



City of Bellingham
City Council Regular Meeting Agenda
September 23, 2019, 7:00 PM

Mayor Kelli Linville
Council Members April Barker, Gene Knutson, Daniel Hammill,
Pinky Vargas, Terry Bornemann, Michael Lilliquist and
Hannah Stone

Contact: (360) 778-8200, ccmail@cob.org
www.cob.org/council
All meetings are held in the City Hall Council Chambers at
210 Lottie Street, Bellingham, WA, unless otherwise noted.

The following items are heard in the Regular Meeting only:

Call to Order

Announcements & Upcoming Meetings:

Bellingham City Council meets all requirements of the State of Washington Open Meetings Act.

1. **On October 7, 2019 in the City Council Chambers, there will be a public hearing to consider amendments to the Waterfront District subarea plan and related documents submitted by the Port of Bellingham. The Council will consider a package of amendments to the subarea plan, development regulations, design standards, planned action ordinance, development agreement and interlocal facilities agreement.**

Pledge of Allegiance

Roll Call

Public Hearing

- | | | | |
|--------------|-----------|--|--------------|
| 22425 | 1. | Public Hearing on Relinquishment of Portions of a Surplus Utility Easement on Laurel Street | p. 5 |
| 22426 | 2. | Public Hearing on Relinquishment of a Surplus Utility Easement Located on Taylor Avenue | p. 27 |

15-Minute Public Comment Period

Mayor's Report

Standing time for briefings, updates and reports to Council by the Mayor, if needed.
Information only.

- | | | | |
|--------------|-----------|---|--------------|
| 22427 | 1. | Mayor's Reappointment of Mary Rossi to the Historic Preservation Commission (Approval) | p. 50 |
|--------------|-----------|---|--------------|

The following are heard in both Committee sessions and Regular Meeting in order below:

Council Standing Committee Meetings:

Open to the public to attend. Note: there is generally no public comment period for Committee sessions. Standing Committee Members receive reports and information, ask questions and, when appropriate, vote on a recommended action for consideration by the full Council at the Regular Meeting. The notice of Committee Meetings identified below also serves as notice of Special Meetings of the City Council at the times identified as Council Members who are not members of the committee routinely attend and participate in the Committee Meetings. Committee Chairs give a report of the Committee Meeting at the Regular Meeting in the evening prior to deliberation and formal vote in the order shown below:

Committee Of The Whole 1:00 PM

Daniel Hammill, Chair

April Barker; Gene Knutson; Pinky Vargas; Terry Bornemann; Michael Lilliquist, Hannah Stone

Please be advised that if the City Council is ahead of schedule, they may start with old/new business before the official Committee of the Whole meeting time.

- | | | | |
|--------------|-----------|---|--------------|
| 22428 | 1. | Bellingham Police Behavioral Health Officer | p. 51 |
| 22429 | 2. | Climate Action Update | p. 53 |
| 22430 | 3. | Worksession to Develop an Immigration Advisory Group to Facilitate Ongoing Community Participation | p. 55 |
| | 4. | Approval of Minutes | |
| | 5. | Old/New Business | |

Executive Session 3:15 PM

Closed to the public. Report in the Regular Meeting only:

- 1. Potential Property Acquisition (Stamps, approx. 5 min)**

Consent Agenda

All matters listed on the Consent Agenda are considered routine and/or non-controversial items and may be approved in a single motion. A member of the Council may ask that an item be removed from the Consent Agenda and considered separately.

- | | | | |
|--------------|-----------|---|--------------|
| 22431 | 1. | Washington Water/Wastewater Agency Response Network Interlocal Agreement | p. 58 |
|--------------|-----------|---|--------------|

| | | | |
|-------|----|---|-------|
| 22432 | 2. | Authorization of A/P Checks Issued September 06, 2019 | p. 70 |
| 22433 | 3. | Authorization of A/P Checks Issued September 13, 2019 | p. 71 |

Final Consideration of Ordinances

| | | | |
|-------|----|---|-------|
| 22414 | 1. | An Ordinance Amending Bellingham Municipal Code Title 20 to Allow On-Premise Accessory and Incidental Alcohol Service at Eating Establishments by Amending BMC 20.08.020, BMC 20.16.020, and Various Other Applicable Sections of the Land Use Development Code | p. 72 |
| 22415 | 2. | An Ordinance Amending Bellingham Municipal Code Title 20 to Allow Recycling Collection and Processing Centers in Certain Industrial Zones and Modify Special Requirements for Such Uses by Amending BMC 20.08.020, BMC 20.16.020, and Various Other Applicable | p. 94 |

Adjournment

Agenda Information:

Council Committee and Regular Meeting agendas and agenda packets, which contain the supporting documentation for agenda items, are available to the public Wednesday afternoon prior to the meeting. They are posted at <https://meetings.cob.org/>. A hard copy of the agenda packet is available for review from the reference desk at the Central Library or the Finance office at City Hall.

Live Broadcast Information:

The Bellingham City Council Committee Meetings are broadcast live on BTV Bellingham at the times listed on the Agenda. Committee session start times between 9:00 AM and 5:00 PM are estimated. A specific Committee may start later than the time published but will not begin earlier than its published time.

BTV can be found on cable systems as follows: Comcast channels 10 (standard) and 321 (high definition), and CenturyLink channels 40 (standard) and 1040 (high definition).

The meetings are also [streamed live](#) on the internet as they occur. Online viewers will see exactly what cable customers would see.

The Bellingham Public Library also has DVD's available for checkout. Video and audio files are available on the Internet at <https://meetings.cob.org> within 5 business days following each meeting.

BTV Council Meeting Rebroadcast Schedule:

Tues. 12 PM: Repeat broadcast of Monday afternoon Committee meetings
Tues. 7 PM: Repeat broadcast of Monday night regular meeting
Wed. 8 AM: Repeat broadcast of Monday night regular meeting
Sat. 12 PM: Repeat broadcast of Monday afternoon Committee meetings
Sat. 7 PM: Repeat broadcast of Monday night regular meeting

Accessibility:

The Council Chambers is fully accessible. Elevator access to the second floor is available at City Hall's west entrance. Hearing assistance is available and a receiver may be checked out through the clerk prior to the evening session. For additional accommodations, contact the Legislative Assistant at 778-8200 in advance of the meeting. Thank you.

**Next City Council Meeting
Monday, October 7, 2019**

Deadline to submit material for any public hearing for inclusion in the published agenda packet is 8:00 a.m. on Wednesday prior to the meeting.



City Council Agenda Bill

22425

Bill Number

Subject: **Public Hearing on Relinquishment of Portions of a Surplus Utility Easement on Laurel Street**

Summary Statement: The attached resolution provides for the relinquishment of a public utility easement reserved in Ordinance No. 7207, located in the vacated 10-foot portions of the Otis, Laurel, and Pasco Street rights-of-way abutting Block 26, Eldridge and Bartlett's addition to Sehome, also including the alley in said block. The Public Works Department has determined that the easement portions are surplus to the City's needs and are not required for the provision of public utility services. Therefore, staff recommends that it be relinquished. The attached resolution authorizes the Mayor to relinquish the easement.

Previous Council Action: **None**

Fiscal Impact: **N/A**

Funding Source: **N/A**

Attachments:

1. RELINQUISHMENT OF EASEMENT LETTER
2. PARTIAL RELINQUISHMENT OF UTILITY EASEMENT
3. PUBLIC NOTICE
4. RELINQUISHMENT RESOLUTION
5. RETAINED EASEMENT AREA MAP
6. ORDINANCE NO. 7207

| Meeting Activity | Meeting Date | Recommendation | Presented By | Time |
|---------------------------------|--------------|-----------------|------------------------------------|-----------|
| Public Hearing - Vote Requested | 9/23/2019 | Pass Resolution | Eric Johnston, Interim PW Director | 5 minutes |

Recommended Motion:

Council Committee:

Agenda Bill Contact:
Brent Baldwin/Lance Rexroat 778-7940

Council Action:

| Reviewed By | Department | Date |
|--------------------------|--------------|-----------|
| <i>Eric C. Johnston</i> | Public Works | 9/16/2019 |
| <i>Matthew T. Stamps</i> | Legal | 9/16/2019 |
| <i>Kelli J. Linville</i> | Executive | 9/17/2019 |



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909 Squalicum Way #111, Bellingham, WA 98225
Phone 360.671.7387 Facsimile 360.671.4685 Email info@psurvey.com

July 18, 2019

Attn: Lance Rexroat, Property Acquisition Specialist
City of Bellingham Public Works Department
104 W. Magnolia Street, Suite 1099
Bellingham, WA 98225
lraxroat@cob.org

Dear Lance –

This is a written request on behalf of the Bellingham Housing Authority for the relinquishment of easement areas retained under City of Bellingham Vacation Ordinance 7027 located in and adjacent to Block 26 of Eldridge and Bartlett's Addition to Sehome on the site formerly occupied by the Aloha Motel. As you may already be aware, the Housing Authority is in the process of re-developing the property.

The easement areas to be relinquished are depicted on the attached easement relinquishment exhibit map. There are no known public utilities located in or planned to be installed in the proposed easement relinquishment area except as noted. There is a private overhead power line that may be impacted by the proposed easement relinquishment. Puget Sound Energy has been contacted for comment.

The following documents have been included in this transmittal for your review and use: Copy of City Vacation Ordinance 7027, Record of Survey map (PSE 2007), a highlighted topographic survey map (PSE 2017), draft legal descriptions for the proposed relinquishment and existing property, updated title report.

The burdened properties are owned by: TP #380331 421256 0000
315 N. Samish Way
Owner: Housing Authority of the City of Bellingham
PO Box 9701
Bellingham, WA 98227

TP #380331 425243 0000
301 N. Samish Way
Owner: Housing Authority of the City of Bellingham
PO Box 9701
Bellingham, WA 98227

If you have any comments, questions or require further information, please do not hesitate to contact our office at (360) 671-7387.

Sincerely,
Pacific Surveying and Engineering

Adam Morrow, PLS
(Owner Agent)

CC: Jeff McClure, RMC Architects

AFTER RECORDING RETURN TO:
City of Bellingham – Public Works, Engineering
210 Lottie Street
Bellingham, WA 98225

Title of Document: **Partial Relinquishment of Utility Easement**

Reference Number: Ordinance # 7207 (not recorded with County Auditor)

Grantor: City of Bellingham

Grantee: Housing Authority of the City of Bellingham

Abbreviated
Legal Description: Vacated portions of streets abutting, and vacated alley
 within, Block 34, Plat of Eldridge and Bartlett's Addition to
 Sehome (Complete Legal Description at pg. 9, Exhibit D of
 this document)

Assessor's
Tax Parcel No.: Geographic ID: 380331 421256 0000, 380331 425243 0000

THIS PARTIAL RELEASE OF UTILITY EASEMENT ("Agreement") is entered into by and between the CITY OF BELLINGHAM, a first-class city and municipal corporation of the State of Washington (the "City"), and the HOUSING AUTHORITY OF THE CITY OF BELLINGHAM, a public body corporate and politic of the State of Washington ("**Owner**").

WHEREAS, Owner owns certain real property located in Whatcom County, Washington, commonly known as 301 N. Samish Way, Bellingham, WA, and legally described in Exhibit A hereto (the "**Property**"); and

WHEREAS, the City of Bellingham (the "City") is the beneficiary of a utility easement ten feet in width within vacated portions of Otis, Laurel and Pasco Streets, running parallel to, and abutting, Block 26, Plat of Eldridge and Bartlett's Add to Sehome, and also the full vacated alley in the same Block 26, legally described in Exhibit B hereto and graphically depicted in Exhibit C hereto (the "**Easement**"). The City reserved the Easement when it vacated a portion of Otis, Laurel and Pasco Streets, and the 20-foot alley in said Block 26 (see City Ordinance Number 7207); and

RECORDED: PAGE 1 of 10

WHEREAS, the abutting ten feet of the Owner's Property, along Otis, Laurel and Pasco Streets, and the full 20-foot alley, all within Block 26, are subject to the Easement, but are owned in fee by the Owner; and

WHEREAS, In order to facilitate development of the Property, the Owner has requested that the City relinquish the portions of the Easement within the ten feet of their ownership along said streets, as well as the 20-foot alley, which portions are legally described in Exhibit D and graphically depicted in Exhibit E (identified as the "Relinquished Easement Area"); and

WHEREAS, the Department of Public Works has investigated the Relinquished Easement Area and determined that: (a) it does not contain any utilities owned by the City (b) has received no objections from the utilities franchises after giving proper public notice; and (c) the area qualifies as surplus property, and therefore Public Works recommends approval of the Owners' request; and

WHEREAS, after public notice and public hearing, the City Council considered the record submitted by the applicant and reviewed by the Department of Public Works; and

WHEREAS, the Bellingham City Council has determined that the Relinquished Easement Area is surplus to the City's utility needs (see City Resolution No. _____).

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City of Bellingham hereby:

1. Relinquishes all right, title and interest in that portion of the Easement legally described in Exhibit D and graphically depicted in Exhibit E (identified as the "Relinquished Easement Area"); and
2. Retains the remainder of the Easement not relinquished by this or any other relinquishments.

EXECUTED this _____ day of _____, 2019 by the **BELLINGHAM HOUSING AUTHORITY, OWNER**, by:

Print Name and Title

Signature

RECORDED:

PAGE 2 of 10

EXECUTED this _____ day of _____, 2019 by for the **CITY OF BELLINGHAM** by:

Departmental Approval:

Mayor

Director of Public Works

Attest:

Approved as to Form:

Finance Director

Office of the City Attorney

RECORDED:

PAGE 3 of 10

STATE OF WASHINGTON)

) ss.

COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of the **BELLINGHAM HOUSING AUTHORITY** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this ____ day of _____, 2019.

NOTARY PUBLIC in and for the State of Washington
My appointment expires: _____

RECORDED:

PAGE 4 of 10

STATE OF WASHINGTON)

) SS.

COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that **KELLI LINVILLE** is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the **MAYOR** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____, 2019.

NOTARY PUBLIC in and for the State of Washington
My appointment expires: _____

RECORDED:

PAGE 5 of 10



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Phone 360.671.7387 Facsimile 360.671.4685 Email info@psurvey.com

EXHIBIT 'A'

PROPERTY DESCRIPTION

LOTS 10, 11, 12, 13, 13, 14, 15, 16, 17, 18, 19, AND THAT PORTION OF LOT 20, LYING WESTERLY OF STATE ROAD NO. 1 (PACIFIC HIGHWAY), BLOCK 26, "MAP OF ELDRIDGE AND BARTLETT'S ADDITION TO THE TOWN OF SEHOME, WHATCOM COUNTY, W.T.", NOW A PART OF THE CONSOLIDATED CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, ACCORDING TO THE PLAT THEREOF, RECORDED IN BOOK 1 OF PLATS, PAGE 91, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE.

TOGETHER WITH THE VACATED ALLEY, VACATED NORTHEAST TEN FEET OF LAUREL STREET, VACATED NORTHWEST TEN FEET OF PASCO STREET, AND THE VACATED SOUTHEAST TEN FEET OF OTIS STREET, ALL ABUTTING THEREOF.

EXCEPT THAT PORTION OBTAINED BY THE STATE OF WASHINGTON AND CONVEYED TO THE STATE OF WASHINGTON FOR STATE ROAD NO. 1 OR PACIFIC HIGHWAY, BY:

A. DECREE OF CONDEMNATION IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON UNDER CAUSE NO. 21361

B. STATE DEED RECORDED OCTOBER 17, 1931, IN VOLUME 220 OF DEEDS, PAGE 30, UNDER AUDITOR'S FILE NO. 403154.

C. STATE DEED RECORDED DECEMBER 9, 1931, IN VOLUME 219 OF DEEDS, PAGE 337, UNDER AUDITOR'S FILE NO. 403814. SITUATE IN WHATCOM COUNTY, WASHINGTON.



RECORDED:

PAGE 6 of 10



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EXHIBIT 'B'

**ORIGINAL EASEMENT AREA DESCRIPTION
(EXCERPT FROM CITY OF BELLINGHAM ORD. NO. 7207)**

10 FEET ON EACH SIDE OF OTIS STREET FROM THE WESTERLY SIDE OF THE INTERSECTION OF MAPLE AND 36TH STREETS TO THE NORTH SIDE OF ABBOTT STREET; 10 FEET ON EACH SIDE OF LAUREL FROM THE NORTH SIDE OF ABBOTT STREET TO THE SOUTHEASTERLY SIDE OF NEWELL STREET; 10 FEET ON THE WEST SIDE OF PASCO STREET BETWEEN 36TH STREET AND LAUREL STREET; AND THE 20 FOOT ALLEYS IN BLOCKS 26 AND 28, ALL LOCATED IN "ELDRIDGE AND BARTLETT'S ADDITION TO THE TOWN OF SEHOME", WHATCOM COUNTY, WASHINGTON, NOW A PART OF THE CONSOLIDATED CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON.

RECORDED:

PAGE 7 of 10

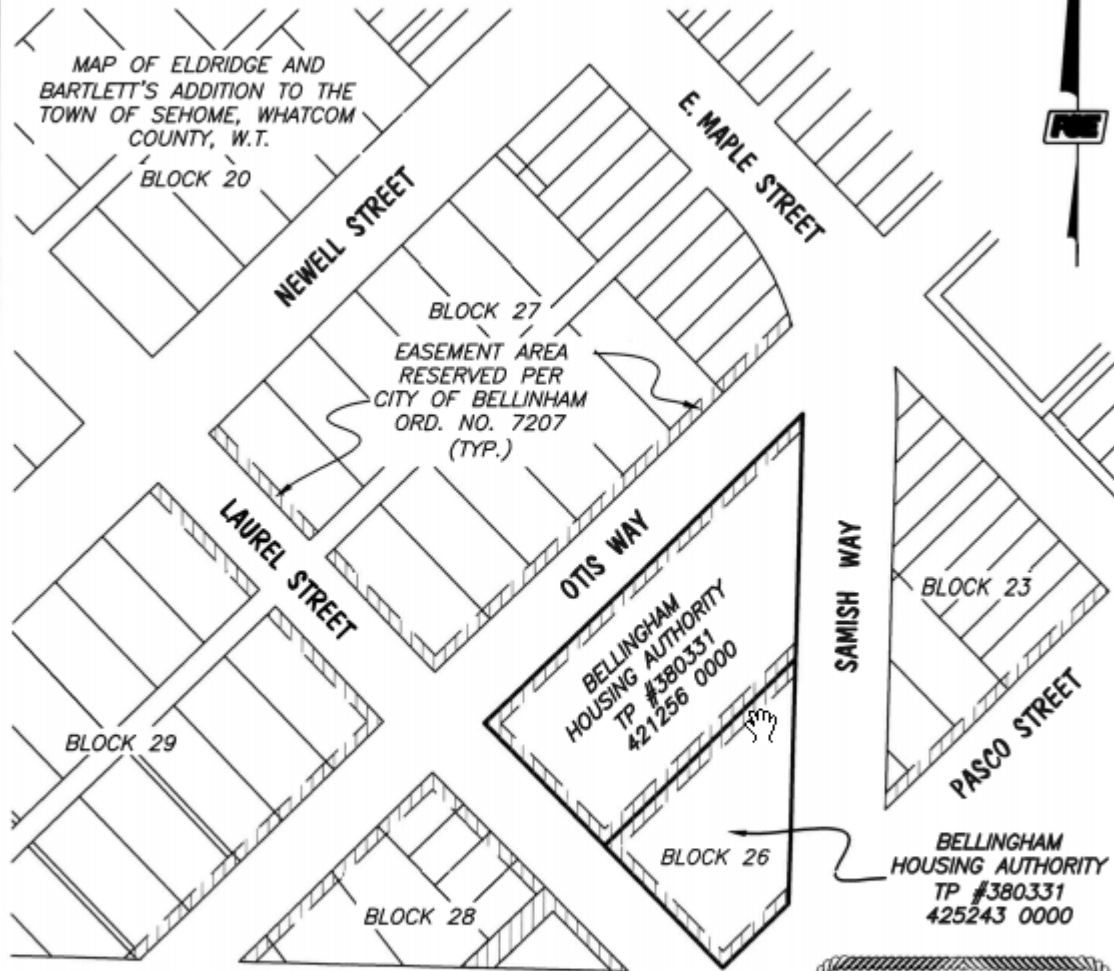
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PAGE 8 of 10



EXHIBIT 'C' - ORIGINAL EASEMENT AREA

SITUATE IN A PORTION OF THE SW 1/4 OF THE NE 1/4 AND NW 1/4 OF THE SE 1/4 OF SECTION 31, TOWNSHIP 38 NORTH, RANGE 3 EAST, W.M., CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON



= ORIGINAL EASEMENT AREA

GRAPHIC SCALE
 (in survey feet)





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EXHIBIT 'D'

EASEMENT RELINQUISHMENT DESCRIPTION

THAT CERTAIN PUBLIC EASEMENT RESERVED BY THE CITY OF BELLINGHAM UNDER CITY ORDINANCE NO. 7027 AND LOCATED WITHIN THE FOLLOWING DESCRIBED PROPERTIES WITHIN OR ADJOINING BLOCK 26 OF THE PLAT OF "ELDRIDGE AND BARTLETT'S ADDITION TO SEHOME" ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK 1 OF PLATS, PAGE 91, RECORDS OF WHATCOM COUNTY WASHINGTON DESCRIBED AS FOLLOWS:

THE VACATED ALLEY WITHIN SAID BLOCK 26, AND THE FOLLOWING VACATED PORTIONS OF STREETS ABUTTING SAID BLOCK 26: NORTHEAST TEN FEET OF LAUREL STREET, NORTHWEST TEN FEET OF PASCO STREET, AND THE SOUTHEAST TEN FEET OF OTIS STREET.

EXCEPT ANY PORTION THEREOF OBTAINED BY THE STATE OF WASHINGTON AND CONVEYED TO THE STATE OF WASHINGTON FOR STATE ROAD NO. 1 OR PACIFIC HIGHWAY, BY:

A. DECREE OF CONDEMNATION IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON UNDER CAUSE NO. 21361

B. STATE DEED RECORDED OCTOBER 17, 1931, IN VOLUME 220 OF DEEDS, PAGE 30, UNDER AUDITOR'S FILE NO. 403154.

C. STATE DEED RECORDED DECEMBER 9, 1931, IN VOLUME 219 OF DEEDS, PAGE 337, UNDER AUDITOR'S FILE NO. 403814. SITUATE IN WHATCOM COUNTY, WASHINGTON.



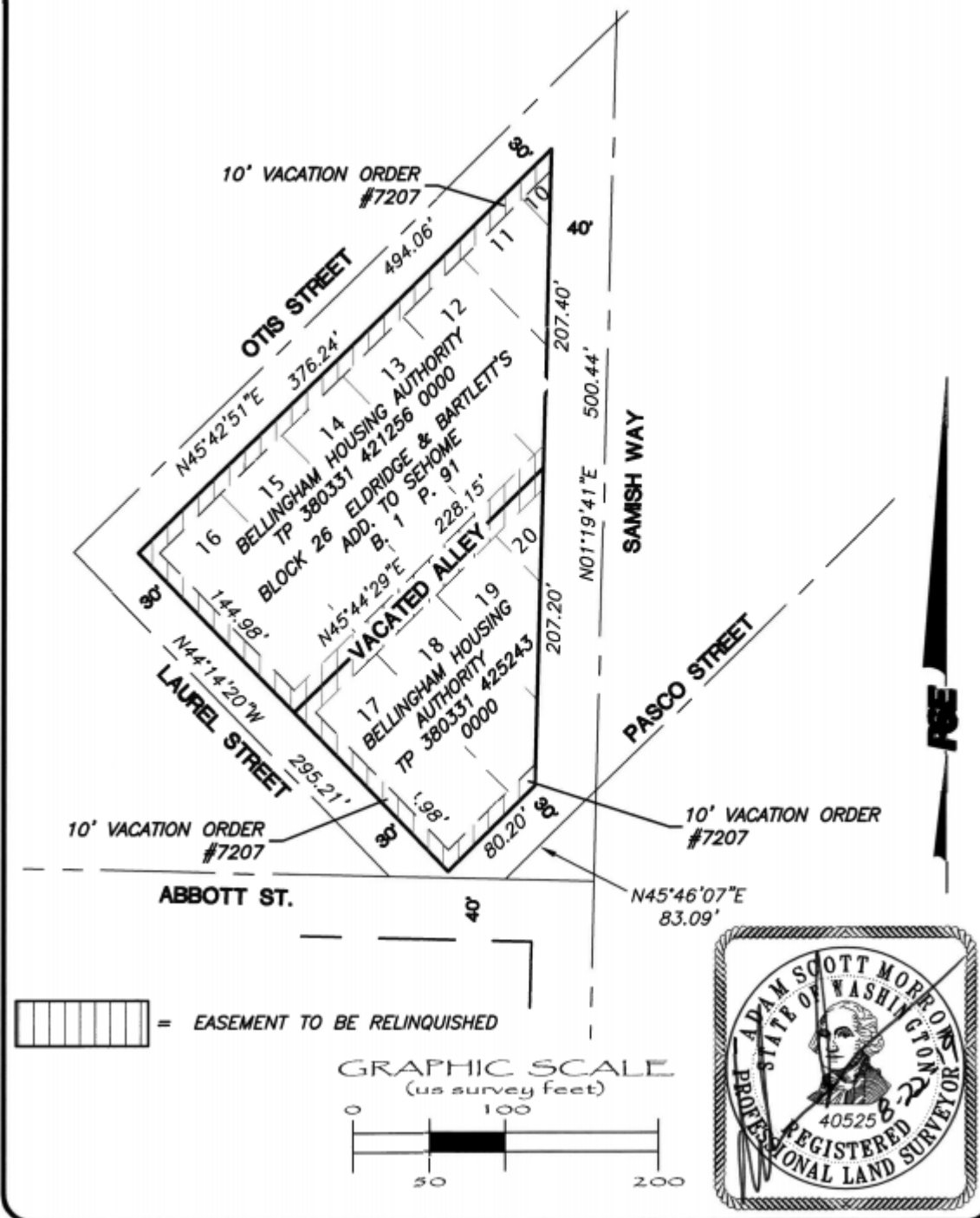
RECORDED:

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E X H I B I T 'E' - RELINQUISHED EASEMENT AREA

SITUATE IN A PORTION OF THE SW $\frac{1}{4}$, NE $\frac{1}{4}$ & NW $\frac{1}{4}$, SE $\frac{1}{4}$
OF SECTION 31, TOWNSHIP 38 NORTH, RANGE 3 EAST, W.M.,
CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON





Bellingham City Council

BELLINGHAM CITY COUNCIL NOTICE OF PUBLIC HEARING

Notice is hereby given that the Bellingham City Council will hold a public hearing on **September 23, 2019, at 7:00 PM**, or as soon thereafter as possible, in the **City Council Chambers, City Hall, 210 Lottie Street, Bellingham, Washington**, to take public comment on the following:

Proposed resolution of the Bellingham City Council providing for the City to partially relinquish, pursuant to RCW 35.94.040, a general utility easement retained In Ordinance 7207, which is located in the vacated 10 foot right-of-ways of Otis, Laurel and Pasco Streets, abutting Block 26, and the alley in Block 26, all in the Plat of Eldridge and Bartlett's Addition to Sehome, recorded under Auditor file number 3480, Volume 1, Page 91 of Plats, records of Whatcom County, Washington; commonly known as 301 N. Samish Way, Bellingham, Washington, APNs: 380331 421256 0000 and 380331 425243 0000, on the grounds that said easement is surplus to the City's needs and is not required for providing continued public utility services.

Detailed information can be found at: www.cob.org/meetings five days prior to the public hearing.

Staff Contact: Lance Rexroat, 778-7981, lrexroat@cob.org

Anyone wishing to comment is invited to attend, or send comments to the Council Office, 210 Lottie Street, ccmail@cob.org, or fax 778-8101 to be received prior to 10:00 AM on Wednesday, September 18, 2019, to be included in the agenda packet. Comment received after that will be distributed to Council, but not included in the published packet.

The Council Chambers is fully accessible. Elevator access to the second floor is available at the west entrance. Hearing assistance is available from the Clerk. Contact the Legislative Assistant at 778-8200 for additional assistance prior to the meeting. Thank you.

Publication date: _____, 2019

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF BELLINGHAM, WASHINGTON
AUTHORIZING RELINQUISHMENT OF A UTILITY EASEMENT RETAINED IN
THE VACATED 10 FOOT PORTIONS OF OTIS, LAUREL, AND PASCO STREETS
ABUTTING BLOCK 26, AND THE FULL 20-FOOT ALLEY IN BLOCK 26, ALL IN
ELDRIDGE AND BARTLETT'S ADDITION TO THE TOWN OF SEHOME, THAT IS
SURPLUS TO THE CITY'S NEEDS**

WHEREAS, on December 8, 1958, the City of Bellingham passed Ordinance 7207, vacating: 10 feet on each side of Otis Street from the westerly side of the intersection of Maple and 36th Streets to the North side of Abbot Street; 10 feet on each side of Laurel from the North side of Abbot Street to the Southeasterly side of Newell Street; 10 feet on the West side of Pasco Street between 36th Street and Laurel Street; and the 20 foot alleys in Blocks 26 and 28, all located in "Eldridge and Bartlett's Addition to the Town of Sehome", Whatcom County, Washington, now a part of the consolidated City of Bellingham, Whatcom County, Washington, retaining a utility easement within this vacated corridor for existing and future public utilities as depicted in Exhibit A hereto attached; and

WHEREAS, to facilitate development of the land adjacent to the vacated 10 foot portions of Otis, Laurel and Pasco Streets, (and including the vacated 20-foot alley in Block 26), the owner of Block 26, Plat of Eldridge and Bartlett's Addition to the Town of Sehome, (Assessor's parcel #s: 380331 421256 0000 and 380331 425243 0000) the Bellingham Housing Authority, has requested that the City relinquish a portion of its Retained Easement as described and depicted in Exhibit B and Exhibit C hereto attached (hereinafter, the "**Relinquishment Area**"); and

WHEREAS, RCW 35.94.040 authorizes the City to lease, sell or convey property originally acquired for utility purposes if, following a public hearing, City Council determines by resolution that such property is surplus to the City's needs and is not needed for continued utility service; and

WHEREAS, surplus utility easements are typically relinquished at no cost to the property owner because the City usually acquires such easements at no cost to the City and because the easements generally cannot be conveyed to third parties; and

WHEREAS, the City's Public Works Department has determined that the proposed Relinquishment Areas are or will be surplus to the City's needs and are no longer needed for continued utility service; and

WHEREAS, a public hearing was held on September 23, 2019 by the City Council to consider relinquishing the Relinquishment Areas.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLINGHAM THAT:

The mayor is authorized to execute all documents necessary to relinquish the Relinquishment Areas, as defined herein. The relinquishment shall be in a form approved by the Office of the City Attorney.

PASSED by the Council this _____ day of _____, 2019.

Council President

APPROVED by me this _____ day of _____, 2019.

Kelli Linville, Mayor

ATTEST:

Finance Director

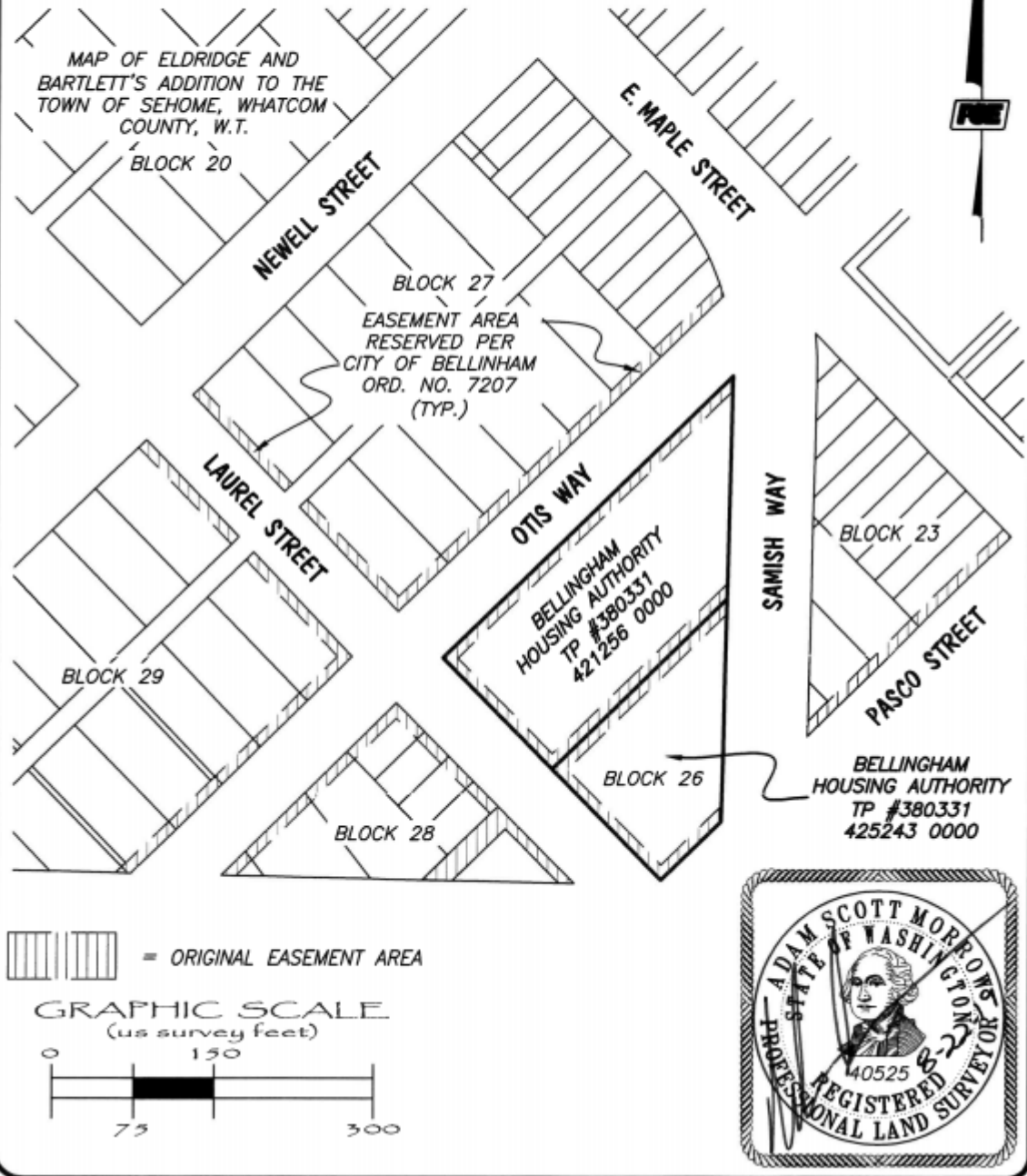
APPROVED AS TO FORM:

Office of the City Attorney



EXHIBIT 'A' - ORIGINAL EASEMENT AREA

SITUATE IN A PORTION OF THE SW 1/4 OF THE NE 1/4 AND NW 1/4 OF THE SE 1/4 OF SECTION 31, TOWNSHIP 38 NORTH, RANGE 3 EAST, W.M., CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON





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EXHIBIT 'B'

EASEMENT RELINQUISHMENT DESCRIPTION

THAT CERTAIN PUBLIC EASEMENT RESERVED BY THE CITY OF BELLINGHAM UNDER CITY ORDINANCE NO. 7027 AND LOCATED WITHIN THE FOLLOWING DESCRIBED PROPERTIES WITHIN OR ADJOINING BLOCK 26 OF THE PLAT OF "ELDRIDGE AND BARTLETT'S ADDITION TO SEHOME" ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK 1 OF PLATS, PAGE 91, RECORDS OF WHATCOM COUNTY WASHINGTON DESCRIBED AS FOLLOWS:

THE VACATED ALLEY WITHIN SAID BLOCK 26, AND THE FOLLOWING VACATED PORTIONS OF STREETS ABUTTING SAID BLOCK 26: NORTHEAST TEN FEET OF LAUREL STREET, NORTHWEST TEN FEET OF PASCO STREET, AND THE SOUTHEAST TEN FEET OF OTIS STREET.

EXCEPT ANY PORTION THEREOF OBTAINED BY THE STATE OF WASHINGTON AND CONVEYED TO THE STATE OF WASHINGTON FOR STATE ROAD NO. 1 OR PACIFIC HIGHWAY, BY:

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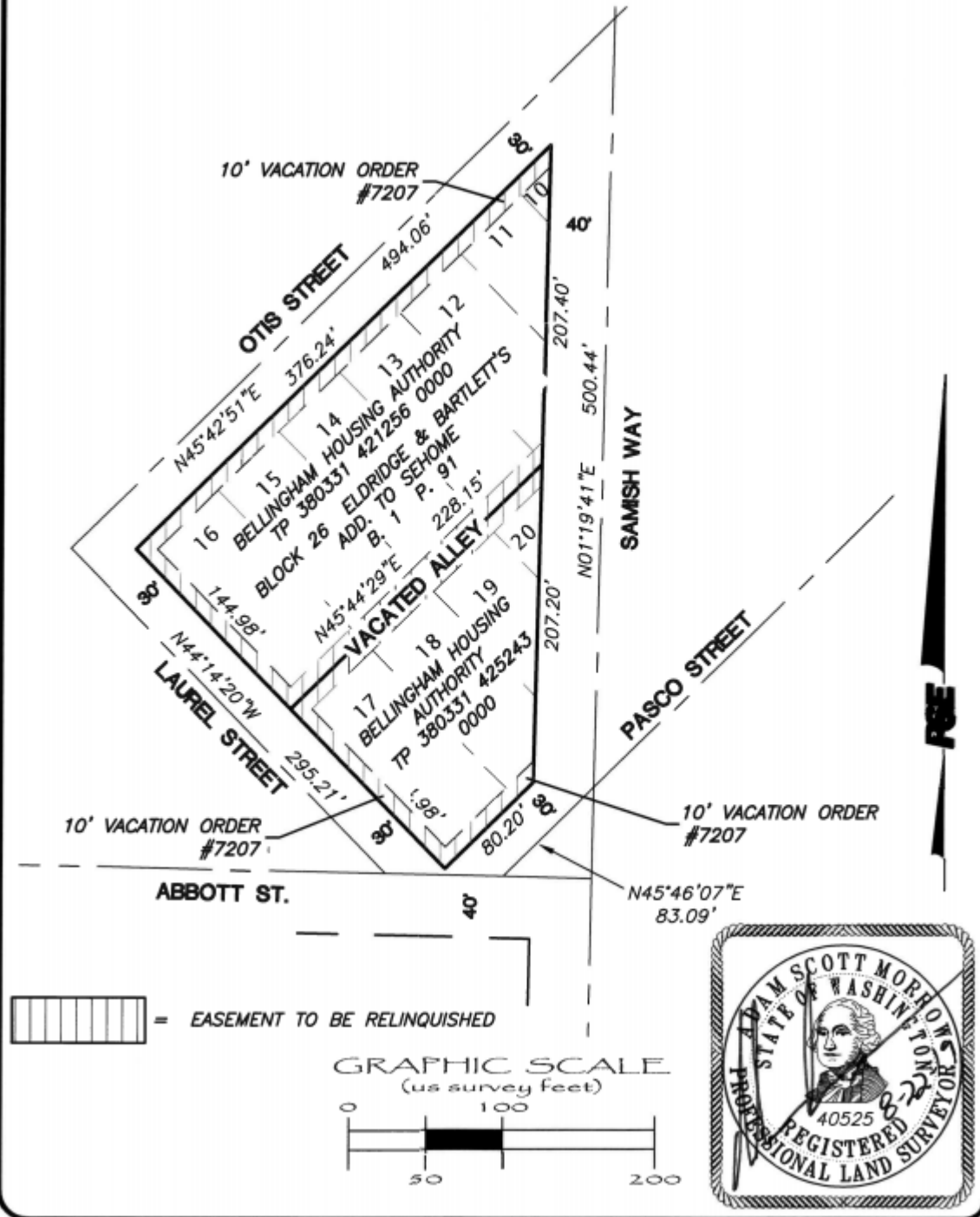
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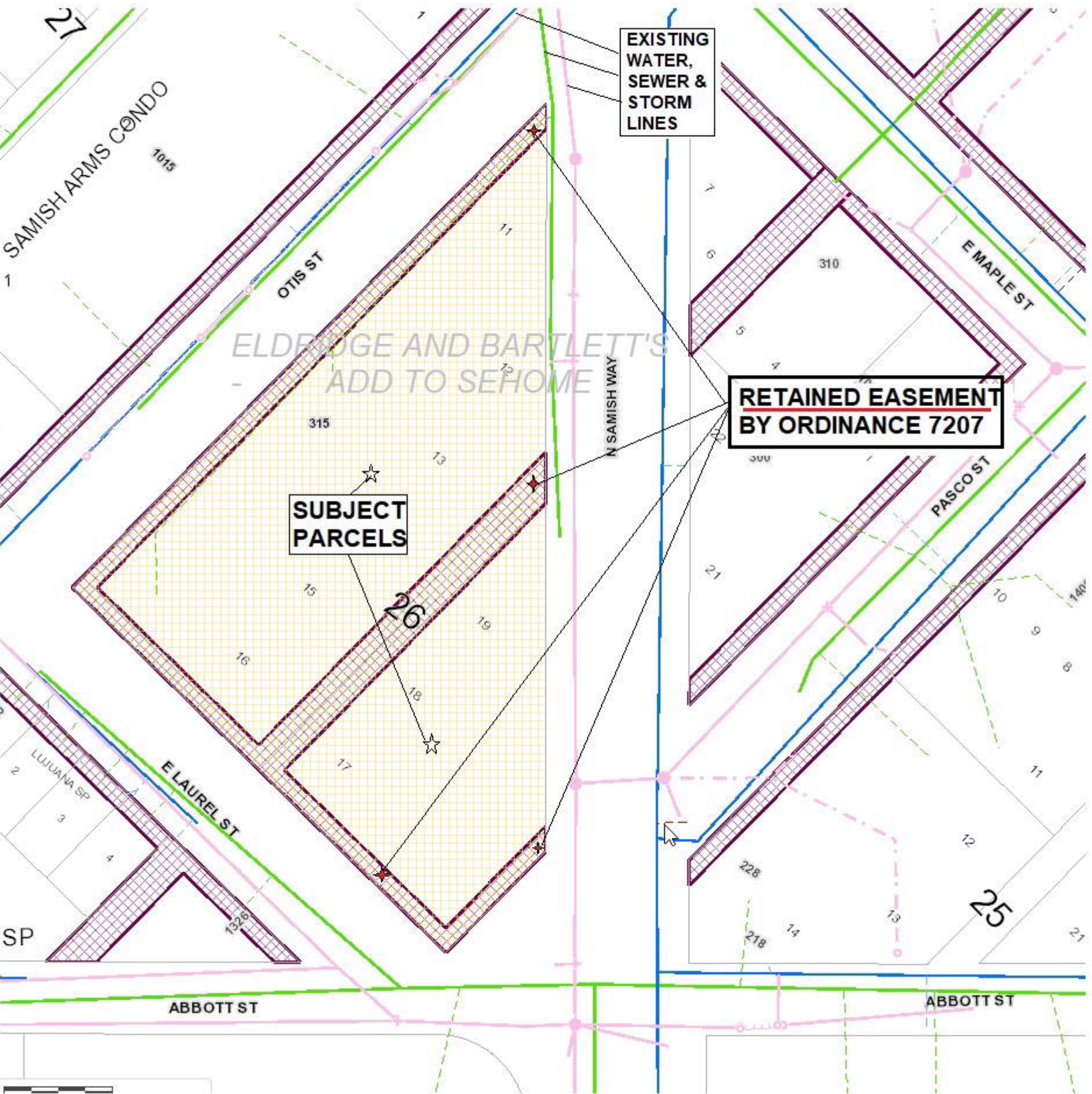


EXHIBIT 'C' - RELINQUISHED EASEMENT AREA

SITUATE IN A PORTION OF THE SW 1/4 NE 1/4 & NW 1/4, SE 1/4
 OF SECTION 31, TOWNSHIP 38 NORTH, RANGE 3 EAST, W.M.,
 CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON



**PROPOSED RELINQUISHMENT OF RETAINED EASEMENT IN VACATED STREETS
AND ALLEY IN OR ABUTTING BLOCK 26, ELDRIDGE AND BARTLETT'S ADDITION**



ORDINANCE NO. 7207

AN ORDINANCE IN RELATION TO THE VACATION OF 10 FEET ON EACH SIDE OF OTIS STREET FROM THE WESTERLY SIDE OF THE INTERSECTION OF MAPLE AND 36TH STREETS TO THE NORTH SIDE OF ABBOTT STREET: 10 FEET ON EACH SIDE OF LAUREL FROM THE NORTH SIDE OF ABBOTT STREET TO THE SOUTHEASTERLY SIDE OF NEWELL STREET: 10 FEET ON THE WEST SIDE OF PASCO STREET BETWEEN 36TH STREET AND LAUREL STREET: AND THE 20 FOOT ALLEYS IN BLOCKS 26 AND 28, ALL LOCATED IN "ELDRIDGE AND BARTLETT'S ADDITION TO THE TOWN OF SEHOME", WHATCOM COUNTY, WASHINGTON: AND FINDING AND ADJUDGING THAT NO DAMAGE ACCRUE TO ANY PERSON OR PROPERTY BY REASON THEREOF: PROVIDING FOR CERTAIN CONDITIONS RELATING TO SAID VACATION: AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. That the following described portions of street and alleys, to-wit:

$$\begin{array}{r} \text{Otis St} \\ 11-16 \\ \hline 27 \\ 1-4 \\ \hline 28 \\ 1+17+19 \\ \hline 27 \\ 2-10+6 \\ \hline 26 \end{array}$$

10 feet on each side of Otis Street from the westerly side of the intersection of Maple and 36th Streets to the North side of Abbott Street; 10 feet on each side of Laurel from the North side of Abbott Street to the Southeasterly side of Newell Street; 10 feet on the West side of Pasco Street between 36th Street and Laurel Street; and the 20 foot alleys in Blocks 26 and 28, all located in "Eldridge and Bartlett's Addition to the Town of Sehome", Whatcom County, Washington, now a part of the consolidated City of Bellingham, Whatcom County, Washington,

$$\begin{array}{r} \text{Laurel St} \\ 1-16 \\ \hline 29 \\ 16+17 \\ \hline 27 \\ 1-6 \\ \hline 28 \end{array}$$

$$\begin{array}{r} \text{Pasco} \\ 17-18 \\ \hline 26 \\ \text{alley} \\ 13+20+5+6 \\ \hline 26 \\ 1-2-5+6 \\ \hline 28 \end{array}$$

be, and the same are hereby vacated, as approved by the Planning Commission of the City of Bellingham.

Section 2. That a condition of the vacation of said portions of said streets and alleys described in Section 1 hereof, is as follows: The City of Bellingham retains the right to exercise and grant easements in respect to the said portions of said streets and alleys vacated by this ordinance, for the construction, repair and maintenance of water, sewer, electric and telephone distribution and transmission utilities, particularly in continuance of any existing utilities over and across any part of said portions of said streets and alleys, and the right to have the same reconstructed, operated, repaired, and maintained, said retained rights to be perpetual across the said vacated portions of said streets and alleys.

Section 3. That no damage will result to any person or persons or to any property by reason of the vacation of said portions of said streets and alleys hereinbefore described.

Section 4. That all ordinances and parts of ordinances in conflict herewith, be, and the same are hereby repealed.

Section 5. That this ordinance shall take effect after its final passage and approval as provided by the Charter of the City of Bellingham.

Passed by the City Council of the City of Bell
this 8th day of December, 1958.

Approved by me this 9th day of December, 1958.

John E. Westford, Mayor

Attest: Alfred B. Loop, Comptroller

Published: December 11, 1958



City Council Agenda Bill

22426

Bill Number

Subject: **Public Hearing on Relinquishment of a Surplus Utility Easement Located on Taylor Avenue**

Summary Statement: The attached resolution provides for the relinquishment of a public utility easement located in the vacated southerly 10-foot portion of the Taylor Avenue right-of-way between 23th and 24th Streets. The Public Works Department has determined that the easement portion is surplus to the City's needs and is not required for the provision of public utility services. Therefore, staff recommends that it be relinquished. The attached resolution authorizes the Mayor to relinquish the easement.

Previous Council Action: **None**

Fiscal Impact: **None**

Funding Source: **N/A**

Attachments:

1. RELINQUISHMENT LETTER
2. PUBLIC NOTICE
3. PARTIAL RELINQUISHMENT OF UTILITY EASEMENT
4. RELINQUISHMENT EASEMENT RESOLUTION
5. ORDINANCE NO. 6860
6. RELEASE AREA MAP

| Meeting Activity | Meeting Date | Recommendation | Presented By | Time |
|---------------------------------|--------------|-----------------|------------------------------------|-----------|
| Public Hearing - Vote Requested | 9/23/2019 | Pass Resolution | Eric Johnston, Interim PW Director | 5 minutes |

Recommended Motion:

Council Committee:

Agenda Bill Contact:
Brent Baldwin/Lance Rexroat 778-7940

Council Action:

| Reviewed By | Department | Date |
|--------------------------|--------------|-----------|
| <i>Eric C. Johnston</i> | Public Works | 9/16/2019 |
| <i>Matthew T. Stamps</i> | Legal | 9/16/2019 |
| <i>Kelli J. Linville</i> | Executive | 9/17/2019 |



Ali V. Taysi
1708 F Street
Bellingham, WA 98225
Phone 1 (360) 305-2124
www.avtplanning.com
ali@avtplanning.com

June 13, 2019

City of Bellingham
Public Works Department
104 W Magnolia St
Bellingham, WA 98225

Re: Relinquishment of Reserved Utility Easement in the Taylor Ave ROW

To whom it may concern,

Please accept this letter and the attached exhibit map as a formal request to relinquish the reserved utility easement as identified in Ordinance No. 6860. The property located at 2300 Taylor Avenue is affected by this utility easement. The easement is 10' in width and runs along the northern property line within the Taylor Avenue ROW. There are no franchise utilities present within the easement. Structural improvements such as a cantilevered portion of the building and roof eave overhang are proposed within the 10' easement area. Please find attached a copy of the current subdivision guarantee with owner contact information, the referenced easement, retained through the vacation ordinance, and an exhibit depicting future development plans and current easement location. This request to relinquish is being made on behalf of the property owner, 922 BJB, LLC – Eric Heilborn. Thank you for your consideration of this request.

Sincerely,

CLAIRE BERTULEIT
AVT Consulting, LLC



Bellingham City Council

BELLINGHAM CITY COUNCIL NOTICE OF PUBLIC HEARING

Notice is hereby given that the Bellingham City Council will hold a public hearing on **September 23, 2019, at 7:00 PM**, or as soon thereafter as possible, in the **City Council Chambers, City Hall, 210 Lottie Street, Bellingham, Washington**, to take public comment on the following:

Proposed resolution of the Bellingham City Council providing for the City to partially relinquish, pursuant to RCW 35.94.040, a general utility easement retained In Ordinance 6860, which is located in the vacated 10 foot right-of-way of Taylor Avenue abutting Lot 1, Block 3, in the Plat of Lysle's First Addition to Fairhaven, recorded under Auditor file number 7701, Volume 2, Page 58 of Plats, records of Whatcom County, Washington; commonly known as 2300 Taylor Avenue, Bellingham, Washington, APN: 370201 540324 0000, on the grounds that said easement is surplus to the City's needs and is not required for providing continued public utility services.

Detailed information can be found at: www.cob.org/meetings five days prior to the public hearing.

Staff Contact: Lance Rexroat, 778-7981, lrexroat@cob.org

Anyone wishing to comment is invited to attend, or send comments to the Council Office, 210 Lottie Street, ccmail@cob.org, or fax 778-8101 to be received prior to 10:00 AM on Wednesday, September 18, 2019, to be included in the agenda packet. Comment received after that will be distributed to Council, but not included in the published packet.

The Council Chambers is fully accessible. Elevator access to the second floor is available at the west entrance. Hearing assistance is available from the Clerk. Contact the Legislative Assistant at 778-8200 for additional assistance prior to the meeting. Thank you.

Publication date: _____, 2019

AFTER RECORDING RETURN TO:
City of Bellingham – Public Works, Engineering
210 Lottie Street
Bellingham, WA 98225

Title of Document: **Partial Relinquishment of Utility Easement**

Reference Number: Ordinance # 6860 (not recorded with County Auditor)

Grantor: City of Bellingham

Grantee: Housing Authority of the City of Bellingham

Abbreviated
Legal Description: Vacated portion of Taylor Street abutting Lot 1, Block 3, Plat
 of Lysles First Addition to Fairhaven (Complete Legal
 Description at pg. 9, Exhibit D of this document)

Assessor's
Tax Parcel No.: Geographic ID: 370201 540324 0000

THIS PARTIAL RELEASE OF UTILITY EASEMENT ("Agreement") is entered into by and between the CITY OF BELLINGHAM, a first-class city and municipal corporation of the State of Washington (the "City"), and 922 BJF, LLC, a Washington State limited liability company ("**Owner**").

WHEREAS, Owner owns certain real property located in Whatcom County, Washington, commonly known as 2300 Taylor Avenue, Bellingham, WA, and legally described in Exhibit A hereto (the "**Property**"); and

WHEREAS, the City of Bellingham (the "City") is the beneficiary of a utility easement ten feet in width within vacated portions of Taylor Avenue, between 15th and 16th Streets, plus 10 feet on each side of Taylor Avenue, from the easterly line of 10th Street to the westerly line of 29th Street, legally described in Exhibit B hereto and graphically depicted in Exhibit C hereto (the "**Easement**"). The City reserved the Easement when it vacated a portions of Taylor Avenue, (see City Ordinance Number 7207); and

RECORDED: PAGE 1 of 10

WHEREAS, the abutting ten feet of the Owner's Property, along Taylor Avenue in Lot 1, Block 3, Plat of Lysle's First Addition to Fairhaven are subject to the Easement, but are owned in fee by the Owner; and

WHEREAS, In order to facilitate development of the Property, the Owner has requested that the City relinquish the portion of the Easement within the ten feet of their ownership along said avenue, which portion is legally described in Exhibit D and graphically depicted in Exhibit E (identified as the "**Relinquished Easement Area**"); and

WHEREAS, the Department of Public Works has investigated the Relinquished Easement Area and determined that: (a) it does not contain any utilities owned by the City (b) has received no objections from the utilities franchises after giving proper public notice; and (c) the area qualifies as surplus property, and therefore Public Works recommends approval of the Owners' request; and

WHEREAS, after public notice and public hearing, the City Council considered the record submitted by the applicant and reviewed by the Department of Public Works; and

WHEREAS, the Bellingham City Council has determined that the Relinquished Easement Area is surplus to the City's utility needs (see City Resolution No. _____).

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City of Bellingham hereby:

1. Relinquishes all right, title and interest in that portion of the Easement legally described in Exhibit D and graphically depicted in Exhibit E (identified as the "Relinquished Easement Area"); and

2. Retains the remainder of the Easement not relinquished by this or any other relinquishments.

EXECUTED this _____ day of _____, 2019 by **922 BJF, LLC**, OWNER, by:

RECORDED:

PAGE 2 of 10

Print Name and Title

Signature

EXECUTED this _____ day of _____, 2019 by for the **CITY OF BELLINGHAM** by:

Departmental Approval:

Mayor

Director of Public Works

Attest:

Approved as to Form:

Finance Director

Office of the City Attorney

RECORDED:

PAGE 3 of 10

STATE OF WASHINGTON)

) ss.

COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of **922 BJB, LLC** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this ____ day of _____, 2019.

NOTARY PUBLIC in and for the State of Washington
My appointment expires: _____

RECORDED:

PAGE 4 of 10

STATE OF WASHINGTON)

) SS.

COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that **KELLI LINVILLE** is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the **MAYOR** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____, 2019.

NOTARY PUBLIC in and for the State of Washington
My appointment expires: _____

RECORDED:

PAGE 5 of 10

INSERT ALL ORIGINAL EXHIBITS BELOW

EXHIBIT “A”

DESCRIPTION OF BURDENED PROPERTY

LOTS 1, 2, 3 AND 4, INCLUSIVE, BLOCK 3, PLAT OF LYSLE'S FIRST ADDITION TO FAIRHAVEN, WASHINGTON, NOW A PART OF THE CONSOLIDATED CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 58 RECORDS OF WHATCOM COUNTY, WASHINGTON, TOGETHER WITH VACATED SOUTH 10 FEET OF TAYLOR AVENUE ABUTTING LOT 1.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

SUBJECT TO AND/OR TOGETHER WITH ALL EASEMENTS, COVENANTS, RESTRICTIONS AND/OR AGREEMENTS OF RECORD, OR OTHERWISE.



RECORDED:

PAGE 6 of 10

EXHIBIT “B”

DESCRIPTION OF EXISTING EASEMENT AREA (ORDINANCE No. 6860)

TEN (10) FEET ON EACH SIDE OF TAYLOR AVENUE FROM 15TH TO 16TH STREETS, PLUS THE VACATION OF 10 FEET ON EACH SIDE OF TAYLOR AVENUE FROM THE EASTERLY LINE OF 10TH STREET TO THE WESTERLY LINE OF 29TH STREET, OR TO REDUCE THE WIDTH OF SIXTY (60) FEET.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

SUBJECT TO AND/OR TOGETHER WITH ALL EASEMENTS, COVENANTS, RESTRICTIONS AND/OR AGREEMENTS OF RECORD, OR OTHERWISE.

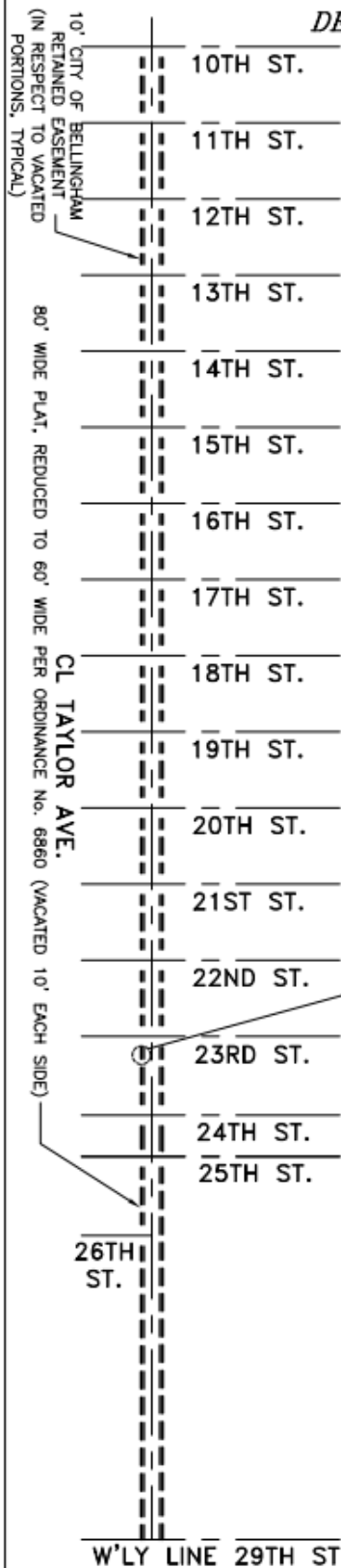


RECORDED:

PAGE 7 of 10

EXHIBIT "C"

DEPICTING EXISTING EASEMENT AREA
(ORDINANCE No. 6860)
CITY OF BELLINGHAM,
WHATCOM COUNTY, WASHINGTON



RELIQUISHMENT OF CITY OF
BELLINGHAM EASEMENT, THE SOUTH
TEN FEET OF TAYLOR AVE. ABUTTING
LOT 1, BLOCK 3, LYSLE'S FIRST
ADDITION TO FAIRHAVEN, WASHINGTON,



(NOT TO SCALE)

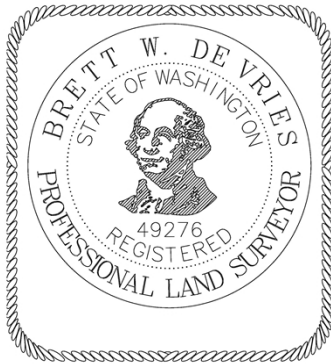
EXHIBIT “D”

EASEMENT AREA TO BE RELINQUISHED

THE VACATED SOUTH 10 FEET OF TAYLOR AVENUE, ABUTTING LOT 1, BLOCK 3, PLAT OF LYSLE'S FIRST ADDITION TO FAIRHAVEN, WASHINGTON, NOW A PART OF THE CONSOLIDATED CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 58 RECORDS OF WHATCOM COUNTY, WASHINGTON.

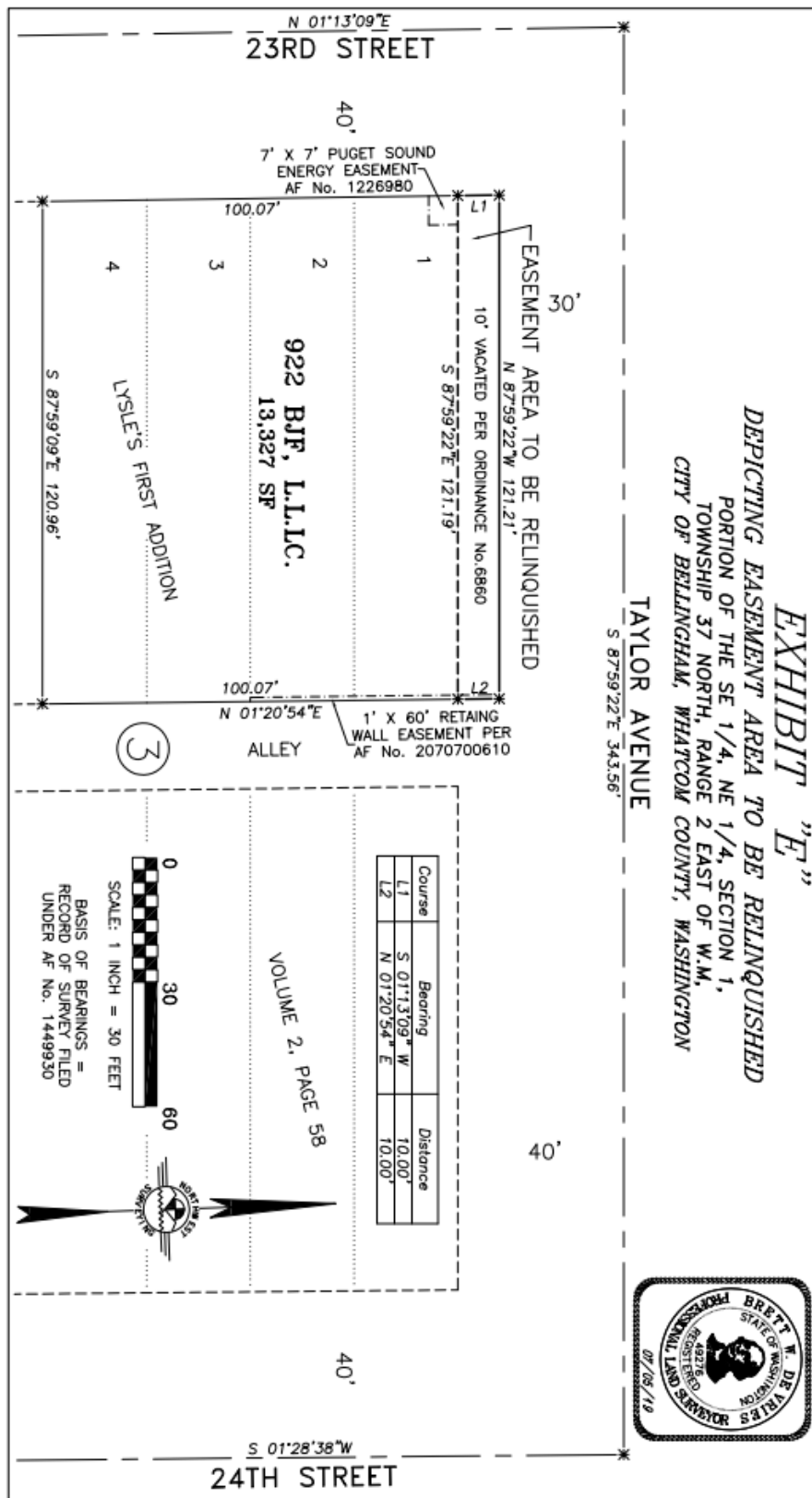
SITUATE IN WHATCOM COUNTY, WASHINGTON.

SUBJECT TO AND/OR TOGETHER WITH ALL EASEMENTS, COVENANTS, RESTRICTIONS AND/OR AGREEMENTS OF RECORD, OR OTHERWISE.



RECORDED:

PAGE 9 of 10



RECORDED:

PAGE 10 of 10

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF BELLINGHAM, WASHINGTON AUTHORIZING RELINQUISHMENT OF A UTILITY EASEMENT RETAINED IN THE VACATED SOUTHERLY 10 FOOT PORTION OF TAYLOR AVENUE ABUTTING LOT 1, BLOCK 3, THE PLAT OF LYSLE'S FIRST ADDITION TO FAIRHAVEN, THAT IS SURPLUS TO THE CITY'S NEEDS.

WHEREAS, on April 20, 1953, the City of Bellingham passed Ordinance 6860, vacating: 10 feet on each side of Taylor Avenue between 15th and 16th Streets, plus 10 feet on each side of Taylor Avenue, from the easterly line of 10th Street to the westerly line of 29th Street, retaining a utility easement within this vacated corridor for existing and future public utilities as depicted in Exhibit A hereto attached ("**Retained Easement**"); and

WHEREAS, to facilitate development of the land adjacent to the vacated 10 foot portion of Taylor Avenue, the owner of Lot 1, Block 3, Plat of Lysle's First Addition to Fairhaven, (Assessor's parcel #: 370201 540324 0000) the owner, 922 BJF, LLC., has requested that the City relinquish a portion of its Retained Easement as described and depicted in Exhibit B and Exhibit C hereto attached (hereinafter, the "**Relinquishment Area**"); and

WHEREAS, RCW 35.94.040 authorizes the City to lease, sell or convey property originally acquired for utility purposes if, following a public hearing, City Council determines by resolution that such property is surplus to the City's needs and is not needed for continued utility service; and

WHEREAS, surplus utility easements are typically relinquished at no cost to the property owner because the City usually acquires such easements at no cost to the City and because the easements generally cannot be conveyed to third parties; and

WHEREAS, the City's Public Works Department has determined that the proposed Relinquishment Areas are or will be surplus to the City's needs and are no longer needed for continued utility service; and

WHEREAS, a public hearing was held on September 23, 2019 by the City Council to consider relinquishing the Relinquishment Areas.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLINGHAM THAT:

The mayor is authorized to execute all documents necessary to relinquish the Relinquishment Areas, as defined herein. The relinquishment shall be in a form approved by the Office of the City Attorney.

PASSED by the Council this _____ day of _____, 2019.

Council President

APPROVED by me this _____ day of _____, 2019.

Kelli Linville, Mayor

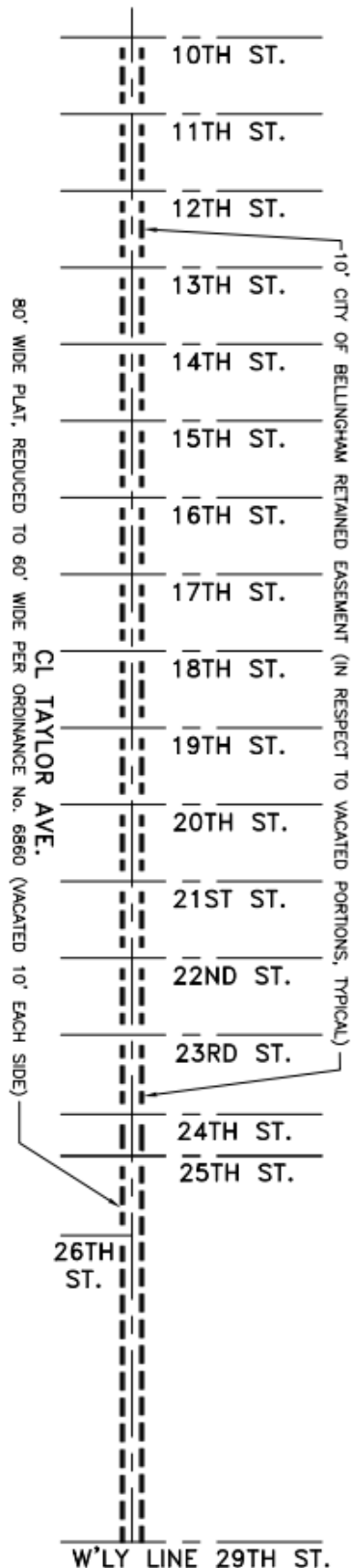
ATTEST:

Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

EXHIBIT "A"
DEPICTING RETAINED UTILITY
EASEMENT
IN VACATED ALLEY
(ORDINANCE No. 6860)
CITY OF BELLINGHAM,
WHATCOM COUNTY, WASHINGTON



(NOT TO SCALE)

EXHIBIT "B"

EASEMENT AREA TO BE RELINQUISHED

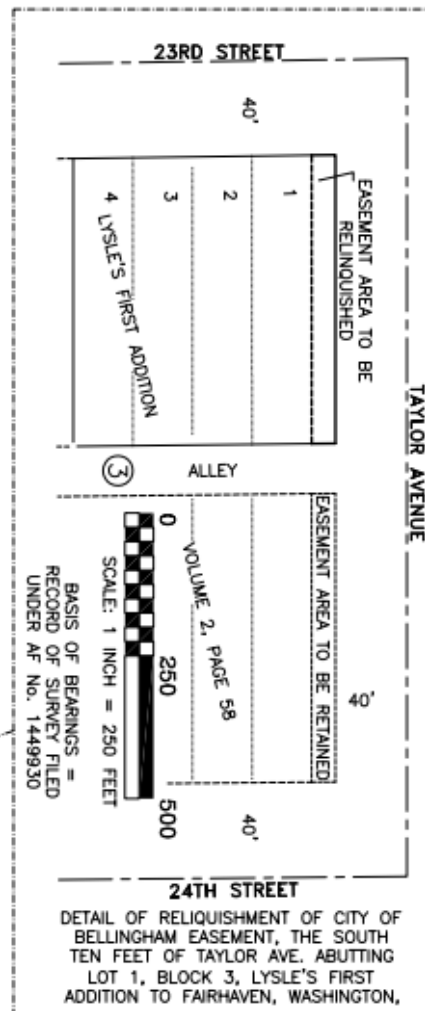
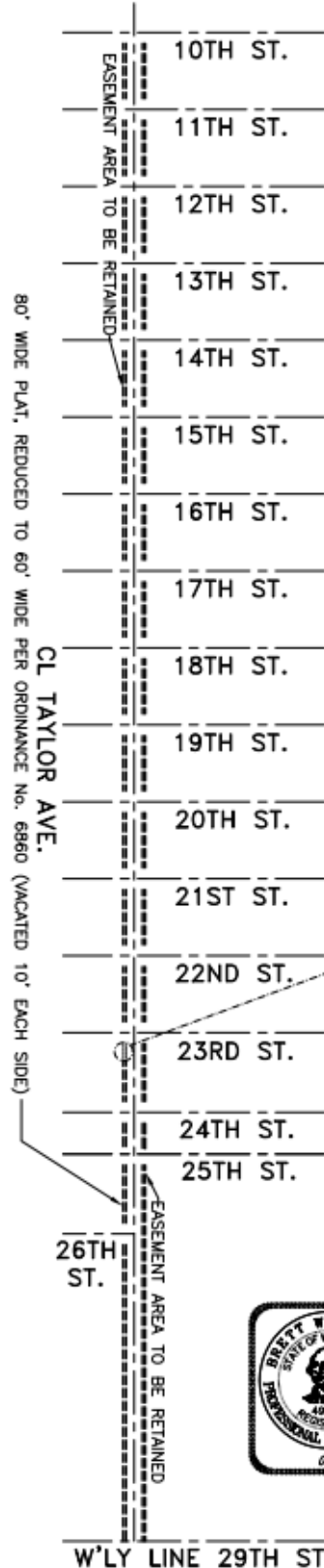
THE VACATED SOUTH 10 FEET OF TAYLOR AVENUE, ABUTTING LOT 1, BLOCK 3, PLAT OF LYSLE'S FIRST ADDITION TO FAIRHAVEN, WASHINGTON, NOW A PART OF THE CONSOLIDATED CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 58 RECORDS OF WHATCOM COUNTY, WASHINGTON.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

SUBJECT TO AND/OR TOGETHER WITH ALL EASEMENTS, COVENANTS, RESTRICTIONS AND/OR AGREEMENTS OF RECORD, OR OTHERWISE.



**DEPICTING EASEMENT AREA
TO BE RELINQUISHED AND
RETAINED IN VACATED ALLEY
(ORDINANCE No. 6860)
CITY OF BELLINGHAM,
WHATCOM COUNTY, WASHINGTON**



(NOT TO SCALE)

1 AN ORDINANCE IN RELATION TO THE VACATION OF 10 FEET ON EACH SIDE
2 OF TAYLOR AVENUE FROM 15TH TO 16TH STREETS, PLUS THE VACATION OF
3 10 FEET ON EACH SIDE OF TAYLOR AVENUE FROM THE EASTERLY LINE OF
4 10TH STREET TO THE WESTERLY LINE OF 29TH STREET, OR TO REDUCE THE
5 ENTIRE LENGTH OF TAYLOR AVENUE FROM 10TH TO 29TH STREETS TO A
6 WIDTH OF SIXTY (60) FEET; VACATING SAID PORTIONS OF TAYLOR
7 AVENUE; AND FINDING AND ADJUDGING THAT NO DAMAGES ACCRUE TO ANY
8 PERSON OR PROPERTY BY REASON THEREOF; PROVIDING FOR CERTAIN
9 CONDITIONS RELATING TO SAID VACATION; FIXING THE EFFECTIVE DATE
10 OF SUCH VACATION; AND REPEALING ALL ORDINANCES OR PARTS OF
11 ORDINANCES IN CONFLICT HEREWITH.

12 WHEREAS, Mrs. Gertrude Yorkston, et al, the owners
13 of property abutting upon portions of Taylor Avenue between
14 15th and 16th Streets, City of Bellingham, Whatcom County,
15 Washington, have filed with the City of Bellingham, a municipal
16 corporation, a petition in writing requesting the vacation of
17 ten (10) feet on each side of Taylor Avenue between Fifteenth
18 and Sixteenth Street, in the City of Bellingham, and,

19 WHEREAS, the City Planning Commission, after due con-
20 sideration of the requested vacation, has approved of said
21 application, and has made its recommendations to the City
22 Council that the petition for vacation of ten (10) feet on each
23 side of Taylor Avenue between Fifteenth and Sixteenth Street,
24 in the City of Bellingham, be granted, plus the vacation of
25 10 feet on each side of Taylor Avenue from the easterly line
26 of 10th Street to the westerly line of 29th Street, in order
27 to reduce the entire length of Taylor Avenue from 10th to 29th
28 Streets to a width of sixty (60) feet, and, that said portions
29 of Taylor Avenue be vacated, subject to reservation of easements
30 for all public utilities, and

31 WHEREAS, the Council of the City of Bellingham, on
April 6, 1953, and now, do find that said petition was signed
by the owners of more than two-thirds of the real property
abutting upon the portion of Taylor Avenue sought to be vacated;
and did further find that said portions of Taylor Avenue are
situate within the corporate limits of the City of Bellingham,
Washington; and

CITY ATTORNEY

6860

1 WHEREAS, said City Council did on the 9th day of
2 March, 1953, while convened in regular session, pass and enact
3 a resolution, which said resolution was on the 10th day of
4 March, 1953, duly approved by the Mayor of said City, fixing
5 Monday, the 6th day of April, 1953, at the hour of eight o'clock,
6 P.M., in the Council Chamber in the City Hall of the City of
7 Bellingham, Washington, as the time and place when said
8 petition would be heard and determined, and in such resolution
9 directed the Clerk of the said City to give notice of the
10 pendency of said petition as required by law, and

11 WHEREAS, it is deemed advisable to grant said
12 petition and vacate the said portions of Taylor Avenue
13 hereinafter described, subject to certain reservations for
14 public utilities, and

15 WHEREAS, on this 6th day of April, 1953, at the
16 hour of eight o'clock P.M., said City Council of the City
17 of Bellingham, being in regular session in the Council Chamber
18 in the City Hall of said City, and said petition coming on
19 regularly for hearing, it is by such City Council found and
20 determined that the City Comptroller and Ex-officio Clerk of the
21 City of Bellingham, did duly and regularly in the manner provided
22 by law, give more than twenty (20) days notice of the pendency
23 of said petition by printed notices thereof set up and posted
24 on the 16 day of March, 1953, in three of the most
25 public places in the City of Bellingham, Washington, to-wit:
26 One at the Lottie Street entrance of the new Whatcom County
27 Courthouse; one at the Prospect Street entrance of the new County
28 Courthouse of Whatcom County; and one at the front door of
29 the City Hall, 210 Lottie Street, Bellingham, Washington; and
30 that copies of said notice were likewise posted at appropriate
31 and conspicuous places on the portions of the said Taylor Avenue

6860

CITY ATTORNEY

6860

1 sought to be vacated; each and every of such notices containing
2 a statement of the time and place fixed for the hearing on said
3 petition, and,

4 WHEREAS, it is found that no damage will result to
5 any person or property by reason of the vacation of the said
6 portions of Taylor Avenue as hereinafter described. That all of
7 the jurisdictional steps preliminary to the vacation of the
8 same have been taken as provided by law. That the allegations
9 of said petition are true, and the prayer of said petitioners
10 should be granted, subject to certain conditions, and the
11 recommendations of the Planning Commission of the City of
12 Bellingham, NOW, THEREFORE,

13 THE CITY OF BELLINGHAM DOES ORDAIN:

14 Section 1. That the following described portions of
15 Taylor Avenue in the City of Bellingham, to-wit:

16 Ten (10) feet on each side of Taylor Avenue
17 between Fifteenth and Sixteenth Street,
18 plus ten (10) feet on each side of Taylor Avenue
19 from the easterly line of 10th Street to the
20 westerly line of 29th Street, in order to reduce
21 the entire length of Taylor Avenue from 10th to 29th
22 Streets to a width of sixty (60) feet,

23 be, and the same are hereby vacated, as approved and recommended
24 by the City Planning Commission.

25 Section 2. That a condition of the vacation of
26 said portions of Taylor Avenue is as follows: The City of
27 Bellingham retains the right to exercise and grant easements
28 in respect to the said portions of Taylor Avenue vacated by
29 this ordinance for the construction, repair and maintenance
30 of water, sewer, electric and telephone distribution and
31 transmission utilities, particularly in continuance of any
existing utilities over and across any part of said portions
of Taylor Avenue, and the right to have the same reconstructed,
operated, repaired and maintained, said retained rights to be

CITY ATTORNEY

6860

perpetual across said vacated portions of Taylor Avenue.

Section 3. That no damage will result to any person or persons or to any property by reason of the vacation of said portions of Taylor Avenue hereinbefore described.

Section 4. That all ordinances and parts of ordinances in conflict herewith, be, and the same are hereby repealed.

Section 5. That this ordinance shall take effect after its final passage and approval as provided by the Charter of the City of Bellingham.

Passed by the City Council of the City of Bellingham this 20 day of April, 1953.

Approved by me this 21 day of April, 1953.

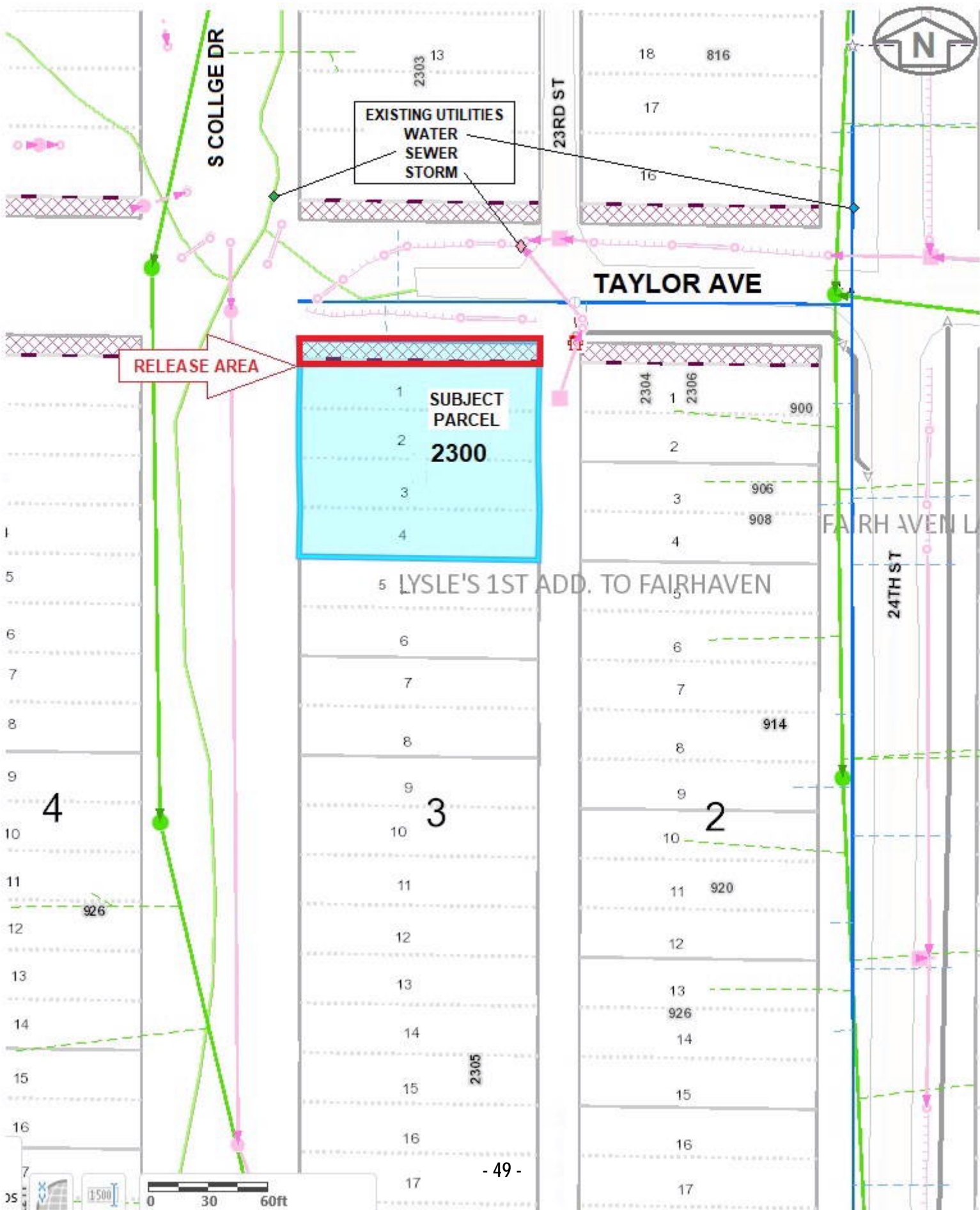
Sig. Hattala
Mayor

Attest:

Edward B. Long
City Comptroller

Published: April 23-1953

**PROPOSED RELEASE AREA OF RETAINED 10' EASEMENT ABUTTING
2300 TAYLOR STREET, LOT 1, BLOCK 3, LYSLE'S ADD TO FAIRHAVEN**





City Council Agenda Bill

22427

Bill Number

Subject: **Mayor's Reappointment of Mary Rossi to the Historic Preservation Commission (Approval)**

Summary Statement: The Historic Preservation Commission is authorized by Ordinance No. 2004-12-094.

The Mayor reappoints Mary Rossi to her third term, which will expire on October 14, 2022, at which time she may be reappointed.

Previous Council Action: **N/A**

Fiscal Impact: **None**

Funding Source: **None**

Attachments:

| Meeting Activity | Meeting Date | Recommendation | Presented By | Time |
|---|--------------|---------------------|----------------------|-----------|
| Mayor's Report - Appointment - For Approval | 9/23/2019 | Approve Appointment | Mayor Kelli Linville | 0 minutes |

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Tracy Lewis, Mayor's Office

Council Action:

| Reviewed By | Department | Date |
|--------------------------|------------|-----------|
| <i>Brian M. Heinrich</i> | Executive | 9/03/2019 |
| <i>Peter M. Ruffatto</i> | Legal | 9/03/2019 |
| <i>Kelli J. Linville</i> | Executive | 9/03/2019 |



City Council Agenda Bill

22428

Bill Number

Subject: **Bellingham Police Behavioral Health Officer**

Summary Statement: In June of this year, and as a result of an internal reorganization, the Bellingham Police Department initiated a Behavioral Health Officer position. Officer Zack Serad was chosen to fulfill this role. Today, Officer Serad will briefly explain the purpose and goals of the Behavioral Health Officer, how he collaborates with other health care providers and the successes he has already experienced during the first three months of this program.

Previous Council Action: **Council briefing on the Police Department's Strategic Plan**

Fiscal Impact: **No new fiscal impact. Reorganization of one FTE and repurposed vehicle (\$101,848)**

Funding Source: **General Fund**

Attachments: 1. STAFF MEMO

| Meeting Activity | Meeting Date | Recommendation | Presented By | Time |
|---------------------------------------|--------------|------------------------|---|------------|
| Committee Briefing - Information Only | 9/23/2019 | Information/Discussion | Lieutenant David Crass and Officer Zack Serad | 15 minutes |

Recommended Motion:

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Bellingham Police Lieutenant David Crass

Council Action:

| Reviewed By | Department | Date |
|--------------------------|-------------------|-----------|
| <i>David G. Doll</i> | Police Department | 9/13/2019 |
| <i>Shane P. Brady</i> | Legal | 9/13/2019 |
| <i>Kelli J. Linville</i> | Executive | 9/17/2019 |



MEMORANDUM

TO: Bellingham City Council
FROM: Lieutenant David Crass and Officer Zack Serad
CC: Mayor Kelli Linville
SUBJECT: Bellingham Police Behavioral Health Officer
DATE: 9/23/2019

In June of this year, and through an internal department reorganization, the Bellingham Police Department moved forward in establishing our first Behavioral Health Officer position. This position is detailed in the Police Department's Strategic Plan, but was unfunded and "on hold" prior to the reorganization.

The Behavioral Health Officer works in tandem with a Mental Health Liaison provided by the GRACE (Ground Level Response and Coordinate Engagement) Program to provide services to those in need of mental health services in the City. The Behavioral Health Team goals are as follows:

- 1) Reduce the number of 911 calls for select individuals suffering from severe mental health issues in the City of Bellingham.*
- 2) Assist a select group of individuals suffering from severe mental health issues by providing them the assistance they need through a network of resources located within Whatcom County.*
- 3) Behavioral Health Officer will act as the point-of-contact between law enforcement agencies in the area, courts, support services (outreach, Grace, etc.), and local healthcare providers.*

This work is completed through field contacts, 911 calls, and follow-ups with individuals and families.

This includes care plans with families, jail visits, and meetings with numerous organizations that provide services.



City Council Agenda Bill

22429

Bill Number

Subject: **Climate Action Update**

Summary Statement: Staff will provide an overview and update of the City's carbon emissions reduction actions in support of the adopted 2018 Climate Action Plan. The presentation will also include an update on the work of the Climate Action Task Force.

Previous Council Action: **Adoption of the 2018 Climate Action Plan and subsequent passage of Resolution 2018-06 establishing the Climate Action Task Force**

Fiscal Impact: **Undetermined**

Funding Source: **Undetermined**

Attachments: 1. CLIMATE ACTION UPDATE STAFF MEMO 9-23-19

| Meeting Activity | Meeting Date | Recommendation | Presented By | Time |
|---------------------------------------|--------------|------------------------|------------------------------------|------------|
| Committee Briefing - Information Only | 9/23/2019 | Information/Discussion | Eric Johnston, Interim PW Director | 10 minutes |

Recommended Motion:

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Renee LaCroix, Assistant PW Director - 778-7966

Council Action:

| Reviewed By | Department | Date |
|--------------------------|--------------|-----------|
| <i>Eric C. Johnston</i> | Public Works | 9/16/2019 |
| <i>Matthew T. Stamps</i> | Legal | 9/16/2019 |
| <i>Kelli J. Linville</i> | Executive | 9/17/2019 |



City of Bellingham
210 Lottie Street
Bellingham, WA 98225

MEMORANDUM

TO: BELLINGHAM CITY COUNCIL

FROM: RENEE LACROIX, ASSISTANT PUBLIC WORKS DIRECTOR, NATURAL RESOURCES DIVISION

CC: MAYOR KELLI LINVILLE; ERIC JOHNSTON, INTERIM PW DIRECTOR

SUBJECT: CITY'S CARBON EMISSIONS REDUCTION EFFORTS

DATE: SEPTEMBER 23, 2019

Staff will present an overview on actions implemented since 2005 to reduce the City's carbon emissions and advance our commitment to meet our 100% renewable energy targets. Actions included in this update are representative of the City's many initiatives to address the challenge of climate change. In addition, we are reporting on the progress of the Climate Action Plan Task Force, created by Council Resolution 2018-06 to determine the feasibility of accelerating the Climate Action Plan emission reduction and 100% renewable energy targets.



City Council Agenda Bill

22430

Bill Number

Subject: Worksession to Develop an Immigration Advisory Group to Facilitate Ongoing Community Participation

Summary Statement: On February 27, 2017 the Bellingham City Council voted unanimously to pass Ordinance #2017-02-008 and create Bellingham Municipal Code Chapter 2.25. On May 21, 2019, Engrossed Second Substitute E2SSB 5497 (Keep Washington Working Act) was signed by Governor Inslee. Council will consider actions to align City policy with E2SSB 5497 and create an Immigration Advisory Group to facilitate ongoing community participation and offer advisory feedback on issues related to immigration.

Previous Council Action: On February 27, 2017 the Bellingham City Council voted unanimously to pass Ordinance #2017-02-008 and create Bellingham Municipal Code Chapter 2.25

Fiscal Impact: N/A

Funding Source: N/A

Attachments: 1. DRAFT OUTLINE OF LEGISLATION

| Meeting Activity | Meeting Date | Recommendation | Presented By | Time |
|--|--------------|-------------------|----------------------------------|------------|
| Committee Briefing - Vote Requested | 9/23/2019 | Provide Direction | Councilmember Hannah E. Stone | 30 minutes |

Recommended Motion:

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Monea Kerr, Legislative Assistant, (360) 778-8202

Council Action:

| Reviewed By | Department | Date |
|--------------------------|------------------------|-----------|
| <i>Monea J. Kerr</i> | Council Administration | 9/16/2019 |
| <i>Peter M. Ruffatto</i> | Legal | 9/17/2019 |
| <i>Kelli J. Linville</i> | Executive | 9/17/2019 |

DRAFT OUTLINE OF LEGISLATION FOR COUNCIL DISCUSSION

A. Ordinance or Resolution Title:

A RESOLUTION/ORDINANCE REGARDING ALIGNMENT BETWEEN DEPARTMENTAL POLICIES AND ENGROSSED SECOND SUBSTITUTE SENATE BILL 5497 (E2SSB 5497) AND TO DEVELOP AN IMMIGRATION ADVISORY GROUP TO FACILITATE ONGOING COMMUNITY PARTICIPATION AND OFFER ADVISORY FEEDBACK ON ISSUES RELATED TO IMMIGRATION.

B. Recitals:

WHEREAS, the policy of the City of Bellingham is that all people are valued, have inherent liberty interests, and should be afforded dignity and respect regardless of status or identity including race, gender, sexual orientation, religion, immigration status, national origin or ethnic origin; and

WHEREAS, on February 13, 2017 the Bellingham City Council passed Resolution # 2017-10, a Resolution Affirming the Safety of All People Residing in Bellingham; and

WHEREAS, on February 27, 2017 the Bellingham City Council passed Ordinance # 2017-02-008, an Ordinance of the City of Bellingham, Washington Relating to City Policy with Respect to Immigration Enforcement, Equal Protection, and Equal Provision of City Services Regardless of Immigration Status and Creating a New Chapter of the Bellingham Municipal Code Regarding Such Matters; and

WHEREAS, the Bellingham Municipal Code includes Chapter 2.25, Equal Protection and Provision of Services Regardless of Immigration Status; and

WHEREAS, on May 21, 2019 the Governor of the State of Washington signed Engrossed Second Substitute Senate Bill 5497, an Act Relating to Establishing a Statewide Policy Supporting Washington State's Economy and Immigrants' Role in the Workplace ("Keep Washington Working Act"); and

WHEREAS, E2SSB 5497 draws a bright line between local and federal law, thereby clarifying the boundaries of local authority; and

WHEREAS, E2SSB 5497 increases community trust; and

WHEREAS, E2SSB 5497 aims to preserve local resources to support local law enforcement and its focus on public safety, protecting the community, and responding to civilian needs; and

WHEREAS, E2SSB 5497 protects the privacy and civil rights of all residents; and

WHEREAS, the Mayor, as the chief executive officer of the City, shall ensure compliance with E2SSB 5497, including but not limited to, alignment of departmental policies, procedures, and practices of the City; and

WHEREAS, the City Council has a substantial and compelling interest in ensuring the City of Bellingham remains a place where the rights and dignity of all residents are

maintained and protected regardless of status or identity including immigration status, national origin or ethnic origin.

C. Operative Provisions:

SECTION 1. Direct administration to collect data regarding any and all contact between the City of Bellingham and immigration and customs enforcement (ICE) or customs and border protection (CBP). This data collection will help both the City of Bellingham and the State of Washington monitor compliance with E2SSB 5497.

SECTION 2. Direct administration to report back to the City Council quarterly. The City Council directs City administration to update the Council on a quarterly basis regarding the data compiled pursuant to Section 1 of this Resolution/Ordinance.

SECTION 3. Creation of an immigration advisory group.

The purpose of the Immigration Advisory Group ("Group") is to facilitate ongoing community participation and offer advisory feedback on issues related to immigration. In addition, creation of this group supports community involvement in and discussion of regional issues and decisions about our City's future as related to immigration.

The Group will consist of no more than 12 members. Individuals or organizations will complete an application process to seek appointment to the Group. Under the City Charter, members will be appointed by the Mayor and confirmed by City Council to serve two-year terms. Membership will include at least one representative from each of the following sectors of the community:

- 1) Directly Impacted Individual or Liaison
- 2) Advocacy – Human Rights
- 3) Legal – Immigration Law / Civil Rights
- 4) Youth / Education
- 5) Faith / Religion
- 6) Healthcare / Medical
- 7) Labor – Service Industry
- 8) Labor – Agricultural Industry
- 9) Business / Economic Development

The Group will meet once a month. The meetings will be open to the public with minutes, audio and video recordings maintained in the City Council Meeting archives. The Group will be supported by Mayor-designated staff and City Council-designated staff as needed.



City Council Agenda Bill

22431

Bill Number

Subject: **Washington Water/Wastewater Agency Response Network Interlocal Agreement**

Summary Statement: Public Works is seeking approval to enter into a mutual aid agreement with the Washington Water/Wastewater Agency Response Network. This mutual aid agreement will allow the City to provide or accept aid from other Washington State utility agencies in the event of an emergency or natural disaster.

Previous Council Action: **None**

Fiscal Impact: **No direct impact - this is a mutual aid agreement**

Funding Source: **All Public Works Funds**

Attachments: 1. WATER/WASTEWATER AGENCY RESPONSE NETWORK (WARN) - MUTUAL AID & ASSISTANCE AGREEMENT

| Meeting Activity | Meeting Date | Recommendation | Presented By | Time |
|------------------|--------------|-----------------|------------------------------------|-----------|
| Consent Agenda | 9/23/2019 | Vote to Approve | Eric Johnston, Interim PW Director | 0 minutes |

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Mike Olinger, PW Operations Superintendent - 778-7725

Council Action:

| Reviewed By | Department | Date |
|-----------------------------|--------------|-----------|
| <i>Eric C. Johnston</i> | Public Works | 9/16/2019 |
| <i>Connie C. Allen</i> | Purchasing | 9/16/2019 |
| <i>Andrew D. Asbjornsen</i> | Finance | 9/17/2019 |
| <i>Matthew T. Stamps</i> | Legal | 9/17/2019 |
| <i>Kelli J. Linville</i> | Executive | 9/17/2019 |

**Mutual Aid and Assistance Agreement for Washington State for Intrastate
Water/Wastewater Agency Response Network (WARN)**

As of: 04/13/09

This Agreement ("Agreement") is made and entered into by public water and wastewater utilities that have executed this Agreement.

**ARTICLE I
PURPOSE**

Recognizing that emergencies may require aid or assistance in the form of personnel, equipment, and supplies from outside the area of impact, the signatories hereby establish an Intrastate Network for Mutual Aid and Assistance (the "Network"). Through the Network, Members (as further defined in this Agreement) may coordinate response activities and share resources during emergencies.

**ARTICLE II
DEFINITIONS**

A. Authorized Official – An employee or officer of a Member agency that is authorized to:

1. Request assistance;
2. Offer assistance;
3. Decline to offer assistance;
4. Decline to accept offers of assistance, and
5. Withdraw assistance under this Agreement.

B. Emergency – A natural or human-caused event or circumstance causing, or imminently threatening to cause, loss of life, injury to person or property, human suffering, significant financial loss, or damage to environment. For example, Emergencies may include fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation emergencies, disease, blight, infestation, civil disturbance, riot, intentional acts, sabotage and war that are, or could reasonably be beyond the capability of the services, personnel, equipment, and facilities of a Member to fully manage and mitigate by itself.

C. Member – Any public agency which provides supply, transmission or distribution of water; or collection, conveyance or treatment services of storm water or waste water that executes this Agreement (individually a "Member" and collectively the "Members"). The Members are further classified as follows:

1. Requesting Member – A Member who requests aid or assistance under the Network.
2. Responding Member – A Member that responds to a request for aid or assistance under the Network.

D. Period of Assistance – The period of time when a Responding Member

assists a Requesting Member in response to a Request for Assistance. The Period of Assistance commences when personnel, equipment, or supplies depart from Responding Member's facility and ends when all of the resources return to the Responding Member's facility (*i.e.*, portal to portal).

E. National Incident Management System (NIMS): The national, standardized system for incident management and response that sets uniform processes and procedures for emergency response operations.

F. Associate – Any non-utility participant approved by the Statewide Committee that provides a support role for the Network (such as the State Department of Health). An Associate does not execute this Agreement.

ARTICLE III **ADMINISTRATION**

The Network is administered through Regional Committees and a Statewide Committee.

A. Regional Committees. The State is divided into regions that are geographically the same as the existing Department of Health Office of Drinking Water regions of the state, with the exception that the eastern region is divided to create a central region. Each region has a Regional Committee. Each Member within a region may appoint one person to be a member of its Regional Committee. Only those Regional Committee members appointed by Members are entitled to vote on matters before the Regional Committee. An Associate may be a non-voting member of a Regional Committee. Each Regional Committee shall elect a Chair by majority vote of the voting members of that Regional Committee and shall meet annually to review the operations and procedures of the Network.

B. Statewide Committee. The Chairs of the Regional Committees are the voting members of the Statewide Committee. An Associate may be a non-voting member of the Statewide Committee. Further, the Statewide Committee also may include as non-voting members representatives from the Washington State Department of Health Office of Drinking Water, Washington State Department of Ecology, Washington State Emergency Management Division, Rural Community Assistance Corporation, Evergreen Rural Water of Washington, Washington State Public Health Laboratory, EPA Region 10, Washington Association of Sewer and Water Districts, and the Washington PUD Association. Under the leadership of a Statewide Committee Chair elected by majority vote of the voting members of the Statewide Committee, the Statewide Committee shall plan and coordinate emergency planning and response activities for the Network.

C. Members' administrative activities shall be voluntary and members shall not be required to finance the administration of the Network, nor shall the Network hold real or personal property.

ARTICLE IV PROCEDURES

In coordination with the Regional Committees, and emergency management and public health systems of the State, the Statewide Committee shall develop and adopt operational and planning procedures for the Network that are consistent with this Agreement. The Statewide Committee shall review these procedures at least annually and shall update them as needed.

ARTICLE V REQUESTS FOR ASSISTANCE

A. Member Information: Promptly after executing this Agreement, the signatory Member shall deliver the following to the Statewide Committee: (1) a certified copy of the action of Member's governing body that authorized the signing of this Agreement and (2) an original signed Agreement. Each Member shall identify an Authorized Official and one alternate Authorized Official. Each Member shall provide current 24-hour contact information for its Authorized Officials to the Statewide Committee, which shall maintain a current list of all Members and the contact information for their Authorized Officials. The Statewide Committee shall provide to all Members an updated version of this list annually and whenever there is an addition or withdrawal of a Member and whenever there is a change of Authorized Officials' contact information.

B. Request for Assistance. In the event of an Emergency, a Member's Authorized Official may request mutual aid and assistance from Members ("Request for Assistance"). Requests for Assistance may be made orally or in writing, provided that when a Request for Assistance is made orally, the Requesting Member shall, as soon as practicable, identify and transmit in writing the personnel, equipment and supplies requested. Requesting Members shall direct Requests for Assistance to Authorized Officials. The Statewide Committee shall provide specific protocols for Requests for Assistance as part of the procedures created pursuant to Article IV of this Agreement.

C. Response to a Request for Assistance – Members are not obligated to respond to a Request for Assistance. After a Member receives a Request for Assistance, the receiving Member's Authorized Official shall evaluate whether to respond to the Request for Assistance, whether resources are available to respond, or if other circumstances would hinder response. Following the evaluation, the Authorized Official shall inform, as soon as possible, the Requesting Member whether the Member will respond to the Request for Assistance. If the Member is willing and able to provide assistance, the Member shall inform the Requesting Member of the type of available resources and the approximate arrival time of such assistance.

D. Discretion of Responding Member's Authorized Official – No Member has any duty to respond to a Request for Assistance. When a Member receives a Request for Assistance, the Authorized Official shall have sole and absolute discretion

as to whether or not to respond to the Request for Assistance, and if responding in the affirmative, to determine the availability of resources to be made available to the Requesting Member. The response of a Member's Authorized Official regarding the availability of resources to a Requesting Member shall be final.

E. No Liability for Failure to Respond – No Member will be liable to any other Member for deciding not to respond to a Request for Assistance or otherwise failing to respond to a Request for Assistance. All Members hereby waive all claims against all other Members arising from or relating to any Member's decision to not respond to a Request for Assistance or to any Member's failure to respond to a Request for Assistance.

ARTICLE VI

RESPONDING MEMBER PERSONNEL

A. National Incident Management System-When providing assistance under this Agreement, the Requesting Member and Responding Member are encouraged (but are not obligated) to be organized and function under NIMS.

B. Coordination and Records – Employees of the Responding Member will remain under the direction and control of the Responding Member to the fullest extent possible. The Responding Member is an independent contractor at all times. The Requesting Member's Authorized Official shall coordinate response activities with the designated supervisor(s) of the Responding Member(s). The Responding Member's designated supervisor(s) shall keep accurate records of work performed by personnel during the Period of Assistance and for the equipment and supplies provided during work.

C. Food and Shelter – Whenever practical, Responding Member personnel must be self sufficient for up to seventy-two (72) hours. Whenever practical, the Requesting Member shall supply adequate food and shelter for Responding Member personnel. If the Requesting Member is unable to provide food and shelter for Responding Member personnel, the Responding Member's designated supervisor is authorized to secure the food and shelter necessary to meet the needs of its personnel.

D. Communication – The Requesting Member shall provide Responding Member personnel with communications equipment as available, radio frequency information to program existing radios if appropriate, or telephone contact numbers, in order to facilitate communications with local responders and utility personnel. Each Requesting Member shall provide contact information for an individual with whom Responding Member's personnel may coordinate while en-route for access, staging instructions and other logistical requirements.

E. Status - Unless otherwise provided by law, the Responding Member's officers and employees shall have the same powers, duties, rights, privileges, and immunities as if they were performing their duties in the jurisdiction in which they are

normally employed.

F. Licenses and Permits – To the extent permitted by law, Responding Member personnel that hold licenses, certificates, or permits evidencing professional, mechanical, or other skills shall be allowed to carry out activities and tasks relevant and related to their respective credentials during a Period of Assistance.

ARTICLE VII

RIGHT TO WITHDRAW RESOURCES

A. Right to Withdraw - A Responding Member may withdraw some or all of its resources at any time for any reason, as determined in the Responding Member's sole and absolute discretion. The Responding Member shall communicate written or oral notice of intention to withdraw all or some of a Responding Member's resources to the Requesting Member's Authorized Official as soon as practicable under the circumstances. To the greatest extent possible, but without limiting in any way a Responding Member's sole and absolute discretion, a Responding Member's determination to withdraw some or all of its resources provided to a Requesting Member should consider the status of the incident and incident stability, to minimize any adverse impacts from the withdrawal of resources by a Responding Member.

B. No Liability for Withdrawal - No Member will be liable to any other Member for first responding to a Request for Assistance by providing resources (such as personnel, materials, and equipment) and later withdrawing or refusing to continue to provide some or all of those resources. All Members hereby waive all claims against all Members arising from or relating to such a withdrawal or refusal.

ARTICLE VIII

COST- REIMBURSEMENT

The Requesting Member shall reimburse the Responding Member for all costs incurred by the Responding Member during a Period of Assistance, unless otherwise agreed in writing by both Members.

A. Personnel – The Requesting Member shall reimburse the Responding Member for personnel costs incurred for work performed during a Period of Assistance. Responding Member personnel costs will be calculated according to the terms provided in their employment contracts, hourly rate schedules or other conditions of employment. The Responding Member's designated supervisor(s) shall keep accurate records of work performed by personnel during a Period of Assistance. The Requesting Member shall include in its reimbursement of the Responding Member all personnel costs, including salaries or hourly wages, costs for fringe benefits, and indirect costs.

Unless otherwise agreed in writing, the Requesting Member shall reimburse the Responding Member for all reasonable and necessary costs associated with providing food and shelter for the Responding Member's personnel, if the food and shelter are

not provided by the Requesting Member. The Requesting Member is not required to reimburse the Responding Member for food and shelter costs in excess of State per diem rates unless the Responding Member demonstrates in writing that the excess costs were reasonable and necessary under the circumstances.

B. Equipment – The Requesting Member shall reimburse the Responding Member for the use of equipment during a Period of Assistance, including, but not limited to, reasonable rental rates, all fuel, lubrication, maintenance, transportation, and loading/unloading of loaned equipment. The Requesting Member shall return all equipment to the Responding Member in good working order as soon as is practicable and reasonable under the circumstances. If equipment cannot be returned in good working order, then Requesting Member shall either provide in-kind replacement equipment to Responding Member at no cost to Responding Member or pay to Responding Member the actual replacement cost of the equipment. Reimbursement rates for equipment use will be no less than the Federal Emergency Management Agency's (FEMA) Schedule of Equipment Rates. If a Responding Member uses rates different from those in the FEMA Schedule of Equipment Rates, the Responding Member shall provide such rates orally or in writing to the Requesting Member prior to supplying the equipment. If reimbursement rates are to be different than those in the FEMA Schedule of Equipment rates, Responding Member and Requesting Member shall agree in writing on which rates will be used prior to dispatch of the equipment to the Requesting Member. Requesting Member shall reimburse for equipment not referenced on the FEMA Schedule of Equipment Rates based on actual recovery of costs. If a Responding Member is required to lease equipment while its equipment is being repaired because of damage due to use during a Period of Assistance, Requesting Member shall reimburse Responding Member for such rental costs.

C. Materials and Supplies – The Requesting Member shall reimburse the Responding Member in kind or at actual replacement cost, plus handling charges, for use of expendable or non-returnable supplies by the Responding Member during a Period of Assistance. The Responding Member shall not charge direct fees or rental charges to the Requesting Member for other supplies and reusable items that are returned to the Responding Member in a clean, damage-free condition. Reusable supplies that are returned to the Responding Member with damage will be treated as expendable supplies for purposes of cost reimbursement.

D. Payment Period – In order to be reimbursed, the Responding Member shall provide an itemized bill to the Requesting Member no later than ninety (90) days following the end of the Period of Assistance for all expenses incurred by the Responding Member while providing assistance to a Requesting Member under this Agreement. The Responding Member may request additional time to submit the itemized bill, and Requesting Member shall not unreasonably withhold consent to such a request. The Requesting Member shall pay the itemized bill in full on or before the forty-fifth (45th) day following the billing date. The Requesting Member may request additional time to pay the itemized bill, and Responding Member shall not unreasonably withhold consent to such a request, but in no event will payment in full occur later than one year after the date a final itemized bill is submitted to the

Requesting Member. If a Responding Member disputes a portion of an itemized bill, the Requesting Member shall promptly pay those portions of the bill not under dispute, pending the resolution of the payment of the disputed portion of the bill.

E. Records - Where a Responding Member provides assistance to a Requesting Member under this Agreement, both Members shall provide the other Member access to the books, documents, notes, reports, papers and other records relevant to this Agreement for the purposes of reviewing the accuracy of a cost bill or making or undergoing a financial, maintenance or regulatory audit. Both Members shall maintain these records for at least three (3) years or longer where required by law.

ARTICLE IX **DISPUTES** **NEGOTIATION**

Members shall first attempt to resolve any controversy, claim or other dispute arising out of or relating to this Agreement by direct negotiation.

MEDIATION

To the extent not resolved by direct negotiation, Members shall mediate any controversy, claim or other dispute arising out of or relating to this Agreement. Mediation is a condition precedent to arbitration. Unless the disputing Members agree otherwise, the mediation will be administered by the American Arbitration Association (AAA) under its Construction Industry Mediation Procedures. The disputing Members shall pay in equal shares the mediator's fee and any filing fees. Unless otherwise agreed by the disputing Members, the disputing Members shall (1) hold the mediation no later than thirty (30) days after a disputing Member delivers a request for mediation to the other disputing Members and (2) hold the mediation at the location of the Requesting Member. Agreements reached in mediation will be enforceable as settlement agreements.

ARBITRATION

To the extent not resolved by mediation, Members shall arbitrate all controversies, claims and other disputes arising out of or relating to this Agreement. Unless the disputing Members agree otherwise, the arbitration will be administered by the AAA in accordance with its Construction Industry Arbitration Rules in effect on the date a disputing Member makes a demand for arbitration. A disputing Member may make a demand for arbitration before negotiation or mediation if it appears that a claim might be barred by a statute of limitations if the demand were made after the negotiation or mediation. However, in such a case the arbitration will be stayed until the conclusion of negotiation and mediation. The decision and award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

ARTICLE X
DUTY TO INDEMNIFY

To the extent of its fault, a Member shall defend, indemnify, and hold harmless all other Members, their elected officials, Authorized Officials, officers, employees and agents from any and all costs, claims, judgments, losses, awards of damage, injury, death and liability of every kind, nature and description, including the reasonable cost of defense and attorneys' fees, directly or indirectly arising from or relating to this Agreement (collectively, "Indemnified Claims"). This indemnity obligation extends to all Indemnified Claims against a Member by an employee or former employee of another Member, and for this purpose, by mutual negotiation, each Member hereby expressly waives, with respect to each other Member only, all immunity and limitation under any applicable industrial insurance act, including Title 51 of the Revised Code of Washington, other worker compensation acts, disability benefit acts or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of Indemnified Claims.

ARTICLE XI
WORKER'S COMPENSATION AND SITE CONDITIONS

The Responding Member is responsible for providing worker's compensation benefits and administering worker's compensation for its employees. The Requesting Member is responsible for providing worker's compensation benefits and administering worker's compensation for its employees.

Each Member shall promptly identify to the other Members concerns about site safety, environmental concerns, and other working conditions. The Safety Officer appointed within the Incident Command System during the Period of Assistance shall address specific safety conditions and mitigations.

ARTICLE XII
NOTICE

Unless otherwise provided in this Agreement, all notices must be in writing. Notice to a Member must be delivered to the Member's Authorized Official.

ARTICLE XIII
EFFECTIVE DATE

This Agreement shall be effective with respect to each Member when that Member's authorized representative executes the Agreement. The Statewide Committee shall maintain a master list of all Members.

ARTICLE XIV
WITHDRAWAL

A Member may withdraw from this Agreement at any time by providing to the Statewide Committee Chair written notice of withdrawal signed by the withdrawing Member's Authorized Official or other person authorized by the withdrawing Member's governing body. Any withdrawal will be effective upon receipt by the Statewide Committee Chair of the notice of intent to withdraw. If there is no Statewide Committee Chair, the withdrawing Member shall provide written notice to each Member in its region, and the withdrawal will be effective upon delivery of those notices. Once withdrawal from this Agreement is effective, the withdrawing Member will have no further obligations under this Agreement, except that withdrawal from this Agreement will not affect any indemnification or reimbursement obligation under this Agreement that arises prior to the effective date of the withdrawal.

ARTICLE XV TERMINATION

This Agreement shall terminate in its entirety when there are less than two Members. Termination of this Agreement will not affect any indemnification or reimbursement obligation under this Agreement arising prior to the termination. The Statewide Committee Chair shall provide written notice of termination to all remaining Members of the Agreement.

ARTICLE XVI AMENDMENT

This Agreement may be amended if, after written notice of a proposed amendment to all Members, the proposed amendment is approved by a majority of Members in each region. The Statewide Committee Chair shall provide written notice to all Members of approved amendments. Approved amendments will take effect sixty (60) days after the date the notice is sent to the Members.

ARTICLE XVII SEVERABILITY

The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

ARTICLE XVIII PROHIBITION ON THIRD PARTIES AND ASSIGNMENT OF RIGHTS/DUTIES

Notwithstanding rights of subrogation asserted by a Member's insurance provider, this Agreement is for the sole benefit of the Members and no other person or entity shall have any rights under this Agreement as a third party beneficiary nor shall any Member owe duty to a third party not a signatory of this Agreement by virtue of this Agreement. Assignments of benefits and delegations of duties created by this

Agreement are prohibited and of no effect.

ARTICLE XIX
GOVERNING LAW

This Agreement is governed by the law of the State of Washington, specifically RCW 39.34, Interlocal Cooperation Act.

ARTICLE XX
EXECUTION IN COUNTERPARTS

This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same Agreement.

The water and wastewater utility listed below executed this Agreement on this _____ day of _____ 201 .

Water/Wastewater Utility: _____

By: See Attached

Title: _____

Please Print Name

By: _____

Title _____

Please Print Name

Approved as to form

By: _____
Attorney for Member

Please Print Name

**City of Bellingham Signature Page for Document Titled:
Mutual Aid and Assistance Agreement for Washington State for Intrastate
Water/Wastewater Agency Response Network (WARN)**

EXECUTED, this _____ day of _____, 2019, for the **CITY OF BELLINGHAM**:

Departmental Approval:

Mayor

Department Head

Attest:

Approved as to Form:

Finance Director

Office of the City Attorney



City Council Agenda Bill

22432

Bill Number

Subject: **Authorization of A/P Checks Issued September 06, 2019**

Summary Statement: In accordance with state law, approval is requested for the payment of the following checks issued for City goods and services received.

AP ACH and Check #543429 through #543566 were issued on September 06, 2019 for pay period August 31, 2019 through September 06, 2019 in the amount of \$1,999,153.34

Previous Council Action: **2019-2020 Adopted Budget**

Fiscal Impact: **Checks issued for amounts shown above are within legally appropriated budget.**

Funding Source: **Citywide Funds**

Attachments:

| Meeting Activity | Meeting Date | Recommendation | Presented By | Time |
|------------------|--------------|----------------------------|--------------|-----------|
| Consent Agenda | 9/23/2019 | Authorize Accounts Payable | N/A | 0 minutes |

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Sharon Martin, Finance Department

Council Action:

| Reviewed By | Department | Date |
|-----------------------------|--------------------|-----------|
| <i>Andrew D. Asbjornsen</i> | Finance Department | 9/17/2019 |
| <i>Matthew T. Stamps</i> | Legal | 9/17/2019 |
| <i>Kelli J. Linville</i> | Executive | 9/17/2019 |



City Council Agenda Bill

22433

Bill Number

Subject: **Authorization of A/P Checks Issued September 13, 2019**

Summary Statement: In accordance with state law, approval is requested for the payment of the following checks issued for City goods and services received.

AP ACH and Check #543583 through #543699 were issued on September 13, 2019 for pay period September 07, 2019 through September 13, 2019 in the amount of \$959,261.94

Previous Council Action: **2019-2020 Adopted Budget**

Fiscal Impact: **Checks issued for amounts shown above are within legally appropriated budget.**

Funding Source: **Citywide Funds**

Attachments:

| Meeting Activity | Meeting Date | Recommendation | Presented By | Time |
|------------------|--------------|----------------------------|--------------|-----------|
| Consent Agenda | 9/23/2019 | Authorize Accounts Payable | N/A | 0 minutes |

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Sharon Martin, Finance Department

Council Action:

| Reviewed By | Department | Date |
|-----------------------------|--------------------|-----------|
| <i>Andrew D. Asbjornsen</i> | Finance Department | 9/17/2019 |
| <i>Matthew T. Stamps</i> | Legal | 9/17/2019 |
| <i>Kelli J. Linville</i> | Executive | 9/17/2019 |



City Council Agenda Bill

22414

Bill Number

Subject: An Ordinance Amending Bellingham Municipal Code Title 20 to Allow On-Premise Accessory and Incidental Alcohol Service at Eating Establishments by Amending BMC 20.08.020, BMC 20.16.020, and Various Other Applicable Sections of the Land Use Development Code

Summary Statement: The purpose of this proposal is to allow on-premise accessory and incidental alcohol service at eating establishments by amending various other applicable sections of the land use development code. Specific amendments include updated eating establishment and drinking establishment definitions, modified conditional use permit requirements, and other related amendments for consistency throughout the code. The Planning Commission voted 4-0 to approve the draft ordinance and recommends the City Council approve the proposal.

Previous Council Action: **None**

Fiscal Impact: **Staff time to process the proposal is included in the PCDD 2019-2020 Budget**

Funding Source: **General Fund**

Attachments: 1. ORDINANCE
2. EXHIBIT A TO ORDINANCE

| Meeting Activity | Meeting Date | Recommendation | Presented By | Time |
|---------------------------------|--------------|----------------|---|-----------|
| Public Hearing - Vote Requested | 9/09/2019 | Pass Ordinance | Anya Gedrath-Smith, Planning and Community Development | 5 minutes |

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Rick Sepler, Planning and Community Development, 360-778-8300

Council Action: 09/09/2019 April Barker / Gene Knutson moved for first and second reading. **MOTION CARRIED 7-0.**

Reviewed By

Rick M. Sepler

Department

Planning & Community Development

Date

9/03/2019

Alan A. Marriner

Legal

9/03/2019

Kelli J. Linville

Executive

9/03/2019

ORDINANCE NO. _____

AN ORDINANCE AMENDING BELLINGHAM MUNICIPAL CODE (BMC) TITLE 20 TO ALLOW ON-PREMISE ACCESSORY AND INCIDENTAL ALCOHOL SERVICE AT EATING ESTABLISHMENTS BY AMENDING BMC 20.08.020, BMC 20.16.020, AND VARIOUS OTHER APPLICABLE SECTIONS OF THE LAND USE DEVELOPMENT CODE.

WHEREAS, BMC 20.08.020 defines an eating establishment as “an establishment or any part thereof where prepared food is sold, but not alcoholic beverages” and a drinking establishment as “an establishment or any part thereof where alcoholic beverages are sold and consumed on the premises;” and

WHEREAS, the city received requests to ease restrictions on accessory and incidental alcohol service in eating establishments where alcohol service is either prohibited or requires a conditional use permit; and

WHEREAS, in the Hearing Examiner’s 2015 report to the City Council, the Hearing Examiner recommended the city remove the land use approval requirement for alcohol service in restaurants and make the necessary code changes to allow alcohol service as an accessory use in eating establishments; and

WHEREAS, the proposed amendments seek to differentiate eating establishments from drinking establishments to provide a more accurate, distinct, and consistent representation of such uses in the BMC; and

WHEREAS, the proposed amendments seek to allow on-premise incidental and accessory alcohol service at eating establishments and eliminate conditional use permit requirements at eating establishments for alcohol service, where alcohol service is clearly accessory to principal food service; and

WHEREAS, the responsible official reviewed the proposed amendments under the procedures of the State Environmental Policy Act, and a non-project Determination of Non-Significance was issued on June 19, 2019; and

WHEREAS, as required by RCW 36.70A.106, notice of the City’s intent to adopt the proposed amendments was sent to the Department of Commerce on June 19, 2019; and

WHEREAS, after mailed and published notice as required by BMC 21.10.150, the Bellingham Planning Commission held a public hearing on the proposed amendments on August 1, 2019; and

WHEREAS, the Planning Commission determined that the proposed amendments comply with and will implement the goals and policies of the 2016 Bellingham Comprehensive Plan; and

WHEREAS, the Planning Commission considered the staff report and public comments received and thereafter made Findings of Fact, Conclusions and Recommendations for approval of the proposed amendments by a 4-0 vote on August 1, 2019; and

WHEREAS, after mailed and published notice as required by BMC 21.10.150, the Bellingham City Council held a public hearing on the proposed amendments on September 9, 2019; and

WHEREAS, the City Council has considered the recommendation of the Planning Commission, the staff report, and the public comment and hereby adopts the Findings of Fact, Conclusions and Recommendations of the Planning Commission; and

WHEREAS, the City Council finds that the proposed amendments are consistent with the Growth Management Act, the Bellingham Municipal Code, and the 2016 Bellingham Comprehensive Plan.

NOW, THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. BMC 20.00.140, Roosevelt neighborhood table of zoning regulations, Area 8, is amended as follows:

Areas 1 – 16

| Area | Zoning | Use Qualifier | Density | Special Conditions | Prerequisite Considerations | Special Regulations |
|-----------------------------|------------|--|--------------------|--------------------|-----------------------------|---|
| Area 1-7 [NO CHANGE] | | | | | | |
| 8 | Commercial | Neighborhood, planned, limited permitted uses* | [NO CHANGE] | [NO CHANGE] | [NO CHANGE] | Building and parking lot lighting shall be directed away from abutting residential uses. Signage facing residential areas shall be limited to one sign, which may be indirectly lighted during business hours, not to exceed 16 square feet in area per sign face. The message of such signs shall be |

| Area | Zoning | Use Qualifier | Density | Special Conditions | Prerequisite Considerations | Special Regulations |
|------|--------|---------------|---------|--------------------|-----------------------------|--|
| | | | | | | <p>limited to the name/address/ telephone number of the use only.</p> <p>* Permitted uses limited to the following:</p> <p>1. through 6. [NO CHANGE]</p> <p>7. Eating establishments</p> <p>a. Facilities where alcohol would be consumed on premises shall require conditional use approval</p> <p>8. through 10. [NO CHANGE]</p> <p>11. Uses similar to the above; however adult entertainment uses, 24-hour stores, drinking establishments taverns, bars, liquor stores and tattoo/body piercing establishments shall be prohibited</p> |

| Area | Zoning | Use Qualifier | Density | Special Conditions | Prerequisite Considerations | Special Regulations |
|--------------------------------|--------|---------------|---------|--------------------|-----------------------------|---------------------|
| [NO CHANGES BEYOND THIS POINT] | | | | | | |

Section 2. The following definitions in BMC 20.08.020, Specific definitions, are amended as follows:

“Eating establishment” means an establishment or any part thereof where prepared food is sold but not alcoholic beverages as a primary use, and any provision of alcoholic beverages for consumption on the premises is clearly accessory and incidental to the service of food.

“Drinking establishment” means an establishment or any part thereof where alcoholic beverages are sold and consumed on the premises as a primary use without food service or with limited food service accessory and incidental to the sale and consumption of alcohol. Drinking establishments include but are not limited to lounges, night clubs, bars, brewpubs, and taverns.

[ALL OTHER DEFINITIONS IN THIS SECTION REMAIN UNCHANGED]

Section 3. BMC 20.16.010 General Provisions, is hereby amended to add Sub-section J:

A. through I. [NO CHANGE]

J. For eating establishments that have been granted a conditional use permit prior to October 8, 2019, a request to add accessory and incidental alcohol service may be approved administratively provided that criteria 1 - 4 in BMC 20.16.010 I. are met. If granted, the request shall not count as a one-time change.

Section 4. BMC 20.16.020 D. and E., Conditional uses, is amended as follows:

D. 1. through 2. [NO CHANGE]

D. 3. *Drinking Establishment.*

a. Definition – An establishment or any part thereof where alcoholic beverages are sold and consumed on the premises as a primary use without food service or with limited food service accessory and incidental to the sale and consumption of alcohol.

Drinking establishments include but are not limited to lounges, night clubs, bars, brewpubs, and taverns.

b. Conditional in the neighborhood commercial designation.

c. Special requirements – none.

E. Eating Establishment.

1. *Definition.* An establishment or any part thereof where prepared food is sold ~~but not alcoholic beverages as a primary use, and any provision of alcoholic beverages for consumption on the premises is clearly accessory and incidental to the service of food.~~

2. Conditional in residential multi multiple general use type.

3. *Special Requirement.* Drive-through restaurants should be permitted only along designated arterials.

[NO CHANGES BEYOND THIS POINT]

Section 5. BMC 20.00.090, Happy Valley neighborhood table of zoning regulations and Attachment 1 is amended as follows:

| Area | Zoning | Use Qualifier | Density | Special Conditions | Prerequisite Considerations | Special Regulations |
|---------------------|------------|---|-------------|--------------------|-----------------------------|--|
| Area 1A [NO CHANGE] | | | | | | |
| 1B | Commercial | Neighborhood (administered through the planned contract process) limited commercial uses* | [NO CHANGE] | [NO CHANGE] | [NO CHANGE] | See Attachment 1 – Neighborhood Commercial and Mixed-Use Design Criteria. **Permitted uses are limited to: 1. through 5. [NO CHANGE] 6. Eating and drinking establishments – |

| Area | Zoning | Use Qualifier | Density | Special Conditions | Prerequisite Considerations | Special Regulations |
|--------------------------------|--------|---------------|---------|--------------------|-----------------------------|---|
| | | | | | | <p>A restaurant may include licensed provision of alcohol beverages for consumption on the premises when accessory to such food service</p> <p>7. through 10. [NO CHANGE]</p> <p>Prohibited Uses:</p> <p>11. through 12. [NO CHANGE]</p> <p>13. Adult entertainment uses, <u>drinking establishments</u> bars, taverns, liquor stores, card rooms, and tattoo/body piercing establishments.</p> <p>14. [NO CHANGE]</p> |
| Area 1C through 13 [NO CHANGE] | | | | | | |

| Area | Zoning | Use Qualifier | Density | Special Conditions | Prerequisite Considerations | Special Regulations |
|------|------------|---|-------------|--------------------|-----------------------------|--|
| 14 | Commercial | Neighborhood , administered through the planned contract process; limited permitted uses* | [NO CHANGE] | [NO CHANGE] | [NO CHANGE] | <p>See Attachment 1 – Neighborhood Commercial and Mixed-Use Design Criteria.</p> <p>*Permitted uses are limited to the following:</p> <p>1. through 6. [NO CHANGE]</p> <p>7. Eating Establishments. A restaurant may include licensed provision of alcohol beverages for consumption on the premises when accessory to such food service.</p> <p>8. through 11. [NO CHANGE]</p> <p>Prohibited Uses:</p> <p>1. [NO CHANGE]</p> <p>2. Adult entertainment uses, drinking establishments bars, taverns, liquor stores, card rooms, and tattoo/body piercing establishments.</p> |

| Area | Zoning | Use Qualifier | Density | Special Conditions | Prerequisite Considerations | Special Regulations |
|---------------------------------------|--------|---------------|---------|--------------------|-----------------------------|---------------------|
| [NO ADDITIONAL CHANGES TO THIS TABLE] | | | | | | |

| Area | ATTACHMENT 1 Neighborhood Commercial and Mixed Use Design Criteria for Areas 1A, 1B, 1C, 3, 14 |
|--|--|
| 1A 1B 3 14 | 1. Use Criteria a. through g. [NO CHANGE] h. A restaurant may include licensed provision of alcohol beverages for consumption on the premises when accessory to such food service. i. h. Further limitations on uses are addressed within the applicable subarea descriptions. |
| [NO ADDITIONAL CHANGES TO THIS TABLE OR SECTION] | |

Section 6. Table 20.33.030 in BMC 20.33.030, range of uses possible for Commercial Development, is amended as follows:

Table 20.33.030

| P = Permitted C = Conditional N = Not Permitted | Planned Commercial | Neighborhood Commercial | Auto | Waterfront (1) |
|---|--------------------|-------------------------|----------|----------------|
| Residential [NO CHANGE] | | | | |
| Commercial | | | | |
| Adult Entertainment through Drive Up Facilities Accessory to Permitted Uses [NO CHANGE] | | | | |
| Eating and Drinking Establishments | P | P/C(4) | P | P |
| <u>Drinking Establishments</u> | <u>P</u> | <u>C</u> | <u>P</u> | <u>P</u> |

| P = Permitted C = Conditional N = Not Permitted | Planned Commercial | Neighborhood Commercial | Auto | Waterfront (1) |
|--|-------------------------------|------------------------------------|-------------|---------------------------|
| Personal Service Facilities of All Kinds through Retail Facilities including heavy equipment, farm supply, or motor vehicles [NO CHANGE] | | | | |
| Health Care | | | | |
| Medical Care Facility through Service Care [NO CHANGE] | | | | |
| Veterinary Service, Animal Hospital, and Small Animal Care Shop (5) (4) | P | P | P | P |
| Public and Semi-Public Assembly [NO CHANGE] | | | | |
| Industrial | | | | |
| Recycling and Refuse Collection Center [NO CHANGE] | | | | |
| Service Station/Gas Station Including Automobile Services for the Washing, Lubrication, and Minor Repair of Automotive Vehicles (6) (5) | P | P | P | P |
| Warehousing, Wholesaling and Storage Facilities of all Kinds (7) (6) | P | P | P | P |
| Miscellaneous Uses | | | | |
| Adaptive Use for Historic Register Buildings, per BMC 17.90.080 and 20.16.020(A)(1) through Parking Facilities (Retail and Nonretail) [NO CHANGE] | | | | |
| Public Utilities (8) (7) | C | C | C | C |
| [NO ADDITIONAL CHANGES TO THIS TABLE] | | | | |

Notes:

(1) through (3) **[NO CHANGE]**

~~(4) A restaurant may include licensed provision of alcohol for consumption on the premises when accessory to such food service. A drinking establishment without food service or with food service accessory to the sale and consumption of alcohol shall require a conditional use permit pursuant to Chapter 20.16 BMC in those areas with a neighborhood commercial use qualifier.~~

(5)(4) Animal Hospital.

- a. The building must be maintained in accordance with current standards of the American Animal Hospital Association.
- b. The facility shall be designed and constructed to reduce sound levels to those standards as established by the Washington State Department of Ecology.
- c. Ventilation shall be designed and constructed to ensure that there will be no emission of odor detrimental to persons in the area. No opening to the outside shall be permitted in areas where animals will be housed.
- d. All business shall be conducted within a completely enclosed structure.
- e. Boarding of animals, other than that incidental to medical and surgical care, shall be prohibited.
- f. Off-street parking shall be provided pursuant to BMC 20.12.010. All parking areas shall be screened from view from abutting residential districts.

(6)(5) Automotive Repair.

- a. Inoperable motor vehicles shall not be stored on the premises longer than 30 days unless parked within an enclosed structure.
- b. Automobile wrecking is prohibited.

(7)(6) Wholesale, warehousing, storage and manufacturing operations are prohibited unless accessory to retail sales or expressly permitted.

(8)(7) Public utilities when within a public right-of-way shall be permitted.

Section 7. Table 20.37.220 in BMC 20.37.220, permitted uses for Fountain district urban village, is amended as follows:

Table 20.37.220 – Permitted Uses

| P = Permitted # = Permitted with limitations C = Conditional Use N = Not allowed | | | | |
|--|-----------------|-----------------------|--------------------------|--------------------------|
| Land Use Classification | Area | | | |
| | Commercial Core | Commercial Transition | Residential Transition 1 | Residential Transition 2 |
| 1. through 5. [NO CHANGE] | | | | |

P = Permitted # = Permitted with limitations C = Conditional Use N = Not allowed

| Land Use Classification | Area | | | |
|---|-----------------|-----------------------|--------------------------|--------------------------|
| | Commercial Core | Commercial Transition | Residential Transition 1 | Residential Transition 2 |
| 6. Eating establishments (no alcohol served) | P | P | N | N |
| 7. Drinking establishments | P | C | N | N |

[NO CHANGES BEYOND THIS POINT]

Section 8. Table 20.37.320 in BMC 20.37.320, uses for Fairhaven urban village, is amended as follows:

| <i>Table 20.37.320 – Permitted Uses</i> | P = Permitted | | # = See Notes | | C = Conditional Use | | | N = Not allowed | |
|---|---------------|---------------|---------------|------|---------------------|--------|--------|-----------------|-----|
| LAND USE CLASSIFICATION | AREA | | | | | | | | |
| | CC(2) | RT-1 and RT-2 | RT-3 | RT-4 | I-1(1) | I-2(1) | I-3(1) | P-1 and P-3 | P-2 |

A. Residential [NO CHANGE]

B. Commercial

1. through 5. **[NO CHANGE]**

| | | | | | | | | | | |
|----|------------------------|------|---|---|--------------------------|-------------|-------------|-------------|---|---|
| 6. | Drinking Establishment | P(5) | N | N | P C(5) (6) | P(1) (5) | P(1) (5) | P(1) (5) | N | N |
|----|------------------------|------|---|---|--------------------------|-------------|-------------|-------------|---|---|

7. through 8. **[NO CHANGE]**

| | | | | | | | | | | |
|----|----------------|-------------------|---|---|-------------------|---|---|---|---|---|
| 9. | Live/Work Unit | P(7) 6 | N | N | P(7) 6 | N | N | N | N | N |
|----|----------------|-------------------|---|---|-------------------|---|---|---|---|---|

| Table 20.37.320 – Permitted Uses | | P = Permitted | # = See Notes | | C = Conditional Use | | | N = Not allowed | | |
|----------------------------------|---|--------------------------|---------------|------|-------------------------|--------|--------|----------------------------|-------------|-----|
| LAND USE CLASSIFICATION | | AREA | | | | | | | | |
| | | CC(2) | RT-1 and RT-2 | RT-3 | RT-4 | I-1(1) | I-2(1) | I-3(1) | P-1 and P-3 | P-2 |
| 10. | Motor Vehicles Sales, limited to automobiles, motorcycles, scooters and recreational vehicles | P (8) (7) | N | N | N | N | N | N | N | N |
| 11. [NO CHANGE] | | | | | | | | | | |
| 12. | Office including child placement agency, post office, and tourism center | P | N | N | P | N | N | P(1) (9) (8) | N | N |
| 13. through 15. [NO CHANGE] | | | | | | | | | | |
| 16. | Service Station and Gas Station | P (10) (9) | N | N | N | N | N | N | N | N |
| 17. [NO CHANGE] | | | | | | | | | | |
| C. Health Care | | | | | | | | | | |
| 1. through 3. [NO CHANGE] | | | | | | | | | | |
| 4. | Veterinary Service, Animal Hospital and | P (8) (7) | N | N | P (8) (7) | N | N | P(1) (8) (7) | N | N |

| Table 20.37.320 – Permitted Uses | | P = Permitted | | # = See Notes | | C = Conditional Use | | N = Not allowed | | |
|------------------------------------|---|---------------|---------------|---------------|------|----------------------|----------------------|----------------------|-------------|-----|
| LAND USE CLASSIFICATION | | AREA | | | | | | | | |
| | | CC(2) | RT-1 and RT-2 | RT-3 | RT-4 | I-1(1) | I-2(1) | I-3(1) | P-1 and P-3 | P-2 |
| | Small Animal Care Shop | | | | | | | | | |
| D. Public and Semi-Public Assembly | | | | | | | | | | |
| 1. through 6. [NO CHANGE] | | | | | | | | | | |
| 7. | Institution of Higher Education and School | P | C | C | C | N | N | P(1) (11) (10) | N | N |
| 8. through 12. [NO CHANGE] | | | | | | | | | | |
| E. Industrial | | | | | | | | | | |
| 1. through 4. [NO CHANGE] | | | | | | | | | | |
| 5. | Manufacturing and Assembly | N | N | N | N | P(1) | P(1) | P(1) (12) (11) | N | N |
| 6. through 8. [NO CHANGE] | | | | | | | | | | |
| 9. | Warehousing, Wholesaling, and Freight Operation | N | N | N | N | P(1) (13) (12) | P(1) (13) (12) | P(1) (13) (12) | N | N |
| 10. [NO CHANGE] | | | | | | | | | | |
| F. Miscellaneous Uses | | | | | | | | | | |

| Table 20.37.320 – Permitted Uses | | P = Permitted | | # = See Notes | | C = Conditional Use | | N = Not allowed | | |
|----------------------------------|---|---------------|---------------|---------------|------------|---------------------|--------|-----------------|-------------|-----------|
| LAND USE CLASSIFICATION | | AREA | | | | | | | | |
| | | CC(2) | RT-1 and RT-2 | RT-3 | RT-4 | I-1(1) | I-2(1) | I-3(1) | P-1 and P-3 | P-2 |
| 1. through 2. [NO CHANGE] | | | | | | | | | | |
| 3. | Community Public Facilities per BMC 20.16.020(J)(4) | P | C(14) (13) | C(14) (13) | C(14) (13) | P | P | P | P | P |
| 4. through 9. [NO CHANGE] | | | | | | | | | | |
| 10. | Wireless Communications Facility per Chapter 20.13 BMC | P, C | P, C | P, C | P, C | P, C | P, C | P, C | (15) (14) | (15) (14) |
| 11. [NO CHANGE] | | | | | | | | | | |
| NOTES: | | | | | | | | | | |
| (1) through (5) [NO CHANGE] | | | | | | | | | | |
| (6) | A restaurant may include licensed provision of beer and wine for consumption on the premises when accessory to such food service. Sales of beverages having a higher alcohol content than beer and wine require a conditional use permit. | | | | | | | | | |
| (7)(6) | The “work” component in live/work is limited to those permitted and conditional uses listed under the applicable zoning subarea in Table 20.37.320. | | | | | | | | | |
| (8)(7) | When entirely enclosed within a structure. | | | | | | | | | |

| Table 20.37.320 – Permitted Uses | | P = Permitted | | # = See Notes | | C = Conditional Use | | N = Not allowed | |
|----------------------------------|--|---------------|---------------|---------------|------|---------------------|--------|-----------------|-------------|
| LAND USE CLASSIFICATION | | AREA | | | | | | | |
| | | CC(2) | RT-1 and RT-2 | RT-3 | RT-4 | I-1(1) | I-2(1) | I-3(1) | P-1 and P-3 |
| (9)(8) | Including construction businesses (such as construction offices and storage yards). | | | | | | | | |
| (10)(9) | May only be located on those properties where they currently exist south of Larrabee Avenue as of August 28, 2012. | | | | | | | | |
| (11)(10) | Institutions of higher education and art schools are permitted. All other schools are conditional, per Chapter 20.16 BMC. | | | | | | | | |
| (12)(11) | The manufacture, compounding, processing, refining, and treatment of significant quantities of the following materials, products or operations is prohibited. For the purpose of this section, “significant quantities” consist of a barrel or more at a single time. Acetylene, distillation of alcohol, asphalt and tar, brick, tile, terra cotta, concrete, cement, lime, gypsum, and plaster of Paris, fats, oils and soap, fertilizer, garbage, offal, bones, and the reduction of dead animals, forging or smelting of metal, lampblack, stove and shoe polish, lumber and planing mills, oilcloth and linoleum, paint, shellac, turpentine, lacquer and varnish, paper and pulp, petroleum processing and storage, any explosive or highly inflammable material, slaughtering and processing of meat or fish products, tannery and curing of raw hides, chemicals such as acid, ammonia, bleach, chlorine, dye stuff, glue, gelatin and size, automotive wrecking, or junk yards. | | | | | | | | |
| (13)(12) | Excluding the storage and handling of explosives, ammonia, chlorine, and any other similarly dangerous or toxic substances. | | | | | | | | |
| (14)(13) | Conditional except for those uses permitted in subsection (D)(9) of this table. | | | | | | | | |

| Table 20.37.320 – Permitted Uses | | P = Permitted | | # = See Notes | | C = Conditional Use | | N = Not allowed | | |
|----------------------------------|--|---------------|---------------|---------------|------|---------------------|--------|-----------------|-------------|-----|
| LAND USE CLASSIFICATION | | AREA | | | | | | | | |
| | | CC(2) | RT-1 and RT-2 | RT-3 | RT-4 | I-1(1) | I-2(1) | I-3(1) | P-1 and P-3 | P-2 |
| (15)(14) | Wireless communication facilities may only be allowed as an accessory use or conditional use under the provisions of Chapter 20.13 BMC pertaining to the location of these facilities in public zones. | | | | | | | | | |
| [NO CHANGES BEYOND THIS POINT] | | | | | | | | | | |

Section 9. Table 20.37.520 in BMC 20.37.520, permitted uses for Downtown district urban village, is amended as follows:

Table 20.37.520 – Permitted Uses

| P = Permitted C = Conditional Use N = Not allowed (#) = See Notes When multiple symbols and notes appear in a box such as P(2) or (4), C, they are interpreted as (P) Permitted (2) when located in a main building(s) on a site existing as of September 23, 2014 OR (4) on corner lots; (C) conditional elsewhere. | | | | |
|---|--------------------------|-------------|----------------|-----------|
| LAND USE CLASSIFICATION | AREA | | | |
| | CC (1) CT (1) | RT-1 | RT-2 | IT |
| A. Residential [NO CHANGE] | | | | |
| B. Commercial | | | | |
| 1. through 7. [NO CHANGE] | | | | |
| 8. Eating Establishment, including sale and on-premises consumption of alcoholic beverages as an accessory use | P | P | P(2) or (4), C | P |
| [NO CHANGES BEYOND THIS POINT] | | | | |

Section 10. The City Council agrees with and adopts the Findings of Fact, Conclusions and Recommendations of the Planning Commission attached as Exhibit A and incorporated by reference.

PASSED by the Council this _____ day of _____, 2019

Council President

APPROVED by me this _____ day of _____, 2019

Mayor

ATTEST: _____
Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

Published: _____

BELLINGHAM PLANNING COMMISSION FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS

AUGUST 1, 2019

SUMMARY

Following the public hearing and deliberation on the Bellingham Municipal Code (BMC) amendments to allow accessory and incidental alcohol service at eating establishments, the Bellingham Planning Commission has determined that the proposed changes are consistent with and will implement the goals and policies of the 2016 Bellingham Comprehensive Plan and should be recommended for approval.

I. FINDINGS OF FACT

1. Proposal Description:

This proposal would amend various sections of Bellingham Municipal Code (BMC) Title 20 to allow on-premise accessory and incidental alcohol service at eating establishments as shown in Exhibit A (Ordinance) of the staff report. Proposed amendments to the BMC are as follows:

1. Amending BMC 20.00.140, Roosevelt neighborhood table of zoning regulations, Area 8, so that eating facilities where alcohol would be consumed on premises shall no longer require a conditional use permit (CUP). This amendment is consistent with recent amendments to the commercial development chapter, and the range of uses permitted in commercial neighborhood designations;
2. Amending BMC 20.08.020, Specific definitions, to modify current definitions of eating and drinking establishments as follows:
 - “Eating establishment” means an establishment or any part thereof where prepared food is sold but not alcoholic beverages as a primary use, and any provision of alcoholic beverages for consumption on the premises is clearly accessory and incidental to the service of food.
 - “Drinking establishment” means an establishment or any part thereof where alcoholic beverages are sold and consumed on the premises as a primary use without food service or with limited food service accessory and incidental to the sale and consumption of alcohol. Drinking establishments include but are not limited to lounges, night clubs, bars, brewpubs, and taverns.

This redefines eating establishments and drinking establishments as distinct uses and allows accessory and incidental alcohol service at all eating establishments;

3. Amending BMC 20.16.010 General Provisions, to allow the director to consider a request to add accessory and incidental alcohol service to an existing eating establishment that was established by CUP prior to the adoption of the subject BMC amendments. Such alteration would not count as a one-time modification under this section of the BMC;
4. Amending BMC 20.16.020 Conditional uses, by updating the eating establishment and drinking establishment sections with the modified definitions. Drinking establishments remain conditional in the commercial neighborhood designation, and eating establishments remain conditional in the residential multi multiple general use type. There are no changes to the special requirements for drinking establishments and eating establishments;

5. Amending BMC 20.00.090, Happy Valley neighborhood table of zoning regulations: special regulations for Area 1B within Areas 1A-3, use criteria in Attachment 1, and special regulations for Area 14 within Areas 10-16. Slight language modifications within these tables retain established uses and serve to clarify where eating and drinking establishments are permitted or prohibited;
6. Amending BMC 20.33.030, range of uses possible for Commercial Development, to separate eating establishments from drinking establishment within the use table. This creates ease of fluency and eliminates the need for Note (4);
7. Amending BMC 20.37.220, permitted uses for Fountain district urban village, to strike “(no alcohol served)” from the zoning table to create consistency with the modified eating establishment definition and eliminate CUP requirements for accessory and incidental alcohol service at eating establishments in commercial transition areas;
8. Amending BMC 20.37.320, permitted uses for Fairhaven urban village, to create consistency with the modified definitions by eliminating CUP requirements for accessory alcohol service at eating establishments but requiring a CUP for drinking establishments in the RT-4 zone; and
9. Amending BMC 20.37.520, permitted uses for Downtown district urban village, to eliminate redundancy and confusion regarding the definition of eating establishment.

2. Background Information:

Eating establishments and drinking establishments may be permitted outright or conditionally allowed depending on the zoning designation of the area. Unless otherwise noted, eating establishments are conditionally allowed in residential multi multiple zones, allowed in residential planned zones, all industrial zones, all commercial zones, some urban village areas, some public areas, and some institutional areas. Drinking establishments are allowed in some urban village areas, all industrial, and most commercial zones, except they are conditionally allowed in commercial neighborhood areas.

Businesses and other members of the community have requested the City ease restrictions on accessory and incidental alcohol service in eating establishments where alcohol service is either prohibited or requires a conditional use permit (CUP). For example, a neighborhood eating establishment located in a residential multi multiple zone may not serve any alcoholic beverages with its food service. Pursuant to the current definition of a drinking establishment, serving beer, wine, or any alcoholic beverages – even if incidental and accessory to primary food service – would classify an eating establishment as a “drinking establishment,” and drinking establishments are prohibited in residential multi multiple zones.

Furthermore, in her November 2015 report to the City Council, the Hearing Examiner described code provisions BMC 20.16.020 D.(3) and E. (drinking establishment and eating establishment conditional uses) as “unique,” stating that “other local governments with which I work do not require land use approval for alcohol service at restaurants.” The Hearing Examiner recommended the city remove the land use approval requirement for alcohol service in restaurants and make the necessary code changes to allow alcohol service as an accessory use in eating establishments.

Recent amendments to the commercial code in 2018 did reduce restrictions on accessory alcohol service, but only for eating establishments in commercial neighborhood areas.

As a result, the City researched and drafted necessary code changes to allow accessory and incidental alcohol service at all eating establishments. City staff found that, overall, there is discrepancy across the BMC in terms of how eating and drinking establishments are defined or understood, and where accessory alcohol may be allowed conditionally or permitted outright. The proposed amendments seek to clarify definitions and minimize confusion with greater consistency across the BMC relating to such uses.

Establishments serving alcohol will need to abide by all liquor license requirements, laws, and rules carried out by the Washington State Liquor and Cannabis Board (WSLCB). State law (RCW 66.24.10) requires the WSLCB to notify the local government authority (also churches, schools, and public institutions within 500 feet of subject business) of liquor license applications and whereby these organizations have twenty (20) days to approve or object the application. Based on the comments received, WSLCB has the authority to place additional restrictions on the liquor license application, such as restricting the sale of certain alcoholic beverages in the interest of public safety.

On August 1, 2019 the Planning Commission held a public hearing on the proposed revisions.

3. Public Comments:

Notice of the Planning Commission public hearing was mailed to neighborhood representatives, neighborhood associations, and other parties with an interest in this topic. Notice was also published in the Bellingham Herald 30 days prior to the hearing.

No public comments were submitted prior to the public hearing.

4. State Environmental Policy Act (SEPA) Determination:

A non-project SEPA Determination of Non-Significance (DNS) was issued on June 19, 2019. Notice was mailed to the appropriate agencies and published in the Bellingham Herald and on the City's website. No public comment was submitted on the DNS prior to publication of the meeting packet.

5. Consistency with the Bellingham Comprehensive Plan:

The Bellingham Comprehensive Plan identifies the guiding principles and goals for decisions regarding changes to the City's land use and development code. The proposed amendments are consistent with and implement the goals and policies of the comprehensive plan, particularly those related to promoting vibrant centers of activity which contribute to a sense of community and provide economic benefits. The most relevant goals and policies include the following:

GOAL LU-1 Support sense of place in neighborhoods.

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

Policy LU-7 Periodically review and update the City's residential zoning regulations and design standards to promote quality development that considers and complements existing neighborhoods.

- Policy LU-9** Promote small-scale commercial uses (e.g. corner stores) within neighborhoods, particularly where these uses historically existed, to encourage walkability and provide opportunities for employment and placemaking.
- GOAL LU-3** Support a thriving local economy across all employment sectors.
- Policy LU-23** Regularly review and update the City's commercial zoning regulations (e.g. text and associated maps), design standards, and design review process as needed to allow design flexibility and creativity, address emerging issues, and foster compatibility of development with the character of surrounding areas.
- Policy ED-19** Support the retention and growth of Bellingham's small businesses.
- GOAL ED-4** Foster vibrant urban villages.
- Policy ED-41** Provide a wide range of permitted uses in emerging urban villages to encourage these areas to develop as employment centers.

II. CONCLUSIONS

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

1. The proposed amendments differentiate eating establishments from drinking establishments and provide a more accurate, distinct, and consistent representation of such uses in the BMC.
2. The proposed amendments provide an opportunity and public benefit for eating establishment businesses to serve alcohol and eliminate the conditional use process, where alcohol service is clearly accessory to principal food service.
3. The proposed amendments comply with and will implement the goals and policies of the Bellingham Comprehensive Plan.

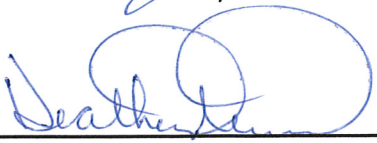
III. RECOMMENDATIONS

Based on the Findings and Conclusions, the Planning Commission recommends that the City Council approve the proposed amendments to the BMC as shown in the Ordinance.

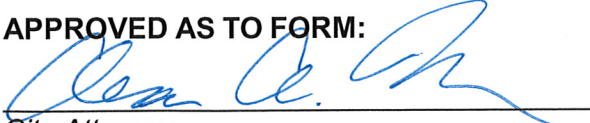
ADOPTED this 1st day of August, 2019.



 Planning Commission Chairperson

ATTEST: 

 Recording Secretary

APPROVED AS TO FORM:


 City Attorney



City Council Agenda Bill

22415

Bill Number

Subject: Public Hearing to Consider a Draft Ordinance Amending Bellingham Municipal Code Title 20 to Allow Recycling Collection and Processing Centers in Certain Industrial Zones and Modify Special Requirements for Such Uses by Amending BMC 20.08.020, BMC 20.16.020, and Various Other Applicable Sections of the Land Use Development Code

Summary Statement: The purpose of this proposal is to allow recycling collection and processing centers in certain industrial zones and modify special requirements for such uses by amending various applicable sections of the land use development code. Specific amendments include an updated "recycling collection and processing center" definition, modified special requirements for such uses, and other related amendments for consistency throughout the code. The Planning Commission voted 4-0 to approve the draft ordinance and recommends the City Council approve the proposal.

Previous Council Action: **None**

Fiscal Impact: **Staff time to process the proposal is included in the PCDD 2019-2020 Budget**

Funding Source: **General Fund**

Attachments: 1. ORDINANCE
2. EXHIBIT A TO ORDINANCE
3. EXHIBIT B TO ORDINANCE

| Meeting Activity | Meeting Date | Recommendation | Presented By | Time |
|---------------------------------|--------------|----------------|---|------------|
| Public Hearing - Vote Requested | 9/09/2019 | Pass Ordinance | Anya Gedrath-Smith Planning and Community Development | 10 minutes |

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Moshe' Quinn, Planning and Community Development, 360-778-8300

Council Action: 09/09/2019 Gene Knutson / Pinky Vargas moved for first and second reading. **MOTION CARRIED 7-0.**

| Reviewed By | Department | Date |
|--------------------------|----------------------------------|-----------|
| <i>Rick M. Sepler</i> | Planning & Community Development | 9/03/2019 |
| <i>Alan A. Marriner</i> | Legal | 9/03/2019 |
| <i>Kelli J. Linville</i> | Executive | 9/03/2019 |

ORDINANCE NO. _____

AN ORDINANCE AMENDING BELLINGHAM MUNICIPAL CODE (BMC) TITLE 20 TO ALLOW RECYCLING COLLECTION AND PROCESSING CENTERS IN CERTAIN INDUSTRIAL ZONES AND MODIFY SPECIAL REQUIREMENTS FOR SUCH USES BY AMENDING BMC 20.08.020, BMC 20.16.020, AND VARIOUS OTHER APPLICABLE SECTIONS OF THE LAND USE DEVELOPMENT CODE.

WHEREAS, recycling collection centers are currently listed as a permitted or conditional use in commercial zones and some urban village zones, but not listed as a permitted use in BMC 20.36, Industrial Development, and BMC 20.38.050 D., Planned Industrial; and

WHEREAS, the industrial general use type is largely intended to accommodate industrial uses, such as recycling operations; and

WHEREAS, the proposed amendments will permit “recycling collection and processing centers” in industrial light, industrial heavy, and industrial planned zones; and

WHEREAS, the proposed amendments will modify the current definition of “recycling collection center” in BMC 20.08.020 in order to clarify the meaning of this use and provide a consistent term, “recycling collection and processing center,” when referenced in the BMC; and

WHEREAS, BMC 20.16.020 K.2. currently provides a set of standards that apply exclusively where recycling collection centers require a conditional use permit in certain commercial zoning designations and urban village areas, but not in zoning areas where this use is permitted outright; and

WHEREAS, the proposed amendments will provide a refined and expanded set of standards that shall apply to any recycling collection and processing center, whether listed as a permitted or conditional use, for the purpose of public health, safety, and general welfare; and

WHEREAS, Northwest Recycling, Inc., operated by Parberry, Inc. (Parberry), is located in the Old Town Sub-Area and provides recycling services for Bellingham and Whatcom County; and

WHEREAS, pursuant to the BMC and with the adoption of the 2008 Old Town Sub-Area Plan, Northwest Recycling is a nonconforming use and its relocation is critical to the realization of the urban village in the Old Town Sub-Area; and

WHEREAS, the City of Bellingham entered into a development agreement with Parberry in February 2019, in which Parberry agreed to a number of Milestones including purchasing or leasing a property suitable for relocating its operations within ten (10) months of execution of said agreement; and

WHEREAS, City staff met with Parberry’s CEO to better understand their operations and receive feedback on the proposed changes to the definition and standards; and

WHEREAS, as required by RCW 36.70A.106, notice of the City's intent to adopt the proposed amendments was sent to the Department of Commerce on June 24, 2019; and

WHEREAS, the responsible official reviewed the proposed amendments under the procedures of the State Environmental Policy Act, and a non-project Determination of Non-Significance was issued on June 28, 2019; and

WHEREAS, after mailed and published notice as required by BMC 21.10.150, the Bellingham Planning Commission held a public hearing on the proposed amendments on August 1, 2019; and

WHEREAS, the Planning Commission determined that the proposed amendments comply with and will implement the goals and policies of the 2016 Bellingham Comprehensive Plan; and

WHEREAS, the Planning Commission considered the staff report and public comments received and thereafter made Findings of Fact, Conclusions and Recommendations for approval of the proposed amendments by a 4-0 vote on August 1, 2019; and

WHEREAS, after mailed and published notice as required by BMC 21.10.150, the Bellingham City Council held a public hearing on the proposed amendments on September 9, 2019; and

WHEREAS, the City Council has considered the recommendation of the Planning Commission, the staff report, and the public comment and hereby adopts the Findings of Fact, Conclusions and Recommendations of the Planning Commission; and

WHEREAS, the City Council finds that the proposed amendments are consistent with the Growth Management Act, the Bellingham Municipal Code, and the 2016 Bellingham Comprehensive Plan.

NOW, THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. BMC 20.00.092, Irongate neighborhood table of zoning regulations, Areas 5 through 7 and 9 through 14, is hereby amended as shown in Exhibit A.

Section 2. The following definitions in BMC 20.08.020, Specific definitions, are hereby amended as follows:

“Junkyard” means any lot or structure where waste, discarded or salvaged materials are exchanged, stored or handled, but excluding the following which shall not be considered junkyards: recycling collection and processing centers, pawn shops, second-hand stores, used furniture stores, establishments salvaging paper and rags when all activity and storage is conducted wholly within an enclosed building, and establishments for the sale of used motor vehicles and machinery which are in operative condition.

“Recycling collection and processing center” means a premises used for the collection ~~of bottles, cans, newspapers and processing of metals, glass, plastics, paper products, appliances,~~ and other small recyclable materials ~~normal to residential waste.~~ Recyclable materials does not include yard debris or other organic decomposable material, hazardous

materials, or refuse (unless specified). Processing is limited to other than preparation of the materials for transportation to a processing center, is prohibited shipment, such as sorting, cutting, compacting, and baling, but not otherwise transforming or remanufacturing the materials. A recycling collection and processing center does not include automotive wrecking or junkyards, or on-premise recycling stations used solely for the collection of recyclables generated on that premise.

[ALL OTHER DEFINITIONS IN THIS SECTION REMAIN UNCHANGED]

Section 3. BMC 20.12.010 B., Number of Spaces Required in Parking, is hereby amended as follows:

B. *Number of Spaces Required.*

1. through 2. [NO CHANGE]

3. Any use clearly similar to the uses listed below shall meet the requirements specified. If the similarity is not apparent, then the planning director shall determine the standards which shall be applied.

| USE | | PARKING SPACE REQUIREMENT |
|--------------------------------|---|--|
| (a) through (d) [NO CHANGE] | | |
| (e) Industrial | | |
| | i. through iii. [NO CHANGE] | |
| | <u>iv. Recycling Collection and Processing Center</u> | <u>One for every 20,000 square feet of gross floor area or one per employee (working at the same time), whichever is greater. Provisions shall be made for an adequate drop off area located off the street.</u> |
| [NO CHANGES BEYOND THIS POINT] | | |

Section 4. BMC 20.16.020 K., Conditional uses, is hereby amended as follows:

K. 1. [NO CHANGE]

2. *Recycling Collection and Processing Center.*

a. *Definition.* A premises used for the collection of bottles, cans, newspapers and processing of metals, glass, plastics, paper products, appliances, and other small recyclable materials normal to residential waste. Recyclable material does not include yard debris or other organic decomposable material, hazardous material, or refuse (unless specified). Processing is limited to other than preparation of the materials for

transportation to a processing center, is prohibited shipment, such as sorting, cutting, compacting, and baling, but not otherwise transforming or remanufacturing the materials. A recycling collection and processing center does not include automotive wrecking or junkyards, or on-premise recycling stations used solely for the collection of recyclables generated on that premise.

b. Conditional in the commercial neighborhood-commercial, auto, and waterfront designations, and as referenced in the urban village plans.

c. *Special Requirements.* Should the provisions of this section conflict with any other provision of the Bellingham Municipal Code, except critical areas ordinance, shoreline master program, and stormwater regulations, the provisions of this section shall apply. The planning director or hearing examiner may change, alter, or condition a proposal as necessary, to ensure compatibility with city goals, policies, standards, the surrounding areas, or to mitigate operational impacts including noise, odor, visual, and health and sanitary impacts, as part of the required land use decision per BMC 21.10.040.

i. The operation must be carried on entirely within an enclosed structure, except that pick up and delivery may be conducted in the open.

ii. The site shall be screened from abutting residential uses; non-industrial zones, unless a wall of trees is required. However, when a screen or wall of trees is required adjacent to a front or side flanking street, the planning director or hearing examiner may approve an alternative landscaping proposal consisting of a combination of trees, shrubs, and ground cover, if determined all the following can be met:

a. The building façade facing the street contains architectural features that help minimize building mass and blank walls, such as building modulation and transparent ground floor windows;

b. All parking facilities are located to the side or rear of the building(s).

iii. If the site plan boundary is within 500 feet of a residential zone, Hours of operation shall not be longer than 7:00:30 a.m. to 7:00 p.m., except when all activities are conducted wholly within an enclosed structure; however, the planning director or hearing examiner may further adjust such operating hours if deemed necessary.

~~iv. The size of the operation shall be commensurate with the size of the neighborhood served.~~

iv. No structure shall exceed 35 feet under BMC 20.08.020, height definition No. 1, when within 200 feet of the site plan boundary lying adjacent to any residential zone.

v. All exterior material storage shall be contained wholly within durable, secured containers with a lid or screen.

vi. The operation shall comply with all city noise standards and regulations as may be adopted, including BMC 10.24 and BMC 10.28.

vii. Measures to minimize and control access by rodents and other vectors shall be incorporated into the design and operation of the facility.

viii. Lighting shall be provided as necessary to facilitate safety and security while minimizing off-site glare and night sky pollution. A Master Lighting Plan (MLP) shall be provided for review and approval at the time of building permit application. The MLP shall include:

- a. A photometric site plan, drawn to scale, showing all building and parking areas, fixture and pole height, street lighting, and include all proposed exterior lighting fixtures and foot-candles spread;
- b. Design specifications for all proposed exterior lighting fixtures shall include photometric data, cutoff devices, bulb wattage/type, and other descriptive information;
- c. If outside parking lot lighting is provided it shall be no more than 1.5-foot candle per IES minimum lighting standards at the property line; and
- d. Lighting shall be designed to minimize glare and spillover onto adjacent properties.

ix. Crime Prevention through Environmental Design (CPTED) strategies to enhance public safety and deter crime shall be incorporated into the site design to the greatest extent possible.

v-x. At any time the use becomes unsightly, unsanitary, or a nuisance fails to comply with the regulations of this section and conditions of approval, it shall cease to operate be subject to immediate remedial action pursuant to applicable sections of the BMC.

[NO CHANGES BEYOND THIS POINT]

Section 5. Table 20.33.030 in BMC 20.33.030, range of uses possible for Commercial Development, is hereby amended as follows:

Table 20.33.030

| P = Permitted C = Conditional N = Not Permitted | Planned Commercial | Neighborhood Commercial | Auto | Waterfront (1) |
|--|-------------------------------|------------------------------------|-------------|---------------------------|
| Residential [NO CHANGE] | | | | |
| Commercial [NO CHANGE] | | | | |
| Health Care [NO CHANGE] | | | | |
| Public and Semi-Public Assembly [NO CHANGE] | | | | |
| Industrial | | | | |
| Recycling and Refuse Collection and Processing Center, <u>subject to additional standards per BMC 20.16.020 K. 2.</u> | P | C | C | C |
| [NO CHANGES BEYOND THIS POINT] | | | | |

Section 6. BMC 20.36.030 A., permitted uses for Industrial Development, is hereby amended as follows:

A. *Uses Permitted Outright.* No building or land shall be used within an area designated with an industrial general use type except as permitted below, corresponding to the use qualifier designated for such property.

The following uses shall be permitted outright; corresponding to the designated use qualifier.

| Use Qualifier | Permitted Use |
|----------------------|--|
| Light | 1. through 17. [NO CHANGE] 18. <u>Recycling collection and processing center, subject to additional standards per BMC 20.16.020 K. 2.</u> |
| Heavy | 1. through 11. [NO CHANGE] 12. <u>Recycling collection and processing center, subject to additional standards per BMC 20.16.020 K. 2.</u> |
| Marine | 1. through 9. [NO CHANGE] |
| Planned | 1. [NO CHANGE] |

[NO CHANGES BEYOND THIS POINT]

Section 7. Table 20.37.320 in BMC 20.37.320, permitted uses for Fairhaven urban village, is hereby amended as follows:

| Table 20.37.320 – Permitted Uses | | P = Permitted | | # = See Notes | | C = Conditional Use | | N = Not allowed | | |
|----------------------------------|--|---------------|---------------|---------------|------|---------------------|--------------|-----------------|---------------------|---------------------|
| LAND USE CLASSIFICATION | | AREA | | | | | | | | |
| | | CC(2) | RT-1 and RT-2 | RT-3 | RT-4 | I-1(1) | I-2(1) | I-3(1) | P-1 and P-3 | P-2 |
| A. through E. [NO CHANGE] | | | | | | | | | | |
| F. Miscellaneous Uses | | | | | | | | | | |
| 1. through 8. [NO CHANGE] | | | | | | | | | | |
| 9. | Recycling and Refuse Collection and Processing Center, subject to additional standards per BMC 20.16.020 K. 2. | C | N | N | N | N | P, C (16) | P, C (16) | P(4), C (4) (16) | P(4), C (4) (16) |
| 10. through 11. [NO CHANGE] | | | | | | | | | | |
| NOTES: | | | | | | | | | | |
| (1) through (15) [NO CHANGE] | | | | | | | | | | |
| (16) | Conditional for facilities that collect recycling or refuse from outside the district. | | | | | | | | | |

Section 8. Table 20.37.420-A in BMC 20.37.420, permitted uses for Waterfront district urban village, is hereby amended as follows:

| Table 20.37.420-A Permitted Uses P = Permitted (#) = See Notes C = Conditional N = Not allowed | | | |
|---|--------------------------------------|----------------------|-------------------------|
| LAND USE CLASSIFICATION | Area | | |
| | Industrial Mixed-Use | Commercial Mixed-Use | Institutional Mixed-Use |
| A. through E. [NO CHANGE] | | | |
| F. MISCELLANEOUS USES | | | |
| 1. through 10. [NO CHANGE] | | | |
| 11. Recycling collection <u>and processing center, subject to additional standards per BMC 20.16.020 K. 2.</u> | P | P ⁽³⁾ | P ⁽³⁾ |
| 12. Recycling and refuse collection and processing <u>center, subject to additional standards per BMC 20.16.020 K. 2.</u> | P ⁽³⁾ , C ⁽¹⁰⁾ | N | N |
| [NO CHANGES BEYOND THIS POINT] | | | |

Section 9. Table 20.37.520 in BMC 20.37.520, permitted uses for Downtown district urban village, is hereby amended as follows:

| Table 20.37.520 – Permitted Uses P = Permitted C = Conditional Use N = Not allowed (#) = See Notes When multiple symbols and notes appear in a box such as P(2) or (4), C, they are interpreted as (P) Permitted (2) when located in a main building(s) on a site existing as of September 23, 2014 OR (4) on corner lots; (C) conditional elsewhere. | | | | |
|--|------------------|------|------|-----------------|
| LAND USE CLASSIFICATION | AREA | | | |
| | CC (1) CT (1) | RT-1 | RT-2 | IT |
| A. through E. [NO CHANGE] | | | | |
| F. Miscellaneous Uses | | | | |
| 1. through 9. [NO CHANGE] | | | | |
| 10. Recycling and Refuse Collection <u>and Processing Center, subject to additional standards per BMC 20.16.020 K. 2.</u> | C | N | N | P, <u>C(14)</u> |

P = Permitted C = Conditional Use N = Not allowed (#) = See Notes
When multiple symbols and notes appear in a box such as P(2) or (4), C, they are interpreted as (P) Permitted (2) when located in a main building(s) on a site existing as of September 23, 2014 OR (4) on corner lots; (C) conditional elsewhere.

| LAND USE CLASSIFICATION | AREA | | | |
|-----------------------------|------------------|------|------|----|
| | CC (1) CT (1) | RT-1 | RT-2 | IT |
| 11. through 12. [NO CHANGE] | | | | |

NOTES:

(1) through (13) [NO CHANGE]

(14) Conditional for facilities that collect recycling or refuse imported from outside the district.

Section 10. BMC 20.38.050 D., Planned Industrial in Planned Development, is hereby amended as follows:

D. *Planned Industrial.*

1. [NO CHANGE]

2. *Range of Uses Possible.* Any of the following uses may be permitted in a planned proposal within an industrial general use type designation; provided, that any of such uses shall not be permitted where prohibited within the applicable neighborhood plan. Certain uses may also be excluded from a particular planned industrial area by the planning director if such use(s) are found to be incompatible with the surrounding area or unsuitable to the particular site. The final decision shall set forth the uses permitted for the subject property.

a. through p. [NO CHANGE]

q. Recycling collection and processing centers, subject to additional standards per BMC 20.16.020 K. 2.

[NO CHANGES BEYOND THIS POINT]

Section 11. The City Council agrees with and adopts the Findings of Fact, Conclusions and Recommendations of the Planning Commission attached as Exhibit B and incorporated by reference.

PASSED by the Council this _____ day of _____, 2019

Council President

APPROVED by me this _____ day of _____, 2019

Mayor

ATTEST: _____
Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

Published: _____

Areas 1 – 19

| Area | Zoning | Use Qualifier | Density | Special Conditions | Prerequisite Considerations | Special Regulations |
|----------------------|------------|---------------|-------------|--------------------|-----------------------------|--|
| Area 1-4 [NO CHANGE] | | | | | | |
| 5 | Industrial | Light* | [NO CHANGE] | [NO CHANGE] | [NO CHANGE] | <p>* Permitted uses shall be limited to those uses permitted and accessory uses allowed in Whatcom County's light industrial zone as of the date of annexation; those conditional uses allowed in Whatcom County's light impact industrial zone as of the date of annexation may be considered through the planned development process (See Supplement to Irongate Neighborhood Zoning Table). Retail development not associated with industrial uses is prohibited in this area.</p> <p><u>Recycling and refuse collection and processing center, subject to additional standards per BMC 20.16.020 K. 2.</u></p> |
| 6 | Industrial | Light* | [NO CHANGE] | [NO CHANGE] | [NO CHANGE] | <p>* Permitted uses shall be limited to those uses permitted and accessory uses allowed in Whatcom County's light impact industrial zone as of the date of annexation (see Supplement to Irongate Neighborhood Zoning Table).</p> <p>Those conditional uses allowed in Whatcom County's light impact industrial zone as of the date</p> |

| Area | Zoning | Use Qualifier | Density | Special Conditions | Prerequisite Considerations | Special Regulations |
|------|------------|---------------|-------------|--------------------|-----------------------------|--|
| | | | | | | of annexation may be considered through the planned development process. <u>Recycling and refuse collection and processing center, subject to additional standards per BMC 20.16.020 K. 2.</u> |
| | | | | | | Retail development not associated with industrial uses is prohibited in this industrial area. |
| | | | | | | Lots that do not abut existing or proposed public streets identified in the neighborhood plan may be served by private roads if the access design is approved by the public works department. |
| 7 | Industrial | Heavy* | [NO CHANGE] | [NO CHANGE] | [NO CHANGE] | *Permitted uses shall be limited to those uses permitted and accessory uses in Whatcom County's general manufacturing zone (GM) as of the date of annexation (see supplement to Irongate Neighborhood Zoning Table). |
| | | | | | | Those conditional uses allowed in Whatcom County's GM zone as of the date of annexation may be considered through the planned development process. |

| Area | Zoning | Use Qualifier | Density | Special Conditions | Prerequisite Considerations | Special Regulations |
|---------------------------|------------|---------------|--------------------|--------------------|-----------------------------|---|
| | | | | | | <p><u>Recycling and refuse collection and processing center, subject to additional standards per BMC 20.16.020 K. 2.</u></p> <p>Retail development not associated with industrial uses is prohibited in this industrial area.</p> <p>Lots that do not abut existing or proposed public streets identified in the neighborhood plan may be served by private roads if the access design is approved by the public works department.</p> |
| Area 8 [NO CHANGE] | | | | | | |
| 9 | Industrial | Planned* | [NO CHANGE] | [NO CHANGE] | [NO CHANGE] | <p>*1. Permitted uses shall be limited to those permitted and accessory uses in Whatcom County's general manufacturing zone as of the date of annexation; those conditional uses allowed in Whatcom County's general manufacturing zone as of the date of annexation may be considered through the planned development process (see Supplement to Irongate Neighborhood Zoning Table).</p> <p><u>Recycling and refuse collection and processing center, subject to additional standards per BMC 20.16.020 K. 2.</u></p> |

| Area | Zoning | Use Qualifier | Density | Special Conditions | Prerequisite Considerations | Special Regulations |
|------|------------|---------------|--------------------|--------------------|-----------------------------|---|
| | | | | | | 2. through 4. [NO CHANGE] . |
| 10 | Industrial | Planned* | [NO CHANGE] | [NO CHANGE] | [NO CHANGE] | <p>*Permitted uses shall be limited to those uses permitted and accessory uses in Whatcom County's light impact industrial zone as of the date of annexation (see Supplement to Irongate Neighborhood Zoning Table). Those conditional uses allowed in Whatcom County's light impact industrial zone as of the date of annexation may be considered through the planned development process.</p> <p><u>Recycling and refuse collection and processing center, subject to additional standards per BMC 20.16.020 K. 2.</u></p> <p>Planned industrial building and parking setbacks may be reduced along internal property lines and other locations where appropriate. Standard planned industrial setbacks should not be reduced adjacent to less intensive use zones (such as residential, commercial, public, etc.) and when necessary to protect environmentally sensitive areas.</p> <p>Retail development not associated with industrial uses is prohibited in this industrial area. Adult</p> |

| Area | Zoning | Use Qualifier | Density | Special Conditions | Prerequisite Considerations | Special Regulations |
|------|------------|---------------|-------------|--------------------|-----------------------------|--|
| | | | | | | entertainment uses are prohibited adjacent to residential areas, East Bakerview Rd. and Hannegan Rd. |
| 11 | Industrial | Planned* | [NO CHANGE] | [NO CHANGE] | [NO CHANGE] | *Permitted uses shall be limited to those uses permitted and accessory uses in Whatcom County's general manufacturing zone as of the date of annexation (see Supplement to Irongate Neighborhood Zoning Table). |
| | | | | | | Those conditional uses allowed in Whatcom County's GM zone as of the date of annexation may be considered through the planned development process. <u>Recycling and refuse collection and processing center, subject to additional standards per BMC 20.16.020 K. 2.</u> |
| | | | | | | Planned industrial building and parking setbacks may be reduced along internal property lines and other locations where appropriate. Building and parking setbacks shall be 10 feet for lots fronting along Hannegan Rd. Standard planned industrial setbacks should not be reduced adjacent to less intensive use zones (such as residential, |

| Area | Zoning | Use Qualifier | Density | Special Conditions | Prerequisite Considerations | Special Regulations |
|------|------------|---------------|-------------|--------------------|-----------------------------|--|
| | | | | | | commercial, public etc.) and when necessary to protect any sensitive areas. |
| | | | | | | Lots that do not abut existing or proposed public streets identified in the neighborhood plan may be served by private roads if it is determined through the planned development review process that public roads are not necessary. |
| | | | | | | Retail development not associated with industrial uses is prohibited in this industrial area. Adult entertainment uses are prohibited adjacent to residential areas and Hannegan Rd. |
| 12 | Industrial | Planned* | [NO CHANGE] | [NO CHANGE] | [NO CHANGE] | *Permitted uses shall be limited to those uses permitted and accessory uses in Whatcom County's general manufacturing zone (GM) as of the date of annexation (see Supplement to Irongate Neighborhood Zoning Table). |
| | | | | | | Those conditional uses allowed in Whatcom County's GM zone as of the date of annexation may be considered through the planned development process. |

| Area | Zoning | Use Qualifier | Density | Special Conditions | Prerequisite Considerations | Special Regulations |
|------|--------|---------------|---------|--------------------|-----------------------------|--|
| | | | | | | <p>Recycling and refuse collection and processing center, subject to additional standards per BMC 20.16.020 K. 2.</p> <p>Planned industrial building and parking setbacks may be reduced along internal property lines and other locations where appropriate. Building and parking setbacks shall be 10 feet for lots fronting along Hannegan Rd. Standard planned industrial setbacks should not be reduced adjacent to less intensive use zones (such as residential, commercial, public, etc.) and when necessary to protect environmentally sensitive areas.</p> <p>Lots that do not abut existing or proposed public streets identified in the neighborhood plan may be served by private roads if it is determined, through the planned development review process, subdivision or binding site plan, that public roads are not necessary.</p> <p>Retail development not associated with industrial uses is prohibited in this industrial area. Adult entertainment uses are prohibited adjacent to residential areas and Hannegan Rd.</p> |

| Area | Zoning | Use Qualifier | Density | Special Conditions | Prerequisite Considerations | Special Regulations |
|------|------------|---------------|-------------|--------------------|-----------------------------|---|
| 13 | Industrial | Planned* | [NO CHANGE] | [NO CHANGE] | [NO CHANGE] | <p>*Permitted uses shall be limited to those uses permitted and accessory uses in Whatcom County's general manufacturing zone (GM) as of the date of annexation (see Supplement to Irongate Neighborhood Zoning Table). Those conditional uses allowed in Whatcom County's GM zone as of the date of annexation may be considered through the planned development process.</p> <p><u>Recycling and refuse collection and processing center, subject to additional standards per BMC 20.16.020 K. 2.</u></p> |
| | | | | | | <p>Planned industrial building and parking setbacks may be reduced along internal property lines and other locations where appropriate. Building and parking setbacks shall be 10 feet for lots fronting along Hannegan Rd. Standard planned industrial setbacks should not be reduced adjacent to less intensive use zones (such as residential, commercial, public, etc.) and when necessary to protect environmentally sensitive areas.</p> |
| | | | | | | <p>Lots that do not abut existing or proposed public streets identified in the neighborhood plan may be served by private roads if it is determined, through</p> |

| Area | Zoning | Use Qualifier | Density | Special Conditions | Prerequisite Considerations | Special Regulations |
|------|------------|---------------|-------------|--------------------|-----------------------------|---|
| | | | | | | the planned development review process, subdivision or binding site plan, that public roads are not necessary. |
| | | | | | | Retail development not associated with industrial uses is prohibited in this industrial area. Adult entertainment uses are prohibited adjacent to residential areas and Hannegan Rd. |
| 14 | Industrial | Planned* | [NO CHANGE] | [NO CHANGE] | [NO CHANGE] | <p>*Permitted uses shall be limited to those uses permitted and accessory uses in Whatcom County's general manufacturing zone (GM) as of the date of annexation (see Supplement to Irongate Neighborhood Zoning Table).</p> <p>Those conditional uses allowed in Whatcom County's GM zone as of the date of annexation may be considered through the planned development process.</p> <p><u>Recycling and refuse collection and processing center, subject to additional standards per BMC 20.16.020 K. 2.</u></p> <p>Planned industrial building and parking setbacks may be reduced along internal property lines and other locations where appropriate. Building and</p> |

| Area | Zoning | Use Qualifier | Density | Special Conditions | Prerequisite Considerations | Special Regulations |
|---------------------------------------|--------|---------------|---------|--------------------|-----------------------------|--|
| | | | | | | <p>parking setbacks shall be 10 feet for lots fronting along Hannegan Rd. Standard planned industrial setbacks should not be reduced adjacent to less intensive use zones (such as residential, commercial, public, etc.) and when necessary to protect environmentally sensitive areas.</p> <p>Lots that do not abut existing or proposed public streets identified in the neighborhood plan may be served by private roads if it is determined, through the planned development review process, subdivision or binding site plan, that public roads are not necessary.</p> <p>Retail development not associated with industrial uses is prohibited in this industrial area. Adult entertainment uses are prohibited adjacent to residential areas and Hannegan Rd.</p> |
| [NO ADDITIONAL CHANGES TO THIS TABLE] | | | | | | |

BELLINGHAM PLANNING COMMISSION FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS

AUGUST 1, 2019

SUMMARY

Following the public hearing and deliberation on the Bellingham Municipal Code (BMC) amendments to allow recycling collection and processing centers in certain industrial zones and modify special requirements for such uses, the Bellingham Planning Commission has determined that the proposed changes are consistent with and will implement the goals and policies of the 2016 Bellingham Comprehensive Plan and should be recommended for approval.

I. FINDINGS OF FACT

1. Proposal Description:

This proposal would amend various sections of Bellingham Municipal Code (BMC) Title 20 to allow recycling collection and processing centers in certain industrial zones and modify specific requirements for such uses as shown in Exhibit A (Ordinance) of the staff report. Proposed amendments to the BMC are as follows:

1. Amending BMC 20.00.092, Irongate neighborhood table of zoning regulations, to reference the special requirements for recycling and refuse collection and processing centers in the Special Regulations for Areas 5 through 7 and 9 through 14.
2. Amending BMC 20.08.020, Specific definitions, to create one definition of “recycling collection and processing center,” which provides greater detail than the previous definition and clarifies the meaning of “processing” for the purpose of this use. “Junkyard” is also clarified to exclude recycling collection and processing centers.
3. Amending BMC 20.12.010 B., Number of Spaces Required in Parking, to create a parking space requirement for a recycling collection and processing center. The parking requirement is proposed to be the same as the requirement for a manufacturing use, with added provisions for an adequate off-street drop-off area.
4. Amending BMC 20.16.020 K., Conditional uses, to update the “recycling collection center” section with the new definition of “recycling collection and processing center” and modify special requirements for such a use. These requirements would apply to all recycling collection and processing centers, whether the use is permitted outright or a CUP is required. Among a number of modifications, one new standard provides an option to substitute “wall of trees” or screening requirements with an alternate landscaping proposal along a front or side flanking street if certain requirements are met. This is because dense landscaping or screening is not always necessary or appropriate between industrial and non-industrial zones along a street. This modification provides the opportunity to support street-oriented pedestrian features, better site design and building scale in relation to the street, and improved visibility into the site consistent with Crime Prevention Through Environmental Design (CPTED) principals.
5. Amending BMC 20.33.030, range of uses for Commercial Development, to create consistency with the modified definition and reference the special requirements.

6. Amend BMC 20.36.030.A., permitted uses for Industrial Development to add recycling collection and processing centers as a permitted use in industrial light and heavy zones.
7. Amending BMC 20.37.320, permitted uses for Fairhaven urban village, to create consistency with the modified definition and reference the special requirements. Similar to the Waterfront district, note (16) is added to certain areas, which requires a CUP for facilities that collect recycling or refuse from outside the district. This provides a process to ensure the proposal meets the special requirements in addition to the CUP review factors as stated in BMC 20.16.010, General provisions.
8. Amending BMC 20.37.420, permitted uses for Waterfront district urban village, to create consistency with the modified definition and reference the special requirements.
9. Amending BMC 20.37.520, permitted uses for Downtown district urban village, to create consistency with the modified definition and reference the special requirements. Similar to the Waterfront district, note (14) is added to certain areas, which requires a CUP for facilities that collect recycling or refuse from outside the district. This provides a process to ensure the proposal meets the special requirements in addition to the CUP review factors as stated in BMC 20.16.010, General provisions.
10. Amending BMC 20.38.050.D., Planned Industrial, to add recycling collection and processing centers as a permitted use in a planned proposal within an industrial general use type.

2. Background Information:

Recycling collection centers are currently defined in BMC 20.08.020 as “a premises used for the collection of bottles, cans, newspapers and other small recyclable materials normal to residential waste. Processing, other than preparation of the materials for transportation to a processing center, is prohibited.” BMC 20.16.020 K., Conditional uses, provides a list of “special requirements” for recycling collection centers that require a conditional use permit (CUP). These standards originated in 1974, when Ordinance No. 8311 established recycling collection centers as a conditional use in neighborhood business districts.

Recycling-related uses may be permitted outright or require a CUP depending on the zoning of the area. Recycling facilities are permitted in commercial planned zones and conditionally allowed in commercial neighborhood, auto, and waterfront zoning designations. They are also listed in various zoning designations in the Irongate neighborhood, the Waterfront, Fairhaven, and Downtown urban villages. However, recycling-related uses are not currently identified as a permitted or conditional use in the BMC 20.36 Industrial Development and 20.38 Planned Development chapters. Thus, this limits the options for recycling facilities to locate in certain industrial areas, even though they are intended for industrial-related uses.

Furthermore, a variety of related but inconsistent terms are used across the BMC concerning recycling-related uses. These include “recycling collection center,” “recycling and refuse collection center,” and “recycling and refuse collection and processing.” These terms are used in various zoning tables but only “recycling collection center” is defined in the BMC. As a result of this inconsistent terminology, it is unclear whether the special requirements listed in BMC 20.16.020 K., Conditional uses, also apply to these related uses.

Northwest Recycling, Inc., operated by Parberry, Inc is located in the Old Town Sub-Area and provides recycling services for Bellingham and Whatcom County. Although this operation has a long history in the Old Town area, it is now operating as a non-conforming use. In February 2019,

Parberry entered into a Development Agreement with the City to move its operation out of its current location.

As a result, the City researched and drafted necessary code changes to permit recycling facilities in industrial light, heavy, and planned zoning designations. Pursuant to the proposed amendments, the definition of “recycling collection center” is updated to “recycling collection and processing center” and consistent terminology is used across the BMC. Additionally, modified special requirements would apply to all recycling collection and processing centers, whether permitted conditionally or outright. Additional conditional use requirements would also apply to larger scale facilities in some urban village areas.

On August 1, 2019 the Planning Commission held a public hearing on the proposed revisions.

3. Public Comments:

Notice of the Planning Commission public hearing was mailed to neighborhood representatives, neighborhood associations, and other parties with an interest in this topic. Notice was also published in the Bellingham Herald 30 days prior to the hearing.

No public comments were submitted prior to the public hearing.

4. State Environmental Policy Act (SEPA) Determination:

A non-project SEPA Determination of Non-Significance (DNS) was issued on June 28, 2019. Notice was mailed to the appropriate agencies and published in the Bellingham Herald and on the City’s website. No public comment was submitted on the DNS prior to publication of the meeting packet.

5. Consistency with the Bellingham Comprehensive Plan:

The Bellingham Comprehensive Plan identifies the guiding principles and goals for decisions regarding changes to the City’s land use and development code. The proposed amendments are consistent with and implement the goals and policies of the comprehensive plan, particularly those related to promoting context-sensitive, quality industrial development within industrially designated areas. The most relevant goals and policies include the following:

Policy LU-21 The Industrial category comprises a range of potential uses, including "light" industrial uses (e.g. research and development and water-related industrial uses) and “heavy” industrial uses (e.g. intensive warehousing, manufacturing, fabrication, assembly, and distribution of goods). Commercial uses are allowed in some industrial zones. Industrial designations and zoning are appropriate for areas with large parcels or a number of small parcels.

Policy LU-24 Encourage the inclusion of context-sensitive elements in the design, maintenance, and update of new and existing mixed-use, industrial and commercial sites (e.g. lighting, signs and landscaping) and buildings (e.g. scale and height).

Policy LU-25 Protect adjacent properties and public areas by allowing only non-glare shielded lighting at an intensity level no higher than necessary to meet safety standards.

- Policy LU-28** Consider social equity and health issues in siting such uses as manufacturing and essential public facilities (EPFs) to limit exposure to harmful substances and environments.
- Policy LU-29** Separate heavy industrial uses from incompatible land uses. Use transition zoning, buffers, and other techniques to protect industrial areas and nearby uses from conflicts.
- Policy LU-65** Support a culture of dialogue and partnership among residents, property owners, the business community, organizations, other interested citizens, and City officials.
- Policy CD-12** Periodically review and update the City's zoning regulations, design standards and design review process to ensure they promote quality development and result in projects that consider and complement existing neighborhoods. Specific recommendations include:
- Consider establishing building height and bulk rules for all areas of the City as part of defining the “character” of each area. Impacts on views from identified public spaces should be among the factors considered when establishing height limits.
 - Explore the use of form-based codes, incentive zoning and similar regulatory means that may serve well to implement Comprehensive Plan policies related to general land use; building, site and sustainable design; multimodal transportation; environmental protection; and public services and amenities.
 - Require the installation and maintenance of adequate landscaping and screening in commercial, industrial and multi-family (including duplex) projects.
 - Prohibit invasive species in required landscaping and encourage native plant species whenever possible.
 - Allow open space to be satisfied with innovative and flexible applications of landscaping in denser development, including green walls and roofs and more intense landscaping of smaller open spaces, to allow more efficient use of the land for buildings.
 - Review auto parking standards to reduce the impacts of parking on urban form, adjacent uses, housing affordability, pedestrian mobility, and the natural environment. Continue to pursue parking management best practices.
 - Adopt long- and short-term bike parking requirements.
- Policy CD-14** Provide builders, developers and architects with a set of clear objectives and performance goals which promote the highest attainable standard of quality consistent with economic feasibility for new development.

Policy ED-29 Support the retention and growth of the industrial/manufacturing sectors and seek to attract new businesses to provide opportunities for skilled employment and living wage jobs.

II. CONCLUSIONS

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

1. The proposed amendments will permit "recycling collection and processing centers" in industrial light, heavy, and industrial planned zones.
2. The proposed amendments will modify the current definition of "recycling collection center" in BMC 20.08.020 in order to clarify the meaning of this use and provide a consistent term, "recycling collection and processing center," when referenced in the BMC.
3. The proposed amendments will provide a refined and expanded set of standards that shall apply to any recycling collection and processing center, whether listed as a permitted or conditional use, for the purpose of public health, safety, and general welfare.
4. The proposed amendments comply with and will implement the goals and policies of the 2016 Bellingham Comprehensive Plan.

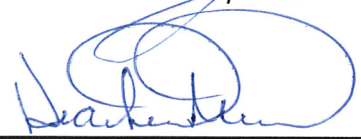
III. RECOMMENDATIONS

Based on the Findings and Conclusions, the Planning Commission recommends that the City Council approve the proposed amendments to the BMC as shown in the Ordinance.

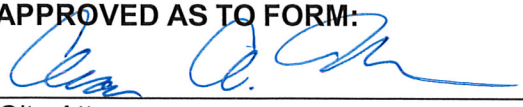
ADOPTED this 1st day of August 2019.



Planning Commission Chairperson

ATTEST: 

Recording Secretary

APPROVED AS TO FORM:


City Attorney