth Management hearing Board, and the appeal process continues into 2022.

Seattle: In December 2021, the City of Seattle approved a mobile home park overlay district to aid in near-term preservation of the City's two remaining mobile home parks. The two parks are located adjacent to each other in the Bitter Lake Urban Village, and the overlay district provisions include an expiration date of January 1, 2051. After this date, the underlying zoning goes into effect, which allows significantly higher intensity of both residential and commercial use. The overlay district limits residential uses to mobile homes, mobile home parks, and low-income housing along with a range of non-residential uses. If a park is redeveloped with low-income housing, the owner must provide current residents with a right of first offer for a replacement unit, relocation housing, and financial relocation assistance. The provisions included in this ordinance are highly specific to unique circumstances in Seattle that resulted from negotiations between the City and a park owner, who initially filed an appeal to the City's SEPA threshold determination.

"Expanded Closure Notification Requirements" + "Resident Acquisition" Options:

In addition to the zoning techniques described above, staff explored expanded closure notification requirements as a tool to support residents in MHP acquisitions. **Upon further research, staff identified two more specific regulatory techniques that are critical to successful resident acquisitions that provide more opportunity for preservation. These include expanded notice of sale and tenant opportunity to purchase (TOPO) requirements.**

Expanded Notice of Sale + Tenant Opportunity to Purchase (TOPO): While the state of Washington requires that MHP owners notify all residents if they intend to sell their property, owners are not required to share the price, terms and conditions which they have conditionally accepted or intend to accept. Including these additional noticing requirements, along with TOPO requirements, has been a highly successful technique in resident acquisition of MHPs around the country, especially in states such as Connecticut, Florida, Massachusetts, Minnesota, New Jersey, Rhode Island, and New Hampshire. This technique has proven successful because, without these specific regulations, MHP properties are often sold "off the market" and residents are not made aware of a potential sale until after a park owner has negotiated with a prospective buyer.

Model Laws & Precedents in Washington:

Although Washington state does not allow residents the "right of first refusal" upon receiving notice of an impending sale, the City of Bellingham could consider adopting language to better support potential resident acquisitions. According to model laws published by the AARP Public Policy Institute, effective language includes specific deadlines (typically 60-120 days) by which qualified tenant organizations can submit proposed purchase and sale agreements after receiving a notice of sale. After this period, MHP owners shall engage in good faith negotiations with the qualified tenant organization if

they submit a proposed sale and purchase agreement. An additional 60-120 days is recommended as a requirement to allow residents the opportunity to obtain any necessary financing or guarantees and to close on the purchase.

In November 2021, **College Place, WA** adopted a TOPO ordinance requiring that residents, park homeowners' associations, and eligible organizations be given an opportunity to purchase or lease the manufactured/mobile home park prior to any sale, lease, or transfer. Residents, park homeowners' associations, and eligible organizations have 45 days to provide written notice of intent to consider the purchase or lease. Owners must then negotiate in good faith and must not sell, lease or transfer the property for a period of 120 days after receipt of a notice of intent. **Olympia** and **Lacey** have also indicated interest in TOPO ordinances in their respective housing actions plans. Organizations, such as Resident Owned Communities Northwest (ROC Northwest), may be able to support residents through a fully debt-financed acquisition process in the future. There are dozens of examples of successful resident, non-profit, and/or local housing authority MHP acquisitions across the state.

Procedural History

On June 3, 2019, the Bellingham City Council adopted an emergency ordinance (Ordinance No. 2019-06-021) establishing a moratorium on development applications and permits relating to the redevelopment of existing mobile home or manufactured home parks to preserve this housing form and allow the City time to review options and draft preservation regulations. City Council has approved several six-month extensions of this ordinance through December 2, 2022, to provide the City with additional time to explore preservation options.

On December 23, 2019, City Council adopted amendments to the 2016 Bellingham Comprehensive Plan (Ord. 2019-12-044) that added the below goal and policy relating to the preservation of existing MHPs.

- Goal H-5 Existing manufactured home parks (MHPs) should be preserved.
- Policy H-55 Identify and evaluate methods to encourage the preservation of existing manufactured home parks to ensure their continued provision of affordable housing.

On December 14, 2020, City Council docketed staff's request to potentially add a comprehensive plan designation and zoning for MHPs.

On May 10, 2022, the City submitted applications for State Environmental Policy Act (SEPA) review to officially start the review process.

On May 10, 2022, City staff held a virtual meeting with MHP owners and representatives. The purpose of the meeting was to introduce potential preservation strategies to MHP owners and address any questions and comments related to the strategies. Representatives from seven of the ten MHPs attended the meeting to learn more about the proposal, ask questions, and provide input.

On May 16 and 17th, 2022, City staff held virtual meetings for residents of MHPs. The purpose of both meetings was to introduce potential preservation strategies to MHP residents and address any questions and comments related to the strategies. In total, 42 residents participated.

3. Comprehensive Plan Goals and Policies:

The City's Comprehensive Plan identifies the goals and policies that are used as a guide for legislative and administrative decisions regarding changes to the comprehensive plan and development codes. Relevant comprehensive plan goals and policies are listed below:

GOAL H-1: Ensure that Bellingham has a sufficient quantity and variety of housing types...

GOAL H-2: Foster housing that is safe, healthy, livable and affordable for all income levels in all neighborhoods.

GOAL H-4: Support housing options for special needs populations.

GOAL H-5: Existing manufactured home parks (MHPs) should be preserved.

Policy H-12: Continue permitting manufactured homes in residential zones in accordance with state and federal laws.

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

Policy H-15: Support fair and equal access to housing for all persons, regardless of race, religion, ethnic origin, age, household composition or size, disability, marital status, sexual orientation or economic circumstances.

Policy H-46: Work with agencies, developers, nonprofits to locate housing to serve special needs populations, particularly those with challenges related to age, health or disability.

Policy H-55: Identify and evaluate methods to encourage the preservation of existing manufactured home parks to ensure their continued provision of affordable housing.

Policy LU-4: Protect the unique character and qualities of existing neighborhoods, while identifying opportunities for improved livability, safety, and housing affordability and diversity.

Policy LU-5: Foster neighborhoods with a balanced mix of housing prices that are compatible with the wages and incomes in the community.

4. Public Comment:

On May 10, 2022, City staff held a virtual meeting with MHP owners. The purpose of the meeting was to introduce potential preservation strategies to MHP owners and address any questions and comments related to the strategies. Representatives from seven of the ten MHPs attended the meeting to learn more about the strategies, ask questions, and provide input.

- Several owners were particularly interested in understanding potential criteria for determining which MHPs would be included in an overlay.
- One owner expressed concerns around potential barriers to the development of new MHPs and described challenges they experienced in another county related to wetland impacts.
- One owner's representative expressed interest in adding more homes to their existing MHP.
- One owner commented that the potential 90-day opportunity to purchase timeline could be burdensome for owners.
- Two property owners expressed concern around their potential reduction of property rights and asked if/how the city would compensate for lost property value due to zoning regulations.

On May 16 and 17th, 2022, City staff held virtual meetings for residents of MHPs. The purpose of both meetings was to introduce potential preservation strategies to MHP residents and address any questions and comments related to the strategies. 13 residents from Bakerview Mobile Estates, James St. Estates, Maplewood Park, Mill Wheel Park, and Samish Mobile Home Park attended the May 16th meeting. 29 residents from Lakeway Mobile Estates, South End Mobile Estates, Cresthaven MH & RV Park, Parkway Village, and Robin Lane Mobile Home Park attended the May 17th meeting.

- Meeting participants expressed general interest in the use of an overlay. Some expressed interest in collectively purchasing their park if that option became available, but many expressed concerns around feasibility due to the high cost of land and housing in Bellingham.
- Several residents described how many manufactured homes in Bellingham are quite old and would be difficult and costly to move if a park closed. In addition, residents expressed concerns around rent increases at their MHPs, and staff highlighted that the proposed preservation strategies would not address rent increases due to a state law prohibiting rent control.

Residents shared other potential ideas related to MHP preservation, including the establishment of non-profits to run MHPs and help resident-owned communities; MHPs partnering with the USDA to qualify residents for funding for home loans and repairs (note: this would only be possible in areas outside of Bellingham City limits defined as rural by the USDA); and lastly, expanding areas where MHPs could be built.

On June 1, 2022, notice of the City's intent to adopt the proposed amendment was sent to the Washington State Department of Commerce.

Notice of the Planning Commission Public Hearing was mailed to MHP owners and neighborhood representatives and associations. Notice was also published in the

Bellingham Herald, posted on City website notice locations, and a notice sign was posted at each MHP.

5. State Environmental Policy Act (SEPA) Determination if applicable

A non-project SEPA Determination of Non-Significance (DNS) was issued on May 10, 2022. Notice was mailed to the appropriate agencies, published in the Bellingham Herald and posted on the City's website. No public comment was submitted on the DNS.

6. Consistency with the Bellingham Comprehensive Plan, and/or Review Criteria:

REZONE REVIEW CRITERIA: BMC 20.19.030

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

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

The proposed amendments, including the modifications recommend by the Planning Commission, are consistent with and implement several goals and policies in the 2016 Bellingham Comprehensive Plan as reference above in **Section 3**. The Housing and Land Use Chapters of the Bellingham Comprehensive Plan contain a range of goals and policies that provide direction to ensure that Bellingham supports a variety of housing types and options for all people. As housing has become less affordable in Bellingham, MHPs remain a relatively affordable ownership and housing opportunity for elderly and low-income residents. Goal H-5 explicitly states that MHPs should be preserved, and Policy H-55 directs the City to identify and evaluate methods to encourage the preservation of existing MHPs to ensure their continued provision of affordable housing.

MHPs, however, provide residents with more than just an affordable place to live. They foster community and offer amenities, such as clubhouses or sports courts, for residents to gather and recreate. The proposed amendments will aid in MHP preservation, and consequently, help support a sense of place in neighborhoods (Goal LU-1), protect the unique character and qualities of existing neighborhoods (Policy LU-4), and foster neighborhoods with a balanced mix of housing prices that are compatible with the wages and incomes in the community (Policy LU-5).

The Commission finds that this criterion has been met.

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

The proposed amendments, including the modifications recommend by the Planning Commission, will not adversely affect the public health, safety or general welfare. The intent of the amendments is to preserve existing MHPs and prevent the displacement of residents.

Most MHP residents rent the land beneath their home making them highly vulnerable to the impacts of redevelopment. The proposed MHP Overlay could apply to some or all of the existing MHPs, and it would not change underlying zoning designations.

Other proposed regulations related to the change in ownership of MHPs are intended to facilitate potential resident acquisitions of MHPs. These regulations would also help preserve MHPs and would not adversely affect the public health, safety or general welfare.

The Commission finds that this criterion has been met.

C. It is in the best interests of the residents of Bellingham.

Housing affordability is an immediate need for the City, and the proposed amendments provide an opportunity to preserve an unsubsidized, relatively affordable, existing form of single-family housing. MHPs make up 2.1% of the City's total housing stock and home approximately 1,448 residents.

The potential loss of this affordable housing type through change of use or redevelopment of a MHP would displace residents, including many who may not have the ability to relocate due to a variety of circumstances, such as fixed incomes, low vacancy rates, and a low available housing stock. Preserving this housing option not only prevents displacement of current residents, but also provides future residents with more affordable, single-family homeownership opportunities in neighborhoods across the City.

The Commission finds that this criterion has been met.

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

The subject properties are suitable for development in general conformance with zoning standards under the proposed MHP Overlay. The underlying zoning is not proposed to be changed. Replacement of a structure, construction of a new structure, and/or establishment of a new use within the MHP Overlay shall comply with the use regulations in the proposed section of code (Article III, Chapter 20.35) along with building codes and all other development regulations of the underlying zoning wherein a MHP is located. Except for MHPs located within the Lake Whatcom Watershed, the proposed code also states that density limits do not apply to MHPs within the overlay. This clause will enable park owners the ability to more easily add new homes to their properties as long as they are in compliance will all other City regulations.

The Commission finds that this criterion has been met.

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

The subject sites can be adequately served by City public facilities and existing life safety services. The underlying zoning is not proposed to be changed.

The Commission finds that this criterion has been met.

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

The proposed amendments, including the modifications recommend by the Planning Commission, aim to preserve existing MHPs and will not be materially detrimental to uses or property in the immediate vicinity because changes in use or redevelopment are not being proposed. The underlying zoning is not proposed to be changed. The MHP Overlay is an additional zoning regulation intended to preserve current MHPs, so there will be no impacts to uses or property in the immediate vicinity of the subject properties.

The Commission finds that this criterion has been met.

G. It is appropriate because either:

1. **Conditions in the immediate vicinity have changed sufficiently since the property was classified under the current zoning that a rezone is in the public interest; or**
2. **The rezone will correct a zone classification or zone boundary that was inappropriate when established; or**
3. **The rezone will implement the policies of the comprehensive plan.**

The proposed amendments will explicitly implement Policy H-55, which states that the City should, "Identify and evaluate methods to encourage the preservation of existing manufactured home parks to ensure their continued provision of affordable housing." The subject amendments also implement a wide range of additional housing and land use policies, including support for fair and equal access to housing, consideration for the impacts on citywide housing affordability and diversity, protection of the unique character and qualities of existing neighborhoods, and fostering neighborhoods with a balanced mix of housing prices.

The Commission finds that this criterion has been met.

II. CONCLUSIONS

Based on the staff report and the information presented at the public hearing and work session, the Bellingham Planning Commission concludes that:

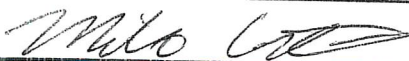
1. The proposed BMC amendments, with modifications described in the recommendations below, help achieve many of the housing and land use related goals and policies in the Comprehensive Plan.
2. Establishing an overlay will help preserve existing MHPs, which offer residents relatively affordable and unsubsidized homeownership and housing opportunities. In addition, the proposed regulations related to expanded notice of sale and tenant opportunity to purchase will enable greater opportunity for resident acquisitions of MHPs in the future.
3. The proposed amendments, including the Planning Commission modifications described below, are consistent with the 2016 Bellingham Comprehensive Plan and meet all of rezone criteria in BMC 20.19.030.

III. RECOMMENDATIONS

Based on the findings and conclusions, the Planning Commission recommends that the City Council **approve the draft ordinance with the following modifications and additions as described below:**

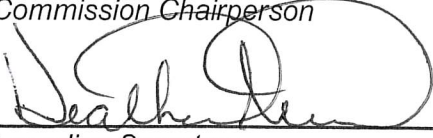
1. Include "eligible organizations" in the Opportunity to purchase clause to expand ownership opportunities to non-profit organizations and public entities if a MHP owner intends to sell their property. As defined in the [2021 House Bill 1100](#), "eligible organizations" include community land trusts, resident nonprofit cooperatives, local governments, local housing authorities, nonprofit community or neighborhood-based organizations, federally recognized Indian tribes in the state of Washington, and regional or statewide nonprofit housing assistance organizations (Vote: 6-0).
2. Expand the responsibility of owners if a MHP closes by requiring owners to submit a relocation report and plan to the City of Bellingham's Planning and Community Development Department for approval prior to issuing a 12-month eviction notice in the case of a change of use or closure of a MHP (Vote: 6-0).
3. If no further action is taken, the MHP Overlay will sunset in 30 years (Vote: 6-0).
4. Include all ten MHPs in the proposed overlay (Vote: 4-2).
5. Review and determine the feasibility of establishing a City-funded relocation assistance program if a MHP closes (Vote: 4-2).
6. Approve the draft ordinance with the Planning Commission's recommended modifications, as described in this section, and apply the 30-year sunset clause to all MHPs in the Overlay (Vote: 6-0).

ADOPTED this _____ day of _____, 2022.



Planning Commission Chairperson

ATTEST:


Recording Secretary

APPROVED AS TO FORM:


City Attorney