



**City of Bellingham**  
**City Council Regular Meeting Agenda**  
September 28, 2020, 7:00 PM

Mayor Seth Fleetwood

Council Members Hannah Stone, Gene Knutson, Daniel Hammill,

Pinky Vargas, Lisa Anderson, Michael Lilliquist and

Hollie Huthman

Contact: (360) 778-8200, [ccmail@cob.org](mailto:ccmail@cob.org)

[www.cob.org/council](http://www.cob.org/council)

All meetings are held in the City Hall Council Chambers at  
210 Lottie Street, Bellingham, WA, unless otherwise noted.

Please note the doors to City Hall unlock at 6:30 PM.

Council members will participate in this meeting remotely through an online web-based meeting platform. Per Washington State Proclamation 20-28, in-person attendance at meetings is prohibited at this time.

Council meetings are streamed live via the City's website at [meetings.cob.org](http://meetings.cob.org) and on the [City's YouTube channel](#). Meetings are broadcast in high definition on BTV on Comcast channel 321, and in standard definition on Comcast channel 10. Members of the public who do not have cable or Internet access may contact the City Council office to receive phone numbers in order to listen to the meeting via telephone.

Anyone wishing to comment during the public hearing or during the regular public comment period is invited to do so. Advanced testimony by mail, email, and telephone is accepted and strongly encouraged by sending comments to the Council Office, 210 Lottie Street, [ccmail@cob.org](mailto:ccmail@cob.org), or (360) 778-8200. Anyone wishing to testify live can do so by joining the remote meeting at the following link: <https://www.cob.org/cc092820>. This link can be used before the meeting to pre-register or during the meeting to register and immediately join the meeting to testify. Pre-registration is encouraged.

Those who would like to listen in by phone can do so using any of the following phone numbers:

- (253) 215-8782
- (346) 248-7799
- (669) 900-6833
- (301) 715-8592
- (312) 626-6799
- (929) 205-6099

Meeting ID: 999 7944 9836

Password: 9

**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.

## **Pledge of Allegiance**

## **Roll Call**

## **Presentation**

**22593 1. Update on COVID-19 Response p. 7**

## **Public Hearing**

**22758 1. Public Hearing and a Resolution Authorizing the Relinquishment of Surplus Utility Easements Encumbering 801 17th Street, Bellingham p. 8**

**22759 2. Public Hearing and Resolution Authorizing the Relinquishment of a Surplus Utility Easement Encumbering 3708 Larrabee Avenue, Bellingham p. 26**

**22760 3. Public Hearing on a Resolution Authorizing Relinquishment of Surplus Utility Easement Encumbering 619 E Myrtle Street p. 42**

**22761 4. Public Hearing on Water Use Efficiency Program, 2020-2025 p. 59**

## **15-Minute Public Comment Period**

### **Mayor's Report**

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

**22762 1. Mayor's Appointment of Curt Thor to the Mayor's Neighborhood Advisory Commission (Information) p. 100**

**22763 2. Mayor's Appointment of Kate McDonald, David Stalheim and Neil Schaner to the Greenway Advisory Committee (Approval) p. 102**

**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:

**Public Works and Natural Resources 9:00 AM**

Michael Lilliquist, Chair

Pinky Vargas, Lisa Anderson

- |              |           |   |               |
|--------------|-----------|---|---------------|
| <b>22764</b> | <b>1.</b> | <b>Resolution Designating Bellingham as a Bee City</b>                        | <b>p. 109</b> |
| <b>22741</b> | <b>2.</b> | <b>Resolution Adopting the 2020 Surface and Stormwater Comprehensive Plan</b> | <b>p. 114</b> |

**Planning and Community Development 10:00 AM**

Hollie Huthman, Chair

Daniel Hammill, Michael Lilliquist

- |              |           |   |               |
|--------------|-----------|---|---------------|
| <b>22765</b> | <b>1.</b> | <b>An Update on the Bellingham Home Fund / Housing Levy</b> | <b>p. 118</b> |
|--------------|-----------|---|---------------|

**Finance and Economic Development 1:00 PM**

Pinky Vargas, Chair

Lisa Anderson, Hollie Huthman

- |              |           |   |               |
|--------------|-----------|---|---------------|
| <b>22691</b> | <b>1.</b> | <b>An Ordinance Amending the 2019-2020 Biennial Budget Increasing Appropriations and Estimated Revenues in the General Fund to Recognize Additional CARES Act Funding</b> | <b>p. 122</b> |
|--------------|-----------|---|---------------|

**Parks and Recreation 1:05 PM**

Lisa Anderson, Chair

Hannah Stone, Michael Lilliquist

- |              |           |  |               |
|--------------|-----------|--|---------------|
| <b>22752</b> | <b>1.</b> | <b>Update on Parks Operations and Recreation</b> | <b>p. 126</b> |
|--------------|-----------|--|---------------|

### **Committee Of The Whole 1:25 PM**

Gene Knutson, Chair

Hannah Stone, Daniel Hammill, Pinky Vargas, Lisa Anderson, Michael Lilliquist,  
Hollie Huthman

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.

- |              |           |   |               |
|--------------|-----------|---|---------------|
| <b>22766</b> | <b>1.</b> | <b>Approval of Petition to Vacate a Portion of the Cornwall Avenue Right-of-Way Adjacent to Parkview Elementary School</b>              | <b>p. 149</b> |
| <b>22767</b> | <b>2.</b> | <b>Discussion of a Resolution in Support of a Renewal of the Bellingham Transportation Fund in the November 2020 General Election</b>   | <b>p. 166</b> |
| <b>22768</b> | <b>3.</b> | <b>Summary of Electronic Home Monitoring</b>  | <b>p. 170</b> |
| <b>22769</b> | <b>4.</b> | <b>Consideration of an Ordinance Amending BMC 2.16.100 which Relates to the City's Electronic Home Detention and Monitoring Program</b> | <b>p. 176</b> |
| <b>22665</b> | <b>5.</b> | <b>Consideration of an Ordinance Creating a Shelter Protection Area for Base Camp Located at 1530 Cornwall Avenue</b>                   | <b>p. 180</b> |
| <b>22747</b> | <b>6.</b> | <b>A Worksession to Consider Amending the Development Agreement with Parberry's Inc. and Associated Entities</b>                        | <b>p. 194</b> |
|              | <b>7.</b> | <b>Old/New Business</b>   |               |
|              | <b>8.</b> | <b>Approval of Minutes</b>  |               |

### **Executive Session 2:36 PM**

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

- 1. Potential Property Acquisition (Kraham approx. 10 min)**
- 2. Litigation: Matthew and Laurie King v. City of Bellingham (Ruffatto approx. 10 min)**
- 3. Labor Relations: Discuss Bargaining Strategy (Heinrich approx. 15 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.

- |              |           |   |               |
|--------------|-----------|---|---------------|
| <b>22770</b> | <b>1.</b> | <b>Authorization of Payroll Labor Cost Payments Dated July 16 to July 31, 2020</b>            | <b>p. 275</b> |
| <b>22771</b> | <b>2.</b> | <b>Authorization of Payroll Labor Cost Payments Dated August 1 to August 15, 2020</b>         | <b>p. 276</b> |
| <b>22772</b> | <b>3.</b> | <b>Authorization of Payroll Labor Cost Payments Dated August 16 to August 31, 2020</b>        | <b>p. 277</b> |
| <b>22773</b> | <b>4.</b> | <b>Authorization of A/P Transactions Issued September 04, 2020 Through September 10, 2020</b> | <b>p. 278</b> |
| <b>22774</b> | <b>5.</b> | <b>Authorization of A/P Transactions Issued September 11, 2020 Through September 17, 2020</b> | <b>p. 279</b> |

## **Final Consideration of Ordinances**

- |              |           |  |               |
|--------------|-----------|--|---------------|
| <b>22746</b> | <b>1.</b> | <b>An Ordinance Relating to Land Use Planning, Amending Bellingham Municipal Code (BMC) Title 20 to Establish Regulations for Electronic Message Center Signs on Public Zoned Land</b> | <b>p. 280</b> |
|--------------|-----------|--|---------------|

## **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 12, 2020**

**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

22593

Bill Number

Subject: **Update on COVID-19 Response**

Summary Statement: Staff will provide an update on planning and mitigating efforts related to the outbreak of COVID-19.

Previous Council Action: **Staff Presentations on 3/23/20, 4/13/20, 4/27/20, 5/4/20, 5/18/20, 6/8/20, 6/22/20, 7/6/20, 7/20/20, 8/31/20 and 9/14/20**

Fiscal Impact: **Yet to be determined**

Funding Source: **Citywide Funds**

Attachments:

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Evening Presentation	9/28/2020	Information/Discussion	Staff & Guests	30 minutes

**Recommended Motion:**

**Council Committee:**

**Agenda Bill Contact:**

Brian Heinrich, Deputy Administrator

**Council Action:**

Reviewed By	Department	Date
<i>Brian M. Heinrich</i>	Executive	9/22/2020
<i>Peter M. Ruffatto</i>	Legal	9/22/2020
<i>Seth M. Fleetwood</i>	Executive	9/22/2020



# City Council Agenda Bill

22758

Bill Number

Subject: **Public Hearing and a Resolution Authorizing the Relinquishment of Surplus Utility Easements Encumbering 801 17th Street, Bellingham**

Summary Statement: The attached resolution provides for the partial relinquishment of two surplus utility easements encumbering real property known as 801 17th Street in Bellingham. This matter comes forward at the request of the property owner. The utility easements in question were retained by the City during previous street vacations. The Public Works Department has reviewed the request and determined that the City's retained easements on the property are surplus to its needs and are not required for the provision of public utility services. Accordingly, staff recommends that they be relinquished. The attached resolution authorizes the Mayor to relinquish the easements.

Previous Council Action: **None**

Fiscal Impact: **None**

Funding Source: **None**

Attachments:

1. STAFF MEMO
2. JACOBSEN RELINQUISHMENT RELEASE LETTER
3. VACATION ORDINANCE 6769
4. VACATION ORDINANCE 7405
5. HITE LOT LINE ADJUSTMENT
6. PUBLIC HEARING NOTICE
7. LOCATION MAP
8. RESOLUTION FOR PARTIAL RELINQUISHMENT

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Public Hearing - Vote Requested	9/28/2020	Pass Resolution	Eric Johnston, PW Director	5 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:  
Brent Baldwin 778-7940

Council Action:

Reviewed By	Department	Date
<i>Eric C. Johnston</i>	Public Works	9/22/2020
<i>Matthew T. Stamps</i>	Legal	9/22/2020
<i>Seth M. Fleetwood</i>	Executive	9/22/2020



**City of Bellingham**  
210 Lottie Street  
Bellingham, WA 98225

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## **STAFF REPORT**

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**TO:** CITY COUNCIL

**FROM:** ERIC JOHNSTON, PUBLIC WORKS DIRECTOR

**CC:** MAYOR SETH FLEETWOOD

**SUBJECT:** RELINQUISHMENT OF RETAINED EASEMENTS ENCUMBERING 801 17<sup>TH</sup> STREET, BEING A 35 FOOT PORTION OF THE VACATED RIGHT-OF-WAY OF BENNETT AVENUE BETWEEN 17<sup>TH</sup> STREET AND THE ALLEY IN BLOCK 53 IN THE PLAT OF BELLINGHAM BAY LAND COMPANY'S FIRST ADD TO FAIRHAVEN, ALSO KNOWN AS LOT 1 OF HITE LLA.

**DATE:** SEPTEMBER 28, 2020

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### **BACKGROUND:**

in 1951 and 1962, under Ordinances 6769 and 7405, the City of Bellingham (the "City") vacated portions of Bennett Avenue right-of-way south of 17<sup>th</sup> Street and north of Highland Drive, subject to the City's retention of easements for utilities within the vacated portion of the right-of-way. In 1985, Hite LLA was recorded under AF 1512314 to reconfigure lots 19 & 20, Block 53, BBLCO's First Add to Fairhaven, and referenced a twenty (20) foot utility easement across said lots.

There are no utilities currently in the retained easement corridors in Lot 1 of Hite LLA. Public Works has no plans to reserve said easement rights. There are no reported private utilities in this area and use of the remaining utility corridors are not required. It is staff's determination that the two easement corridors retained in Ordinances 6769 and 7405 are no longer needed for City utilities. Additionally, the easement depicted in the Hite Lot Line Adjustment, recorded under Whatcom County Auditor's File No. 1512314, which is shown as a 20-foot utility easement in favor of the City of Bellingham, is understood to be a reference to a portion of the City's Retained Utility Easements in said Ordinances. Because it is also evident that the 20-foot easement was not conveyed, dedicated or reserved on the face of the LLA, it is staff's opinion that all noted easements can be released.

All managers of the Franchise Utility holders have been notified and no objections to the relinquishment of the noted easements have been made.

### **RECOMMENDATION ACTION:**

Conduct a public hearing. Consider a motion authorizing relinquishment of the easement.

Lola Jacobsen, August Swanson  
801 17<sup>th</sup> St.  
Bellingham, WA 98225  
August 7, 2020

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

RE: Relinquishment of reserved utility easement

Hi, Lance,

Please accept this letter and the attached exhibit map as our formal request to relinquish the reserved utility easement as identified in City of Bellingham Ordinances Number 6769 and 7405 which are erroneously noted in Hite LLA 1512314. The property located at 801 17<sup>th</sup> St is affected by these retained utility easements. The combined easement established by both of these ordinances is 35' in width and runs along the northern property line. There are no franchise utilities present within the easement.

Once this easement is relinquished, we plan to build a shed on this portion of our property.

Thank you for your consideration of this request.

Sincerely,

Lola Jacobsen  
August Swanson

#6769 AN ORDINANCE IN RELATION TO THE VACATION OF TWENTY(20) FEET ON EACH SIDE OF BENNETT AVENUE FROM 17th STREET TO 29th STREET IN THE CITY OF BELLINGHAM; VACATING SUCH PORTIONS OF SAID STREET; AND FINDING AND ADJUDGING THAT NO DAMAGES ACCRUE TO ANY PERSON OR PROPERTY BY REASON OF SAID VACATION; FIXING THE EFFECTIVE DATE OS SUCH VACATION; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

THE CITY OF BELLINGHAM ~~DOES~~ DOES ORDAIN:

BBL CO'S 1ST ADD  
LYSLES 1ST ADD TO F'HVN

Section 1. That the portions of Bennett Avenue more particularly described as follows, to-wit:

A twenty (20) foot strip on each side of Bennett Avenue from 17th street to 29th street in the City of Bellingham, be and the same is hereby vacated.

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

Section 3. That no damage will result to any person or persons or to any property by reason of the vacation of the portions of Bennett 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 18th day of June, 1951.

DB

ORD.

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# 6770 An ordinance in relation TO THE VACATION OF TEN ~~xx~~(10) feet on EACH SIDE OF 17th STREET FROM COWGILL AVENUE TO THE SOUTH LINE OF ELWOOD AVENUE IN THE CITY OF BELLINGHAM; VACATING SUCH PORTIONS OF SAID STREET; AND FINDING AND ADJUDGING THAT NO DAMAGES ACCRUE TO ANY PERSON OR PROPERTY BY REASON OF SAID VACATION; FIXING THE EFFECTIVE DATE OF SUCH VACATION; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

FAIRHAVN. LAND CO'S 1ST &  
2ND ADDS.

THE CITY OF BELLINGHAM DOES ORDAIN:

BBL CO'S 1ST ADD

Section 1. That the portions of 17th street more particularly described as follows, to-wit:

Ten (10) feet on each side of 17th street from Cowgill Avenue to the South line of Elwood Avenue, in the City of Bellingham, be, and the same is hereby ~~xx~~ vacated.

Section 2. That a condition of the vacation of the said portions of 17th Street is as follows: The City of Bellingham retains the right to exercise and grant easements in respect to the said portion of 17th Street vacated by this ordinance for the construction, repair and maintenance of water, sewer, electric and telephone distribution and transmission utilities, particularly in continuance of the existing utilities over and across any of said portions of 17th Street and the right to have the same reconstructed, operated, repaired and maintained, said retained rights to be perpetual across said vacated portions of said street.

Section 3. That no damage will result to any person or persons or to any property by reason of the vacation of the portions of 17th Street 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.

Pass by the City Council of the City of Bellingham this 18th day of June, 1951.

DB

Bennett-

17th st. to Highland Dr. Except Alley

1 AN ORDINANCE IN RELATION TO THE VACATION OF THE UNVACATED  
2 PORTION OF BENNETT AVENUE FROM THE WESTERLY SIDE OF HIGHLAND  
3 DRIVE AND 17TH STREET; AND THE UNVACATED PORTION OF BENNETT  
4 AVENUE FROM THE WESTERLY SIDE OF THE ALLEY BETWEEN HIGHLAND  
5 DRIVE AND 17TH STREET AND THE EASTERLY SIDE OF 17TH STREET  
6 IN THE CITY OF BELLINGHAM, WASHINGTON; AND FINDING AND  
7 ADJUDGING THAT NO DAMAGE ACCRUE TO ANY PERSON OR PROPERTY  
8 BY REASON THEREOF; SAID VACATION BEING SUBJECT TO RESERVATIONS  
9 BY THE CITY OF BELLINGHAM OF EASEMENTS FOR ALL PUBLIC  
10 UTILITIES; AND REPEALING ALL ORDINANCES OR PARTS OF ORDI-  
11 NANCES IN CONFLICT HERewith.

12 WHEREAS, George K. Boney, etal, have  
13 petitioned the City of Bellingham for the vacation of:

14 the unvacated portion of Bennett Avenue from  
15 the westerly side of Highland Drive to the  
16 Easterly side of the alley between Highland Drive  
17 and 17th Street; and the unvacated portion  
18 of Bennett Avenue from the westerly side of  
19 the alley between Highland Drive and 17th  
20 Street and the easterly side of 17th Street,

21 the said petitioners being the owners of property abutting  
22 said portions of Bennett Avenue; and

23 WHEREAS, the City Planning Commission  
24 has approved of said application, and has made its recom-  
25 mendation to the City Council that the vacation of  
26 said portions of Bennett Avenue as hereinabove described,  
27 be granted as approved by them, subject to reservation  
28 by the City of Bellingham of easements for all public  
29 utilities; and

30 WHEREAS, the Council of the City of  
31 Bellingham on August 6, 1962, and now, do find that said  
petition was signed by the owners of more than two-thirds  
of the real property abutting upon the said portions of  
Bennett Avenue sought to be vacated; and did further  
find that said portions of Bennett Avenue are situate  
within the corporate limits of the City of Bellingham,  
Washington; and

1           **WHEREAS**, said City Council did on the 9th day of  
2 July, 1962, while convened in regular session, pass and  
3 enact a resolution, which said resolution was duly approved  
4 on said 9th day of July, 1962, by the Mayor of said City, fixing  
5 Monday, August 6, 1962, at the hour of eight o'clock, P.M.,  
6 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 portions of Bennett Avenue hereinafter  
13 described with reservation of easements for public utilities,  
14 and,

15           **WHEREAS**, on this 6th day of August, 1962, at  
16 the 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  
22 provided by law, give more than twenty (20) days notice of the  
23 pendency of said petition by printed notices thereof set up  
24 and posted on the 16th day of July, 1962, in three of the  
25 most public places in the City of Bellingham, Washington, to-wit:  
26 One at the Lottie Street entrance of the Whatcom County  
27 Courthouse; one at the Prospect Street entrance of the 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

~~places on the portions of Bennett Avenue sought~~

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

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

14 THE CITY OF BELLINGHAM DOES ORDAIN:

15 Section 1. That the following described portions  
16 of Bennett Avenue, to-wit:

17 the unvacated portion of Bennett Avenue from  
18 the westerly side of Highland Drive to the  
19 Easterly side of the alley between Highland Drive  
20 and 17th Street; and the unvacated portion of  
21 Bennett Avenue from the westerly side of the  
22 alley between Highland Drive and 17th Street and  
23 the easterly side of 17th Street, situate  
24 in the City of Bellingham, County of Whatcom,  
25 State of Washington,

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

28 Section 2. That a condition of the vacation of  
29 the said portions of Bennett Avenue is as follows: The City  
30 of Bellingham retains the right to exercise and grant ease-  
ments in respect to the said portions of Bennett Avenue 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

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1 said Bennett Avenue, and the right to have the same reconstructed,  
2 operated, repaired and maintained, said retained rights to be  
3 perpetual across said vacated portions of Bennett Avenue.

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

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

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

13 Passed by the City Council of the City of Bell-  
14 ingham this 21 day of August, 1962.

15 Approved by me this 21 day of August, 1962.

16  
17 [Signature]  
18 Mayor

19  
20 Attest: [Signature]

21 City Comptroller

22 Published: August 23-1962

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# HITE LOT LINE ADJUSTMENT

SW 1/4, NE 1/4, SECTION 1, TOWNSHIP 37 N, RANGE 2 E, W.M.  
CITY of BELLINGHAM, WHATCOM COUNTY, WASHINGTON

LEGAL DESCRIPTION

LOTS 19 AND 20, BLOCK 53, "PLAT OF BELLINGHAM BAY LAND COMPANY'S FIRST ADDITION TO FAIRHAVEN, WASHINGTON," ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 98, RECORDS OF WHATCOM COUNTY, WASHINGTON, TOGETHER WITH THAT PORTION OF VACATED BENNETT STREET AND 17TH STREET ADJOINING, WHICH UPON VACATION ATTACHED TO SAID PREMISES BY OPERATION OF LAW.

DECLARATION:

WE THE UNDERSIGNED OWNERS HEREBY DECLARE THIS SHORT PLAT MADE WITH OUR FREE CONSENT AND IN ACCORDANCE WITH OUR WISHES.

F. Herbert Hite  
F. HERBERT HITE

Patricia G. Hite  
PATRICIA G. HITE

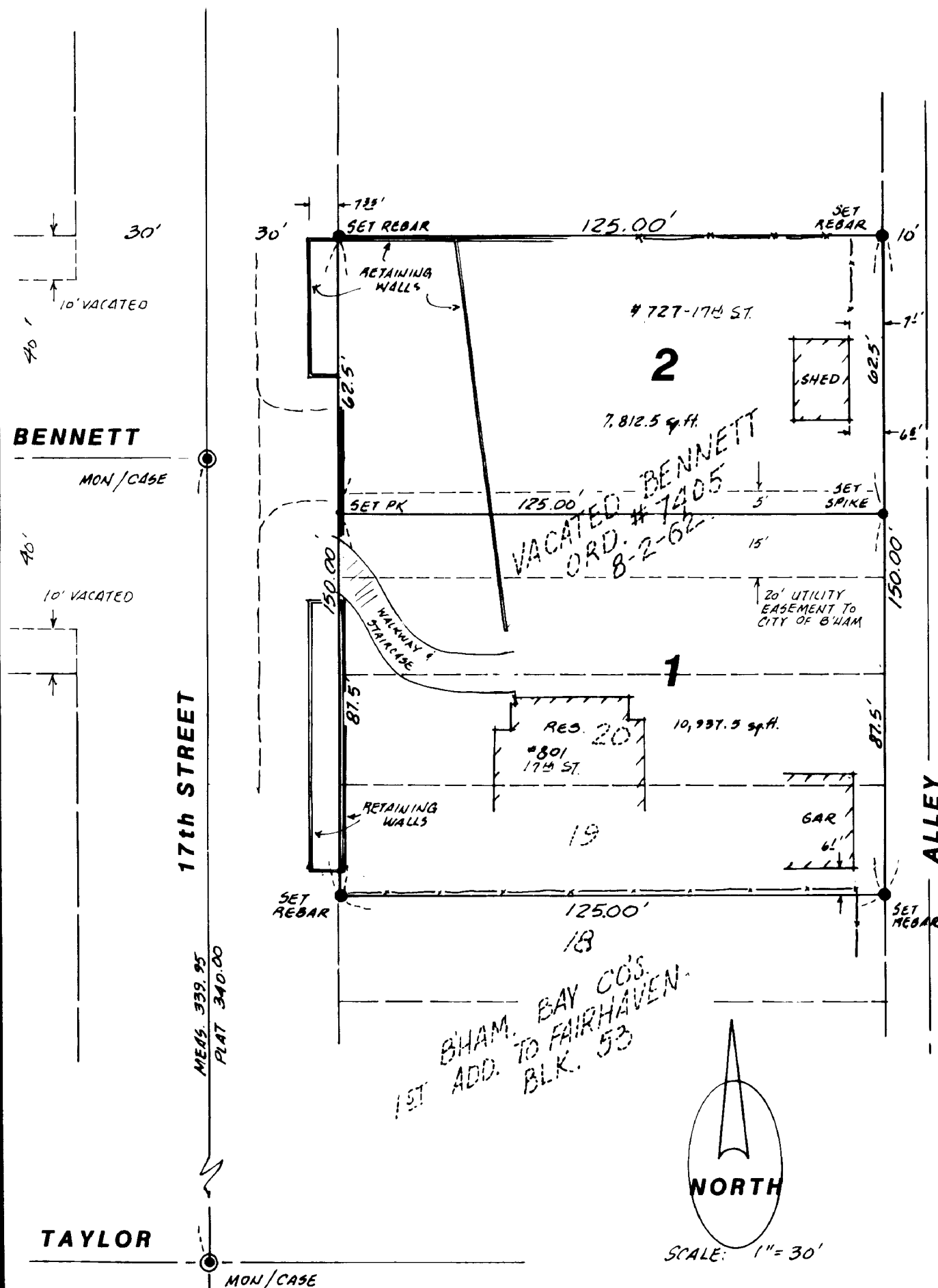
ACKNOWLEDGEMENTS:

STATE OF WASHINGTON }  
COUNTY OF WHATCOM } SS.

ON THIS 28th DAY OF JULY, 1985, BEFORE ME, THE UNDERSIGNED, APPEARED F. Herbert Hite and Patricia G. Hite, TO ME KNOWN TO BE THE INDIVIDUALS WHO EXECUTED THE FOREGOING DECLARATION AND ACKNOWLEDGED TO ME THAT THEY SIGNED THE SAME FOR THE USES AND PURPOSES THEREIN SET FORTH.

WITNESS WHEREOF I HAVE SET MY HAND AND AFFIXED MY SEAL.

John B. Jenson  
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,  
RESIDING AT Ferndale.

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THIS SHORT PLAT WAS PREPARED UNDER MY DIRECTION AND IS BASED UPON INFORMATION OBTAINED FROM EXISTING RECORDED INFORMATION AT THE REQUEST OF HERBERT HITE THAT ALL PROVISIONS OF APPLICABLE STATE AND COUNTY ORDINANCES HAVE BEEN COMPLIED WITH, AND THAT THE TECHNICAL DATA SHOWN HEREON IS CORRECT.

Ronald T. Jenson  
RONALD T. JEPSON PLS 9361

CITY OF BELLINGHAM, DEPT. OF PLANNING & ECONOMIC DEVELOPMENT

I HEREBY CERTIFY THAT I HAVE EXAMINED THIS SHORT PLAT ON THIS 23 DAY OF July, 1985, FOR CONFORMANCE WITH APPLICABLE STATE STATUTES AND CITY ORDINANCES TOGETHER WITH A REVIEW OF THE TECHNICAL INFORMATION SHOWN THEREON.

William E. Olson  
DEPT. OF PLANNING & ECONOMIC DEVELOPMENT

Planner III  
TITLE

AUDITOR'S CERTIFICATE

FILED FOR RECORD THIS 24th DAY OF July, 1985, AT 2:43 PM, IN BOOK 12 OF SHORT PLATS, ON PAGE 41.

Joan Ogden, By Hand & Return  
WHATCOM COUNTY AUDITOR'S OFFICE



## 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 28, 2020 @ 7:00 PM**, or as soon thereafter as possible during their regular City Council Meeting, which will be held remotely, 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, two general utility easements retained in Ordinance 6769, and Ordinance 7405, and an incorrect easement created in Hite LLA 1512314, which are located within a vacated 35 foot strip of vacated Bennett Avenue row that crosses Lot 1 of Hite LLA, commonly known as 801 17<sup>th</sup> Street, Bellingham, Washington, APN: 370201 344362 0000, on the grounds that said portion of the easement is surplus to the City's needs and is not required for providing continued public utility services.

Detailed information can be found five days prior to the meeting at: [www.cob.org/meetings](http://www.cob.org/meetings).

**Staff Contact: Lance Rexroat, 778-7981, [lrexroat@cob.org](mailto:lrexroat@cob.org)**

Anyone wishing to comment on this item is invited to do so. Advanced testimony by mail, email, and telephone is accepted and strongly encouraged by sending comments to the Council Office, 210 Lottie Street, [ccmail@cob.org](mailto:ccmail@cob.org), or phone (360) 778-8200 to be received prior to **10:00 a.m. Wednesday, September 23, 2020** to be included in the agenda packet. Comment received after that will be distributed to Council but not included in the published packet. Anyone wishing to testify live during the public hearing can do so by registering at the following link: [www.cob.org/cc092820](http://www.cob.org/cc092820). This link can be used before the meeting to pre-register or during the meeting to register and immediately join the meeting. Pre-registration is encouraged.

Those who would like to listen in by phone can do so using any of the following phone numbers:

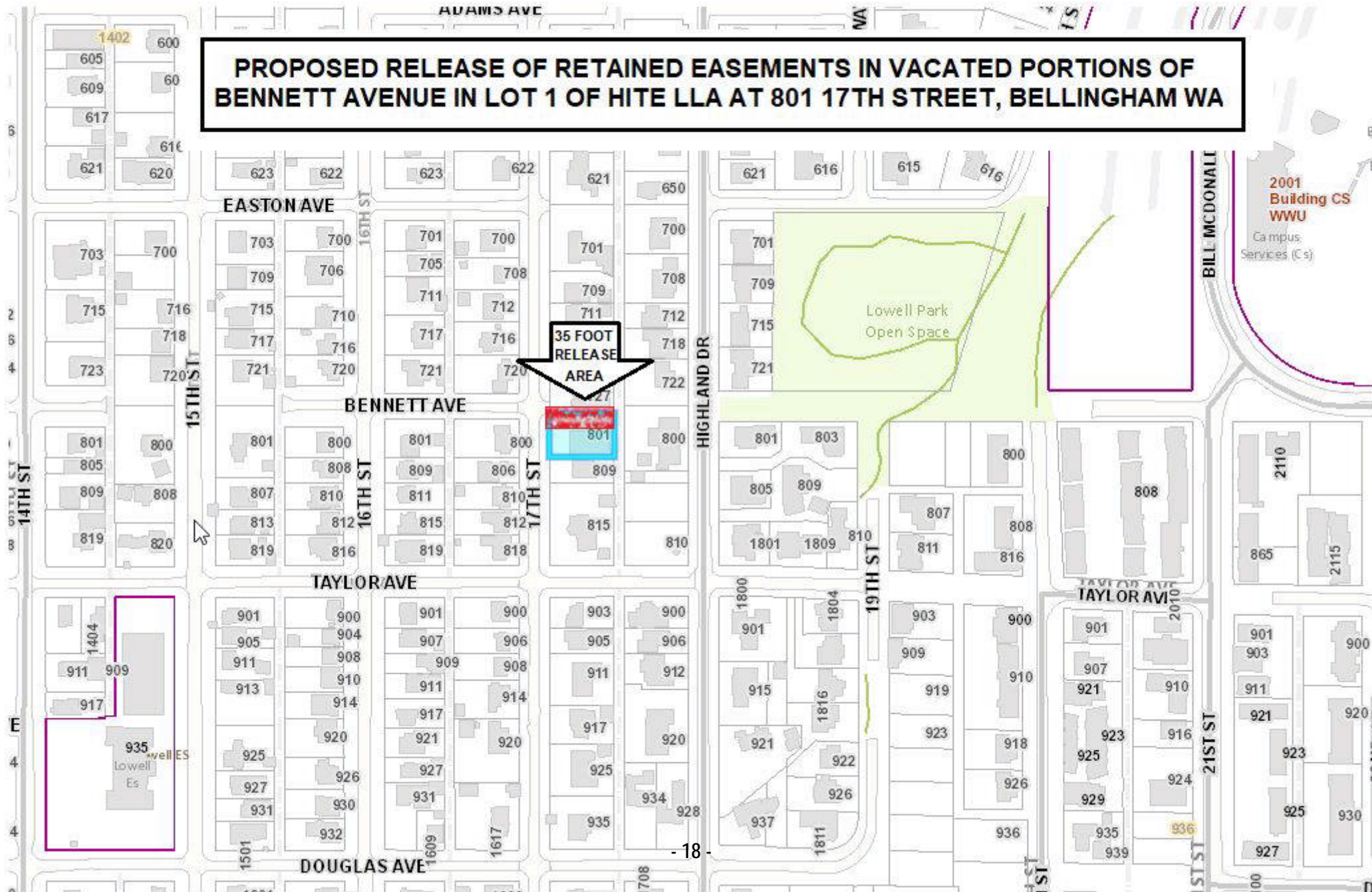
- (253) 215-8782
- (346) 248-7799
- (669) 900-6833
- (301) 715-8592
- (312) 626-6799
- (929) 205-6099

Meeting ID: 999 7944 9836  
Password: 9

Contact the Council Office at (360) 778-8200 for additional assistance prior to the meeting. Thank you.

Publication date: **September 17, 2020**

**PROPOSED RELEASE OF RETAINED EASEMENTS IN VACATED PORTIONS OF  
BENNETT AVENUE IN LOT 1 OF HITE LLA AT 801 17TH STREET, BELLINGHAM WA**



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF BELLINGHAM, WASHINGTON  
AUTHORIZING THE RELINQUISHMENT OF SURPLUS UTILITY EASEMENTS  
ENCUMBERING 801 17<sup>TH</sup> STREET, BELLINGHAM**

**WHEREAS**, in 1951 and 1962, under Ordinances 6769 and 7405, the City of Bellingham (the “City”) vacated portions of Bennett Avenue right-of-way south of 17<sup>th</sup> Street and north of Highland Drive, subject to the City’s retention of easements for utilities within the vacated portion of the right-of-way, as legally described in Exhibit A hereto and shown in the map attached hereto as Exhibit B (“**Retained Utility Easements**”); and

**WHEREAS**, Lola Jacobsen and August Swanson (“**Owners**”) own certain real property commonly known as 801 17<sup>th</sup> Street, Bellingham, Washington, and legally described in Exhibit C hereto (“**Subject Property**”), a portion of which is encumbered by the City’s Retained Utility Easements; and

**WHEREAS**, the legal description for the Subject Property, as contained in the Hite Lot Line Adjustment (LLA) recorded under Whatcom County Auditor’s File No. 1512314, depicts a 20-foot utility easement in favor of the City of Bellingham which is understood to be a reference to a portion of the City’s Retained Utility Easements; and

**WHEREAS**, the term “Retained Utility Easements” shall be deemed to include the utility easements retained in Ordinance Nos. 6769 and 7405 together with the 20-foot utility easement shown on the Hite LLA recorded under Whatcom County Auditor’s File No. 1512314; and

**WHEREAS**, Owners have requested that the City relinquish those portions of the Retained Utility Easements that encumber the Subject Property, as described in Exhibit D hereto and illustrated in Exhibit E hereto (“**Proposed Relinquishment Area**”); and

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

**WHEREAS**, surplus utility easements that were reserved during street vacations 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 property owner or their predecessor in interest has typically previously paid the City an amount equal to the appraised value of the property as a condition of street vacation; and

**WHEREAS**, the City's Public Works Department has determined that the Proposed Relinquishment Area is surplus to the City's needs and is not needed for continued utility service and has recommended to City Council that it be relinquished; and

**WHEREAS**, a public hearing was held on September 28, 2020 by the City Council to accept public comment and consider the proposed relinquishment; and

**WHEREAS**, following said public hearing, City Council determined that the Proposed Relinquishment Area is surplus to the City's needs, is not needed for continued utility service, and may be relinquished without any additional compensation from owners.

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

The mayor is authorized to execute and record all documents necessary to relinquish those portions of the Retained Utility Easements located within the Proposed Relinquishment Area, as legally described in Exhibit D hereto and shown in the map attached hereto as Exhibit E. The relinquishment instrument shall be in a form approved by the Office of the City Attorney.

**PASSED** by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Council President

**APPROVED** by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Seth Fleetwood, Mayor

**ATTEST:**

\_\_\_\_\_  
Finance Director

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Office of the City Attorney

## **EXHIBIT A**

### **Legal Descriptions of Retained Utility Easements**

THE SOUTHERN 5 FEET OF LOT 2 AND THE NORTHERN 15 FEET OF LOT 1, HITE LOT LINE ADJUSTMENT (SHORT PLAT #841 A-74, JULY 23, 1985), AS PER THE MAP THEREOF, RECORDED IN VOLUME 12 OF PLATS, PAGE 41, UNDER AUDITOR'S FILE NO. 1512314, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE. SITUATE IN WHATCOM COUNTY, WASHINGTON.

AND;

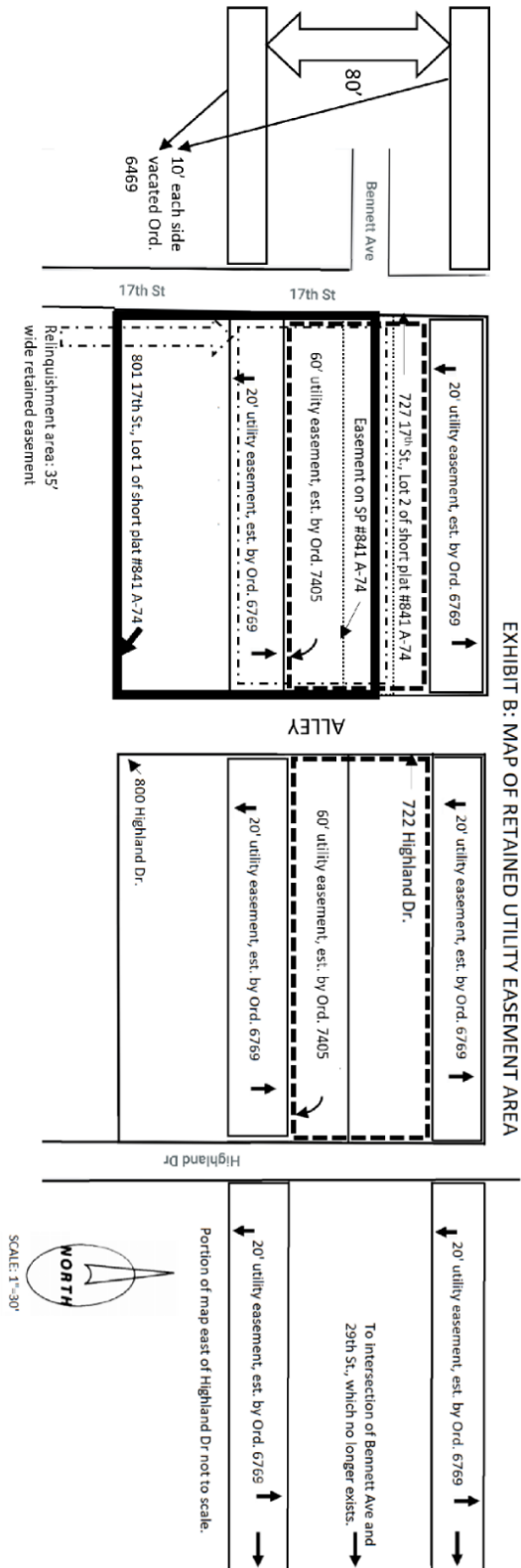
ORDINANCE 7405, RECORDED AUGUST 20, 1962, VACATING APPROXIMATELY 60 FEET OF UNVACATED BENNETT AVENUE BETWEEN HIGHLAND DRIVE AND 17<sup>TH</sup> STREET: AN ORDINANCE IN RELATION TO THE VACATION OF THE UNVACATED PORTION OF BENNETT AVENUE FROM THE WESTERLY SIDE OF HIGHLAND DRIVE TO THE EASTERLY SIDE OF THE ALLEY BETWEEN HIGHLAND DRIVE AND 17<sup>TH</sup> STREET; AND THE UNVACATED PORTION OF BENNETT AVENUE FROM THE WESTERLY SIDE OF THE ALLEY BETWEEN HIGHLAND DRIVE AND 17<sup>TH</sup> STREET AND EASTERLY SIDE OF 17<sup>TH</sup> STREET IN THE CITY OF BELLINGHAM, WASHINGTON; AND FINDING AND ADJUDGING THAT NO DAMAGE ACCRUE TO ANY PERSON OR PROPERTY BY REASON THEREOF; SAID VACATION BEING SUBJECT TO RESERVATIONS BY THE CITY OF BELLINGHAM OF EASEMENTS FOR ALL PUBLIC UTILITIES; AND REPLACING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith.

AND;

ORDINANCE 6769, SECTION 2, RECORDED JUNE 18, 1951, VACATING 20 FEET ON EACH SIDE OF BENNETT AVENUE FROM 17<sup>TH</sup> STREET TO 29<sup>TH</sup> STREET IN THE CITY OF BELLINGHAM. "THAT A CONDITION OF THE VACATION OF THE SAID PORTIONS OF BENNETT AVENUE IS AS FOLLOWS: THE CITY OF BELLINGHAM RETAINS THE RIGHT TO EXERCISE AND GRANT EASEMENTS IN RESPECT TO THE SAID PORTIONS OF BENNETT AVENUE 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 SAID BENNETT AVENUE, AND THE RIGHT TO HAVE THE SAME RECONSTRUCTED, OPERATED, REPAIRED AND MAINTAINED, SAID RETAINED RIGHTS TO BE PERPETUAL ACROSS SAID VACATED PORTIONS OF BENNETT AVENUE."

## EXHIBIT B

### Map of Retained Utility Easements



## **EXHIBIT C**

### **Legal Description of Subject Property**

LOT 1, HITE LOT LINE ADJUSTMENT (SHORT PLAT #841 A-74, JULY 23, 1985), AS PER THE MAP THEREOF, IN VOLUME 12 OF PLATS, PAGE 41, UNDER AUDITOR'S FILE NO. 1512314, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE. SITUATE IN WHATCOM COUNTY, WASHINGTON.

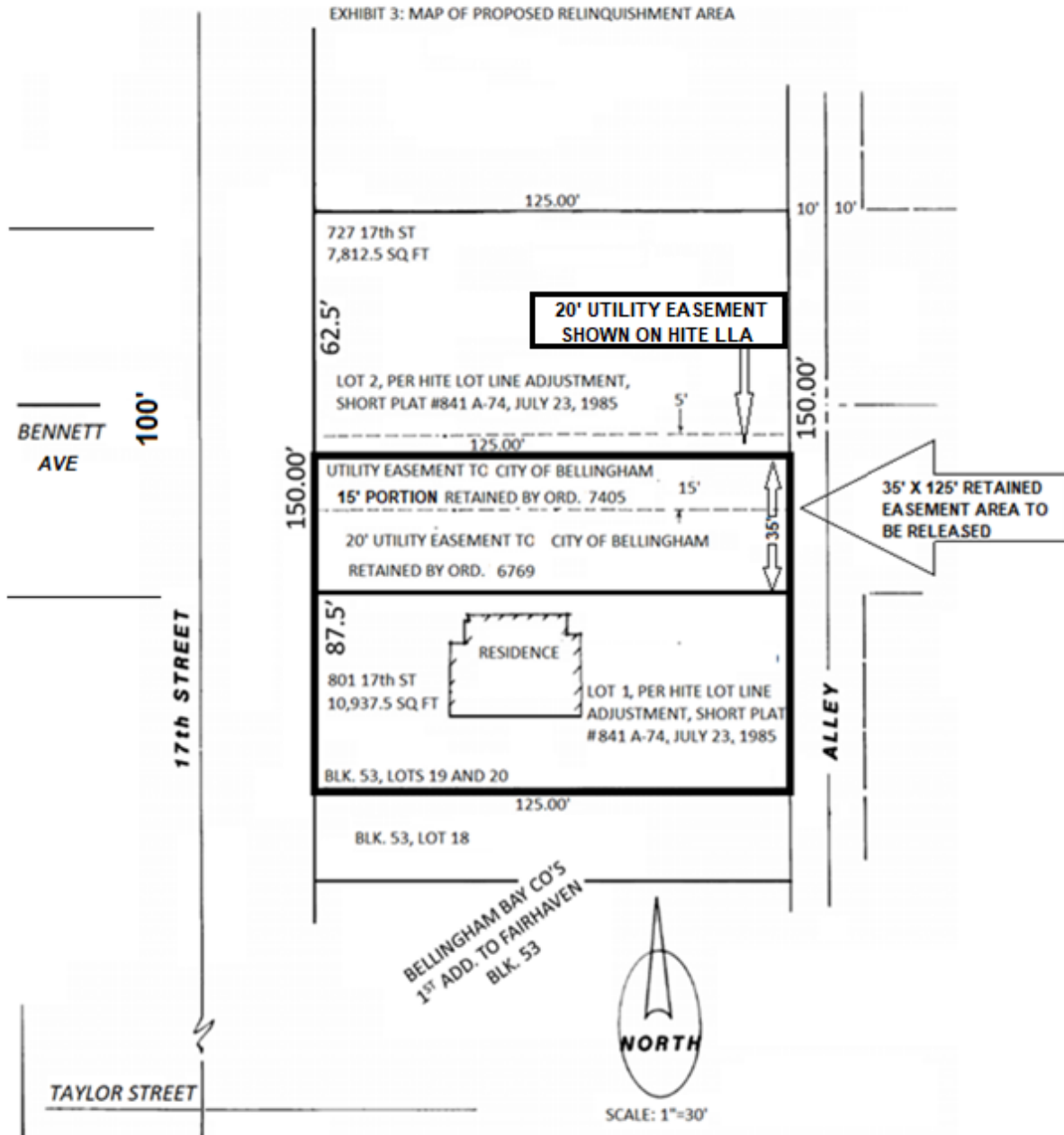
**EXHIBIT D**

**Legal description of Proposed Relinquishment Area**

THE NORTHERN 35 FEET OF LOT 1, AS RESERVED BY ORDINANCES 6769 AND 7405 AND HITE LLA EASEMENT ALL SHOWN ON HITE LOT LINE ADJUSTMENT (SHORT PLAT #841 A-74, JULY 23, 1985), AS PER THE MAP THEREOF, RECORDED IN VOLUME 12 OF PLATS, PAGE 41, UNDER AUDITOR'S FILE NO. 1512314, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE. SITUATE IN WHATCOM COUNTY, WASHINGTON.

## EXHIBIT E

### Map of Proposed Relinquishment Area





# City Council Agenda Bill

22759

Bill Number

Subject: **Public Hearing and Resolution Authorizing the Relinquishment of a Surplus Utility Easement Encumbering 3708 Larrabee Avenue, Bellingham**

Summary Statement: The attached resolution provides for the relinquishment of a surplus utility easement encumbering real property known as 3708 Larrabee Avenue in Bellingham. The proposed relinquishment comes to Council for a decision at the request of the property owner. The Public Works Department has determined that the portion of the easement that encumbers the property is surplus to the City's needs and is not required for the provision of public utility services. Accordingly, 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: **None**

Attachments:

1. STAFF REPORT
2. BUTTERWORTH RELINQUISHMENT REQUEST LETTER
3. VACATION ORDINANCE NO. 6881
4. PUBLIC HEARING NOTICE
5. AREA MAP
6. RESOLUTION FOR PARTIAL RELINQUISHMENT

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Public Hearing - Vote Requested	9/28/2020	Pass Resolution	Eric Johnston, PW Director	5 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:  
Brent Baldwin 778-7940

Reviewed By	Department	Date
<i>Eric C. Johnston</i>	Public Works	9/22/2020

Council Action:

<i>Matthew T. Stamps</i>	Legal	9/22/2020
<i>Seth M. Fleetwood</i>	Executive	9/22/2020



City of Bellingham  
210 Lottie Street  
Bellingham, WA 98225

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## STAFF REPORT

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**TO:** CITY COUNCIL  
**FROM:** ERIC JOHNSTON, PUBLIC WORKS DIRECTOR  
**CC:** MAYOR SETH FLEETWOOD  
**SUBJECT:** PARTIAL RELINQUISHMENT OF A RETAINED EASEMENT IN THE VACATED SOUTH 20 FEET OF LARRABEE AVENUE ABUTTING LOT 21, BLOCK 10, MAP OF THE PLAT OF EAST FAIRHAVEN,  
**DATE:** SEPTEMBER 28, 2020

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### **BACKGROUND:**

On October 20, 1953, under Ordinance No, 6881, the City of Bellingham vacated 20 feet on each side of Larrabee Avenue between Pacific Highway [Samish Way] to 40<sup>th</sup> Street, including Lot 21, Block 10, in the Plat of East Fairhaven. This was in response to a petition by Everett L. Madsen and other adjacent owners. Seeing no objections or possible damages resulting from the proposed vacation the Council passed the vacation ordinance but retained easement rights.

There are no utilities in the subject portion of the retained easement corridor abutting Lot 21. The Owners of Lot 21 need to repair or improve the existing structure and steps that border the retained easement but cannot do the necessary work due to regulations regarding proximity of the structure to the remaining easement. Public Works has no need or plans to continue to reserve said easement rights and since other utilities do not cross this area, and services are provided from outside areas, further City retention of this portion of the remaining utility corridor is not required.

All managers of the Franchise Utility holders have been notified and no objections to the partial relinquishment of the noted easement have been made.

### **RECOMMENDATION ACTION:**

Conduct a public hearing. Consider a motion approving the resolution to relinquish the easement.

Public Works Department  
City of Bellingham

July 20, 2020

Attn: Lance Rexroat  
Re: Relinquishment of Surplus Utility Easements

We would like to make application for the relinquishment of the utility easement on the north side of our house in order to construct a wheelchair access to our front door, facing Larrabee Avenue.

Property Owners:  
Scott Butterworth and Niki Mantas Butterworth  
3708 Larrabee Avenue, Bellingham, WA 98229  
360-927-4865 and 360-927-4888

Easement to be relinquished:  
The vacated South 20 feet of Larrabee Avenue abutting lot 21, as would attach by operation of law, Block 10, Map of East Fairhaven, Whatcom County, Washington, now part of the consolidated City of Bellingham, as per the map thereof, recorded in Book 2 of plats, page 59, in the Auditor's office of said county and state. Situate in Whatcom County, Washington.

Full legal description of the burdened property  
Lots 20 and 21, Block 10, Map of East Fairhaven, Whatcom County, Washington, now part of the consolidated City of Bellingham, as per the map thereof, recorded in Book 2 of plats, page 59, in the Auditor's office of said county and state. Together with the vacated East 10 feet of 37th Street abutting and the vacated South 20 feet of Larrabee Avenue abutting lot 21, as would attach by operation of law. Situate in Whatcom County, Washington.

Utilities that service this residence passing over or under the utilities easement area.  
Washington Utility Notification - Ticket 20282171

1. Natural gas line runs from the NW corner of the house structure directly north along the east edge of the driveway leading to Larrabee Avenue.
2. An overhead electric power line (also cable and phone lines) extends from the NE corner of the house structure diagonally in a NE direction to a utility pole located in the abandoned alley on the north side of Larrabee Avenue.

Thank you,

Scott and Niki Butterworth

**MICROFILMED**

SE 6-37-3

ORDINANCE NO. 6881

1 AN ORDINANCE IN RELATION TO THE VACATION OF TWENTY (20) FEET ON  
2 EACH SIDE OF LARRABEE AVENUE FROM THE PACIFIC HIGHWAY (LAKE  
3 SAMISH BRANCH) TO 40TH STREET, REDUCING SAID STREET TO  
4 SIXTY (60) FEET, IN THE CITY OF BELLINGHAM; VACATING SAID  
5 PORTIONS OF LARRABEE AVENUE; AND FINDING AND ADJUDGING THAT NO  
DAMAGES ACCRUE TO ANY PERSONS OR PROPERTY BY REASON THEREOF;  
6 PROVIDING FOR CERTAIN CONDITIONS RELATING TO SAID VACATION;  
7 FIXING THE EFFECTIVE DATE OF SAID VACATION; AND REPEALING ALL  
8 ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

9 WHEREAS, Everett L. Madsen, et al, the owners of  
10 property abutting upon the portions of Larrabee Avenue  
11 petitioned by them to be vacated, have filed with the City of  
12 Bellingham, a municipal corporation, a petition in writing  
13 requesting the vacation of twenty (20) feet on each side of Larrabee  
14 Avenue from the Pacific Highway (Lake Samish Branch) to 40th  
15 Street, reducing said street to sixty (60) feet, and

16 WHEREAS, the City Planning Commission, after due  
17 consideration of the requested vacation, has approved of  
18 said application, and has made its recommendations to the  
19 City Council, that the vacation of said portions of Larrabee  
20 Avenue as hereinbefore described, be granted, as petitioned  
21 and requested, subject to reservation of easements for all  
22 public utilities, and

23 WHEREAS, the Council of the City of Bellingham,  
24 on October 5, 1953, and now, do find that said petition was  
25 signed by the owners of more than two-thirds of the real  
26 property abutting upon the portions of Larrabee Avenue sought to be  
27 vacated; and did further find that said portions of Larrabee  
28 Avenue are situate within the corporate limits of the City of  
29 Bellingham, Washington; and

30 WHEREAS, said City Council did on the 8th  
31 day of September, 1953, while convened in regular session,  
pass and enact a resolution, which said resolution was on the  
9th day of September, 1953, duly approved by the Mayor of said  
City, fixing Monday the 5th day of October, 1953, at the hour of

CITY OF BELLINGHAM

CITY ATTORNEY

6881

1 eight o'clock, P.M., in the Council Chamber in the City Hall of  
2 the City of Bellingham, Washington, as the time and place when  
3 said petition would be heard and determined, and in such resolution  
4 directed the Clerk of the said City to give notice of the pendency  
5 of said petition as required by law, and

6 WHEREAS, it is deemed advisable to grant said  
7 petition and vacate the said portions of Larrabee Avenue herein-  
8 after described, subject to certain reservations for public  
9 utilities, and

10 WHEREAS, on this 5th day of October, 1953, at the  
11 hour of eight o'clock P.M., said City Council of the City of  
12 Bellingham, being in regular session in the Council Chamber in  
13 the City Hall of said City, and said petition coming on regularly  
14 for hearing, it is by such City Council found and determined  
15 that the City Comptroller and Ex-officio Clerk of the City of  
16 Bellingham, did duly and regularly in the manner provided by  
17 law, give more than twenty (20) days notice of the pendency of  
18 said petition by printed notices thereof set up and posted on  
19 the 10th day of September, 1953, in three of the most  
20 public places in the City of Bellingham, Washington, to-wit:  
21 One at the Lottie Street entrance of the new Whatcom County  
22 Courthouse; one at the Prospect Street entrance of the new  
23 County Courthouse of Whatcom County; and one at the front door of  
24 the City Hall, 210 Lottie Street, Bellingham, Washington; and  
25 that copies of said notice were likewise posted at appropriate  
26 and conspicuous places on the portions of Larrabee Avenue sought  
27 to be vacated; each and every of such notices containing a  
28 statement of the time and place fixed for the hearing on said  
29 petition, and,

30 WHEREAS, it is found that no damage will result to any  
31 person or property by reason of the vacation of the said portions

CITY OF BELLINGHAM

CITY ATTORNEY

6881

1 of Larrabee Avenue as hereinafter described. That all of the  
2 jurisdictional steps preliminary to the vacation of the same  
3 have been taken as provided by law. That the allegations of  
4 said petition are true, and the prayer of said petitioners should  
5 be granted, subject to certain conditions, and the recommendations  
6 of the Planning Commission of the City of Bellingham, NOW,  
7 THEREFORE,

8 THE CITY OF BELLINGHAM DOES ORDAIN:

9 Section 1. That the following described portions  
10 of Larrabee Avenue, to-wit:

11 ~~Twenty~~ (20) feet on each side of Larrabee  
12 Avenue from the Pacific Highway (Lake Samish  
13 Branch) to 40th Street, reducing said street  
14 to sixty (60) feet, in the City of Bellingham,

15 be, and the same is hereby vacated, as approved by the City  
16 Planning Commission.

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

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

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

CITY OF BELLINGHAM

CITY ATTORNEY

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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 19 day of October, 1953.

Approved by me this 20 day of October, 1953.

Sig Huttalin  
Mayor

Attest: Arthur D. Long  
City Comptroller

Published: October 22 - 1953

DB



## 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 28, 2020 @ 7:00 PM**, or as soon thereafter as possible during their regular City Council Meeting, which will be held remotely, 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 7200, which is located within a vacated South 20 Feet of Larrabee Avenue Abutting Lot 21, Block 10, Map Of Plat of East Fairhaven, commonly known as 3708 Larrabee Avenue, Bellingham, Washington, APN: 370306 475055 0000, on the grounds that said portion of the easement is surplus to the City's needs and is not required for providing continued public utility services.

Detailed information can be found five days prior to the meeting at: [www.cob.org/meetings](http://www.cob.org/meetings).

**Staff Contact: Lance Rexroat, 778-7981, [lrexroat@cob.org](mailto:lrexroat@cob.org)**

Anyone wishing to comment on this item is invited to do so. Advanced testimony by mail, email, and telephone is accepted and strongly encouraged by sending comments to the Council Office, 210 Lottie Street, [ccmail@cob.org](mailto:ccmail@cob.org), or phone (360) 778-8200 to be received prior to **10:00 a.m. Wednesday, September 23, 2020** to be included in the agenda packet. Comment received after that will be distributed to Council but not included in the published packet. Anyone wishing to testify live during the public hearing can do so by registering at the following link: [www.cob.org/cc092820](http://www.cob.org/cc092820). This link can be used before the meeting to pre-register or during the meeting to register and immediately join the meeting. Pre-registration is encouraged.

Those who would like to listen in by phone can do so using any of the following phone numbers:

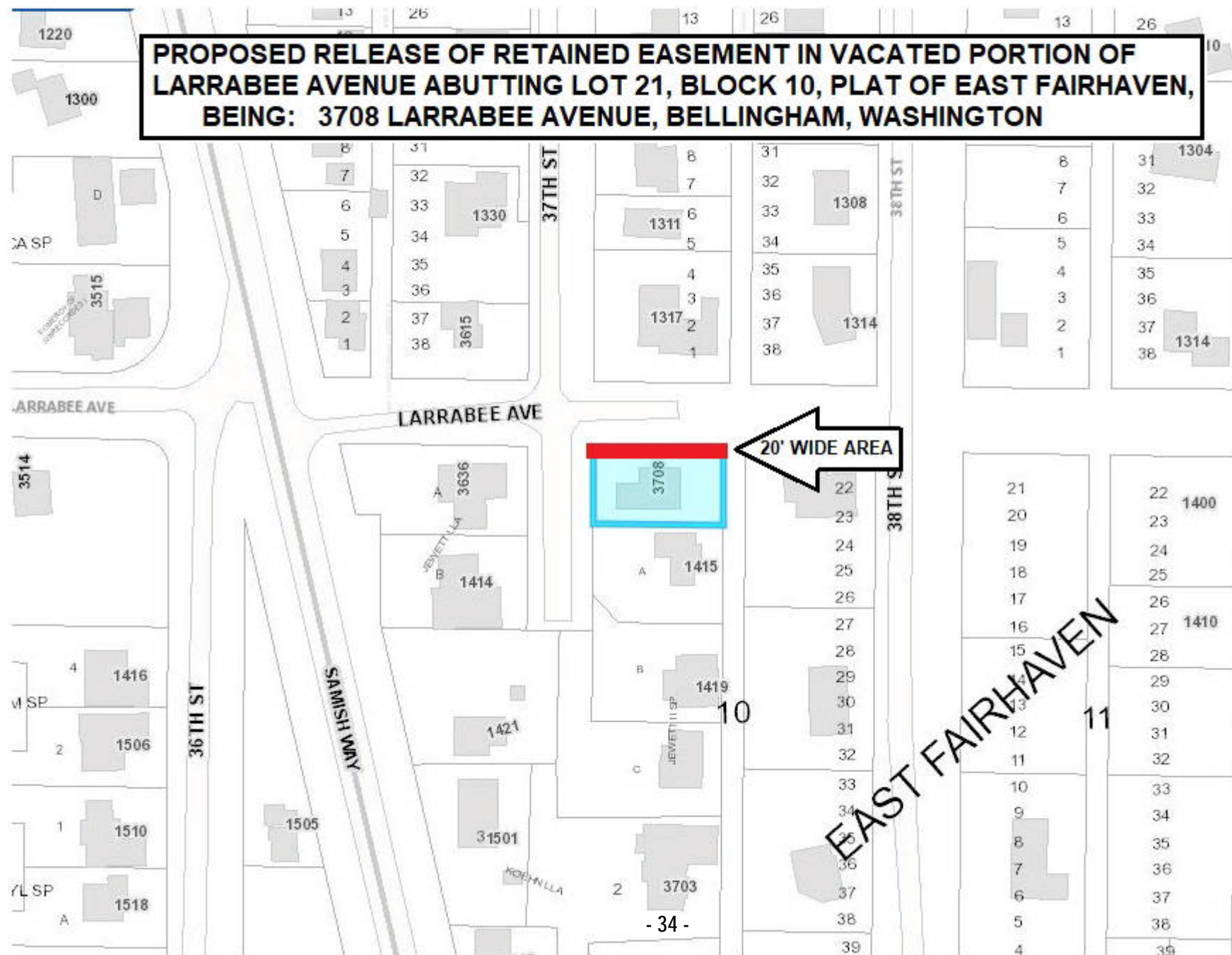
- (253) 215-8782
- (346) 248-7799
- (669) 900-6833
- (301) 715-8592
- (312) 626-6799
- (929) 205-6099

Meeting ID: 999 7944 9836  
Password: 9

Contact the Council Office at (360) 778-8200 for additional assistance prior to the meeting. Thank you.

Publication date: **September 17, 2020**

**PROPOSED RELEASE OF RETAINED EASEMENT IN VACATED PORTION OF  
LARRABEE AVENUE ABUTTING LOT 21, BLOCK 10, PLAT OF EAST FAIRHAVEN,  
BEING: 3708 LARRABEE AVENUE, BELLINGHAM, WASHINGTON**



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF BELLINGHAM, WASHINGTON  
AUTHORIZING THE RELINQUISHMENT OF A PORTION OF A PUBLIC UTILITY  
EASEMENT RETAINED IN THE VACATED SOUTH TWENTY (20) FEET OF  
LARRABEE AVENUE ABUTTING LOT 21, BLOCK 10, MAP OF PLAT OF EAST  
FAIRHAVEN, THAT IS SURPLUS TO THE CITY'S NEEDS**

**WHEREAS**, on October 20, 1953, under Ordinance No, 6881, the City of Bellingham vacated 20 feet on each side of Larrabee Avenue between Pacific Highway [Samish Way] to 40<sup>th</sup> Street, including Block 10, in the Plat of East Fairhaven (“**Vacated Street**”), subject to the City’s retention of an easement for the construction, maintenance and repair of existing or future public utilities within the Vacated Street as authorized in RCW 35.79.030 (“**Retained Utility Easement**”); and

**WHEREAS**, the Retained Utility Easement area is legally described in Exhibit A hereto and graphically depicted in Exhibit B hereto; and

**WHEREAS**, Scott Butterworth and Niki Mantas Butterworth, (“**Owners**”) own certain real property commonly known as 3708 Larrabee Avenue, Bellingham, Washington, legally described in Exhibit C hereto (“**Subject Property**”), a portion of which is encumbered by the City’s Retained Utility Easement; and

**WHEREAS**, Owners have requested that the City relinquish that portion of the Retained Utility Easement that encumbers the Subject Property, that portion being approximately 20 feet wide by 115 feet in length as more particularly described in Exhibit D hereto and graphically depicted in Exhibit E hereto (“**Proposed Relinquishment Area**”); and

**WHEREAS**, the purpose of the requested relinquishment is to facilitate private development and construction of a wheelchair access on the Subject Property; and

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

**WHEREAS**, surplus utility easements that were reserved during street vacations 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 property owner or their predecessor in interest has typically previously paid the City an amount equal to the appraised value of the property as a condition of street vacation; and

**WHEREAS**, the City's Public Works Department has determined that the Proposed Relinquishment Area is surplus to the City's needs and is not needed for continued utility service and has recommended to City Council that it be relinquished; and

**WHEREAS**, a public hearing was held on September 28, 2020 by the City Council to consider the proposed relinquishment; and

**WHEREAS**, following said public hearing, City Council determined that the Proposed Relinquishment Area is surplus to the City's needs, is not needed for continued utility service, and may be relinquished without any additional compensation from owners.

**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 that portion of the Retained Utility Easement that encumbers that portion of the Subject Property identified herein as the Proposed Relinquishment Area, as legally described in Exhibit D hereto and graphically depicted in Exhibit E hereto. The relinquishment instrument shall be in a form approved by the Office of the City Attorney.

**PASSED** by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Council President

**APPROVED** by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Seth Fleetwood, Mayor

**ATTEST:**

\_\_\_\_\_  
Finance Director

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Office of the City Attorney

# EXHIBIT A

FROM ORDINANCE NO. 6881

TWENTY (20) FEET ON EACH SIDE OF LARRABEE AVENUE FROM THE PACIFIC HIGHWAY (LAKE SAMISH BRANCH) TO 40TH STREET, REDUCING SAID STREET TO SIXTY (60) FEET, IN THE CITY OF BELLINGHAM: VACATING SAID PORTIONS OF LARRABEE AVENUE:

## EXHIBIT B

### Retained Utility Easement

LARRABEE AVE. REDUCED TO 60 FEET (VACATED 20 FEET EACH SIDE) PER ORD.NO.6881



RELINQUISHMENT OF CITY OF BELLINGHAM  
EASEMENT, THE VACATED SOUTH 20 FEET OF  
LARRABEE AVENUE, ABUTTING LOT 21.

BLOCK 10 MAP OF EAST FAIRHAVEN,  
WHATCOM COUNTY, WASHINGTON  
BOOK 2 OF PLATS, PAGE 59

## EXHIBIT C

LOTS 20 AND 21, BLOCK 10, MAP OF EAST FAIRHAVEN, WHATCOM COUNTY, WASHINGTON, NOW PART OF THE CONSOLIDATED CITY OF BELLINGHAM, AS PER THE MAP THEREOF, RECORDED IN BOOK 2 OF PLATS, PAGE 59, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE. TOGETHER WITH THE VACATED EAST 10 FEET OF 37TH STREET AND THE VACATED SOUTH 20 FEET OF LARRABEE AVENUE ABUTTING LOT 21, AS WOULD ATTACH BY OPERATION OF LAW. SITUATE IN WHATCOM COUNTY, WASHINGTON

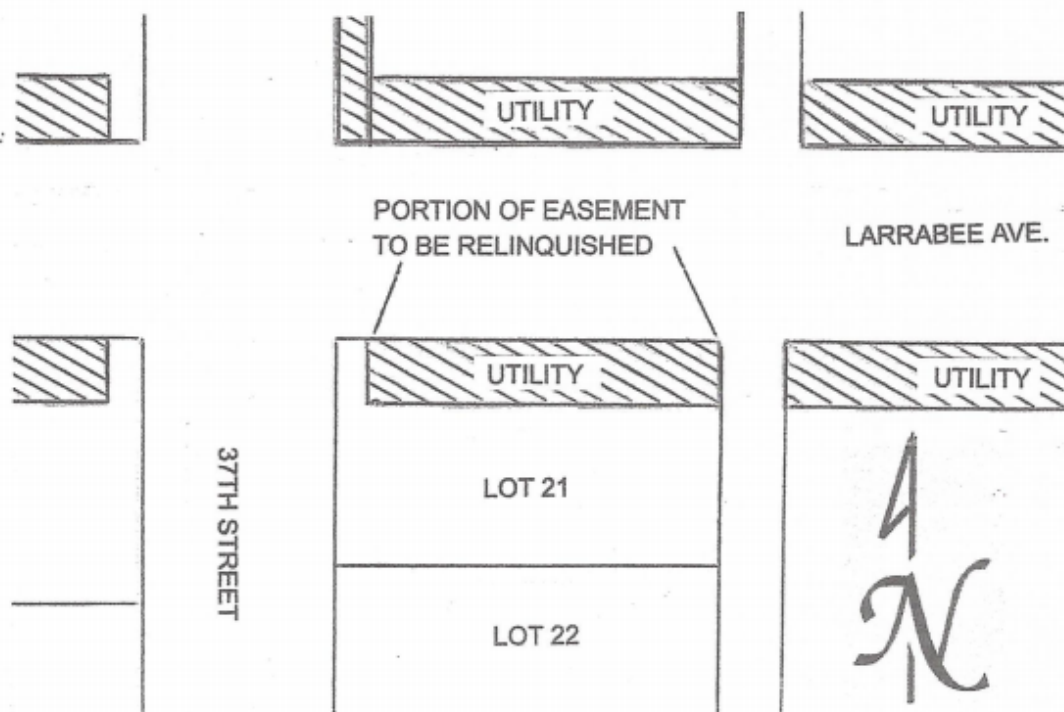
## **EXHIBIT D**

THE VACATED SOUTH 20 FEET OF LARRABEE AVENUE ABUTTING LOT 21, BLOCK 10, MAP OF EAST FAIRHAVEN, WHATCOM COUNTY, WASHINGTON, NOW PART OF THE CONSOLIDATED CITY OF BELLINGHAM, AS PER THE MAP THEREOF, RECORDED IN BOOK 2 OF PLATS, PAGE 59, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE. SITUATE IN WHATCOM COUNTY, WASHINGTON

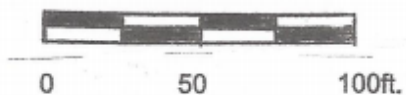
## EXHIBIT E

### RETAINED AREA TO BE RELEASED

115' by 20' EASEMENT RETAINED UPON  
VACATION OF LARRABEE AVENUE IN  
1953 (CITY ORDINANCE 6881)



RELINQUISHMENT OF CITY OF BELLINGHAM  
EASEMENT, THE VACATED SOUTH 20 FEET OF  
LARRABEE AVENUE, ABUTTING LOT 21.



BLOCK 10 MAP OF EAST FAIRHAVEN,  
WHATCOM COUNTY, WASHINGTON  
BOOK 2 OF PLATS, PAGE 59



# City Council Agenda Bill

22760

Bill Number

Subject: **Public Hearing on a Resolution Authorizing Relinquishment of Surplus Utility Easement Encumbering 619 E Myrtle Street**

Summary Statement: The attached resolution provides for the relinquishment of a public utility easement encumbering real property known as 619 E Myrtle Street in Bellingham. This proposed relinquishment comes to Council for a decision at the request of the property owner. The Public Works Department has determined that the portion of the easement that encumbers the property 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: **None**

Attachments:

1. STAFF REPORT
2. CHEN RELINQUISHMENT REQUEST
3. VACATION ORDINANCE NO. 7200
4. PUBLIC HEARING NOTICE
5. LOCATION MAP
6. PARTIAL RELINQUISHMENT RESOLUTION

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Public Hearing - Vote Requested	9/28/2020	Pass Resolution	Eric Johnston, PW Director	5 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Brent Baldwin/Lance Rexroat, PWE 778-7940

Reviewed By

Department

Date

*Eric C. Johnston*

Public Works

9/22/2020

Council Action:

*Matthew T. Stamps*

Legal

9/22/2020

*Seth M. Fleetwood*

Executive

9/22/2020



City of Bellingham  
210 Lottie Street  
Bellingham, WA 98225

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## STAFF REPORT

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**TO:** CITY COUNCIL  
**FROM:** ERIC JOHNSTON, PUBLIC WORKS DIRECTOR  
**CC:** MAYOR SETH FLEETWOOD  
**SUBJECT:** PARTIAL RELINQUISHMENT OF A RETAINED EASEMENT IN VACATED PORTION OF MYRTLE STREET, ABUTTING LOT 9 IN BLOCK 101, IN THE PLAT OF THE TOWN OF NEW WHATCOM, BETWEEN BILLY FRANK JR [INDIAN] STREET AND HIGH STREET  
**DATE:** SEPTEMBER 28, 2020

---

### **BACKGROUND:**

On November 10, 1958, under Ordinance No, 7200, the City of Bellingham vacated each side of Myrtle Street between Billy Frank Jr [Indian] and High Streets in Block 101, in the Plat of the Town of New Whatcom. This was in response to a petition by Tom and Allie Bly, who were adjacent owners. Seeing no objections or possible damages resulting from the proposed vacation the Council passed the vacation ordinance but retained easement rights.

There are no utilities in the subject portion of the retained easement corridor abutting Lot 9. The Owners of Lot 9 need to repair or improve the existing structure that borders the retained easement but cannot do the necessary work due to regulations regarding proximity of the structure to the remaining easement. Public Works has no plans to continue to reserve said easement rights and since other utilities do not cross this area, and services are provided from outside areas, further City retention of this portion of the remaining utility corridor is not required.

All managers of the Franchise Utility holders have been notified and no objections to the partial relinquishment of the noted easement have been made.

### **RECOMMENDATION ACTION:**

Conduct the required Public Hearing and consider a motion approving the resolution authorizing relinquishment of the easement.



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

March 6, 2020

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

*Re: Relinquishment of Reserved Utility Easement along E Myrtle Street*

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. 7200. The property located at 619 E Myrtle Street is affected by this utility easement. The easement is 6' in width and runs along the southwestern property line. 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 6' easement area. Please find attached a copy of the current subdivision guarantee with owner contact information, and an exhibit depicting future development plans and current easement location. This request to relinquish is being made on behalf of the property owner: the Chen Family Trust, Daniel Chen and Betty Chen. Thank you for your consideration of this request.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Francine St Laurent', with a stylized flourish at the end.

FRANCINE ST LAURENT  
AVT Consulting, LLC

1 AN ORDINANCE IN RELATION TO THE VACATION OF SIX FEET ON EACH SIDE  
2 OF MYRTLE STREET BETWEEN INDIAN AND HIGH STREETS IN THE CITY OF  
3 BELLINGHAM, WASHINGTON; AND FINDING AND ADJUDGING THAT NO DAMAGE  
4 ACCRUE TO ANY PERSON OR PROPERTY BY REASON THEREOF; PROVIDING FOR  
5 CERTAIN CONDITIONS RELATING TO SAID VACATION; AND REPEALING ALL  
6 ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

7 WHEREAS, Tom and Allie Bly, the owners of property  
8 abutting upon the following described portions of Myrtle Street  
9 in the City of Bellingham, Washington, petitioned by them to be  
10 vacated, have filed with the City of Bellingham, a municipal  
11 corporation, their said petition in writing, requesting the  
12 vacation of:

13 six (6) feet on each side of Myrtle Street  
14 between Indian and High Streets in the City  
15 of Bellingham, Whatcom County, Washington,

16 AND, WHEREAS, the City Planning Commission has  
17 approved of said application, and has made its recommendation  
18 to the City Council that the vacation of said portions of Myrtle  
19 Street as hereinabove described, be granted as approved by them,  
20 subject to reservation by the City of Bellingham of easements  
21 for all public utilities; and

22 WHEREAS, the Council of the City of Bellingham on  
23 October 20, 1958, and now, do find that said petition was  
24 signed by the owners of more than two-thirds of the real property  
25 abutting upon the said portions of Myrtle Street sought to be  
26 vacated; and did further find that said portions of Myrtle Street  
27 are situate within the corporate limits of the City of Bellingham,  
28 Washington; and

29 WHEREAS, said City Council did on the 22nda day of  
30 September, 1958, while conveyed in regular session, pass and  
31 enact a resolution, which said resolution was on the 23rd day  
of September, 1958, duly approved by the Mayor of said City,  
fixing Monday October 20, 1958, at the hour of eight o'clock, P.M.,  
in the Council Chamber in the City Hall of the City of Bellingham,  
Washington, as the time and place when said petition would be

CITY ATTORNEY

7200

1 heard and determined, and in such resolution directed the Clerk  
2 of the said City to give notice of the pendency of said petition  
3 as required by law, and

4 WHEREAS, it is deemed advisable to grant said petition  
5 and vacate the said portions of Myrtle Street hereinafter des-  
6 cribed with reservation by the City of Bellingham of easements  
7 for all public utilities; and

8 WHEREAS, on this 29th day of October, 1958, at the  
9 hour of eight o'clock, P.M., said City Council of the City of  
10 Bellingham being in regular session in the Council Chamber in  
11 the City Hall of said City, and said petition coming on regularly  
12 for hearing, it is by such City Council found and determined that  
13 the City Comptroller and ex-officio Clerk of the City of Belling-  
14 ham, did duly and regularly in the manner provided by law, give  
15 more than twenty (20) days notice of the pendency of said peti-  
16 tion by printed notices thereof set up and posted on the 29  
17 day of September, 1958, in three of the most public places  
18 in the City of Bellingham, Washington, to-wit: One at the Lottie  
19 Street entrance of the Whatcom County Courthouse; one at the  
20 Prospect Street entrance of the County Courthouse; and one at  
21 the front door of the City Hall, 210 Lottie Street, Bellingham,  
22 Washington; and that copies of said notice were likewise posted  
23 at appropriate and conspicuous places on the portions of Myrtle  
24 Street sought to be vacated; each and every of such notices  
25 containing a statement of the time and place fixed for the hearing  
26 on said petition, and

27 WHEREAS, it is found that no damage will result to any  
28 person or property by reason of the vacation of the said portions  
29 of Myrtle Street as hereinafter described. That all of the  
30 jurisdictional steps preliminary to the vacation of the same  
31 have been taken as provided by law. That the allegations in

1 said petition are true, and the prayer of said petitioners should  
2 be granted, subject to the conditions as recommended by the  
3 Planning Commission of the City of Bellingham, NOW, THEREFORE,

4 THE CITY OF BELLINGHAM DOES ORDAIN.

5 Section 1. That the following described portions of  
6 Myrtle Street, to-wit:

7 six (6) feet on each side of Myrtle Street  
8 between Indian and High Streets in the City  
9 of Bellingham, Whatcom County, Washington,

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

12 Section 2. That a condition of the vacation of said  
13 portions of Myrtle Street is as follows: The City of Bellingham  
14 retains the right to exercise and grant easements in respect to  
15 the said portions of Myrtle Street vacated by this ordinance,  
16 for the construction, repair and maintenance of water, sewer,  
17 electric and telephone distribution and transmission utilities,  
18 particularly in continuance of any existing utilities over and  
19 across any part of said portions of Myrtle Street, and the right  
20 to have the same reconstructed, operated, repaired and maintained,  
21 said retained rights to be perpetual across said vacated portions  
22 of Myrtle Street.

23 Section 3. That no damage will result to any person  
24 or persons or to any property by reason of the vacation of said  
25 portions of Myrtle Street hereinbefore described.

26 Section 4. That all ordinances and parts of ordi-  
27 nances in conflict herewith, be, and the same are hereby repealed.

28 Section 5. That this ordinance shall take effect  
29 after its final passage and approval as provided by the  
30  
31

7200

1 Charter of the City of Bellingham.

2 Passed by the City Council of the City of  
3 Bellingham this 10th day of November, 1958.

4 Approved by me this 10th day of November, 1958.

5  
6 John E. Seeger Mayor  
7

8 Attest: Alfred S. Hoop  
9 City Comptroller

10 Published: Nov. 13, 1958  
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The City of Bellingham  
Washington

Ordinance No. 7700

An Ord. in relation to the  
Extension of 6 ft. on ea. side  
of Myrtle St. betw. Indian and  
High Sts. in the City of Bhm.

Council Bill No. 8498

Introduced 10-20-58 By

Second Reading 10-20-58

Referred to City Attorney

Report Approved as to Form

City Attorney

Remarks

Third Reading 11-12-58

Message

Presented to Mayor

11-12-58

11-12-58

Approved

Mayor

11-12-58

John E. Westford

Filed

Published

Engraved

By

Vol.

Vol.



## 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 28, 2020 @ 7:00 PM**, or as soon thereafter as possible during their regular City Council Meeting, which will be held remotely, 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 7200, which is located within a vacated 6 foot row of East Myrtle Row abutting Lot 9, Block 101, in the Map of the Town of New Whatcom, commonly known as 619 E. Myrtle Street, Bellingham, Washington, APN: 380331 172409 0000, on the grounds that said portion of the easement is surplus to the City's needs and is not required for providing continued public utility services.

Detailed information can be found five days prior to the meeting at: [www.cob.org/meetings](http://www.cob.org/meetings).

**Staff Contact: Lance Rexroat, 778-7981, [lrexroat@cob.org](mailto:lrexroat@cob.org)**

Anyone wishing to comment on this item is invited to do so. Advanced testimony by mail, email, and telephone is accepted and strongly encouraged by sending comments to the Council Office, 210 Lottie Street, [ccmail@cob.org](mailto:ccmail@cob.org), or phone (360) 778-8200 to be received prior to **10:00 a.m. Wednesday, September 23, 2020** to be included in the agenda packet. Comment received after that will be distributed to Council but not included in the published packet. Anyone wishing to testify live during the public hearing can do so by registering at the following link: [www.cob.org/cc092820](http://www.cob.org/cc092820). This link can be used before the meeting to pre-register or during the meeting to register and immediately join the meeting. Pre-registration is encouraged.

Those who would like to listen in by phone can do so using any of the following phone numbers:

- (253) 215-8782
- (346) 248-7799
- (669) 900-6833
- (301) 715-8592
- (312) 626-6799
- (929) 205-6099

Meeting ID: 999 7944 9836  
Password: 9

Contact the Council Office at (360) 778-8200 for additional assistance prior to the meeting. Thank you.

Publication date: **September 17, 2020**

**PROPOSED PARTIAL RELEASE OF RETAINED EASEMENT  
IN VACATED 6' ROW AT 619 E. MYRTLE ST. BELLINGHAM**

**PROPOSED 6'  
RELEASE AREA**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF BELLINGHAM, WASHINGTON  
AUTHORIZING THE RELINQUISHMENT OF A PORTION OF A PUBLIC UTILITY  
EASEMENT RETAINED IN THE VACATED SIX (6) FOOT STRIP OF ROW  
ABUTTING LOT 9, IN BLOCK 101, MAP OF THE TOWN OF NEW WHATCOM,  
THAT IS SURPLUS TO THE CITY'S NEEDS**

**WHEREAS**, on November 10, 1958, under Ordinance No, 7200, the City of Bellingham vacated each side of Myrtle Street between Indian and High Streets in Block 101, in the Plat of the Town of New Whatcom ("**Vacated Street**"), subject to the City's retention of an easement for the construction, maintenance and repair of existing or future public utilities within the Vacated Street as authorized in RCW 35.79.030 ("**Retained Utility Easement**"); and

**WHEREAS**, the Retained Utility Easement area is legally described in Exhibit A hereto and graphically depicted in Exhibit B hereto; and

**WHEREAS**, Daniel and Betty Chen of the Chen Family Trust, ("**Owners**") own certain real property commonly known as 619 E. Myrtle Street, Bellingham, Washington, legally described in Exhibit C hereto ("**Subject Property**"), a portion of which is encumbered by the City's Retained Utility Easement; and

**WHEREAS**, Owners have requested that the City relinquish that portion of the Retained Utility Easement that encumbers the Subject Property, that portion being approximately 6 feet wide by 85.8 feet in length as more particularly described in Exhibit D hereto and graphically depicted in Exhibit E hereto ("**Proposed Relinquishment Area**"); and

**WHEREAS**, the purpose of the requested relinquishment is to facilitate private development on the Subject Property; and

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

**WHEREAS**, surplus utility easements that were reserved during street vacations 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 property owner or their predecessor in interest has typically previously paid the City an amount equal to the appraised value of the property as a condition of street vacation; and

**WHEREAS**, the City's Public Works Department has determined that the Proposed Relinquishment Area is surplus to the City's needs and is not needed for continued utility service and has recommended to City Council that it be relinquished; and

**WHEREAS**, a public hearing was held on September 28, 2020 by the City Council to consider the proposed relinquishment; and

**WHEREAS**, following said public hearing, City Council determined that the Proposed Relinquishment Area is surplus to the City's needs, is not needed for continued utility service, and may be relinquished without any additional compensation from owners.

**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 that portion of the Retained Utility Easement that encumbers that portion of the Subject Property identified herein as the Proposed Relinquishment Area, as legally described in Exhibit D hereto and graphically depicted in Exhibit E hereto. The relinquishment instrument shall be in a form approved by the Office of the City Attorney.

**PASSED** by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Council President

**APPROVED** by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Seth Fleetwood, Mayor

**ATTEST:**

\_\_\_\_\_  
Finance Director

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Office of the City Attorney

## EXHIBIT "A"

### Legal Description of Existing Easement Area (ORD. NO. 7200)

SIX (6) FEET ON EACH SIDE OF MYRTLE STREET BETWEEN INDIAN AND HIGH  
STREETS IN THE CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

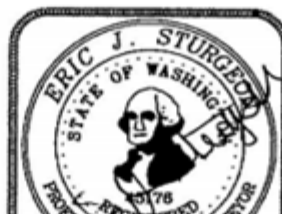
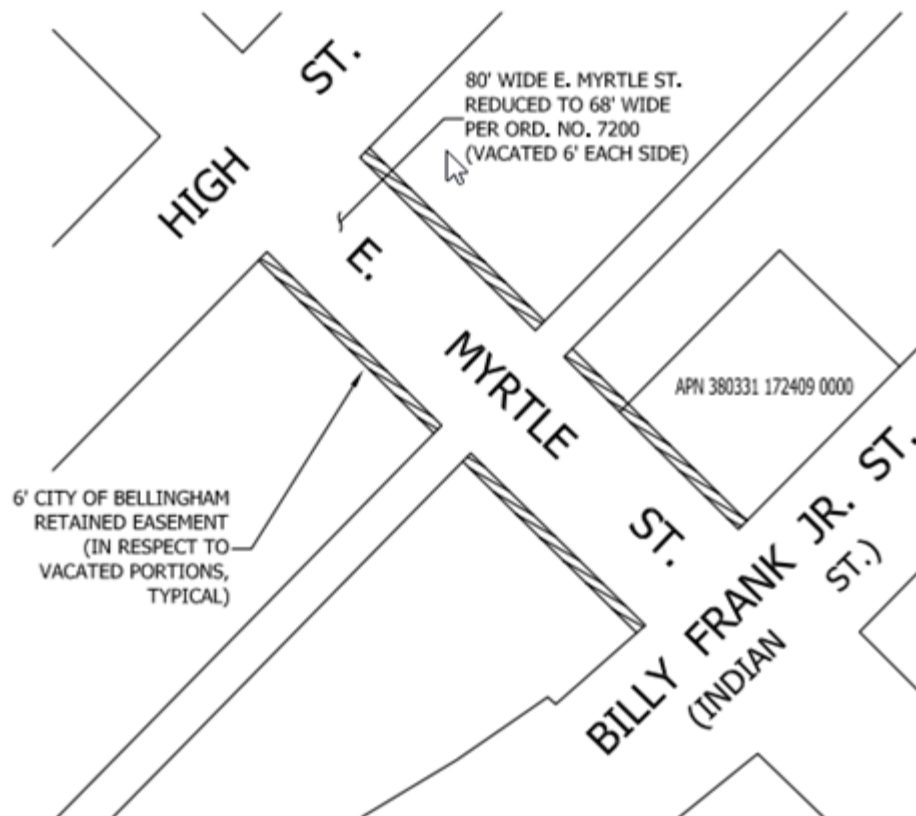


7-21-20

JOB NO. 201709175  
Exhibit Basemaps.dwg  
Map Rev. Date: 07/21/20

# EXHIBIT "B"

Map Depicting Existing Easement Area (Ordinance 7200)  
City of Bellingham, Whatcom County, Washington



## EXHIBIT "C"

### Legal Description of Burdened Property (Q.C.D. A.F. NO. 2017-0701102)

THE SOUTHEASTERLY 85 FEET OF LOTS 9 AND 10, BLOCK 101, MAP OF THE TOWN OF NEW WHATCOM, WHATCOM COUNTY, WASHINGTON TERR. 1883, NOW A PART OF THE CONSOLIDATED CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 24, RECORDS OF WHATCOM COUNTY, WASHINGTON. TOGETHER WITH THE VACATED EASTERLY 6 FEET OF MYRTLE STREET ABUTTING LOT 9, AS WOULD ATTACH BY OPERATION OF LAW, PURSUANT TO BELLINGHAM CITY ORDINANCE NO. 7200.

SITUATE IN WHATCOM COUNTY, WASHINGTON.



JOB NO. 201709175  
Exhibit Basemaps.dwg  
Map Rev. Date: 07/21/20

# EXHIBIT "D"

## Easement Area To Be Relinquished

THE VACATED SIX (6) FEET OF MYRTLE STREET ABUTTING THE SOUTHEASTERLY 85 FEET OF LOT 9, BLOCK 101, MAP OF THE TOWN OF NEW WHATCOM, WHATCOM COUNTY, WASHINGTON TERR. 1883, NOW A PART OF THE CONSOLIDATED CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 24, RECORDS OF WHATCOM COUNTY, WASHINGTON

SITUATE IN WHATCOM COUNTY, WASHINGTON.

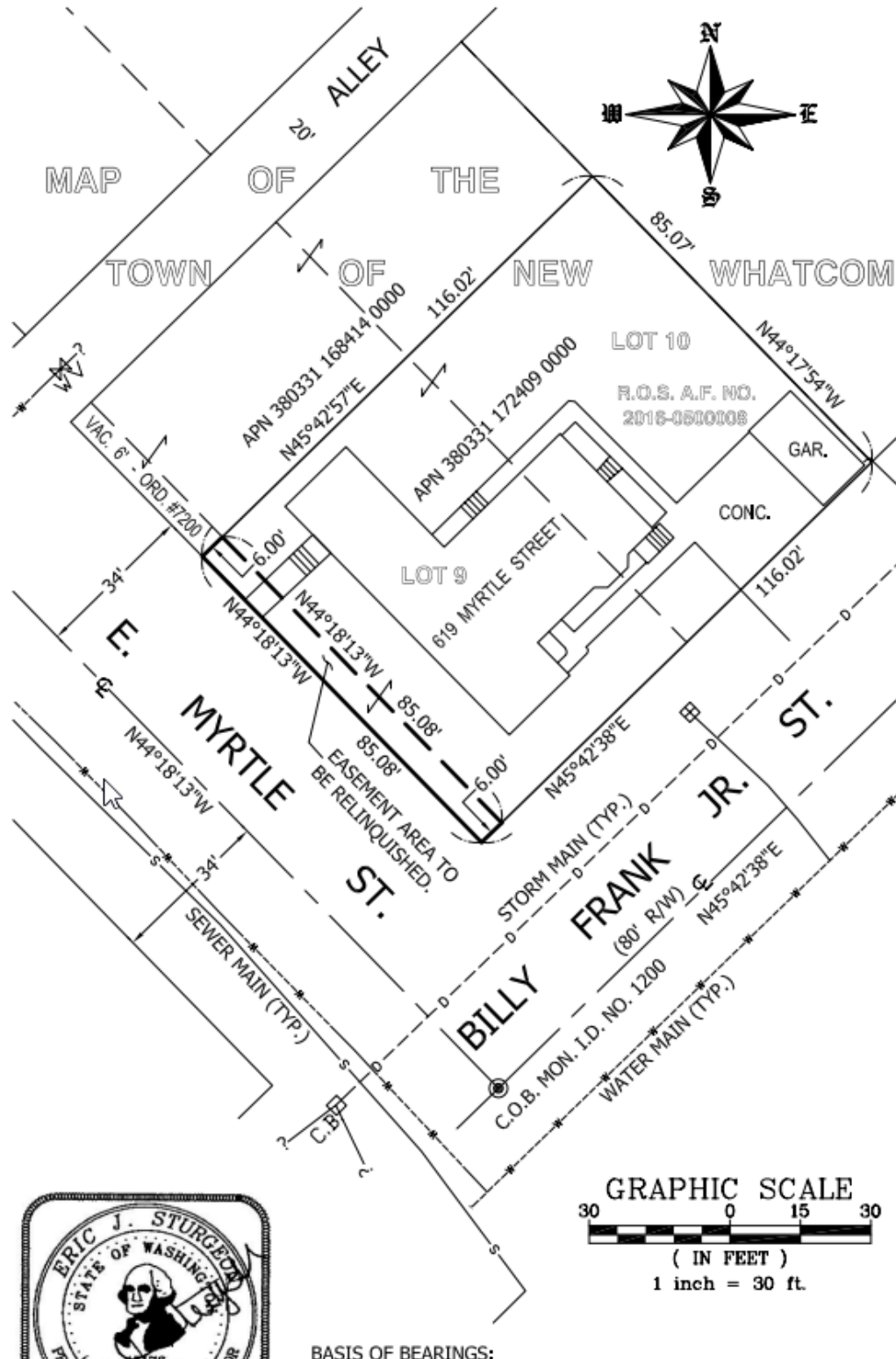


JOB NO. 201709175  
Exhibit Basemaps.dwg  
Man Rev Date: 07/21/20

# EXHIBIT "E"

## DEPICTING EASEMENT AREA TO BE RELINQUISHED

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





# City Council Agenda Bill

22761

Bill Number

Subject: **Public Hearing on Water Use Efficiency Program, 2020-2025**

Summary Statement: Staff will provide an update on the State mandated Water Use Efficiency Program with an overview of past efforts and proposed goals and measures for the next 6 years. This successful City program saved over 70 million gallons of water during the last six (6) years and is poised to continue annual savings with new proposed measures. The Washington State Municipal Water Law (WAC 246-290-810) requires that new goals are set every six (6) years through a public process. Staff seeks to have the proposed goals and measures adopted via resolution to fulfill this requirement. A Public Hearing is required prior to approval.

Previous Council Action: **Resolution 2014-35 Passed October 13, 2014**

Fiscal Impact: **The WUE Program reduces operational costs to the Water Utility through conservation measures. The \$200,000 program, plus staff expenses, is funded through water rates and charges.**

Funding Source: **Water Fund (410)**

Attachments:

1. WUE 2020-2025 STAFF REPORT
2. WUE 2020-2025 PRESENTATION
3. WUE 2020-2025 PUBLIC HEARING NOTICE
4. WUE 2020-2025 DRAFT WORK PLAN
5. WUE DRAFT RESOLUTION

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Public Hearing - Information Only	9/28/2020	Information/Discussion	Eric Johnston, Public Works Director	15 minutes

**Recommended Motion:**

**Council Committee:**

**Agenda Bill Contact:**

Riley Grant, Education and Outreach Coordinator, 360-778-7732

Reviewed By	Department	Date
<i>Eric C. Johnston</i>	Public Works	9/22/2020

**Council Action:**

<i>Matthew T. Stamps</i>	Legal	9/22/2020
<i>Seth M. Fleetwood</i>	Executive	9/22/2020



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## STAFF REPORT

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**TO:** CITY COUNCIL  
**FROM:** ERIC JOHNSTON, PUBLIC WORKS DIRECTOR  
**CC:** MAYOR SETH FLEETWOOD  
**SUBJECT:** PUBLIC HEARING FOR WATER USE EFFICIENCY PROGRAM GOAL SETTING  
**DATE:** September 28, 2020

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### **SUMMARY:**

The Washington State Municipal Water Law (WAC 246-290-810) was passed in 2008 and requires all water suppliers to fulfil responsibilities to safeguard drinking water sources from the growing demand on the limited supplies throughout the state. The Water Use Efficiency (WUE) program was created to fulfill these responsibilities and is overseen by the Washington State Department of Health. The law requires the City to set new goals through a public process every six years. This public hearing is being held to gather public input on the new goal for the 2020-2025 program period and approve the nine corresponding measures that will be implemented to reach the proposed goal.

### **BACKGROUND:**

The City of Bellingham has been complying with all State requirements since 2008, which include:

- Creating new goals and measures every 6 years
- Annual performance reporting
- Installing meters on source and customer meters
- Limited Distribution System Leakage to under 10%

For the 2014-2019 program period, two demand-side goals were met to keep the customer water demand below established thresholds for Average Daily Demand and for Peak Day Demand during summer months. Ten program measures were implemented to help meet these goals, including rebate programs for multiple customer classes, creation of Best Management Strategies for several customer classes, completion of a cost-benefit analysis, installation of a pre-treatment process at the Water Treatment Plant and targeted education programs. In total, the implemented measures saved an estimated total of over 70 million gallons per year, with the addition of the pre-treatment process accounting for the majority of the savings (66 million gal/year).

The results of a cost-benefit analysis and current system demand informed the establishment of a new goal for the 2020-2025 program period. The new goal is to keep the average Peak Day Demand between June and August to 14 million gallons per day (mgd) or less between the 2020-2025 program period. This will require targeted efforts to decrease water demand during the dry summer months. Nine program measures are planned to help reduce indoor and outdoor water use. These measures include:

1. Continue single-family residential rebate program
2. Continue multi-family residential rebate program
3. Continue commercial and institutional rebate program
4. Initiate industrial rebate program
5. High water use notification program
6. Create a plan to work with highest summer water users to reduce consumption
7. Evaluate the option of switching to monthly billing
8. Adjust water billing rates to promote conservation
9. Continue community education and engagement programs

Collectively, these measures are estimated to save at least 4.5 million gallons per year. When compared to no course of action, these conservation measures are estimated to reduce water supply demand by 5% in 2040 when accounting for population growth.

**NEXT STEPS:**

Public comment will be collected and feedback incorporated.

A draft resolution has been put forward for council's consideration. To comply with the Municipal Water Law Council must take action at a future council meeting to adopt the goal and measures.

**RECOMMENDED COUNCIL ACTION:**

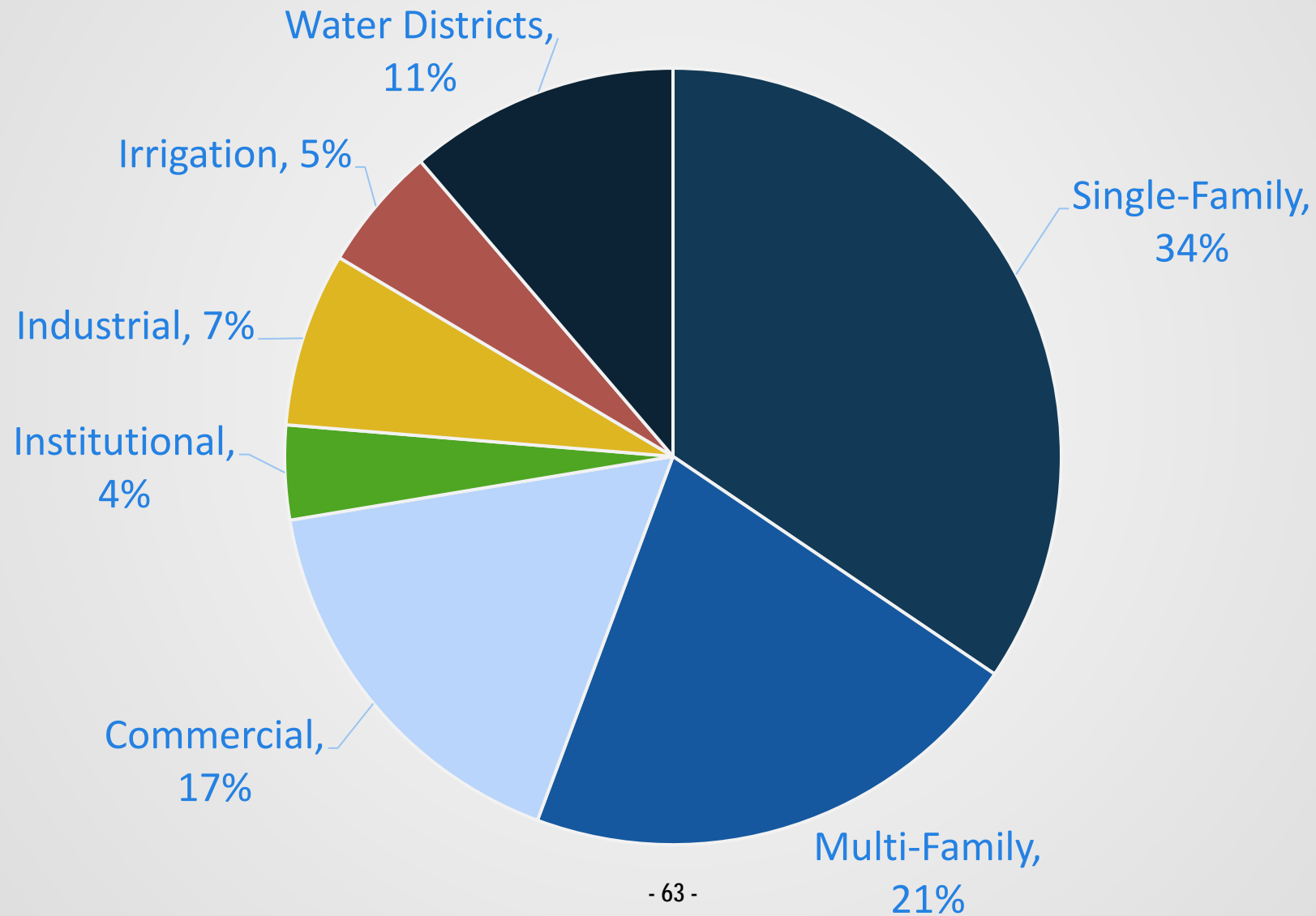
No Council action is required at the September 28 meeting.

# Water Use Efficiency Goal Setting and Measures for 2020-2025

September 28, 2020



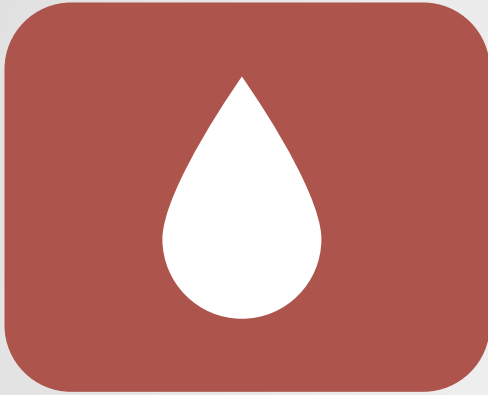
## 2019 Water Demand by Customer Class



# Municipal Water Law

- Contribute to long-term water supply reliability and public health protection
- Promote good stewardship of the state's water resources
- Ensure efficient operation and management of water systems

# 2014-2019 Program Goals



Maintain annual city-wide Average Daily Demand (ADD) below 10 million gallons per day (mgd) during the 2014-2019 program period.

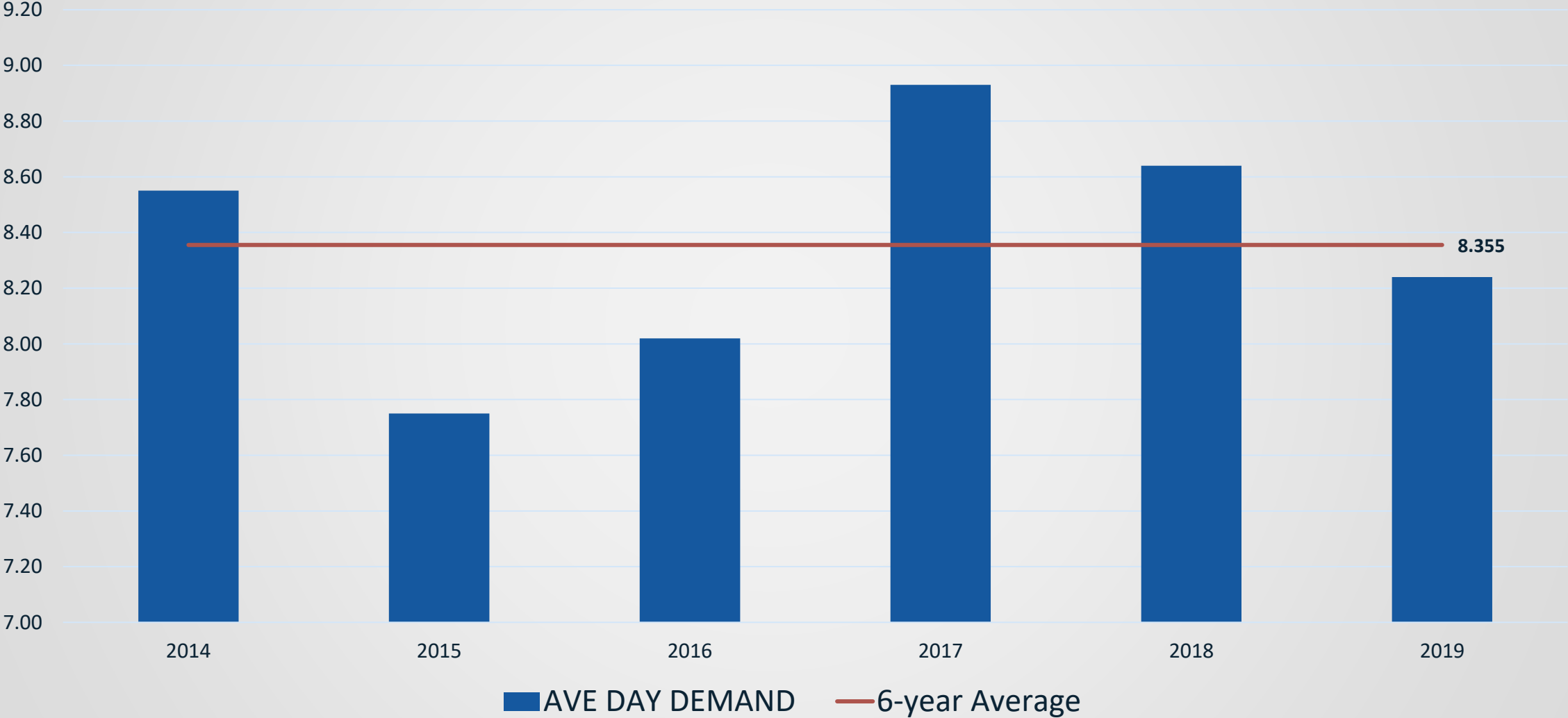


Maintain average Peak Day Demand (PDD) between June 1 and August 31 of each year to below 14 mgd during the 2014-2019 program period.

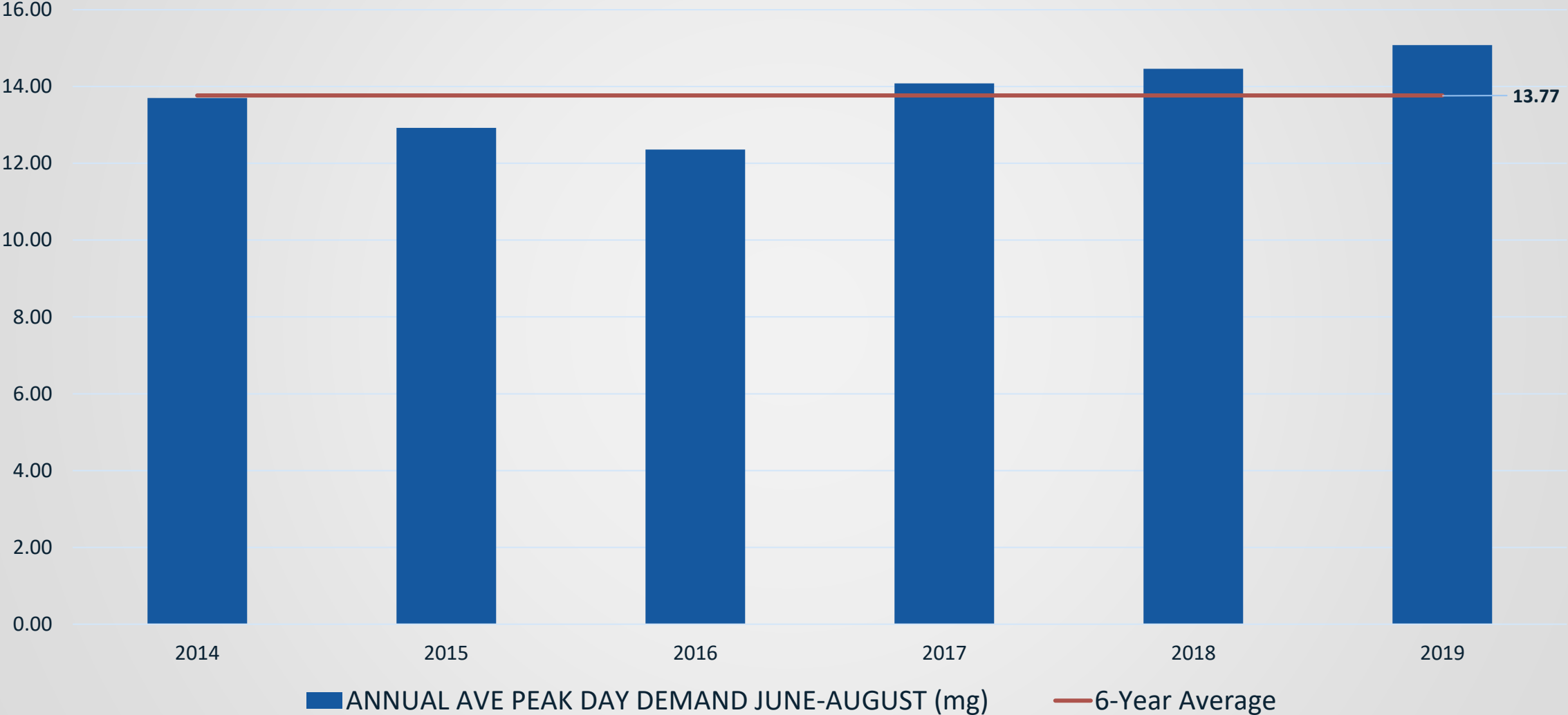
# 2014-2019 Program Measures

1. Single-family residential customer rebates
2. Commercial customer rebates
3. Multi-family residential customer rebates
4. Irrigation Best Management Practices
5. Industrial Best Management Practices
6. Institutional Best Management Practices
7. Engage with partners for targeted resources
8. System-wide cost-benefit analysis
9. Reduce water treatment plant operation water use
10. Sustainable water management demonstration projects

# Average Day Demand 2014-2019



# Peak Day Demand for June-August 2014-2019



# 2020-2025 Proposed Goal



Maintain average Peak Day Demand (PDD)  
between June 1 and August 31 of each year  
to below 14 mgd during the 2014-2019  
program period.

# Rebates

- Residential
- Commercial
- Institutional
- Industrial





## High water use notification

Highest summer  
water users





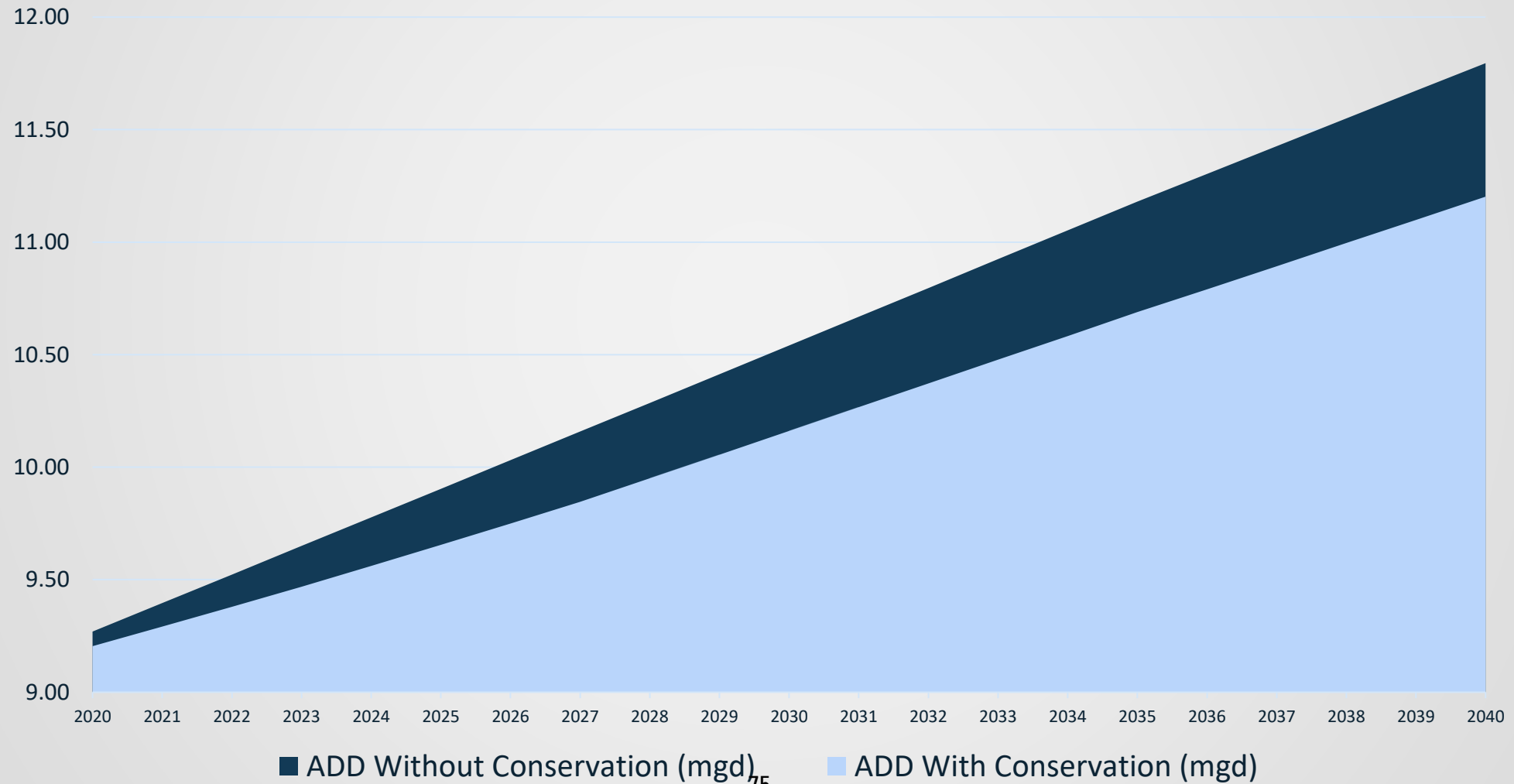
Monthly billing

Adjust rates to  
promote  
conservation

# Community education and engagement



## Bellingham Water Demand Projections with and without conservation





# Thank You!

Presented by: Riley Grant  
Environmental Education Coordinator, Public Works Natural Resources  
360.778.7732 [ragrant@cob.org](mailto:ragrant@cob.org)





## 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 28, 2020 @ 7:00 PM**, or as soon thereafter as possible during their regular City Council Meeting, which will be held remotely, to take public comment on the following:

The City of Bellingham's draft Water Use Efficiency Program for the 2020-2025 period, as required by the Washington Department of Health. The City seeks to adopt one (1) goal and nine (9) measures that will guide utility efforts for efficient management of this resource.

Detailed information can be found five days prior to the meeting at:

<https://cob.org/services/environment/conservation/goals-measures>

**Staff Contact:** Renee LaCroix, 360-778-7966, [rlacroix@cob.org](mailto:rlacroix@cob.org)

Anyone wishing to comment on this item is invited to do so. Advanced testimony by mail, email, and telephone is accepted and strongly encouraged by sending comments to the Council Office, 210 Lottie Street, [ccmail@cob.org](mailto:ccmail@cob.org), or phone (360) 778-8200 to be received prior to **10:00 a.m. Wednesday, September 23, 2020** to be included in the agenda packet. Comment received after that will be distributed to Council but not included in the published packet. Anyone wishing to testify live during the public hearing can do so by registering at the following link: [www.cob.org/cc092820](http://www.cob.org/cc092820). This link can be used before the meeting to pre-register or during the meeting to register and immediately join the meeting. Pre-registration is encouraged.

Those who would like to listen in by phone can do so using any of the following phone numbers:

- (253) 215-8782
- (346) 248-7799
- (669) 900-6833
- (301) 715-8592
- (312) 626-6799
- (929) 205-6099

Meeting ID: 999 7944 9836

Password: 9

Contact the Council Office at (360) 778-8200 for additional assistance prior to the meeting. Thank you.

Publication date: **September 14, 2020**



# Water Use Efficiency Program

2020-2025 Work Plan

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## EXECUTIVE SUMMARY

Washington State Municipal Water Law (WAC 246-290-810) requires all water suppliers to fulfil responsibilities to safeguard drinking water sources from the growing demand on the limited supplies throughout the state. These responsibilities created the Water Use Efficiency (WUE) program, which is overseen by the Washington State Department of Health. The City of Bellingham has been complying with all State requirements since 2008, which include:

- Creating new goals and measures every 6 years
- Annual performance reporting
- Installing meters on source and customer meters
- Limited Distribution System Leakage to under 10%

This report details the results from the 2014-2019 WUE program period and describes the goals and program measures for the 2020-2025 program period. In addition, other required program elements are discussed.

For the 2014-2019 program period, two demand-side goals were met to keep the customer water demand below established thresholds for Average Daily Demand and for Peak Day Demand during summer months. Ten program measures were implemented to help meet these goals, including rebate programs for multiple customer classes, creation of Best Management Strategies for several customer classes, completion of a cost-benefit analysis, installation of a pre-treatment process at the Water Treatment Plant and targeted education programs. In total, the implemented measures saved an estimated total of over 70 million gallons per year, with the addition of the pre-treatment process accounting for the majority of the savings (66 million gal/year).

The results of the cost-benefit analysis and current system demand were considered to establish a new goal for the 2020-2025 program period. The goal to keep the average Peak Day Demand between June and August to 14 million gallons per day (mgd) or less between the 2020-2025 program period will require targeted efforts to decrease water demand during the dry summer months and nine program measures are planned to help reduce indoor and outdoor water use. These measures include new and existing rebate programs for indoor water conservation, a high-water use notification program to reduce customer leaks, targeted work with highest summer water consumers, switching to monthly billing, adjusting rates to promote conservation, and educational programs. Collectively, these measures are estimated to save at least 4.5 million gallons per year. When compared to no course of action, these conservation measures are estimated to reduce water supply demand by 5% in 2040 when accounting for population growth.

## MUNICIPAL WATER LAW REQUIREMENTS

### BACKGROUND

In 2003 the Washington State Legislature passed Engrossed Substitute House Bill 1338, known as the Municipal Water Law (MWL) to address increasing demand on our state's water resources. The Department of Health (DOH) was directed to oversee and enforce a Water Use Efficiency Program<sup>1</sup> (WUE) to help support the collective goal of ensuring a safe and reliable drinking water supply. The WUE seeks to support this goal in the following ways:

- Contribute to long-term water supply reliability and public health protection
- Promote good stewardship of the state's water resources
- Ensure efficient operation and management of water systems

Enacted January 22, 2007, water suppliers must fulfill certain responsibilities. Applicable requirements specific to the City of Bellingham are listed in Table 1.

**Table 1. Municipal Water Law requirements**

Requirements	Timeline
Water Use Efficiency Program <ul style="list-style-type: none"><li>• Goal Setting &amp; Performance Measures</li></ul>	Every 6 years
Performance Reporting	Annually
Metering Requirements	January 22, 2017
Distribution Leakage Standard	2020

---

### WATER USE EFFICIENCY PROGRAM

As part of the Planning Requirements of the WUE, municipal water suppliers are required to collect data, forecast demand, evaluate WUE measures, calculate distribution leakage and implement a WUE program to meet their goals. As of January 1, 2007, water suppliers have been obligated to collect production and consumption data on a regular basis to include in planning documents and annual performance reporting. As part of this data collection, demand forecasting is also an essential component for determining future use and potential savings through a water use efficiency program. A description of the water supplier's water source and supply characteristics must also be provided.

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<sup>1</sup> WAC 246-290-810

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## GOAL SETTING AND PERFORMANCE MEASURES

The WUE requires municipal water suppliers to establish a water use efficiency goal and measures for a six-year period through a public process. Goals must be measurable, address water supply and demand forecasting, and include an implementation schedule.

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## PERFORMANCE REPORTING

A progress report on annual water system production total, update on adopted WUE goals and measure performance, and distribution system leakage information, when applicable, are required in the report by July 1 of each year. Performance reports are to be made available to the public via the website or as part of the annual Consumer Confidence Report.

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## METERING

Production and service meters are required on all new and existing connections served water. Purveyors had to have meters installed by January 22, 2017 to be in compliance with WAC 246-290.

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## DISTRIBUTION LEAKAGE STANDARD

Municipal water suppliers are required to meet a 10% or less distribution system leakage rate to comply with the state standard. Leakage must be presented both as a percentage and as leakage volume and based on a rolling three-year average. If water supplier is unable to meet this standard, the supplier must develop and implement a Water Loss Control Action Plan that outlines the steps and timelines to achieve the desired leakage rate.

## CITY OF BELLINGHAM WATER SUPPLY CHARACTERISTICS

### SOURCE

The City of Bellingham's (hereafter "the City") water supply originates as rain and snow in the Lake Whatcom and the Middle Fork Nooksack River watersheds. Water from the Middle Fork can be diverted via a dam through an underground tunnel in Bowman Mountain. From there, the water travels to Mirror Lake, where fine sediment settles out, and then on to Anderson Creek and its final destination of Lake Whatcom. Lake Whatcom is the principal supply reservoir for the system. Water withdrawn from Lake Whatcom is screened then treated at the water treatment plant, located near Whatcom Falls Park.

### PRODUCTION AND DELIVERY SYSTEM

The current average production from the Water Treatment Plant (WTP) is about 8.5 million gallons per day (mgd). Treated water is pumped through nine pump stations and stored in one of 14 storage reservoirs placed throughout the City. The combined capacity of the storage reservoirs is 28.43 million gallons (MG). The system is comprised of six main pressure zones with storage and seven constant pressure neighborhood zones that do not contain water storage.

The largest number of service connections in the City is comprised of single-family residential water customers, which also happen to be the largest water consumer class. This customer class consumes approximately 34% of the total water produced.

Figure 1 summarizes consumption in 2019 by customer class. After single-family residential, multi-unit residential and commercial are the second and third largest water consumers by customer class.

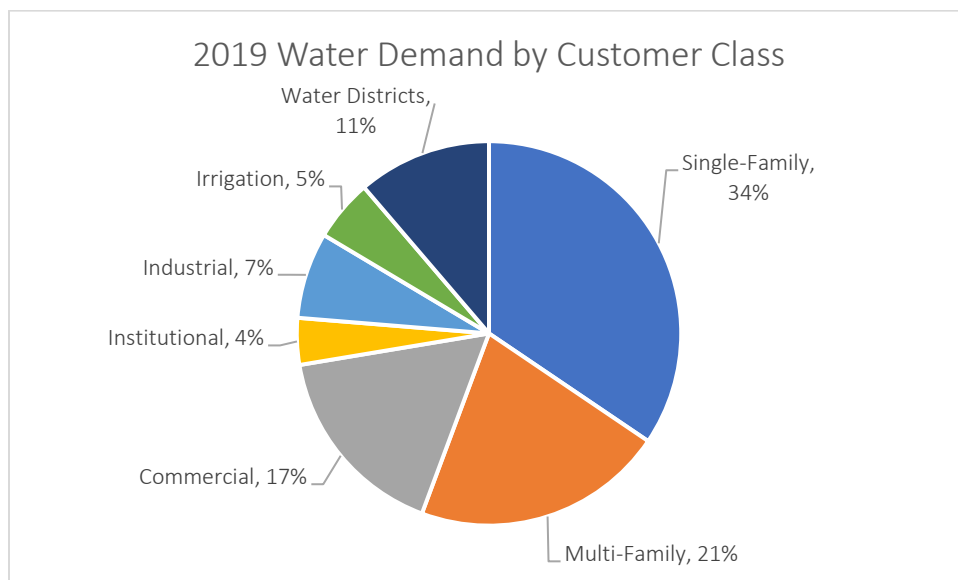


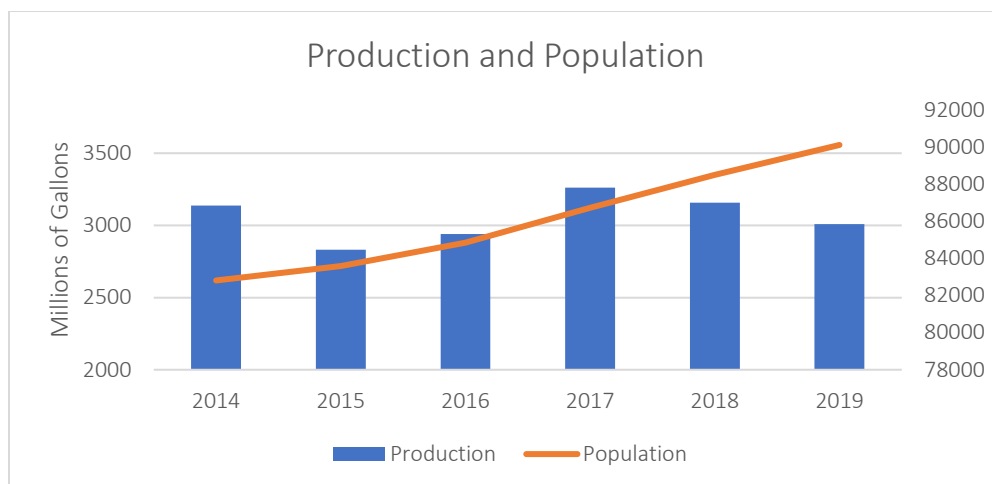
Figure 1. City of Bellingham water demand by customer class for 2019

## 2014-2019 WATER USE EFFICIENCY PROGRAM SUMMARY

### ACCOMPLISHMENTS

The 2014-2019 Water Use Efficiency program was very successful. With the coordinated efforts across multiple city departments and dozens of staff, all requirements were accomplished, and all established goals met.

Annual production volume over the last six years has fluctuated and varied between 2.8 and 3.3 billion gallons, but with a 9% population growth over the same timeframe, demand per connection continues to decrease.



**Figure 2. Annual water production and population growth between 2014-2019**

#### FINISHED METERING PROJECT

Between June 1, 2012 and April 2017 approximately 14,299 residential flat-rate customers were converted to metered accounts to complete the metering requirements under the Municipal Water Law. The work to complete this project included installation and assembly of 7,311 meter boxes and a total of 60,596 total staff hours.

#### MET GOALS

The City Council approved two goals for the 2014-2019 program:

- Goal 1: Maintain city-wide Average Daily Demand at under 10 million gallons per day (mgd) between the 2014-2019 program period.
- Goal 2: Keep average peak day demand between June and August to 14 mgd or less between the 2014-2019 program period.

Both of these goals were met during the 2014-2019 program period. The Average Day Demand (ADD) over program period was 8.355 mgd, significantly less than the goal to keep it below 10 mgd (see Figure 3). The highest ADD during the program period was only 8.93 mgd, in 2017. Additionally, the average Peak Day Demand (PDD) between June and August over the six-year program period was 13.77 mgd, slightly under the goal of 14 mgd or less (see Figure 4). However, the last three years of the program period show a possible trend of increasing PDD, all slightly above the 14 mgd goal. This indicates that there are opportunities for improved summer conservation measures during the next program period, namely a focus on outdoor water conservation during the drier summer months.

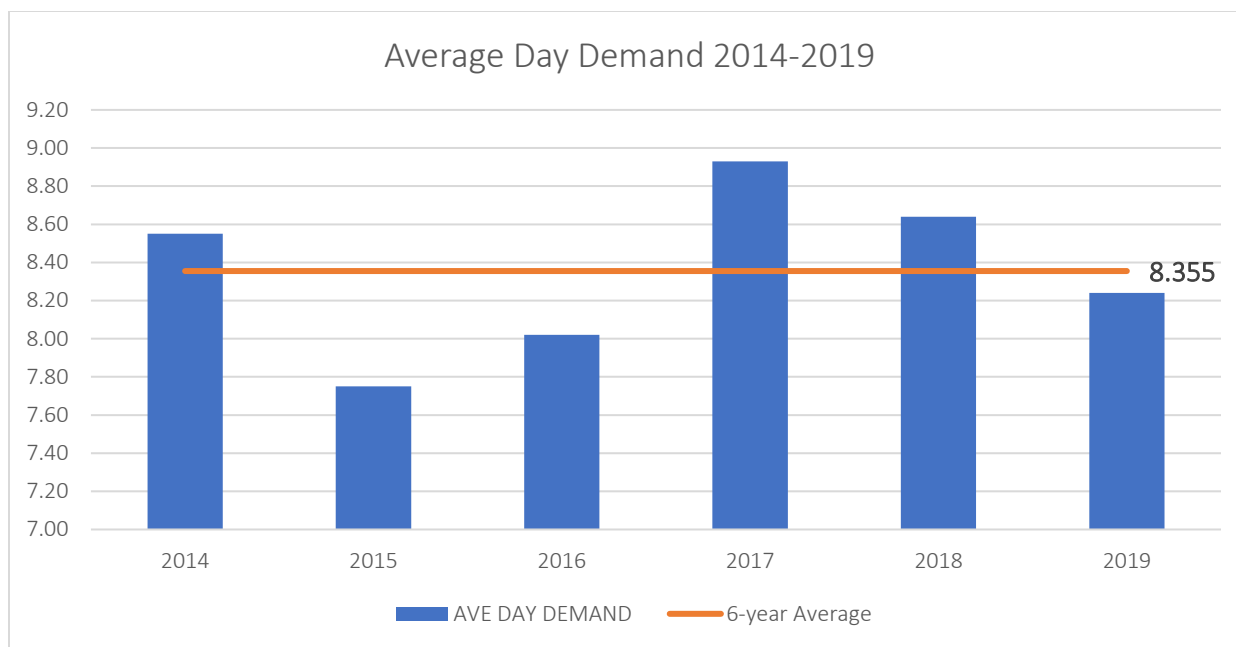


Figure 3. Average Day Demand between 2014-2019 with 6-year average

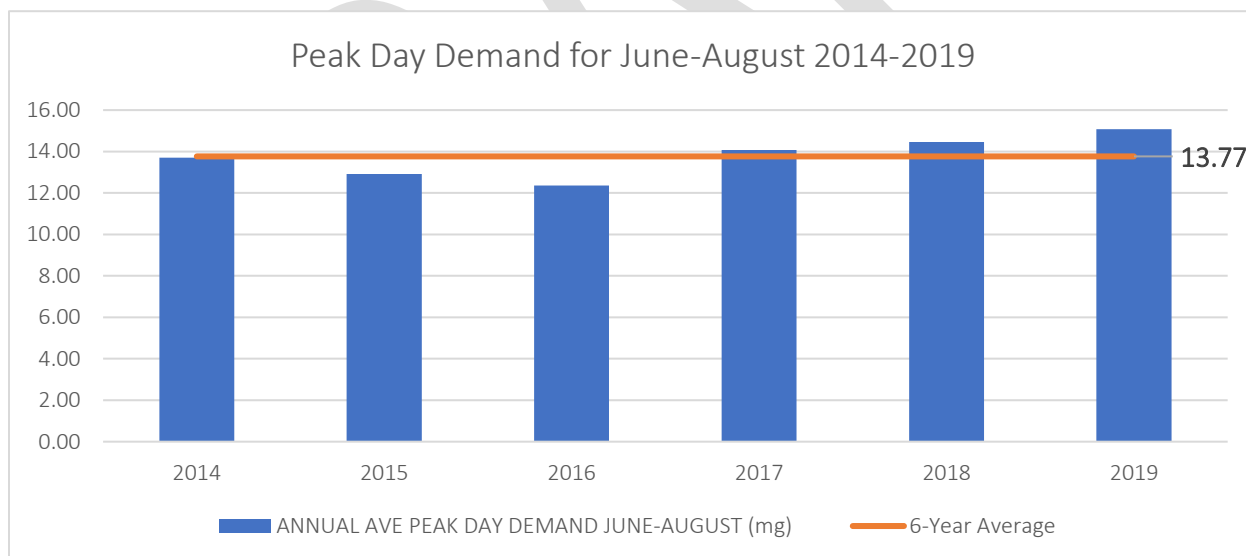


Figure 4. Peak Day Demand during summer months between 2014-2019 with 6-year average.

#### COMPLETED MEASURES

Over the 2014-2019 program period, the Water Use Efficiency program created opportunities for over 70 million gallons of water to be saved each year (see Table 2 for summary). These opportunities primarily targeted indoor water conservation opportunities through fixture replacement programs, plus the substantial savings from installing

a new pre-treatment system at the Water Treatment Plant. Additional measures, as described below, provided education for community members and explored opportunities to provide more technical support for other customer classes through the development of Best Management Practices.

In addition to the ten measures outlined below, supplementary customer education included conservation messaging in the annual [Water Quality report](#) mailed to all customers, advertising in local newspapers and on busses and social media. Additionally, an online [outdoor water conservation pledge](#) was initiated to promote best practices for residential water customers. This pledge was promoted at in-person events and on social media.

**Table 2. Total estimated water saving for 2014-2019 program period**

Measure	Estimated total annual savings (2014-2019) - gallons
Single-family residential rebates	1,017,942
Commercial rebates + direct installs	2,505,341
Multi-family residential rebates (2017-2019 only)	700,000
Dissolved Air Floatation installation at WTP	66,526,667
<b>Total estimated annual water savings</b>	<b>70,749,950</b>

#### MEASURE 1. CONTINUE WATER EFFICIENCY REBATES FOR SINGLE-FAMILY RESIDENTIAL WATER CUSTOMERS

Single-family residential utility customers represent the largest water users by customer class, using approximately 34% of the water. Offering rebates to this customer class for high consumption fixtures provides long-term water conservation without any additional changes to the household behaviors, making rebates one of the most measurable ways to decrease household water use. The U.S. Environmental Protection Agency estimates that replacing an older high-volume flush toilet with an efficient, low-flow toilet saves an average of 10,000 gallons per year, and this savings is continued for the life of the new fixture. Similarly, replacing inefficient clothes washers is estimated to save 7,000 gallons per year for the life of the fixture. During the six-year program period, 149 households participated in the toilet and/or clothes washer rebate program, with over \$30,000 of rebates distributed for a total annual water savings of over 1 million gallons (see Table 3). In addition to the rebate program, all participating households received a home water audit from the Opportunity Council's Community Energy Challenge and were given educational materials and an indoor water conservation kit that includes a kitchen and bathroom low-flow faucet aerator, low-flow showerhead and leak detection dye-tabs. It is known that these additions provide increased benefit, but it is too challenging to capture verifiable quantitative savings.

Table 3. Single-family Residential rebate summary for 2014-2019 program period.

Year	Total Households	Total Toilet Rebates	Total Toilet Rebates Value	Estimated Water Savings (gallons per year)	Total Clothes Washer Rebates	Total Clothes Washer Rebates Value	Estimated Water Savings (gallons per year)	Community Energy Challenge Rebate	Total Rebates	Total Water Savings (gallons per year)
2014	11	4	\$ 448.00	40,000	7	\$ 1,050.00	49,000	\$ -	\$ 1,498.00	89,000
2015	53	69	\$ 6,803.92	276,000	14	\$ 1,400.00	98,000	\$ 3,400.00	\$ 11,603.92	374,000
2016	26	30	\$ 2,996.00	120,000	6	\$ 500.00	42,000	\$ 2,200.00	\$ 5,696.00	162,000
2017	21	26	\$ 2,569.00	104,000	5	\$ 500.00	35,000	\$ 2,000.00	\$ 5,069.00	139,000
2018	16	16	\$ 1,348.00	49,836	12	\$ 1,200.00	84,000	\$ 1,000.00	\$ 3,548.00	133,836
2019	22	32	\$ 2,424.00	85,106	5	\$ 500.00	35,000	\$ 1,495.00	\$ 4,419.00	120,106
Totals	149	177	\$ 16,588.92	674,942	49	\$ 5,150.00	343,000	\$ 10,095.00	\$ 31,833.92	1,017,942

## MEASURE 2. CONTINUE WATER EFFICIENCY REBATES FOR COMMERCIAL WATER CUSTOMERS

A similar rebate program was established for commercial water customers, with a variety of rebates for replacing fixtures and appliances that use water inefficiently. The program also includes an assessment from the Community Energy Challenge and offers rebates for eligible toilets, urinals, pre-rinse spray valves, clothes washers and commercial kitchen equipment such as food steamers, dishwashers and ice machines. However, during the program period, only toilet, clothes washer and ice machine rebates were distributed, for a total of 155 rebates totaling \$21,844 with an annual saving estimate of just over 1 million gallons (see Table 4). One substantial difference between the residential and commercial rebate programs is that during the water assessment, the contractor complete direct installs of low-flow faucets aerators and showerheads, allowing for additional measurable water savings. When adding in the savings from directly installed fixtures, the commercial rebate program had a total annual savings of 2.5 million gallons.

Table 4. Commercial and Institutional program summary for 2014-2019 program period.

Year	Assessments	Total Rebates	Rebates – est. water savings (gallons/year)	Total Rebate	Direct Installs- est. water savings (gallons/year)	Total Estimated Water Savings (gallons/year)
2014		8	68,900	\$ 1,498	85,200	155,598
2015	6	92	874,400	\$ 12,846	151,200	1,038,446
2016	26	10	62,000	\$ 3,000	-	65,000
2017	25	0	-	-	317,086	317,086
2018	17	0	-	-	137,093	137,093
2019	15	45	180,000	\$ 4,500	607,619	792,119
Totals	89	155	1,185,300	\$ 21,844	1,298,197	2,505,341

---

### MEASURE 3. EXTEND REBATES TO MULTI-UNIT WATER CUSTOMERS

Starting in 2017, a rebate program and assessment process was established for multi-unit customers. The assessments are administered by the Opportunity Council's Community Energy Challenge by reaching out to property owners and management companies with 3 or greater units. The variability of this program is similar to the commercial customer program, with large projects coming at irregular intervals, but overall the first three years were successful, working with a total of 4 properties, with over 500 total units, that resulted in 70 toilet rebates for just under \$6,000 and an estimated annual water savings of 700,000 gallons per year (see Table 5).

**Table 5. Multi-family residential rebate summary for 2014-2019**

Year	Total Properties	Total Toilet Rebates	Total Toilet Rebates Value	Estimated Water Savings (gallons/year)	Total Clothes Washer Rebates	Total Rebates	Total Water Savings (gallons/year)
<b>2017</b>	1	7	\$ 658.42	70,000	0	\$ 658.42	70,000
<b>2018</b>	2	39	\$ 3,013.99	390,000	0	\$ 3,013.99	390,000
<b>2019</b>	1	24	\$ 2,261.11	240,000	0	\$ 2,261.11	240,000
<b>Totals</b>	<b>4</b>	<b>70</b>	<b>\$ 5,933.52</b>	<b>700,000</b>	<b>0</b>	<b>\$ 5,933.52</b>	<b>700,000</b>

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### MEASURE 4. ESTABLISH BEST MANAGEMENT PRACTICES FOR IRRIGATION WATER CUSTOMERS

In Bellingham, with our wet environment and largely residential customer base, there are a relatively small percentage of irrigation customers, but these accounts still use approximately 5% of produced water. In order to identify opportunities for these customers to improve their efficiency, Best Management Practices (BMPs) were established and put together in a guidebook that is available for customers on the City's website:

<https://cob.org/wp-content/uploads/best-mgmt-practices-irrigation-systems.pdf>

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### MEASURE 5. ESTABLISH BEST MANAGEMENT PRACTICES FOR INDUSTRIAL WATER CUSTOMERS

Industrial water customers account for another 7% of water and have a large variety of uses for water compared to other customer classes. In order to help this customer class with better conservation practices, Best Management Practices were established and a guidebook was developed. The guidebook is available on the City's website:

<https://cob.org/wp-content/uploads/best-practices-industrial-water-conservation.pdf>

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### MEASURE 6. ESTABLISH BEST MANAGEMENT PRACTICES FOR INSTITUTIONAL WATER CUSTOMERS

Upon close examination of the institutional customer class, it became clear that the current Best Management Practices offered for the commercial customer class through the water assessments completed with a qualified consultant are the same BMPs for institutional customers. This assessment program was already available to institutional customers and rebates continued to be offered to this customer class as well.

---

## MEASURE 7. ENGAGE PARTNERS TO PROVIDE WATER USE EFFICIENCY RESOURCES TO TARGETED CUSTOMER CLASSES

This measure provides a multitude of educational opportunities throughout our community, with an emphasis on targeting specific customer classes as well as educating youth by providing funds to local organizations.

a. Sustainable Connections Community Energy Challenge

The Community Energy Challenge is a partnership between the Opportunity Council, Sustainable Connections, and the City of Bellingham to provide energy and water audits to residential, commercial and institutional customers. Providing additional funding for Sustainable Connections' Community Energy Challenge allowed for targeted water assessment for commercial and institutional water customers. As mentioned in the discussion of Measure 2, this program works with businesses and can provide direct installs of faucet aerators and showerheads when applicable, increasing the impact of the water assessment.

b. Opportunity Council Community Energy Challenge

The Opportunity Council implements the residential elements of the Community Energy Challenge program and the City provides additional funding to add water assessments for both single- and multi-family project in the City of Bellingham. The partnership is reflected in the effectiveness of Measure 1 and Measure 3 as described above for targeting residential fixture and appliance upgrades.

c. RE Sources Sustainable Schools

RE Sources is a local non-profit organization that focuses on education and action to promote sustainable communities. Partnering and providing funding for RE Sources' Sustainable Schools program over the last 6 years grew the program from only offering water conservation education to elementary students to offering K-12 water conservation education. During the 2014-2019 program period, over 3,000 students were educated about basic to advanced water conservation concepts and action projects were implemented to apply the learning.

d. Washington State University (WSU) Whatcom County Extension Sustainable Landscaping- Gardening Green

For over a decade, WSU Whatcom County Extension program offered a sustainable landscaping course called Gardening Green. The City of Bellingham provided funding for this program to integrate water conservation best practices into the curriculum in order to get targeted water conservation education to those invested in sustainable landscaping practices. The six-week course covered in-depth information and was widely praised by participants. Between 2014-2018, 75 City of Bellingham water customers participated in the program. Unfortunately, the staff that previously taught this course retired, so the course was not offered in 2019 and beyond.

---

## MEASURE 8. DEVELOP SYSTEM-WIDE WATER USE EFFICIENCY COST-BENEFIT ANALYSIS

In 2019, a system-wide cost-benefit analysis was initiated using the Alliance for Water Efficiency's [Conservation Tracking Tool](#). This tool provides many benefits beyond cost-benefit tracking, so can continued to be used to track

water efficiency implementation over the years. The results of the analysis are available on the [City's website](http://www.cob.org/consERVE) (www.cob.org/consERVE) and are reflected in the 2020-2025 work plan proposed below.

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#### MEASURE 9. REDUCE WATER TREATMENT PLANT OPERATIONAL WATER USE VIA IMPLEMENTATION OF GREATER WATER EFFICIENT TECHNOLOGY

In 2018, the Dissolved Air Floatation pre-treatment process came online at the Water Treatment Plant. This pre-treatment process sends millions of tiny air bubbles into the raw lake water to float debris to the top so as much material as possible can be skimmed off before it enters this existing filtration system. The pretreatment reduces the frequency of filter backwashes, reducing the volume of treated water used within the water treatment process. During the first 12 months of pre-treatment an estimated 66 million gallons of treated water was saved due to less frequent filter backwashes.

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#### MEASURE 10. CONDUCT SUSTAINABLE WATER MANAGEMENT DEMONSTRATION PROJECTS WITH COMMUNITY PARTNERS

Outdoor water conservation is more challenging to address than indoor use because outdoor use is variable and many best practices are recurring behaviors, as opposed to the one-time behavior of installing more efficient indoor appliances and fixtures. Therefore, providing sustainable outdoor water management demonstration projects with community partners is a great opportunity to demonstrate best practices for outdoor water conservation while also educating the community. During the 2014-2019 program period, four demonstration projects were installed at community or school gardens, all water catchment cistern projects (see Table 6 for summary).

**Table 6. Sustainable water management demonstration projects completed during 2014-2019 program period**

Year	Rainwater Catchment Project	Type of system	Total Material Costs
2015	Center for Local Self-Reliance	2,500 gallon cistern	\$ 1,706.70
2015	Whatcom Middle School	2,500 gallon cistern	\$ 1,627.77
2016	Kulshan Middle School	2,500 gallon cistern	\$ 1,606.51
2018	Fairhaven Community Garden	1,500 gallon cistern	\$ 931.56

## 2020-2025 WORK PLAN

Staff reviewed the outcomes from the 2014-2019 program to determine the goal and measures for the 2020-2025 program. As outlined above, the previous Average Daily Demand goal was easily met, however, there was an upward trend seen in the last three years for the summer Peak Day Demand goal. Since the summer fluctuation in water demand is one of the bigger challenges for water distribution and more costly to manage, the focus of the 2020-2025 program period will be targeted at keeping the Peak Day Demand below the 14 mgd target. In order to do this, outdoor water conservation efforts will need to increase. In addition, lowering the average indoor baseline will help provide more room for the summer influx to stay below the targeted threshold, and most indoor conservation measures have better long-term water savings, so there will still be a large focus on fixture replacement programs and general water conservation education.

## 2020-2025 GOAL

Maintain average Peak Day Demand (PDD) between June 1 and August 31 of each year to below 14 mgd during the 2020-2025 program period.

Supplying peak water demand is one of the most challenging and costly segments of a water utility's demand curve; therefore, it is appropriate to introduce a goal aimed at reducing peak water use. The City's summertime peak day water demand has averaged around 14 mgd during the 2014-2019 period. Continuing this goal targets improving the increasing trend seen over the last 3 years while also accounting for population growth over the next six years.

## 2020-2025 MEASURES

### MEASURE 1. CONTINUE SINGLE-FAMILY RESIDENTIAL REBATE PROGRAM

Based on the results of the [cost-benefit analysis](#), the single-family residential rebate program will continue. Water assessments will continue to be provided by a reputable local contractor to verify eligibility for rebates.

Estimated savings: 750,000 gallons per year

### MEASURE 2. CONTINUE MULTI-FAMILY RESIDENTIAL REBATE PROGRAM

Based on the results of the [cost-benefit analysis](#), the multi-family residential rebate program will continue. Water assessments will continue to be provided by a reputable local contractor to verify eligibility for rebates.

Estimated savings: 750,000 gallons per year

### MEASURE 3. CONTINUE COMMERCIAL AND INSTITUTIONAL REBATE PROGRAM

Based on the results of the [cost-benefit analysis](#), the commercial and institutional rebate program will continue. Water assessments will continue to be provided by a reputable local contractor to verify eligibility for rebates and complete direct installs of faucet aerators, shower heads and spray nozzles.

Estimated savings: 2,000,000 gallons per year

### MEASURE 4. INITIATE INDUSTRIAL REBATE PROGRAM

Based on the results of the [cost-benefit analysis](#), an industrial rebate program will be initiated, primarily targeting cooling towers, but also offering the other commercial and institutional rebates. Each upgraded cooling tower averages over 200,000 gallons of water savings each year, so even with a limited number of cooling towers in the community, initiating this rebate program has substantial community benefits in terms of long-term water savings.

Estimated savings: 1,000,000 gallons per year

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#### MEASURE 5. HIGH WATER USE NOTIFICATION PROGRAM

With the installation of smart meters, the City's water department was able to initiate a high-water use notification program. The remotely read meters report constant data points and are therefore able to quickly detect higher than normal water consumption, which usually indicates a leak.

During the 2020-2025 program period, the water department will develop a tracking system in order to estimate the amount of water savings incurred annually through the high-water use notification program

Estimated savings: unknown

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#### MEASURE 6. CREATE A PLAN TO WORK WITH HIGHEST SUMMER WATER USERS TO REDUCE CONSUMPTION

Working with the highest outdoor water users in the summer months is an ideal practice for reducing the summer Peak Day Demand. Irrigation and single-family residential customers see the biggest increase in consumption during summer months. Identifying the top users and creating a plan to reduce their consumption is more effective than broadly educating all customers.

Estimated savings: unknown

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#### MEASURE 7. EVALUATE THE OPTION OF SWITCHING TO MONTHLY BILLING

Current City of Bellingham water customers receive bills once every two months, a practice that was once widely practiced by utilities. In modern times, many utilities are switching to monthly billing in order to help their customers conserve water. Increasing the frequency of bills allows for more regular and timely information about water use, increases customer's ability to detect leaks quickly and allows for more efficient household budgeting. It also allows for more regular communication with customers to communicate things such as conservation messages. Monthly billing is more likely to help customers realize the need to save water in the summer months.

Estimated savings: unknown

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#### MEASURE 8. ADJUST WATER BILLING RATES TO PROMOTE CONSERVATION

The City's current water rate structure is a uniform rate. Customers are charged a flat rate for service, plus a volume fee for each unit of water used. During the next Water System Plan update, which will occur in 2022 or 2023, this rate structure will be evaluated and adjustments will be made in order to promote water conservation.

Estimated savings: unknown

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## MEASURE 9. CONTINUE COMMUNITY EDUCATION AND ENGAGEMENT PROGRAMS

To continue the focus on indoor and outdoor water conservation, current education programs will continue with some proposed additions to increase outdoor water conservation during summer months.

a. School-based education

Continue to work with local schools to provide water conservation education

b. Distribute BMP guides to all Irrigation and Industrial customers.

Create a plan and distribute the BMP guides that were created in the 2014-2019 program period to all Irrigation and Industrial water customers, including follow up opportunities from trained professionals.

c. Outdoor water conservation education

Continue to provide outdoor water conservation education to all customers during the dry summer months. This may include demonstration projects, general education, workshops or advertising.

d. Initiate water efficiency training program for irrigation professionals

Work with local experts to provide training to irrigation professionals about installation and maintenance best practices for water efficiency.

e. Additional customer education opportunities

Additional opportunities to educate customers will be used when they occur. Examples may include collaborative messaging with the Whatcom Water Alliance and conservation articles in the annual Water Quality reports mailed to all water customers.

## PROGRAM EVALUATION

Both formative (program improvement) and summative (proof the program worked as planned) evaluation will be on-going throughout the 6-year period at the macro and micro levels to determine if measures are proving to be cost-effective and meeting the short- and long-term outcomes. The Alliance for Water Efficiency's Conservation Tracking Tool will be used to evaluate program cost-effectiveness.

City staff recognizes that targeted messaging, barrier removal, and outreach to new audiences can assist in program participation. The communications framework below illustrates the types of strategies that can be employed with targeted messages to various audiences for existing and new water use efficiency program activities.



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## OUTREACH

Targeting unique outreach messages to selected water customer classes provides specific water use efficiency solutions for each group. Additionally, staff can evaluate which neighborhoods have the greatest participation in water use efficiency measures to date and where outreach efforts can be maximized where participation has been lower to raise awareness about available measures.

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## EDUCATION

Research shows that people are more likely to take action on something they understand. Messaging on water and associated money savings is more likely to be effective when people understand their water use, can identify the largest water-using appliances, and understand the payback timeline when implementing retrofits. Staff will continue to take this approach to education in outreach messaging.

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## COMMUNITY ENGAGEMENT

Some segments of the population are aware of and understand services available from the water use efficiency program, but still have a financial or lack-of-interest barrier to participation. Staff will continue to obtain and review needs and attitudes of these differing segments to determine how best to assist in uptake of water conservation measures.

## MEMBERSHIPS AND AFFILIATIONS

The City is a member of the following organizations that promote water conservation:

- Alliance for Water Efficiency (<http://www.allianceforwaterefficiency.org/>)
- WaterSense (<http://www.epa.gov/watersense/>)

- Whatcom Water Alliance
- Whatcom Watersheds Info Network (<https://www.whatcomwin.org/>)
- Lake Whatcom Management Team (<https://www.lakewhatcom.whatcomcounty.org/>)

## DISTRIBUTION SYSTEM LEAKAGE

The fully metered distribution system has been operating for two years and is ready to be evaluated for distribution system leakage (DSL). DSL is reported annually to the Department of Health in the annual Water Use Efficiency report (find all past reports here: <https://cob.org/services/environment/conservation/goals-measures>).

The DSL is calculated by subtracting the Total Authorized Consumption from the Total Water Produced and the Municipal Water Law allows for a maximum leakage of 10%. In 2018 and 2019, the DSL was found to be -2.5% and -5.8% respectively. Upon close inspection, it has been concluded that the source meter at the Water Treatment Plant must be under-measuring the outflow, causing the negative loss number. The source meter needs to be evaluated for calibration or possible replacement in order to accurately report the Total Water Produced for future years.

With that said, the City operates a robust customer notification program that addresses unusually high consumption for possible leaks and also prioritizes response to any known or potential leaks or main breaks, so precautions are already being taken to keep the actual DSL under 10% to comply with state law.

## DEMAND FORECAST

Predictions about how much water will be needed for delivery to customers at some point far in the future are notoriously difficult to pin down. Accuracy of these forecasts are influenced by population, weather, climate, water prices/rates, and our conservation programs. Table 7 below shows recent figures for population, number of water services, rainfall and average daily demand for Bellingham's water system. The Alliance for Water Efficiency Conservation Tracking Tool was used to calculate the future demand estimates, comparing two scenarios, one with no further conservation programs and one based on the proposed conservation programs outlined in this work plan. The projected water system demands for the required 6-year and 20-year planning periods are summarized in Table 7 and in Figure 5 below.

**Table 7. Trends in Population, Service, Rainfall and Average Daily Demand**

Year	Population	Change in Population	Service Connections	Change in Service Connections	Rainfall (in)	ADD (mgd)	% Change Consumption
<b>2014</b>	82,810		24,555		42.63	8.55	
<b>2015</b>	83,580	0.93%	24,776	0.90%	36.62	7.75	-9.36%
<b>2016</b>	84,850	1.52%	24,946	0.69%	41.37	8.02	3.48%
<b>2017</b>	86,720	2.20%	25,165	0.88%	40.5	8.93	11.35%
<b>2018</b>	88,500	2.05%	25,375	0.83%	36.75	8.64	-3.25%
<b>2019</b>	90,110	1.82%	25,589	0.84%	30.63	8.24	-4.63%

If recent trends continue and the City can meet its goal of maintaining its current per capita water use, then conservation measures will result in a 5% reduction in ADD for by 2040 when compared with projections without conservation measures.

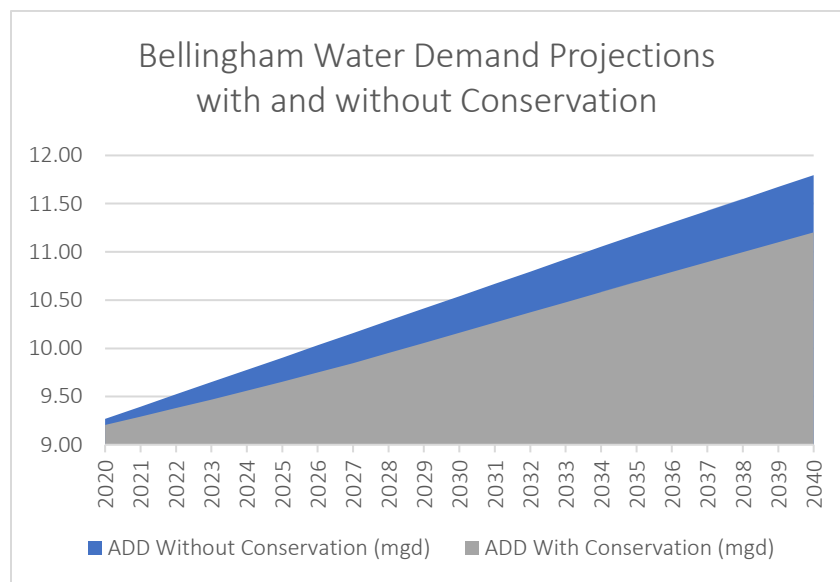


Figure 5. Average Day Demand projections with and without water conservation practices.

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#### RECLAIMED WATER OPPORTUNITIES

Under the Municipal Water Law, water systems that serve over 1,000 connections are required to evaluate reclaimed water possibilities. The City has explored many reclamation possibilities for City facilities and other customers and has determined the combination of the costs of adding Class Treatment to the WWTP, and of pumping and piping of reclaimed water to existing potential customers make reuse of treated wastewater economically unfeasible. The cost of the additional treatment would be great. Even greater would be the cost of constructing miles of transmission and distribution pipes to convey the treated wastewater to the points of application. The total amount of water that would be off set from the City's supply would be relatively small considering the large cost of additional treatment and conveyance. As a result, reuse of treated wastewater is not viable for the City at this time and is not something that will be pursued during the 2020-2025 program period.

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#### RATE STRUCTURE ANALYSIS

At present, the City uses a "cost-of-service" basis for its water rate structure that was adopted in 2012. The City of Bellingham provides water service to roughly 25,000 customers (approximately 100,000 people) inside and outside of the City limits. Customers pay water rates under a structure defined in the Bellingham Municipal Code ([BMC 15.08.250](#)). Beginning in January 2019, the water utility rates levied in 2018 will continue with an annual adjustment each year in January by an inflationary factor tied to the Consumer Price Index, All Urban Consumers (CPI-U), Seattle-Tacoma-Bremerton index. The inflationary factor is calculated and rates are adjusted by the finance director in September of each year using 12 prior months of Consumer Price Index data.

Water rates and charges for services outside the city limits are 150 percent of the usage rates within the City limits and connection charges except those services that are part of a water district or association and served as part of a wholesale contract.

Now that the City has a fully metered water system, consumption data can be reviewed from this standpoint in order to determine the necessity and/or scale of a water conservation rate structure for new rates.

DRAFT

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF BELLINGHAM ADOPTING THE 2014 - 2019 WATER USE EFFICIENCY GOALS AND PERFORMANCE MEASURES**

**WHEREAS**, In 2003 the Washington State legislature passed House Bill 1338, known as the Municipal Water Law, to address increasing demands on our state's water resources; and

**WHEREAS**, The Department of Health was directed to oversee and enforce a Water Use Efficiency Program (WUE) to help support the goals of ensuring safe and reliable drinking water supplies, and

**WHEREAS**, The City Council adopted the 2014-2019 Goals and Performance Measures by Resolution 2014-35 on October 13, 2014, and

**WHEREAS**, The City Council has considered staff presentations, proposals and public comment for the City of Bellingham Water Use Efficiency Goals and Performance Measures for 2020-2025;

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

**The following goal and performance measures shall be included into the City of Bellingham's water use efficiency program and are hereby adopted.**

**Goal**

Maintain average peak day demand between June 1 and August 31 of each year to below 14 million gallons per day (mgd) during the 2020-2025 program period.

**Measures**

1. Continue single-family residential rebate program
2. Continue multi-family residential rebate program
3. Continue commercial and institutional rebate program
4. Initiate industrial rebate program
5. High water use notification program
6. Create a plan to work with highest summer water users to reduce consumption
7. Evaluate the option of switching to monthly billing
8. Adjust water billing rates to promote conservation
9. Continue community education and engagement programs

City of Bellingham  
City Attorney  
210 Lottie Street  
Bellingham, Washington 98225  
360-778-8270

**PASSED** by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Council President

**APPROVED** by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Mayor

**ATTEST:** \_\_\_\_\_  
Finance Director

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Office of the City Attorney

City of Bellingham  
City Attorney  
210 Lottie Street  
Bellingham, Washington 98225  
360-778-8270



# City Council Agenda Bill

22762

Bill Number

Subject: **Mayor's Appointment of Curt Thor to the Mayor's Neighborhood Advisory Commission (Information)**

Summary Statement: The Mayor's Neighborhood Advisory Commission is authorized by BMC 2.33.020.

The Mayor appoints Curt Thor to the Mayor's Neighborhood Advisory Commission as the Edgemoor Neighborhood Primary Representative to his first partial term, which will expire on October 9, 2021, at which time he may be reappointed.

Previous Council Action: **N/A**

Fiscal Impact: **None**

Funding Source: **None**

Attachments: 1. THOR APPLICATION

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Mayor's Report - Appointment - For Information	9/28/2020	Information/Discussion	Mayor Seth Fleetwood	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	9/22/2020
<i>Peter M. Ruffatto</i>	Legal	9/22/2020
<i>Seth M. Fleetwood</i>	Executive	9/22/2020



Office of the Mayor  
City Hall, 210 Lottie Street  
Bellingham, WA 98225  
Phone (360) 778-8100 Fax (360) 778-8101

APPLICATION FOR APPOINTMENT TO  
CITY OF BELLINGHAM BOARDS AND COMMISSIONS  
(Please Type or Print Clearly)

Candidates must presently live within Bellingham City limits and have done so for at least one year, unless otherwise specified. Elected City officials, city officers and employees, and residents having conflicts of interest are ineligible for appointments to City advisory boards. Complete, sign and return this application to the Mayor's Office, City Hall, 210 Lottie Street, Bellingham, WA 98225.

Note: As a candidate to a public board or commission, this information may be made available to the public.

I am interested in serving on the: MNAC  
(Board / Commission)

Name: CURTIS THOR

Mailing Address: \_\_\_\_\_ Zip Code: 98225

Street Address (if different): SAME

Phone Numbers: Home: \_\_\_\_\_ Cell: \_\_\_\_\_ Work: \_\_\_\_\_

Email Address: \_\_\_\_\_

Are you a resident of the City of Bellingham (live within the city limits)? YES ☒ NO ☐

How long have you lived in Bellingham? SINCE JUNE 2015

Neighborhood in which you reside EDGEMORE

Current Occupation: SELF EMPLOYED PROPERTY MANAGER, GENERAL CONTRACTOR, PROPERTY OWNER

OR - If retired, former occupation: 30+ YEARS REAL ESTATE APPRAISER, ARCHITECTURAL DRAFTER

Education: AA

Professional / Community Activities: EDGEMORE NEIGHBORHOOD BOARD MEMBER, FORMER HISTORIC FAIRHAVEN ASSOC. BOARD MEMBER - NOW HOSE MEMBER HFA

Qualifications Related to Position: EDGEMORE NEIGHBORHOOD BOARD MEMBER, LIVE IN EDGEMORE, FOUNDING PRESIDENT OF NORTH BAY REAA, FOUNDING PRESIDENT OF CORPORATE REAA (A NON-PROFIT APPRAISERS ASSOC IN CALIFORNIA w/ 5 CHAPTERS)

Describe why you are interested in serving on this Board or Commission: TO BE UPDATED TO OTHER NEIGHBORHOODS, SHARE ANY EDGEMORE CHANGES OR REQUESTS w/ MAYOR & ALL NEIGHBORHOODS OF BELLINGHAM TO ASSIST EDGEMORE NEIGHBORHOOD OCCUPANTS IN ENA/MNAC MEETINGS.

\*Please feel free to submit any additional documentation (resume, explanation of experience specifically related to this board/commission).

Do you or your spouse have a financial interest in, or are you an employee or officer of any business or agency which does business with the City of Bellingham? YES ☐ NO ☒

If yes, please explain: \_\_\_\_\_

8/25/2020  
Today's Date

[Signature]  
Signature of Applicant



# City Council Agenda Bill

22763

Bill Number

Subject: **Mayor's Appointment of Kate McDonald, David Stalheim and Neil Schaner to the Greenway Advisory Committee (Approval)**

Summary Statement: The Greenway Advisory Committee is authorized under Resolution 2001-14.

The Mayor appoints Kate McDonald to her first partial term, which will expire on March 11, 2022; David Stalheim to his first term, which will expire on September 28, 2023; and Neil Schaner to his first partial term, which will expire on November 18, 2022, at which time they may be reappointed.

The Greenway Advisory Committee shall identify, develop, review and recommend selection criteria, general priorities and specific actions relating to the expenditure and allocation of Greenway Levy Funds. The Committee shall work in cooperation with the Parks & Recreation Department staff per Council Ordinance 2006.09.096.

Previous Council Action: **N/A**

Fiscal Impact: **None**

Funding Source: **None**

Attachments: 1. APPLICATIONS

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Mayor's Report - Appointment - For Approval	9/28/2020	Approve Appointment	Mayor Seth Fleetwood	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Tracy Lewis, Mayor's Office

Council Action:

Reviewed By

*Brian M. Heinrich*

Department

Executive

Date

9/22/2020

*Peter M. Ruffatto*

Legal

9/22/2020

*Seth M. Fleetwood*

Executive

9/22/2020



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City Hall, 210 Lottie Street  
Bellingham, WA 98225  
Phone (360) 778-8100 Fax (360) 778-8101

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JUL 07 2020

EXECUTIVE  
DEPARTMENT

APPLICATION FOR APPOINTMENT TO  
CITY OF BELLINGHAM BOARDS AND COMMISSIONS  
(Please Type or Print Clearly)

Candidates must presently live within Bellingham City limits and have done so for at least one year, unless otherwise specified. Elected City officials, city officers and employees, and residents having conflicts of interest are ineligible for appointments to City advisory boards. Complete, sign and return this application to the Mayor's Office, City Hall, 210 Lottie Street, Bellingham, WA 98225.

Note: As a candidate to a public board or commission, this information may be made available to the public.

I am interested in serving on the: Greenway Advisory Board  
(Board / Commission)

Name: Kate McDonald

Mailing Address: \_\_\_\_\_ Zip Code: 98226

Street Address (if different): \_\_\_\_\_

Phone Numbers: Home: \_\_\_\_\_ Cell. \_\_\_\_\_ Work: \_\_\_\_\_

Email Address: \_\_\_\_\_

Are you a resident of the City of Bellingham (live within the city limits)? YES ☐ NO ☐

How long have you lived in Bellingham? 3 years

Neighborhood in which you reside Cordata

Current Occupation: Retired

OR – If retired, former occupation: Educator -- High School Principal

Education: Masters

Professional / Community Activities: On several Boards including the Cordata Neighborhood Association (President) and the Cordata Business Park Association, member of the Bellingham City Club and LoWV.

Qualifications Related to Position: I have extensive experience in short-range and long-range planning activities, in collaborative efforts, in outreach objectives, and in budgetary decision-making.

Describe why you are interested in serving on this Board or Commission: As a citizen of Whatcom County, I want to contribute to the decisions that maximize our natural resources while balancing our financial needs.

As a hiker, biker, runner, and walker I would like to have a voice in protecting our green spaces.

\*Please feel free to submit any additional documentation (resumé, explanation of experience specifically related to this board/commission).

Do you or your spouse have a financial interest in, or are you an employee or officer of any business or agency which does business with the City of Bellingham? YES ☐ NO ☒

If yes, please explain: \_\_\_\_\_

July 2, 2020  
Today's Date

Kate McDonald  
Signature of Applicant



Office of the Mayor  
City Hall, 210 Lottie Street  
Bellingham, WA 98225  
Phone (360) 778-8100 Fax (360) 778-8101

**APPLICATION FOR APPOINTMENT TO  
CITY OF BELLINGHAM BOARDS AND COMMISSIONS**  
(Please Type or Print Clearly)

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Note: As a candidate to a public board or commission, this information may be made available to the public.

I am interested in serving on the: Planning Commission or Greenways Advisory Committee  
(Board / Commission)

Name: David Stalheim

Mailing Address: Bellingham, WA Zip Code: WA

Street Address (if different): \_\_\_\_\_

Phone Numbers: Home: \_\_\_\_\_ Cell: \_\_\_\_\_ Work: \_\_\_\_\_

Email Address: \_\_\_\_\_

Are you a resident of the City of Bellingham (live within the city limits)? YES ☒ NO ☐

How long have you lived in Bellingham? 12+ years

Neighborhood in which you reside Whatcom Falls

Current Occupation: Long Range Planning Manager - City of Everett

OR - If retired, former occupation: \_\_\_\_\_

Education: Bachelor's of Arts Degree

Professional / Community Activities: \_\_\_\_\_

Qualifications Related to Position: over 30 years in local government planning, affordable housing, and transit  
see attached resume

Describe why you are interested in serving on this Board or Commission: Will retire at end of 2020 and looking at ways  
to serve and get reconnected with my city

\*Please feel free to submit any additional documentation (resumé, explanation of experience specifically related to this board/commission).

Do you or your spouse have a financial interest in, or are you an employee or officer of any business or agency which does business with the City of Bellingham? YES ☐ NO ☒

If yes, please explain: \_\_\_\_\_

02/03/2020  
Today's Date

[Signature]  
Signature of Applicant

# David Stalheim

## Experience

DECEMBER 2015 – PRESENT

CITY OF EVERETT, WA

### ***Long Range Planning Manager***

Manage city's long range planning program, including growth management, regional coordination and historic preservation.

JUNE 2010 – DECEMBER 2015

CITY OF BELLINGHAM, WA

### ***Block Grant Programs Manager***

Managed housing and community development programs, including \$5 million annually of federal entitlement programs and local low-income housing levy.

NOVEMBER 2007 – JUNE 2010

WHATCOM COUNTY, WA

### ***Planning and Development Services Director***

Directed planning, natural resources and building services, including permit review, growth management and watershed planning efforts.

JANUARY 1998 – DECEMBER 2006

CITY OF WENATCHEE, WA

### ***Community Development Director***

- Directed city planning, neighborhood, building, housing, CDBG, community center and code enforcement programs.
- Managed \$5 million in grant funds for community centers, housing rehabilitation, pedestrian bridges, bike paths, parks and planning
- Coordinated city capital facilities planning, negotiated franchises
- Adopted waterfront revitalization plan and other sub-area plans.

JANUARY 1995 – DECEMBER 1997

LINK TRANSIT, WENATCHEE, WA

### ***Service Development Manager/Capital Facilities Coordinator***

Responsible for transit service planning, guest (customer) services, facilities maintenance and community outreach. Coordinated development of capital facility projects, including an \$8.3 Intermodal Transportation Center.

May 1989 – January 1995

CLALLAM COUNTY, WA

### ***Planning Director***

Directed County Planning office, including state growth management laws, water quality, and current planning (permitting). Oversight of building and environmental health programs, budget and grant management.

MARCH 1987 – MAY 1989

CHELAN COUNTY, WA

### ***Plans Administrator***

Responsible for review of development projects and drafting of Lower Lake Chelan Comprehensive Plan. Provided planning assistance to the cities of Leavenworth and Chelan under contract

### **OTHER EMPLOYMENT**

Historian, (WA ST) Office of Archaeology and Historic Preservation  
 Historian, National Park Service (Utah)  
 Jefferson County, WA Planning Dept. (Shorelines Contract)  
 Community Development Director, Ashland, OR

10/82 to 3/83  
 Summer 1983  
 7/85 to 6/86  
 1/07 to 11/07

## Education

BACHELOR OF ARTS DEGREE, 1982

THE EVERGREEN STATE COLLEGE

Major courses of study: Community Planning, Government, Washington State History and Photography

## DAVID STALHEIM

### ACCOMPLISHMENTS

---

#### BOARDS AND COMMITTEES

- **Washington State Transportation Improvement Board** - past member of a 21 person state board that provides funds (\$70 million annually) to cities and counties for local transportation improvements ([www.tib.wa.gov](http://www.tib.wa.gov))
- **Washington State Housing Trust Fund** – Policy Advisory Team member to the Affordable Housing Advisory Board. <http://www.commerce.wa.gov/Programs/housing/TrustFund/Pages/PolicyAdvisoryTeam.aspx>
- **Land and Water Conservation Fund** – Advisory committee member to the Washington State Interagency for Outdoor Recreation awarding grants for outdoor recreation (<http://www.iac.wa.gov>)
- **Chelan County Conservation District** – past Board Supervisor for conservation district ([www.chelancd.org](http://www.chelancd.org))
- **Washington City Planning Directors Association** –past president of state planning directors association ([www.awcnet.org](http://www.awcnet.org))

#### AWARDS

- **Governor's Smart Communities Award** – 2015 Award from Governor Jay Inslee for the Downtown Bellingham Plan
- **Physical Plans** – 2004 Honor Award from American Planning Association, Washington Chapter, for Waterfront Plan
- **Great American Main Street Award** – Wenatchee was the 2003 Winner
- **Partnerships** – 1998 Honor Award from American Planning Association, Washington Chapter, for Columbia Street Warehouse District plan
- **Greenway Plan** – 1995 Award from the Association of Consulting Planners for Dungeness River Greenway Plan
- **Growth Management** – 1991 Honor Award from American Planning Association, Washington Chapter, for Urban Growth Area Study

#### GRANT SUCCESS

- **Community Development Block and HOME Investment Partnership Grants** – Manage \$2 million of HUD grants each year, including drafting strategic and action plans, and reporting.
- **City Housing Levy** – Managed \$3 million annual local low-income housing levy, provided as grants and/or low or deferred interest loans to nonprofits.
- **Wenatchee Community Center** – \$3.4 million project involving rehabilitation of church into community center in low-income neighborhood – multiple grant sources.
- **Enhancement Grants** – Federal transportation enhancement grants, including \$210,000 grant for pedestrian overpass bridge (1999) and \$200,000 for bicycle lane (2001)
- **Transit Grants** – completed application and management of over \$5 million of Federal Transit Administration grants for the construction of an intermodal transportation center
- **Water Quality Grants** – managed numerous water quality grants for Clallam County between 1990 and 1995
- **Other** – numerous small grants less than \$100,000, including state planning and economic development grants

#### REGIONAL COORDINATION

- **City/County Revenue Sharing Agreement** – interlocal agreement regarding annexation, planning and revenue sharing for future growth area (2004)
- **Wenatchee Valley Transportation Council (MPO)** – led organizational effort to form 9 member metropolitan planning organization (2000)
- **Peninsula Regional Transportation Planning Organization** – co-lead staff for formation of 3-county, multi-city and other agency regional transportation planning organization (1991)
- **Franchise Negotiation** – negotiated cable TV, electric and water franchises (2004/5)



Office of the Mayor  
City Hall, 210 Lottie Street  
Bellingham, WA 98225  
Phone (360) 778-8100 Fax (360) 778-8101

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FEB 13 2020

**APPLICATION FOR APPOINTMENT TO  
CITY OF BELLINGHAM BOARDS AND COMMISSIONS**  
(Please Type or Print Clearly)

**EXECUTIVE  
DEPARTMENT**

Candidates must presently live within Bellingham City limits and have done so for at least one year, unless otherwise specified. Elected City officials, city officers and employees, and residents having conflicts of interest are ineligible for appointments to City advisory boards. Complete, sign and return this application to the Mayor's Office, City Hall, 210 Lottie Street, Bellingham, WA 98225.

Note: As a candidate to a public board or commission, this information may be made available to the public.

I am interested in serving on the: Greenway Advisory Committee  
(Board / Commission)

Name: Neil Schaner

Mailing Address: , Bellingham, WA Zip Code: 98225

Street Address (if different): \_\_\_\_\_

Phone Numbers: Home: NA Cell: \_\_\_\_\_ Work: \_\_\_\_\_

Email Address: \_\_\_\_\_

Are you a resident of the City of Bellingham (live within the city limits)? YES ☒ NO ☐

How long have you lived in Bellingham? 2 years and 3 months

Neighborhood in which you reside Lettered Streets

Current Occupation: Civil Engineer

OR - If retired, former occupation: \_\_\_\_\_

Education: MS in Civil Engineering (U. of Washington) and BS in Civil Engineering (U. of Cincinnati)

Professional / Community Activities: Engineers Without Borders, International Living Future Institute,  
Volunteer for NSEA, Cloud Mountain Farm Center, Community Boating Center, WTA

Qualifications Related to Position: Civil Engineer - related experience designing site, corridor, and parks'  
infrastructure, problem analysis and solving, stakeholder engagement, estimating costs and effort; Resident  
- volunteer, parks user, environmental advocate

Describe why you are interested in serving on this Board or Commission: See attached letter.

\*Please feel free to submit any additional documentation (resumé, explanation of experience specifically related to this board/commission).

Do you or your spouse have a financial interest in, or are you an employee or officer of any business or agency which does business with the City of Bellingham? YES ☒ NO ☐

If yes, please explain: My employer, Herrera Environmental Consultants, contracts with the City on  
a competitive, per-project basis to design stormwater and parks facilities.

2/12/20  
Today's Date

Neil Schaner  
Signature of Applicant

## Neil Alexander Schaner, PE

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### EXPERIENCE

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- Herrera Environmental Consultants, Bellingham, WA** Sept. 2017 – Present  
*Project Engineer.* Project manager and design engineer for a variety of civil engineering projects, including site design, public parks, trails, green stormwater infrastructure facilities, and stormwater treatment facilities. Perform large- and small-scale planning to assess solution alternatives, weighing competing goals and engaging multiple stakeholder groups. Train company and municipal staff on use of hydrology modeling software. Vice Chair of Employee Owners Committee promoting our ESOP and bettering Herreras' experience.
- Otak, Water and Natural Resources, Redmond, WA** Oct. 2012 – Jul. 2017  
*Project Engineer.* Act as task manager, perform hydrologic and hydraulic analyses, design solutions, prepare full construction document packages, conduct field reconnaissance for a variety of water resources and civil engineering projects. Prepare memoranda, reports, figures, and presentations for communicating progress and designs to co-workers and clients. Have acted as a construction inspection engineer. Lead junior staff training discussions and mentor staff through casual check-ins and leadership.
- Engineers Without Borders, U. Cincinnati, U. Washington, Puget Sound, Northwest WA** Oct. 2006 – Present  
*Extracurricular.* NW: Treasurer. Work with students and professionals on design of water capture systems in Kenya. International Community Program Reviewer, evaluating other chapters' assessment and implementation plans for appropriateness and feasibility. UW: Worked with junior members on several projects, primarily in Bolivia. Wrote chapter constitution. UC: Led student engineering design team for solar pump, storage tanks, distribution pipelines, and O&M manual for potable water project in 500-member Otho Abwao community in western Kenya. Travelled for assessment and later implementation. Earned EWB-USA Project of the Month for project design details and innovations.

### EDUCATION

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- University of Washington, Seattle, WA** Graduated Jun. 2011  
Master of Science in Civil Engineering. Focus: Water Resources and Hydrology.  
Thesis: The contribution of glacier melt to streamflow (published by *Environmental Research Letters*).  
Advisor: Dr. Dennis P. Lettenmaier.
- University of Cincinnati, Cincinnati, OH** Graduated Jun. 2009  
Bachelor of Science in Civil Engineering, Minor in Sustainable Urban Environments.  
University Honors Scholar, Dean's List, International Co-op Program - Germany.

### CERTIFICATIONS AND SKILLS

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Professional Engineer (WA #53780), International Living Future Institute – Living Future Accreditation (LFA), WSU Extension LID Certification, Envision Sustainability Professional (ENV SP), AutoCAD Civil 3D, ArcGIS, HSPF, WWHM, SWMM, MS Office, Bluebeam, Perl, Boy Scouts Eagle Scout, CPR and first aid, German, Detail oriented, Experienced traveler.

### ACTIVITIES AND INTERESTS

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Engineers Without Borders (Puget Sound, UW, and UC), Washington Trails Association volunteer, Nooksack Salmon Enhancement Association volunteer, Community Boating Center volunteer, Cloud Mountain Farm volunteer, backpacking, hiking, cross-country skiing, swimming, running, learning guitar, cooking and baking, reading.



# City Council Agenda Bill

22764

Bill Number

Subject: **Resolution Designating Bellingham as a Bee City**

Summary Statement: The Bee City USA program endorses a set of commitments for creating sustainable habitats for native pollinators, which are vital to feeding our planet. Bee City certification requirements include passage of a resolution that describes the actions the City will undertake to fulfill our Bee City membership responsibilities. These actions will enhance understanding among local government staff and the public about the vital role that pollinators play and what each of us can do to sustain them. Bee City program commitments will be undertaken by City staff from various departments and community volunteers.

Previous Council Action: **None**

Fiscal Impact: **\$400 membership fee**

Funding Source: **General Fund (111)**

Attachments: 1. BEE CITY USA STAFF REPORT  
2. BEE CITY USA DRAFT RESOLUTION

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	9/28/2020	Pass Resolution	Eric Johnston, PW Director	5 minutes

**Recommended Motion:**

**Council Committee:**  
Public Works and Natural Resources  
Committee

**Agenda Bill Contact:**  
Clare Fogelsong, PW Natural Resources, 360-778-7965

**Council Action:**

Reviewed By	Department	Date
<i>Eric C. Johnston</i>	Public Works	8/17/2020
<i>Peter M. Ruffatto</i>	Legal	8/18/2020
<i>Seth M. Fleetwood</i>	Executive	8/18/2020



**City of Bellingham**  
210 Lottie Street  
Bellingham, WA 98225

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**MEMORANDUM**

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**TO:** BELLINGHAM CITY COUNCIL

**FROM:** ERIC JOHNSTON, PUBLIC WORKS DIRECTOR

**CC:** MAYOR SETH FLEETWOOD; RENEE LACROIX, ASSISTANT PUBLIC WORKS DIRECTOR, NATURAL RESOURCES

**SUBJECT:** RESOLUTION DESIGNATING BELLINGHAM AS A BEE CITY

**DATE:** September 14, 2020

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The Bee City USA program is a national initiative to protect and enhance habitat for native pollinators that are critical to over 30% of food production in the US. Membership in the program requires a commitment to implement and manage pollinator habitat projects throughout the Bellingham community. The foundation of the commitments is formation of a committee of staff and community members to oversee implementation of the program. Other commitments are:

- a. Celebration: Host at least one educational event or pollinator habitat planting or restoration each year to showcase the City of Bellingham's commitment to raising awareness of pollinator conservation and expanding pollinator health and habitat.
- b. Publicity & Information: Create and maintain a webpage on the City of Bellingham's website which includes, at minimum, a copy of this resolution and links to the national BEE CITY USA website; contact information for your BEE CITY USA Liaison and Committee; reports of the pollinator-friendly activities the community has accomplished the previous year(s); and the City's recommended native plant species list and integrated pest management plan (explained below).
- c. Habitat: Develop and implement a program to create or expand pollinator-friendly habitat on public and private land, and create a recommended locally native plant list to include wildflowers, grasses, vines, shrubs, and trees
- d. Pollinator-Friendly Pest Management: Create and adopt an integrated pest management (IPM) plan designed to prevent pest problems, reduce pesticide use, and expand the use of non-chemical pest management methods.
- e. Policy & Plans: Establish a policy in the City of Bellingham's Comprehensive Plan to consider improvements to pest management policies and practices.

The Parks and Public Works Departments have existing programs that align with the outreach and native habitat restoration objectives of the Bee City USA commitments. Planning Department staff will be able to assist with the Comprehensive Plan commitment.

**Recommended Action:**

Pass Resolution in support of applying for Bee City USA certification and membership.

**A RESOLUTION OF THE BELLINGHAM CITY COUNCIL  
SUPPORTING HEALTHY POLLINATOR HABITAT CREATION AND ENHANCEMENT, AND  
DESIGNATING THE CITY OF BELLINGHAM AS A BEE CITY USA AFFILIATE.**

WHEREAS, the mission of BEE CITY USA is to galvanize communities to sustain pollinators responsible for the reproduction of almost 90% of the world's flowering plant species by providing them with healthy habitat, rich in a variety of native plants and free to nearly free of pesticides; and

WHEREAS, thanks to the more than 3,600 species of native bees in the United States, along with introduced honey bees, we have very diverse dietary choices rich in fruits, nuts, and vegetables; and

WHEREAS, bees and other pollinators have experienced population declines due to a combination of habitat loss, poor nutrition, pesticides (including insecticides, fungicides, and herbicides), parasites, diseases, and climate change; and

WHEREAS, pollinator-friendly communities can benefit local and regional economies through healthier ecosystems, increased vegetable and fruit crop yields, and increased demand for pollinator-friendly plant materials from local growers; and

WHEREAS, ideal pollinator-friendly habitat (A) Is comprised of mostly native wildflowers, grasses, vines, shrubs, and trees blooming in succession throughout the growing season to provide diverse and abundant nectar and pollen, since many wild pollinators prefer or depend on the native plants with which they co-adapted; (B) is free to nearly free of pesticides, as many pesticides can harm pollinators and/or their habitat; (C) comprises undisturbed spaces (leaf and brush piles, unmown fields or field margins, fallen trees and other dead wood) for nesting and overwintering; and (D) provides connectivity between habitat areas to support pollinator movement and resilience; and

WHEREAS, Integrated Pest Management (IPM) is a long-term approach to maintaining healthy landscapes and facilities that minimizes risks to people and the environment by: identifying and removing the causes of pest problems rather than only attacking the symptoms (the pests); employing pests' natural enemies along with cultural, mechanical, and physical controls when prevention is not enough; and using pesticides only when no other method is feasible or effective; and

WHEREAS, supporting pollinators fosters broad-based community engagement in environmental awareness and sustainability; and

WHEREAS, The City of Bellingham should be certified a *BEE CITY USA* community because City Parks and Public Works landscaping, project mitigation, and restoration activities currently prioritize and support the use of native plants.

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

That in order to enhance understanding among local government staff and the public about the vital role that pollinators play and what each of us can do to sustain them, the City of Bellingham chooses to support and encourage healthy pollinator habitat creation and enhancement, resolving as follows:

1. The City of Bellingham's Office of the Mayor is hereby designated as the BEE CITY USA sponsor.
2. The Natural Resources Policy Manager of the Public Works Department is designated as the BEE CITY USA Liaison.

3. Facilitation of the City of Bellingham's BEE CITY USA program is assigned to the Bellingham Bee Committee.
4. The Bellingham Bee Committee is authorized to:
  - a. **Celebration:** Host at least one educational event or pollinator habitat planting or restoration each year to showcase the City of Bellingham's commitment to raising awareness of pollinator conservation and expanding pollinator health and habitat.
  - b. **Publicity & Information:** Create and maintain a webpage on the City of Bellingham's website which includes, at minimum, a copy of this resolution and links to the national BEE CITY USA website; contact information for your BEE CITY USA Liaison and Committee; reports of the pollinator-friendly activities the community has accomplished the previous year(s); and the City's recommended native plant species list and integrated pest management plan (explained below).
  - c. **Habitat:** Develop and implement a program to create or expand pollinator-friendly habitat on public and private land, and create a recommended locally native plant list to include wildflowers, grasses, vines, shrubs, and trees
  - d. **Pollinator-Friendly Pest Management:** Create and adopt an integrated pest management (IPM) plan designed to prevent pest problems, reduce pesticide use, and expand the use of non-chemical pest management methods.
  - e. **Policy & Plans:** Establish a policy in the City of Bellingham's Comprehensive Plan to consider improvements to pest management policies and practices.
  - f. **Report:** Submit a report of the previous year's actions to support, create and enhance healthy pollinator habitat.
  - g. **Renewal:** Apply for renewal of the City of Bellingham's BEE CITY USA designation.

**PASSED** by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Council President

**APPROVED** by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Mayor

**ATTEST:** \_\_\_\_\_  
Finance Director

**APPROVED AS TO FORM:**

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Office of the City Attorney

DRAFT



# City Council Agenda Bill

22741

Bill Number

Subject: **Resolution Adopting the 2020 Surface and Stormwater Comprehensive Plan**

Summary Statement: As established in BMC 4.39 and 15.16, the Surface and Stormwater Utility was created to protect the City's aquatic resources, provide a response to reduce flooding and erosion damages, reduce the discharge of pollutants and improve fish habitat within the City. The draft plan outlines the maintenance activities, capital projects and programs necessary to fulfill these purposes and to comply with state and federal regulatory requirements under the Clean Water Act. The draft plan also provides options to fund the utility by charging all developed real property in the City in a fair and equitable manner. Staff is requesting City Council adopt the 2020 Surface and Stormwater Comprehensive Plan by resolution. The 2020 Surface and Stormwater Comprehensive Plan is on the City website <https://www.cob.org/swplan>.

Previous Council Action: **Council Presentation on the Surface and Stormwater Comp. Plan (SSCP) on 5/6/19; Presentation of the Draft 2020 SSCP on 8/31/20; Continued Discussion of the Draft SSCP on 9/14/20**

Fiscal Impact: **The Surface and Stormwater Comprehensive Plan has no direct fiscal impact, but does establish the basis for decisions regarding customer rates and budget proposals.**

Funding Source: **Surface and Stormwater Fund (430)**

Attachments: 1. SURFACE AND STORMWATER STAFF REPORT  
2. RESOLUTION

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	9/28/2020	Pass Resolution	Eric Johnston, PW Director	15 minutes

**Recommended Motion:**

**Council Committee:**  
Public Works and Natural Resources  
Committee

**Agenda Bill Contact:**  
Jason Porter, Storm and Surface Water Manager, 360-778-7799

Reviewed By	Department	Date
<i>Eric C. Johnston</i>	Public Works	9/21/2020

**Council Action:**

<i>Matthew T. Stamps</i>	Legal	9/22/2020
<i>Seth M. Fleetwood</i>	Executive	9/22/2020



City of Bellingham  
210 Lottie Street  
Bellingham, WA 98225

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## STAFF REPORT

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**TO:** CITY COUNCIL  
**FROM:** ERIC JOHNSTON, PUBLIC WORKS DIRECTOR  
**CC:** MAYOR SETH FLEETWOOD  
**SUBJECT:** PASS RESOLUTION ADOPTING THE 2020 SURFACE AND STORMWATER COMPREHENSIVE PLAN  
**DATE:** September 28, 2020

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### **BACKGROUND:**

The update of the [Surface and Stormwater Utility Comprehensive Plan](#) (SSCP) was first introduced to City Council on May 6, 2019. An independent consultant, HDR Engineering, Inc., worked with City staff to develop the draft SSCP which was presented to City Council on August 31, 2020 with continued discussion on September 14, 2020. Staff held a virtual public open house on September 9, 2020. The City used the [Engage Bellingham](#) web platform to share information and materials, and seek public comment, accept questions, and/or to participate in a survey. A SEPA application for the SSCP was submitted and received a non-project Determination of Non-significance (DNS) on September 14, 2020.

### **SUMMARY:**

The 2020 SSCP is a voluntary document and is intended to evaluate and guide the City's Stormwater programs including its activities for compliance under the NPDES Phase II Municipal Stormwater Permit. It further identifies opportunities for new stormwater capital projects and retrofits and provides estimates for staffing and funding resources needed to meet the City's objectives, policies, and legacies and strategic commitments.

In summary, the 2020 SSWCP:

- Describes the City's stormwater management program;
- Presents four different funding options for a Capital Improvement Plan;
- Evaluates NPDES Phase II Permit programs for regulatory compliance;
- Provides retrofit planning recommendations to address water quality concerns in areas developed prior to the use of stormwater regulations;
- Recommends capital improvement projects for improving water quality, fish habitat, flood control, and infrastructure renewal;
- Provides a rate study and recommendations on distributing charges in fair and equitable manner based on a cost of service model; and
- Recommends shifting cost of service to properties creating the greatest impact;

### **RECOMMENDATION ACTION:**

Adopt the 2020 Surface and Stormwater Comprehensive Plan by Resolution. Adoption of the SSCP has no fiscal impacts.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF BELLINGHAM, WASHINGTON ADOPTING  
THE 2020 SURFACE AND STORMWATER COMPREHENSIVE PLAN**

**WHEREAS**, the Bellingham City Council last adopted a Surface and Stormwater Comprehensive Plan in 1997 with minor modifications made in 2007; and

**WHEREAS**, in 2018, the City retained an independent consultant, HDR Engineering, Inc., to develop an updated Surface and Stormwater Comprehensive Plan; and

**WHEREAS**, HDR Engineering, Inc. completed the 2020 Surface and Stormwater Comprehensive Plan and presented it to City Council at its regularly scheduled meeting on August 31, 2020; and

**WHEREAS**, the 2020 Surface and Stormwater Comprehensive Plan includes analysis of the City's stormwater management programs and its activities for compliance with its National Pollution Discharge Elimination System Phase II Municipal Stormwater Permit, identifies opportunities for new stormwater capital projects and retrofits, and provides estimates for a rate structure and staffing resources needed to meet the City's objectives, policies, and legacies and strategic commitments; and

**WHEREAS**, the City held a public open house on the 2020 Surface and Stormwater Comprehensive Plan on September 9, 2020; and

**WHEREAS**, the City advertised and hosted a website to share materials and information and seek public comment on the 2020 Surface and Stormwater Comprehensive Plan; and

**WHEREAS**, the City issued a non-project SEPA Determination of Non-Significance (DNS) for the 2020 Surface and Stormwater Comprehensive Plan on September 14, 2020; and

**WHEREAS**, City Council further considered and discussed the 2020 Surface and Stormwater Comprehensive Plan at its regularly scheduled meetings on September 14 and 28, 2020; and

**WHEREAS**, City Council wishes to adopt the 2020 Surface and Stormwater Comprehensive Plan, dated September 21, 2020.

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

1. The 2020 Surface and Stormwater Comprehensive Plan, dated September 21, 2020, prepared by HDR Engineering, Inc., is hereby adopted.
2. A true and correct copy of the 2020 Surface and Stormwater Comprehensive Plan, as adopted herein, is available on the City's website at: <https://www.cob.org/swplan>.

**PASSED** by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Council President

**APPROVED** by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
Finance Director

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Office of the City Attorney



# City Council Agenda Bill

22765

Bill Number

Subject: **An Update on the Bellingham Home Fund / Housing Levy**

Summary Statement: City Staff will brief Council on the current status of the Housing Levy, including projects, fund commitments by category, and projected balance.

Previous Council Action: **2018 5-Year Consolidated Plan (RES 2018-07); 2020 HUD Action Plan (RES 2020-13)**

Fiscal Impact: **\$4,000,000 per year**

Funding Source: **Bellingham Housing Levy**

Attachments: 1. STAFF MEMO

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Information Only	9/28/2020	Information/Discussion	Samya Lutz, PCDD	15 minutes

**Recommended Motion:**

**Council Committee:**  
Planning and Community Development Committee

**Agenda Bill Contact:**  
Samya Lutz, Planning and Community Development, 360-778-8300

Reviewed By	Department	Date
<i>Rick M. Sepler</i>	Planning & Community Development	9/21/2020

**Council Action:**

<i>Amy B. Kraham</i>	Legal	9/21/2020
<i>Seth M. Fleetwood</i>	Executive	9/22/2020



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## MEMORANDUM

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**TO:** CITY COUNCIL PLANNING & COMMUNITY DEVELOPMENT COMMITTEE

**FROM:** SAMYA LUTZ, HOUSING & SERVICES PROGRAM MANAGER

**CC:** RICK SEPLER, AICP, PLANNING DIRECTOR  
TARA SUNDIN, COMMUNITY & ECONOMIC DEVELOPMENT MANAGER  
ANDY ASBJORSEN, FINANCE DIRECTOR

**SUBJECT:** UPDATE ON BELLINGHAM HOME FUND / HOUSING LEVY

**DATE:** SEPTEMBER 18, 2020

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This memo summarizes the status of the Bellingham Home Fund / Housing Levy and will be used as a basis for the discussion between Council committee members and staff during the September 28 Planning and Community Development Committee meeting. Staff will be coming back to Council later this fall with a summary of the HUD Consolidated Annual Performance and Evaluation Report (CAPER), which reports on all projects and services accomplished during the last completed HUD Action Plan year (July 2019 – June 2020) with HUD (HOME and CDBG) as well as local City funds. This precursor discussion will offer a chance to focus in on the details of the housing levy. Please note, the recent dollar figures are unaudited, and may be adjusted, and all funds shown in the following figures have been rounded.

### BACKGROUND

Housing levy spending is governed by the [2018 Housing Levy Administrative and Financial Plan](#) approved by Council through [RES 2018-34](#). 2019 was the first full year of the new housing levy. The original housing levy ("Housing Levy 1") passed in 2012 for a 7-year period and was shortened by one year with the passage of the new 10-year housing levy in 2018 ("Housing Levy 2"). Figure 1 below depicts the expenditures and accomplishments of the completed Housing Levy 1, including contractual commitments which had not been fully expended.

**Figure 1. Housing Levy 1 (completed)**

Program Category	Expenditures	% of Total	Levy 1 A&F Plan (RES 2016-13)	Accomplishments
<b><i>Production &amp; Preservation of Homes</i></b>	<b>\$10,092,700</b>	<b>61%</b>	<b>59.1%</b>	Goal: 417 units
Home Production & Preservation Loans	\$7,613,100 \$2,479,600			568 Completed
<b><i>Rental Assistance &amp; Services</i></b>	<b>\$4,775,000</b>	<b>29%</b>	<b>27.0%</b>	Goal: 2,230 served 5,930 people served
Housing & Human Services				
<b><i>Low-income Homebuyer</i></b>	<b>\$917,000</b>	<b>5.5%</b>	<b>4.5%</b>	Goal: 50 units 33 Completed
Loans				
<b><i>Acquisition &amp; Opportunity</i></b>	<b>\$0</b>	<b>0.0%</b>	<b>4.2%</b>	
Short-term Loans				
<b><i>Administration</i></b>	<b>\$735,900</b>	<b>4.5%</b>	<b>5.2%</b>	
<b><i>Total</i></b>	<b>\$16,520,600</b>	<b>100%</b>	<b>100%</b>	

## CURRENT HOUSING LEVY

Remaining funds and earlier commitments from Housing Levy 1 were transferred over into Housing Levy 2, including predevelopment funding for the Lydia Place Heart House project (11 units of new production), close-out funding for the 22 North project, funds for assisting with the Opportunity Council's Manufactured Housing Repair program, the DVSAS Baker Place shelter (14-bed preservation project), the levy portion of the funding commitment for the first 8 homes of the KulshanCLT-Habitat Telegraph Road homeownership project, funds committed to the City's partnership with the WA State Housing Finance Commission for first-time homebuyer assistance, and funds for numerous housing and services programs.

Figure 2 below depicts the planned expenditures and budget for the first two years of the 2018 housing levy. It also includes accomplishments in the first year and a half of the levy.

**Figure 2. Housing Levy 2 (underway)**

Program Category	Levy 2 A&F Plan (RES 2018-34)	Levy 1 carry- forward \$ + commitments	2-year Program Budget 2019-20	Accomplishments
<b>Production &amp; Preservation of Homes</b>	<b>55.50%</b>	<b>\$2,749,200</b>	<b>\$4,800,000</b>	Goal: 600 units
Home Production & Preservation Loans				79 Completed 190 Committed
<b>Rental Assistance &amp; Support Services</b>	<b>34.00%</b>	<b>\$972,100</b>	<b>\$2,360,000</b>	Goal: 3,000 served
Housing & Human Services				1,047 people served
<b>Low-income Homebuyer Assistance</b>	<b>4.50%</b>	<b>\$238,000</b>	<b>\$360,000</b>	Goal: 55 units
Loans				12 Committed
<b>Administration</b>	<b>6.00%</b>		<b>\$480,000</b>	
<b>Subtotal</b>	<b>100%</b>	<b>\$3,959,300</b>	<b>\$8,000,000</b>	
Monitoring Fund Reserves		\$527,400		
<b>Total</b>	<b>100%</b>	<b>\$4,486,700</b>	<b>\$8,000,000</b>	

Funds were carried over from the first levy partially because of prior commitments that weren't yet expended, and partially because of conservative planning and spending. We are now forecast to be spending almost in line with the tax revenues coming in. Figure 3 demonstrates this cash flow.

**Figure 3. Housing Levy 2 cash flow**

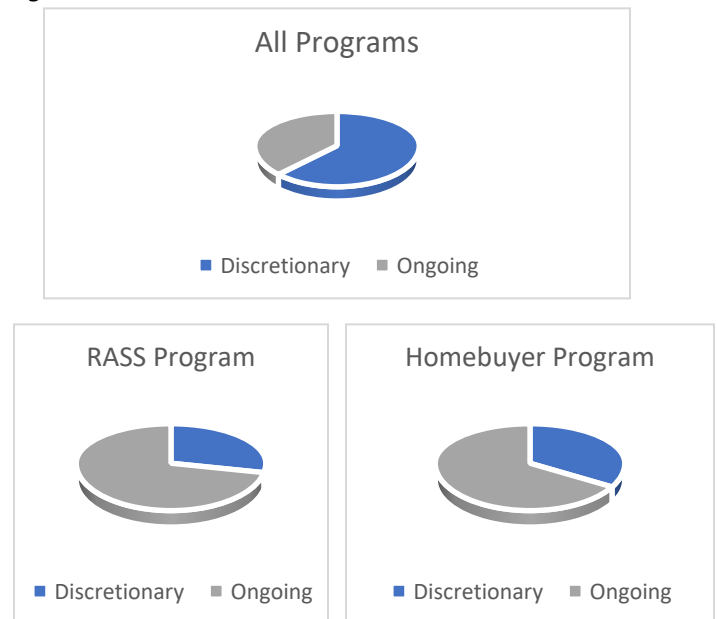
Program Category	Carry-over \$	Levy 1 Commitments	2019 Actual Exp & Revenue	+2019 Action Plan Commitments	2020 AP Commitments	2021 Budget
<b>Production &amp; Preservation of Homes</b>		<b>\$640,100</b>	<b>\$375,700</b>	<b>\$2,585,300</b>	<b>\$5,246,100</b>	
Home Production & Preservation Loans			\$258,100 \$117,600	\$2,410,300 \$175,000	\$4,871,100 \$375,000	
<b>Rental Assistance &amp; Support Services</b>		<b>\$376,700</b>	<b>\$1,058,600</b>	<b>\$931,600</b>	<b>\$1,748,200</b>	
Housing & Human Services						
<b>Low-income Homebuyer Assistance</b>		<b>\$238,000</b>	<b>\$20,000</b>	<b>\$0</b>		
<b>Administration</b>			<b>\$126,900</b>	<b>\$38,400</b>	<b>\$165,300</b>	
<b>Total Expenditures</b>		<b>\$1,254,800</b>	<b>\$1,581,200</b>	<b>\$3,555,300</b>	<b>\$7,159,600</b>	
Monitoring Fund Reserves		\$527,400				
<b>Total Revenue</b>			<b>\$4,353,700</b>		<b>\$4,000,000</b>	<b>\$4,000,000</b>
<b>Balance</b>	<b>\$5,125,900</b>	<b>\$3,343,700</b>	<b>\$6,116,200</b>	<b>\$2,560,900</b>	<b>-\$598,700</b>	<b>\$3,401,300</b>

Keep in mind that many projects in the Production and Preservation category take years to be fully expended, as commitment to these projects by the City is often an early step in the development process. The housing levy is consistent with the City’s annual budget timeframe (calendar year), but the HUD Action Plan is on a July 1 – June 30 annual cycle, making it a challenge to align the two. It is also useful to keep in mind the degree to which programs funded by the housing levy are regular and recurring, vs. more discretionary or 1-time opportunities/projects. Figure 4 shows a ‘typical’ funding year, and the degree to which the funding categories support ongoing programs, particularly in the categories of Rental Assistance and Supportive Services (RASS), and Homebuyer Assistance. With regard to the RASS program, even the funding categorized under competitive/discretionary typically goes to the same agencies year after year to support these critical programs:

- Case management services for families experiencing homelessness who are part of the Opportunity Council and Lydia Place rapid rehousing programs; and
- Support for transitional housing, shelter and congregate living programs through Lydia Place, YWCA, DVSAS, and Northwest Youth Services.

**Figure 4. Ongoing programmatic vs. Discretionary spending**

Program Category	Annual \$
<b>Production &amp; Preservation of Homes</b>	<b>\$2,220,000.00</b>
Preservation programs (Manufact & Emerg)	\$175,000.00
Competitive/discretionary projects	\$2,045,000.00
<b>Rental Assistance &amp; Support Services</b>	<b>\$1,420,000.00</b>
Project-based services (ongoing)	\$554,400.00
Program-based services	\$465,600.00
Competitive/discretionary programs	\$400,000.00
<b>Low-income Homebuyer Assistance</b>	<b>\$180,000.00</b>
WSHFC DPA	\$120,000.00
Competitive/discretionary projects	\$60,000.00
<b>Administration</b>	<b>\$180,000.00</b>
<b>Total</b>	<b>\$4,000,000.00</b>



## CONCLUSION

Over time, the City’s housing levy has become a source of funding that is relied upon by agencies to help meet the City’s stated priorities of addressing and preventing homelessness and increasing/stabilizing the affordable housing supply. These programs in our community are a regular support to vulnerable households. As Council considers ongoing responses to community needs, it is helpful to keep in mind how the housing levy fits in as a resource. Commitments to new programs and projects may necessitate a reconsideration of commitments to existing programs. As mentioned earlier, staff will be back later this fall to discuss the HUD Consolidated Annual Performance and Evaluation Report, and we would be happy to address additional questions about the housing levy at that time, or at another scheduled committee meeting.



# City Council Agenda Bill

22691

Bill Number

**Subject: An Ordinance Amending the 2019-2020 Biennial Budget Increasing Appropriations and Estimated Revenues in the General Fund to Recognize Additional CARES Act Funding**

Summary Statement: This ordinance appropriates the latest round of CARES Act funding provided by the state. In total, the City has been awarded \$4,054,950 from the CARES Act. These funds can only reimburse qualified expenses, which occur prior to November 30, 2020. Programming for this funding is still being identified, but due to the constrained funding window, it is necessary to appropriate the funds in anticipation of programming.

Previous Council Action: **Adoption of the 2019-2020 Biennial Budget; Ordinance 2020-07-020 appropriating \$900,000 of CARES Act funding or recovery programs; Ordinance 2020-06-015 appropriating \$500,000 of CARES Act funding for the drop-in shelter**

Fiscal Impact: **\$1,351,650**

Funding Source: **Federal Grant**

Attachments: 1. STAFF MEMO  
2. ORDINANCE

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	9/28/2020	Vote to Approve	Forrest Longman, Deputy Finance Director	5 minutes

**Recommended Motion:**

**Council Committee:**  
Finance and Economic Development  
Committee

**Agenda Bill Contact:**  
Forrest Longman, Deputy Finance Director

Reviewed By	Department	Date
<i>Andrew D. Asbjornsen</i>	Finance Department	9/22/2020

**Council Action:**

<i>Matthew T. Stamps</i>	Legal	9/22/2020
<i>Seth M. Fleetwood</i>	Executive	9/22/2020



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**MEMORANDUM**

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**TO:** BELLINGHAM CITY COUNCIL  
**FROM:** FORREST LONGMAN, DEPUTY FINANCE DIRECTOR  
**CC:** MAYOR SETH FLEETWOOD; ANDY ASBJORNSEN, FINANCE DIRECTOR  
**SUBJECT:** CARES ACT BUDGET ADJUSTMENT  
**DATE:** SEPTEMBER 28, 2020

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The proposed ordinance adds \$1,351,650 of revenues and expenditures to the General Fund for economic and social recovery from COVID-19.

The State initially awarded \$2,703,300 of CARES Act funding to the City of Bellingham. On August 31, the State announced a second award of \$1,351,650 for a total of \$4,054,950. This funding can only be used to reimburse COVID-19 related expenses (including recovery efforts) which occur before November 30, 2020.

To date, Council has appropriated \$500,000 for the new temporary Drop-in Shelter; \$500,000 for grants to business in Bellingham's commercial core; \$200,000 for grants for childcare business; and \$200,000 to address food security issues

The additional \$1,351,650 has not been fully programmed, but given the short timeline for using the funds, it is necessary to appropriate the funds now.

The City intends to use the unappropriated \$1.3 million from the initial award as reimbursement for expenses incurred by the City from the COVID-19 pandemic response. It may also use some of this second award if eligible expenses exist.

If passed by Council, the attached ordinance will amend the 2019-2020 Biennial Budget as follows:

**Fund 001 - General Fund**

**Non-Departmental**

Revenue

Federal Grant Revenue	\$ 1,351,650
<b>TOTAL REVENUE CHANGE</b>	<b>\$ 1,351,650</b>

Expense

Non-Departmental	\$ 1,351,650
<b>TOTAL EXPENSE CHANGE</b>	<b>\$ 1,351,650</b>

<b>RESERVE CONTRIBUTION/(USE)</b>	<b>\$ -</b>
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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE 2019-2020 BIENNIAL BUDGET INCREASING APPROPRIATIONS AND ESTIMATED REVENUES IN THE GENERAL FUND**

**WHEREAS**, the COVID-19 pandemic and associated shut down of businesses has had an unprecedented economic impact; and

**WHEREAS**, the first distribution of CARES Act funding awarded \$2.7 million to the City of Bellingham to defray the impacts of COVID-19; and

**WHEREAS**, on August 31, 2020, the state announced a second award of CARES Act funding for municipalities in Washington State; and

**WHEREAS**, the City of Bellingham was awarded an additional \$1,351,650; and

**WHEREAS**, this funding can only be used to reimburse eligible expenses through November 30, 2020.

**NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:**

The 2019-2020 Biennial Budget is hereby amended to increase the estimated revenues and appropriation authority in the General Fund, non-departmental by \$1,351,650.

**PASSED** by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Council President

**APPROVED** by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Mayor

**ATTEST:** \_\_\_\_\_  
Finance Director

**APPROVED AS TO FORM:**

City of Bellingham  
City Attorney  
210 Lottie Street  
Bellingham, Washington 98225  
360-778-8270

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Office of the City Attorney

Published:

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# City Council Agenda Bill

22752

Bill Number

Subject: **Update on Parks Operations and Recreation**

Summary Statement: Parks staff will present an overview of some of the latest projects and programs happening in Parks & Recreation. Managers of the divisions will present new data from Cityworks on maintenance management, the Urban Forestry Management Plan, and the resilient and ever-evolving role of recreation staff in responding to the pandemic.

Previous Council Action: **None**

Fiscal Impact: **None**

Funding Source: **None**

Attachments: 1. POWERPOINT PRESENTATION

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Information Only	9/28/2020	Information/Discussion	Nicole Oliver, Parks & Recreation Director	15 minutes

**Recommended Motion:**

**Council Committee:**  
Parks and Recreation Committee

**Agenda Bill Contact:**  
Nicole Oliver, Parks & Recreation Director

**Council Action:**

Reviewed By	Department	Date
<i>Nicole C. Oliver</i>	Parks & Recreation	9/07/2020
<i>Peter M. Ruffatto</i>	Legal	9/08/2020
<i>Seth M. Fleetwood</i>	Executive	9/08/2020



# Park Operations Update 2020

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Bellingham City Council

September 28, 2020

# Overview

Improvements  
at Squalicum  
Creek Park

Cityworks  
Data Analysis

Response to  
COVID-19

Land Manager  
Coalition

Urban  
Forestry  
Master Plan

What's Ahead  
for 2021

# Squalicum Creek Park Improvements

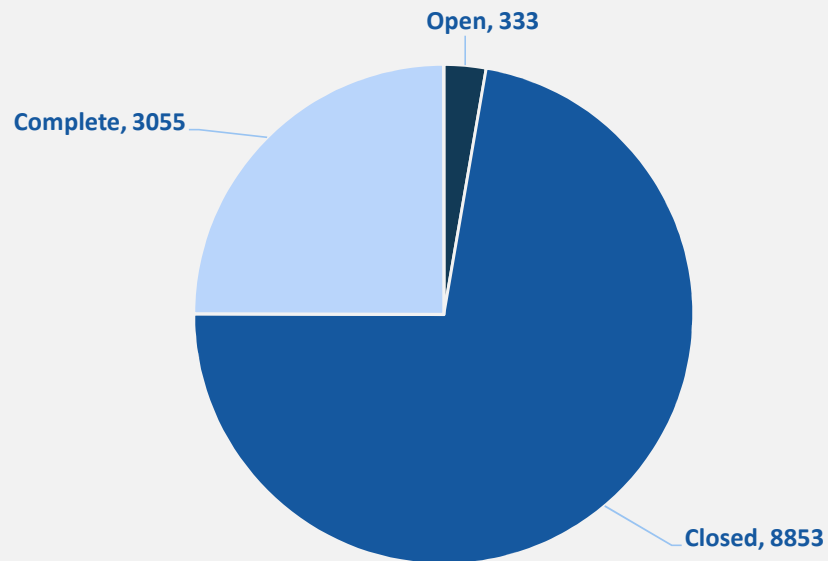
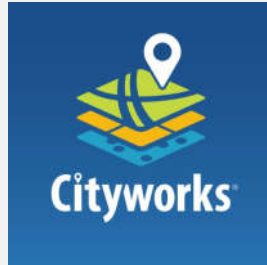


Improved drainage and lighting  
at  
Dog Park

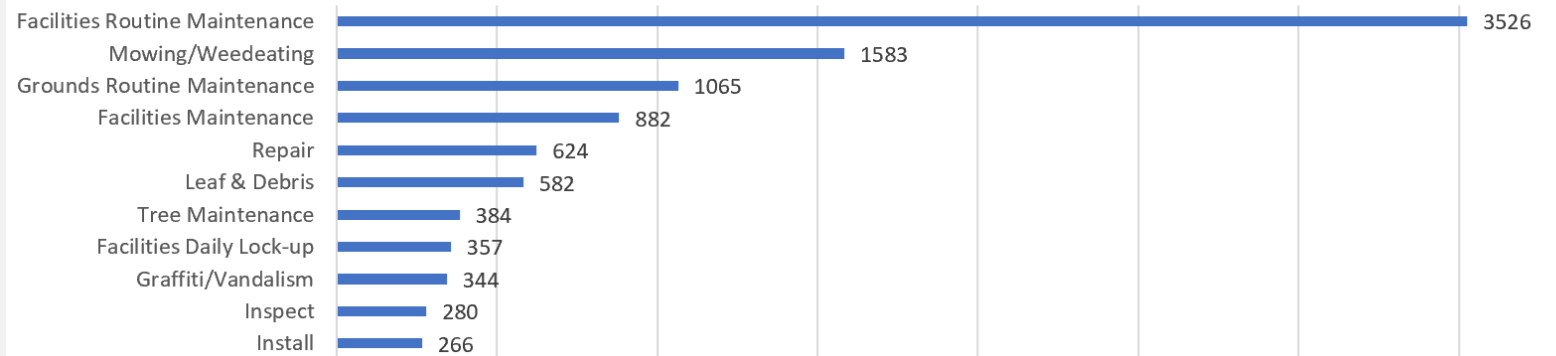


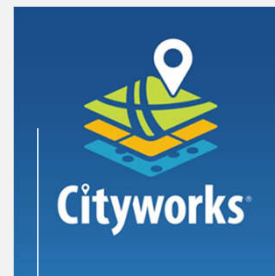
Gravel Storage Building

## Cityworks - All Work Orders

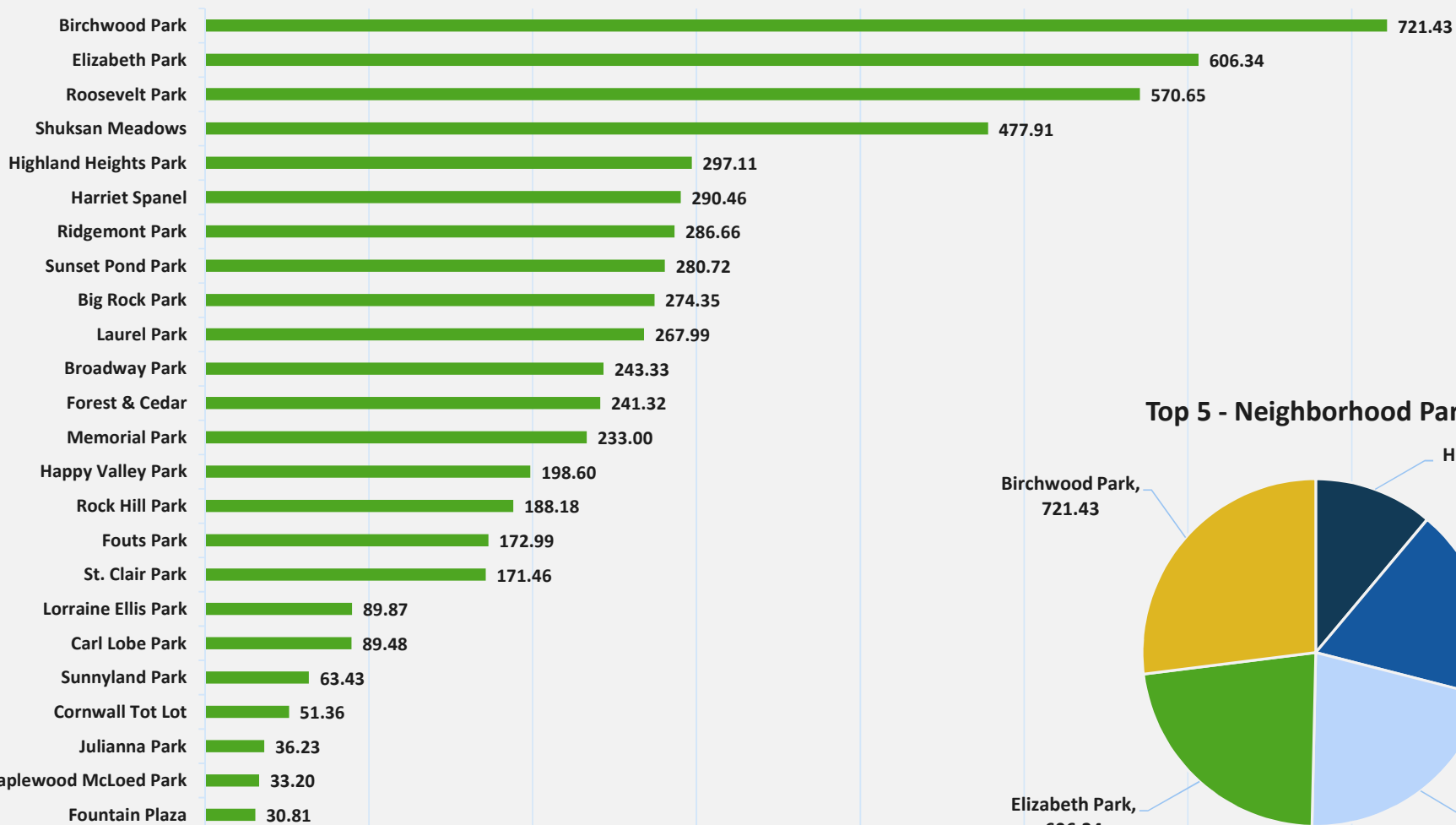


## Top 10 Work Orders by Type

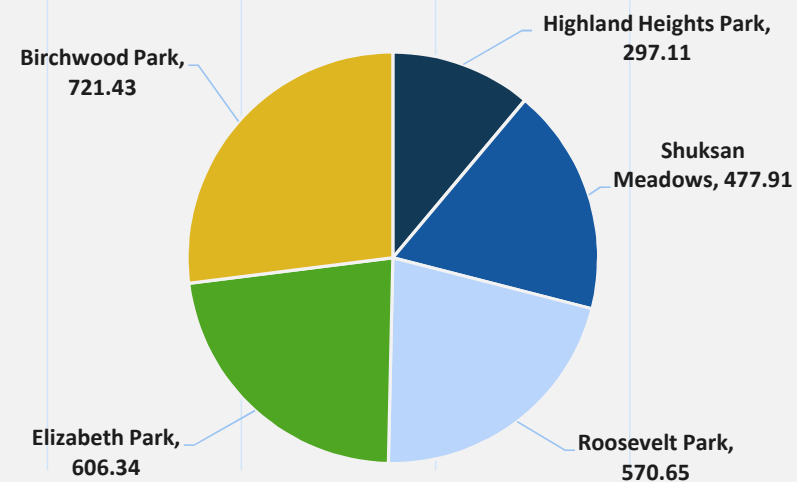




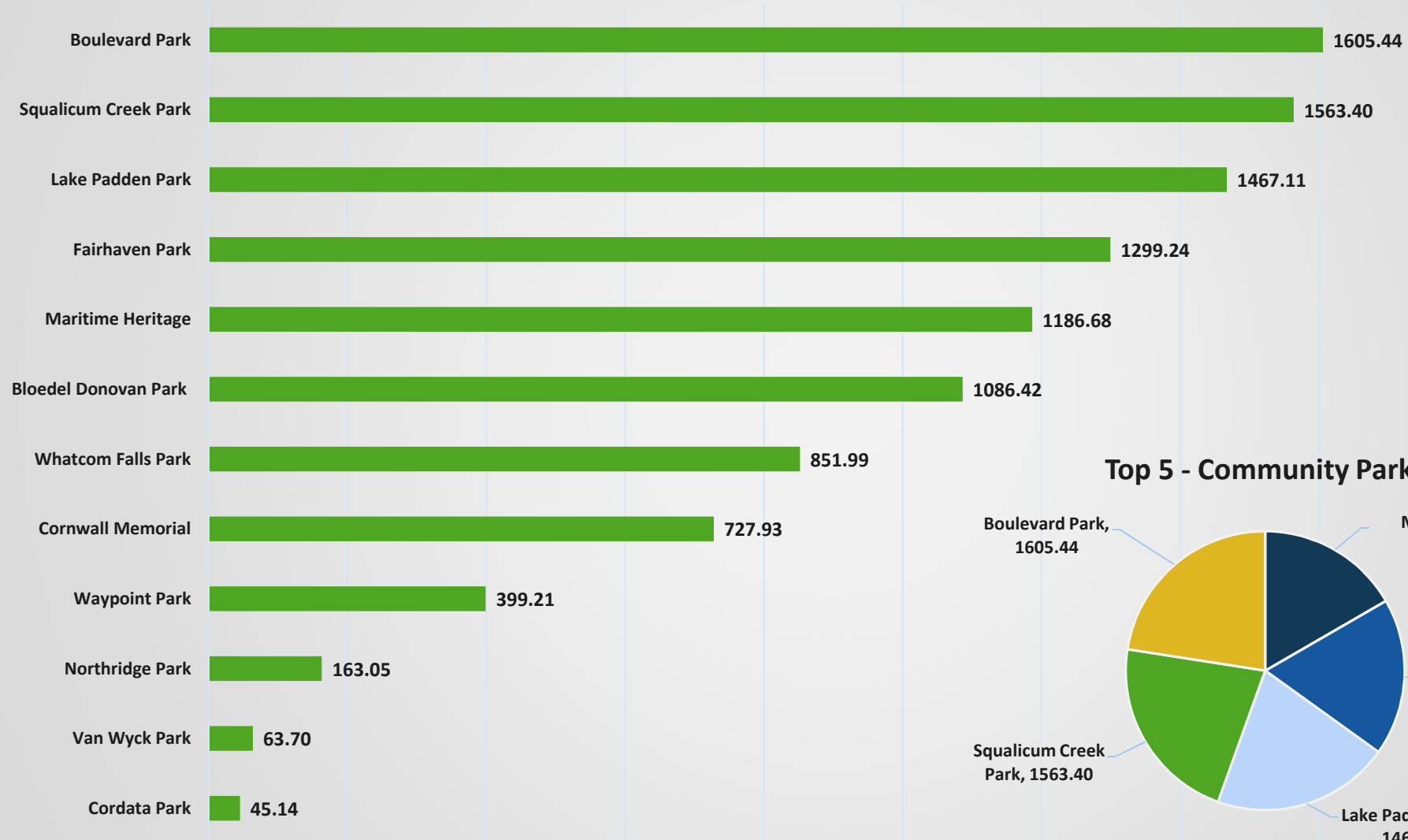
## Total Labor Hours - Neighborhood Park Asset Level



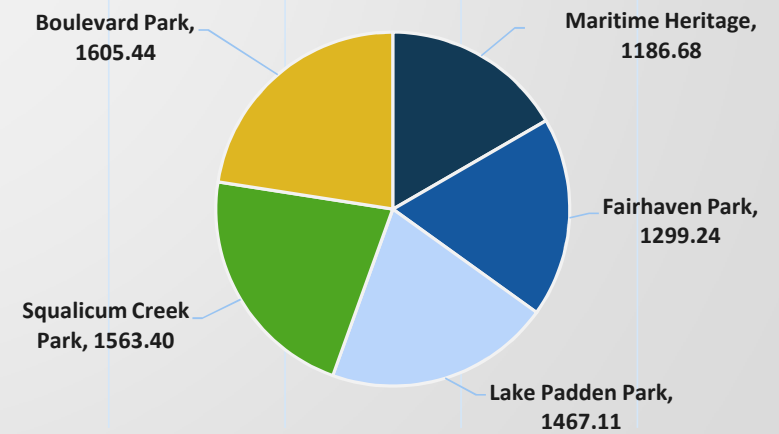
## Top 5 - Neighborhood Parks



## Total Labor Hours - Community Park Asset Level



## Top 5 - Community Parks



## Top 10 Parks for Graffiti & Vandalism



**Maritime Heritage Park**  
Total  
28%

**Civic Athletic Complex**  
Total  
15%

**Cornwall Memorial Park Total**  
11%

**Little Squalicum Park Total**

4%

**Harriet Spanel Neighborhood Total**  
5%

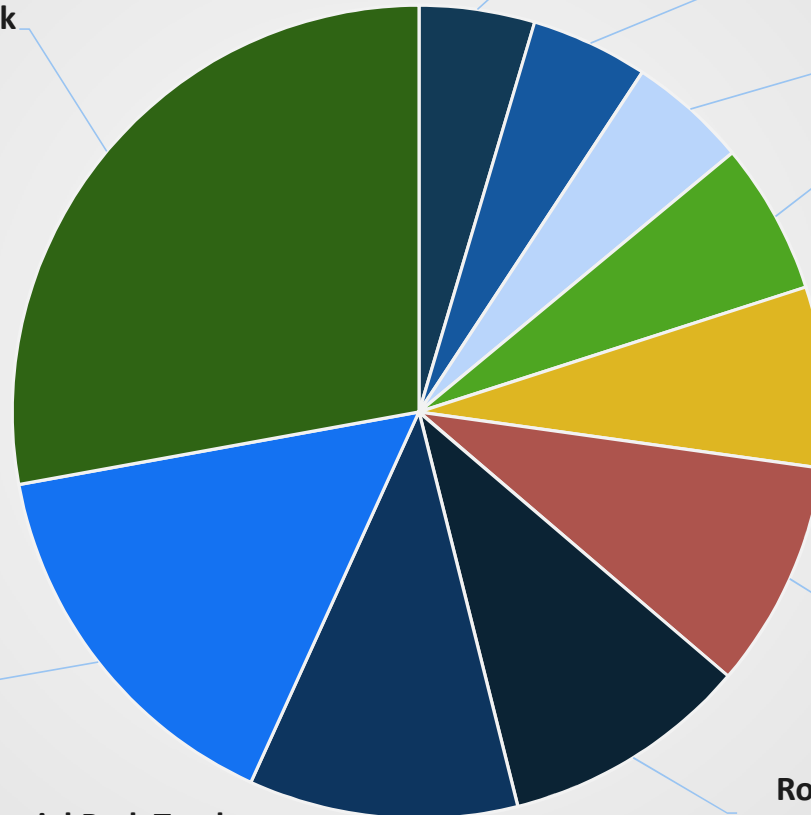
**Waypoint Park Total**  
5%

**Bloedel Donovan Total**  
6%

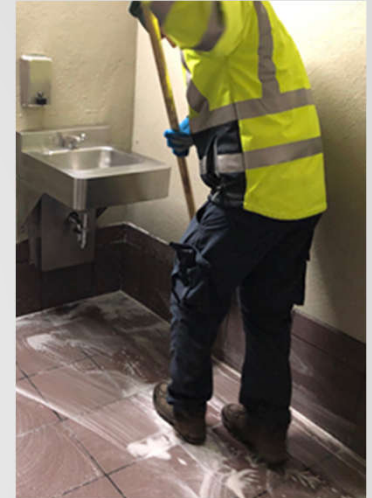
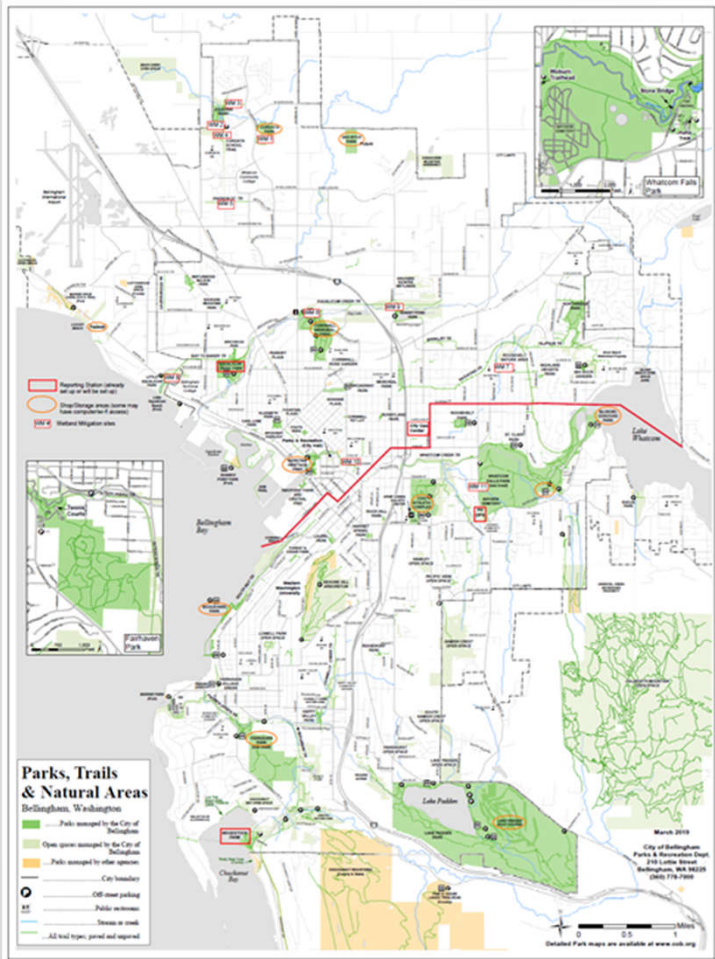
**Whatcom Falls Park Total**  
7%

**Boulevard Park Total**  
9%

**Roosevelt Neighborhood Park**  
Total 10%



# Impacts of COVID-19



**City of Bellingham**  
WASHINGTON

**Due to COVID-19:**  
**Please observe social distancing**  
**in parks and on trails – THANK YOU!**

← 6 feet →

For more information: visit [www.whatcomcovid.com](http://www.whatcomcovid.com) (360) 778-8000

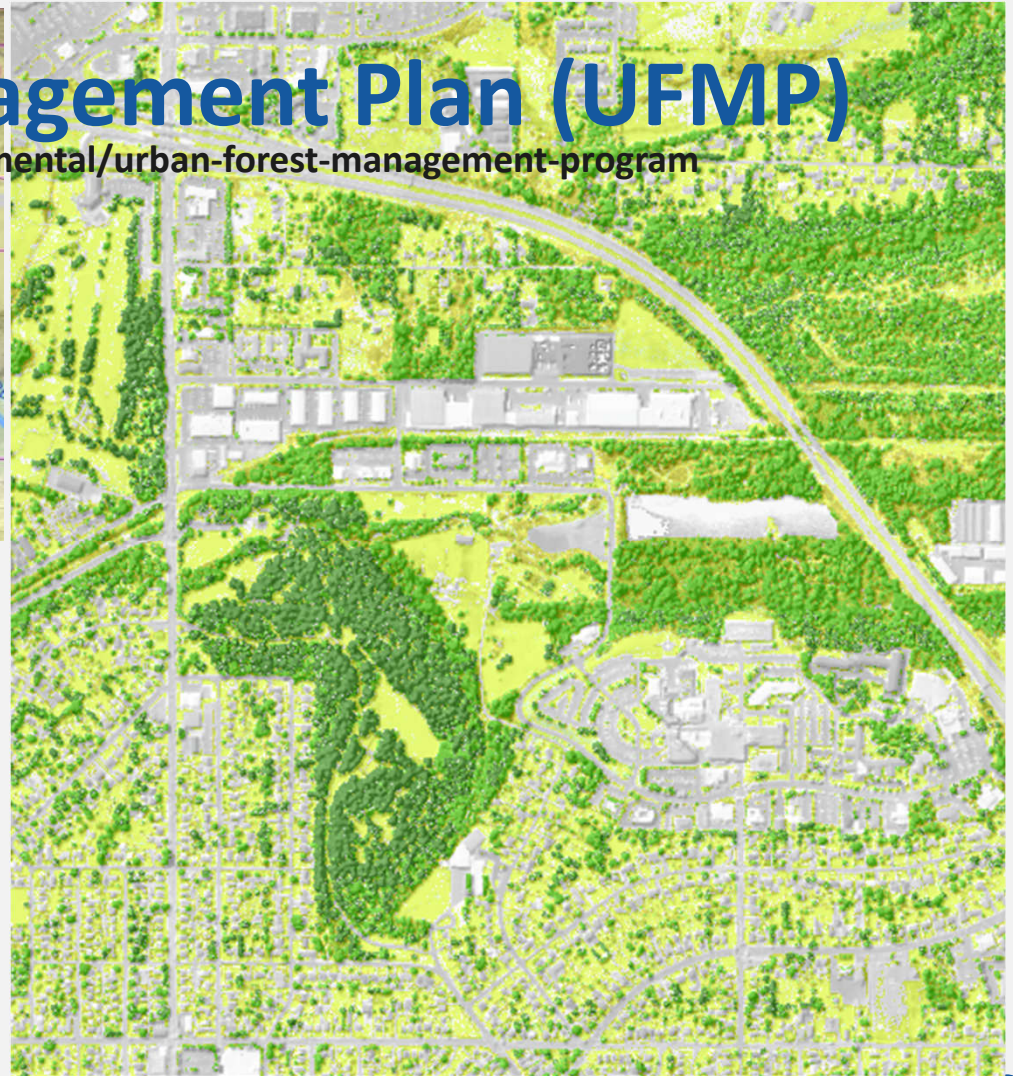
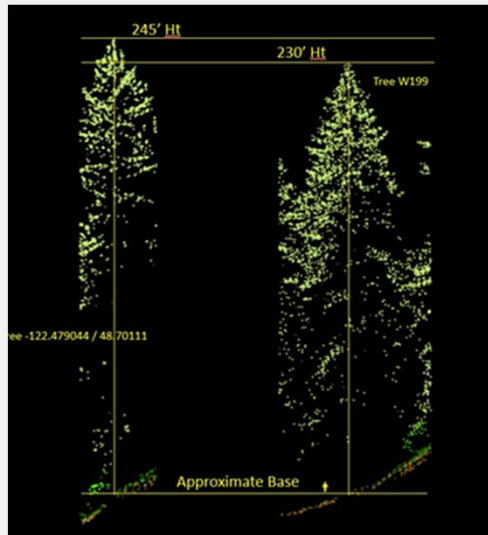


# Whatcom Land Managers Coalition (Mountain Biking)

- Representation from City, Whatcom County, State DNR and Parks, and US Forest Service
- Identify common issues and challenges
- Improved public outreach
- Focus on stewardship

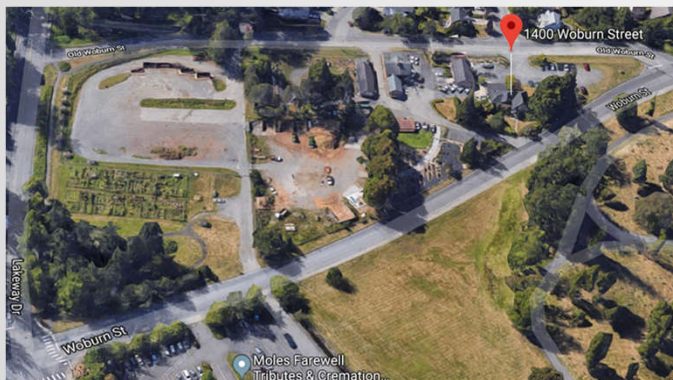
# Urban Forestry Management Plan (UFMP)

<https://cob.org/services/planning/environmental/urban-forest-management-program>



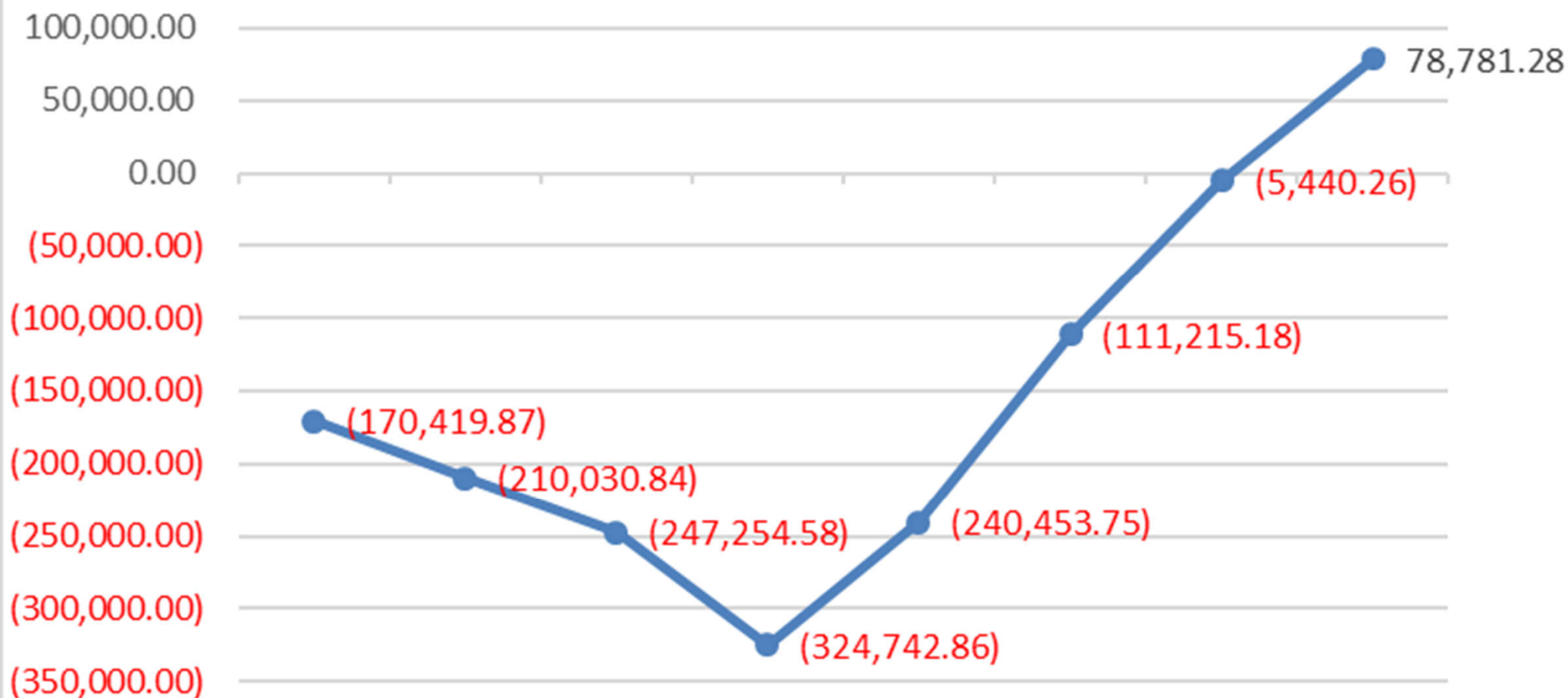
# 2021 Goals

- Maintenance Standards
- Service Levels for Park Classifications
- City Operations Center Planning
- Update Street Tree Policy
- Continue with Climate Action Goals



## Golf Enterprise Fund Balance (w/o Reserves)

January February March April May June July August





# Recreation Division Update 2020

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Bellingham City Council

September 14, 2020

# Overview

Staff

Civic Athletic  
Complex

#Recreate  
Responsibly  
Coalition/Playbook

Virtual Programs  
and Rec at Home

Bloedel Beach  
Program

Outdoor  
Education-BPS  
Coalition

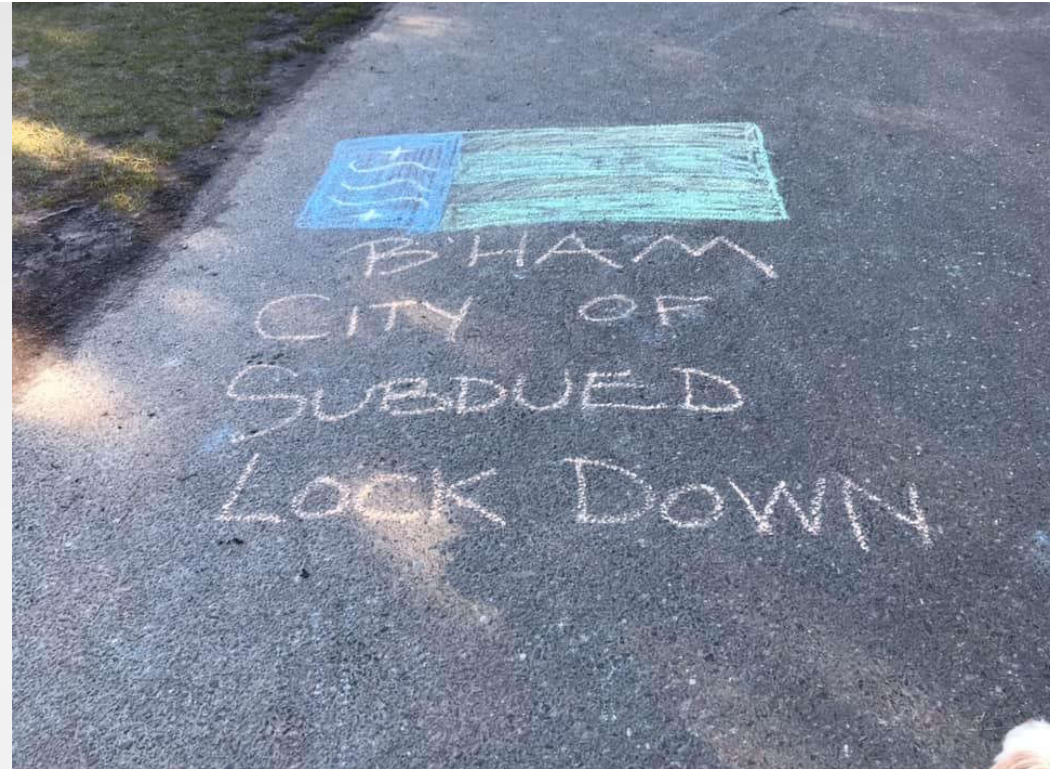
## Recreation Division: We changed (everything) in 2020





# Civic Athletic Complex





## Park Ambassadors

## #RecreateResponsibly

### KNOW BEFORE YOU GO

Check the status of the place you want to visit. If it is closed, don't go. If it's crowded, have a Plan B.

### PLAN AHEAD

Prepare for facilities to be closed, pack lunch and bring essentials like hand sanitizer and a face covering.

### PRACTICE PHYSICAL DISTANCING

Adventure only with your immediate household. Be prepared to cover your nose and mouth and give others space. If you are sick, stay home.

### PLAY IT SAFE

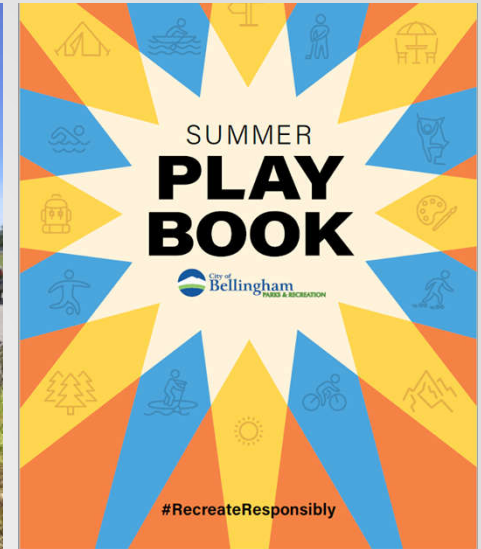
Slow down and choose lower-risk activities to reduce your risk of injury. Search and rescue operations and health care resources are both strained.

### STAY CLOSE TO HOME

This is not the time to travel long distances to recreate. Most places are only open for day use.

### LEAVE NO TRACE

Respect public lands and communities and take *all* your garbage with you.



• #modelcitizen

# Public outreach campaigns



## SPIN Dance at Home

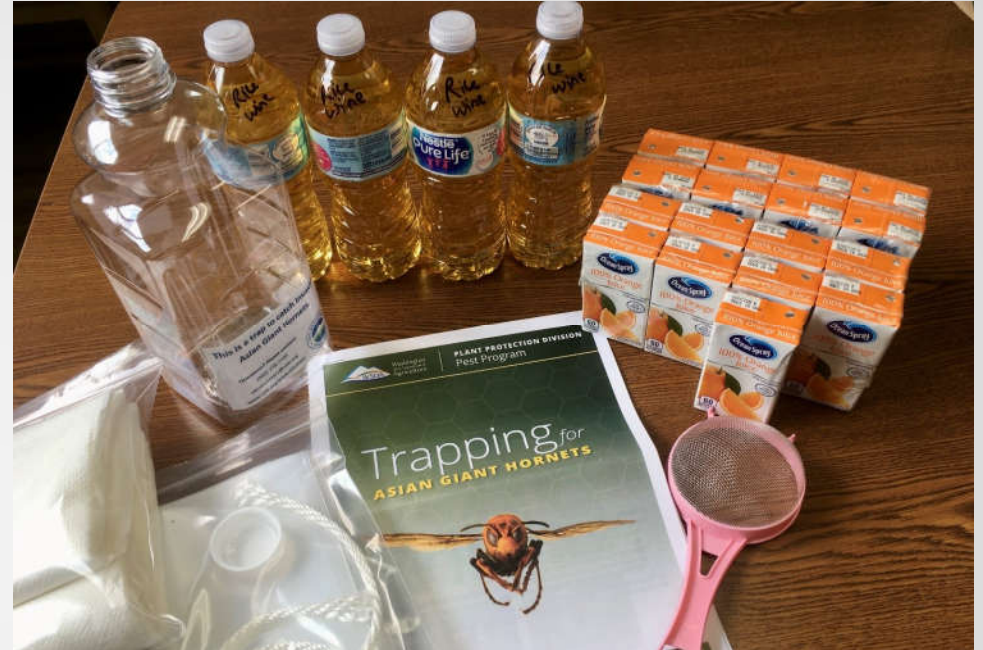
June 15, July 20, August 17  
Ages 14+  
**Free, but please register**

Registration opens June 1!  
[www.cob.org/ezreg](http://www.cob.org/ezreg)  
 360-778-7000

City of Bellingham  
 PARKS & RECREATION

# Trivia Night!

*with Glitt3r Lyfe*



- These things were most definitely NOT on the 2020 work plan!

# Goals for 2020-2021

Continue	Covid-19 response efforts
Partner	With the Outdoor Education Coalition and Bellingham Public Schools to support vulnerable students/provide outdoor education programming
Evaluate	Policies and procedures to ensure equitable access to programs and facilities

# Questions?

Bellingham City Council  
September 28, 2020





# City Council Agenda Bill

22766

Bill Number

**Subject: Approval of Petition to Vacate a Portion of the Cornwall Avenue Right-of-Way Adjacent to Parkview Elementary School**

Summary Statement: The Bellingham School District has petitioned the City of Bellingham to vacate a portion of the Cornwall Avenue right-of-way situated between Parkview Elementary School and Cornwall Park as shown on the aerial photo. The School District requests the City waive the requirement to compensate the City for the subject right-of-way because the new elementary school is for the public good.

As an abutting owner, the City must sign the petition and therefore the City Council should direct the Mayor to sign said petition.

Previous Council Action: **None**

Fiscal Impact: **None**

Funding Source: **None**

Attachments: 1. STAFF MEMO  
2. LOCATION IMAGE  
3. PETITION

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Direction Requested	9/28/2020	Provide Direction	Ryan Nelson, PCDD	1 minutes

**Recommended Motion:**

**Council Committee:**  
Committee Of The Whole

**Agenda Bill Contact:**  
Ryan Nelson, Planning and Community Development, 360-778-8300

**Council Action:**

Reviewed By	Department	Date
<i>Rick M. Sepler</i>	Planning & Community Development	9/21/2020
<i>James E. Erb</i>	Legal	9/22/2020
<i>Seth M. Fleetwood</i>	Executive	9/22/2020



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**MEMORANDUM**

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**TO:** CITY COUNCIL MEMBERS  
**FROM:** RYAN NELSON, PLANNER II  
**CC:** MAYOR SETH FLEETWOOD  
**SUBJECT:** COUNCIL DIRECTION TO MAYOR  
**DATE:** SEPTEMBER 10, 2020

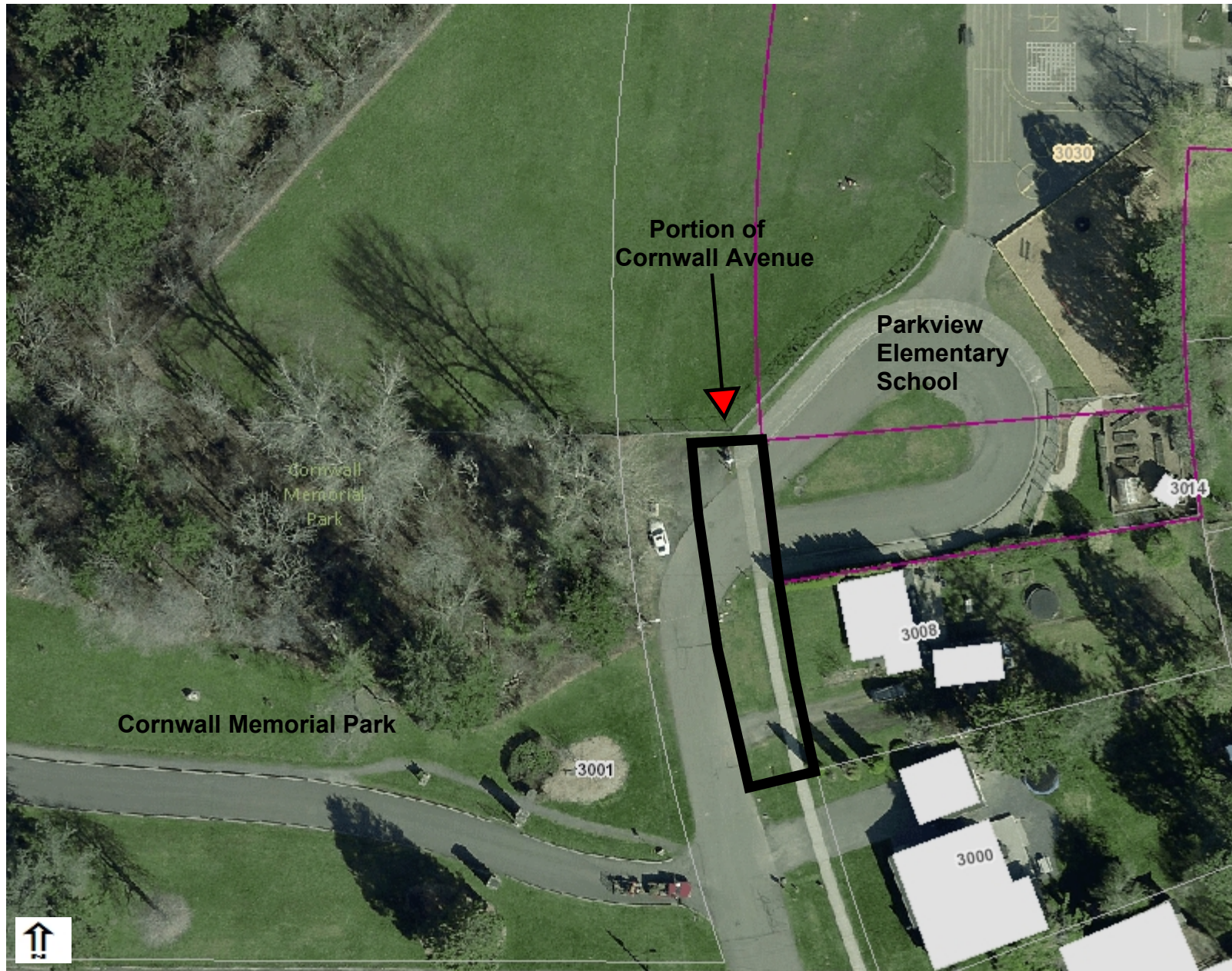
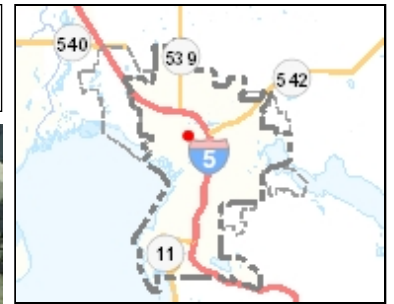
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The Bellingham School District has petitioned the City of Bellingham to vacate a portion of the Cornwall Avenue right-of-way. The Bellingham School district owns the property to the east at Parkview Elementary School and at 3008 Cornwall Avenue. The City owns the property to the west at Cornwall Memorial Park, generally, near the park's southern entrance.

The School District is currently in the process of constructing a new Parkview Elementary School and the subject right-of-way vacation will allow for additional area for parent drop off and circulation. The School District requests the City waive the payment of one half of the appraised value of the vacated right-of-way because the new elementary school is for the public good and benefit. Therefore, the City Council should waive the requirement for the School District to compensate the City for the subject right-of-way.

In addition, the City as an abutting owner must sign the petition and therefore, the City Council should direct the Mayor to sign the petition.

# Cornwall Avenue Vacation



## Legend

- Buildings
- Docks
- Tax Parcels
  - Care Facility
  - Hospital
  - Schools
  - <all other values>
- Schools
  - ▲ Colleges/Universities
  - ▲ Elementary, Middle, High Schools
  - Private School or Preschool
- ▲ Fire Stations
- City Boundary
- Urban Growth Area
- Trails
- Railroads
- ... Ferries
- Street
- Interstate
- Airport
- Open Channel Streams
- Parks

## Notes

Printed: 9/10/2020 9:59:39 AM

124 0 62 124 Feet

THIS MAP IS NOT TO BE USED FOR NAVIGATION

The City of Bellingham has compiled this information for its own use and is not responsible for any use of this information by others. The information found herein is provided simply as a courtesy to the public and is not intended for any third party use in any official, professional or other authoritative capacity. Persons using this information do so at their own risk and by such use agree to defend, indemnify and hold harmless the City of Bellingham as to any claims, damages, liability, losses or suits arising out of such use. Contact the Whatcom County Assessors office (360-778-5050) for the most up to date parcel information.



**Abutting Property Owner #3**

Address and Legal Description of Signator's Property \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Proof of ownership and tax statement attached)

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Mailing Address of Property Owner

\_\_\_\_\_  
Printed Name of above Signature

\_\_\_\_\_  
City State Zip

(Additional copies may be necessary if there are more than 3 property owners)

**Check the boxes that apply:**

This property is also subject to

- ☒ building permit (address 3033 Coolidge Drive, Bellingham, WA 98225  
(construction of a new Parkview Elementary School))
- ☐ short plat or lot adjustment
- ☐ site plan review
- ☐ change in land use designation
- ☐ other (specify)

The City staff person most familiar with this application is Ryan Nelson



## **Pacific Surveying & Engineering, Inc**

land surveying • civil engineering • consulting • environmental  
909 Squalicum Way #111, Bellingham, WA 98225  
Phone 360.671.7387 Facsimile 360.671.4685 Email [info@psurvey.com](mailto:info@psurvey.com)

### **EXHIBIT ' \_ '**

#### **CORNWALL AVENUE – PORTION OF ORIGINAL RIGHT OF WAY TO BE VACATED**

THAT PORTION OF CORNWALL AVENUE LYING NORTHERLY OF THE SOUTH LINE OF LOT 15, BLOCK 5, SQUALICUM PARK PLAT, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS, PAGES 1 AND 2, EXTENDED SOUTHWESTERLY TO THE WESTERLY MARGIN OF CORNWALL AVENUE; THENCE NORTHERLY ON A CURVE TO THE RIGHT, 130 FEET MORE OR LESS, TO THE SOUTH LINE OF VACATED CORNWALL AVENUE AS VACATED UNDER CITY OF BELLINGHAM ORDINANCE NO. 6966;

EXCEPT THAT PORTION LYING NORTHERLY OF THE SOUTHERLY LINE OF VACATED CORNWALL AVENUE AS VACATED UNDER CITY OF BELLINGHAM ORDINANCE NO. 6966.

CONTAINING 7,393 SQUARE FEET, MORE OR LESS.

SITUATE IN THE CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON.



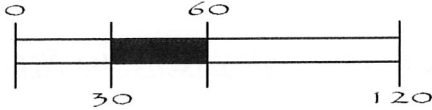
### **EXHIBIT A**



# EXHIBIT 'A'

SITUATE IN A PORTION OF THE SE 1/4 OF THE NW 1/4 OF SEC. 19,  
 TWN 38 N., RGE 3 E., W.M., CITY OF BELLINGHAM, WHATCOM COUNTY, WA

GRAPHIC SCALE  
 (us survey feet)



VACATED  
 CORNWALL  
 AVENUE  
 CITY OF  
 BELLINGHAM  
 ORD #6966

S. LINE OF  
 VACATED CORNWALL AVE.  
 CITY OF BELLINGHAM  
 ORD. #6966

CORNWALL PARK

SQUALICUM PARK PLAT

TP #380319 175408 0000  
 BELLINGHAM SCHOOL  
 DIST. NO. 501  
 (PARKVIEW ELEMENTARY SCHOOL)

18  
 BLOCK 5

17  
 VOL. 7 PG. 1&2

TP #380319  
 164380 0000  
 16 BELLINGHAM SCHOOL  
 DIST. NO. 501

TP #380319  
 165374 0000  
 15 BELLINGHAM SCHOOL  
 DIST. NO. 501

14



= CORNWALL AVENUE VACATION AREA  
 (±7,393 SF)



DATE: 8.10.20 DWG NO.: 2019051\_svE\_ROW\_ROW VACATION 2020.dwg

## EXHIBIT A-1



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**NARRATIVE**  
**to the application for street vacation for the Bellingham School District**

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**I.**  
**INTRODUCTION**

The Bellingham School District ("District") requests that the City of Bellingham ("City") approve the vacation of Cornwall Park right-of-way legally described in **Exhibits A** and **A-1** which are attached hereto and incorporated by reference herein.

**II.**  
**General Project**

The Bellingham School District intends to replace the existing Parkview Elementary School with a new school. The existing Parkview Elementary School is an existing single story 35,690 square foot facility constructed in the 1960's and added into the 1970's and into 2016. Construction is a mix of concrete tilt-up structural steel framing and block masonry units. The existing building will be demolished and the 2600 square foot covered play area will be relocated to the west of the new school. New construction will consist of 61,572 square feet and will include a two-story classroom wing and expanded gymnasium and receiving area. The new school will accommodate the current student population of approximately 300 students and is being built to accommodate 450 students in total to allow for future population growth. A new bus drop-off and staff parking will be constructed along Coolidge Drive. A separate two-lane parent drop-off and parking will be constructed to the south, off of Cornwall Avenue. The road vacation would allow for additional lineal footage for parent drop-off and parent vehicular circulation area. See design attached as **Exhibit B** herein.

**III.**  
**Vacation of Both Halves of the Right-Of-Way**

The property owner abutting the other half of the proposed vacated Cornwall Avenue right of way is owned by the City of Bellingham. It is our understanding that the City of Bellingham consents to the vacation of the entire right-of-way.

The School District is in discussions with the City of Bellingham, which will hopefully result in the City of Bellingham conveying the half of the vacated right-of-way abutting the city

right of way to the School District so that the School District, after the vacation is completed, will own the entire vacated Cornwall Avenue right-of-way.

#### **IV.**

##### **No Reservation of Easements Except Access & Sewer Easements**

The School District includes a request to consider that the road vacation include an extinguishment or relocation of City of Bellingham easements located within the vacated Cornwall Avenue except that it is intended that the City will reserve a pedestrian easement along the west side of the vacated Cornwall Avenue of a width satisfactory to the City of Bellingham, for pedestrian access, in order to allow continued access to a portion of Cornwall Park located next to Parkview Elementary School, as well as a vehicle access easement within the existing roadway for park personnel to access such area of Cornwall Park for landscaping maintenance and other purposes. The School District and the City are also working on a new sewer easement for the area north of the proposed vacated Cornwall Avenue. The District will propose the extension of that easement into the vacated Cornwall Avenue.

#### **V.**

##### **Waiver of Payment for Right Of Way**

The School District respectfully requests that the City of Bellingham waive the payment of the one half of the appraised value of the vacated Cornwall Avenue as the use of the property will be devoted to accommodate the construction of a new Parkview Elementary School, which is for the public good and benefit.

#### **VI.**

##### **The Proposed Road Vacation Request Conforms with the Adopted Street Vacation Policies.**

###### **A. The vacation is for the public good.**

The proposed vacation is necessary for the public good as it will provide additional property for the School District and accommodate the development of a new elementary school, and will provide for a better design for vehicular/bus access to the school project as depicted in **Exhibit B** herein.

###### **B. The right-of-way is of no value to the circulation plan for the City.**

It is my understanding that that the City concurs that the proposed vacated Cornwall Avenue property is not necessary for the City's circulation system, although it is understood that there will be a retention of an easement along the west part of the vacated Cornwall Avenue for pedestrian access into the park, and vehicle access for park personnel.

**C. The vacation will not result in a landlocked parcel.**

The proposed road vacation will not result in any particular lot owned privately to be landlocked.

**D. The Proposed vacated portion of a Cornwall Avenue does not abut a fresh or salt body of water.**

This policy is not relevant to this proposal.

**E. Right-of-way, adjacent or leading to any park, will not be vacated. Unless continued access allowed**

The City and School District have agreed that the reservation of pedestrian access for the public on the west part of the vacated right-of-way, along with a vehicle access easement for park personnel, will allow continued access into the park property. Such easements will satisfy this particular policy.

**VII.  
CONCLUSION**

In conclusion, the School District respectfully requests approval of the road vacation request for the part of Cornwall Avenue right of way described in **Exhibit A**. Approval of the vacation request would give the School District additional property that will assist in the construction of a new Parkview Elementary School with a more appropriate design for parent drop-off and parent vehicular and bus access as depicted in **Exhibit B**.

\\ADELSTEINPROLAW\ProLawFiles\Documents\341-052\Bellingham School District #501\Document\357564.docx

This deed is made subject to a mortgage in favor of William Monahan, recorded in Vol. 69 of Mortgages, at page 34, Balance due on said mortgage being \$400.00 which the purchaser assumes and agrees to pay

sit in "C"n  
1 wit

Charles E Knuppenburg  
Mary A Knuppenburg?

Ackd in WCWn August 14th, 1912 by (pc) bef T S Jennings NP in  
and for the S of W res Bellingham SEA1

196704-5-6 N G

196704

Bellingham Bay Improvement  
Company, a private corp of  
Wn

to  
City of Bellingham, a municipal  
corp of the first class organized  
and existing under and by virtue  
of the laws of the S of W in trust  
for the purposes and upon the  
conditions hereinafter specified,

196707  
Deed  
Dated August 9 1916  
Fld Dec 2 1916 at 8.15  
Bk 140 Pg 539  
\$1

C & Q C all int in the folg desc property sit in the City  
of Bellingham, WCWn to-wit:

Beginning at a point 1862.66 feet north and 1842.71 feet west of the initial point of Broadway Park Plat in the City of Bellingham, Washington, as such plat was filed for record in the office of the auditor of Whatcom County, Washington, September 1st, 1906; thence northeasterly curving to the left with a radius of 20 feet, 37.34 feet about a center located 20 feet north of the point of beginning; thence tangentially curving to the right with a 900 foot radius from a center located 2151.08 feet north and 962.71 feet west of the initial point of said Broadway Park Plat and continuing on such radius to intersect the southeasterly line of Cornwall Memorial Park as such Park is bounded and described in that certain deed from Bertha James Cornwall Fischer to the City of Bellingham dated February 27, 1909, filed for record March 27, 1909 and recorded in volume 102 of Deeds at page 294 of the records of Whatcom County, Washington; thence southwesterly around the boundary line of Cornwall Park to an intersection with the east line, produced northerly, of Russell Street (as Russell Street is delineated upon the supplemental map of the city of Whatcom, filed for record in the office of the auditor of WCWn, December 3, 1886); thence southerly along the east line of said Russell Street so produced to a point 460 feet north of the north line of Illinois Street produced westerly (as such Illinois Street is described in that certain deed from Bellingham Bay Improvement Company to City of Bellingham dated June 23rd, 1913, filed for record October 21st, 1913, and recorded in volume 126 of Deeds at page 627, records of WCWn); thence easterly in a straight line to the point of beginning.

The courses and directions in the foregoing description are upon the assumption that the base line of said Broadway Park Plat runs due east and west.

The foregoing property is conveyed to the grantee and its successors in trust for public park purposes.

This Conveyance is upon the express conditions that should the grantee or its successors at any time cease to hold and use the land herein conveyed or any part or parcel thereof as and for a public park, or if the said grantee or its successors shall at any time use the lands herein conveyed or any part or parcel thereof for any purpose other than public

park purposes, then upon the happening of any such event the title to the whole of such property shall revert to the grantor, its successors or assigns.

IN WITNESS WHEREOF the grantor has caused this instrument to be executed in its name by its president and attested by its secretary under its corporate seal, all under authority of a resolution of its board of trustees.

BELLINGHAM BAY IMPROVEMENT COMPANY  
(Corp Seal) BY G C Hyatt  
President  
Attest: E G Saxon  
Secretary

Ackd in WOWN August 9th, 1916 by G C Hyatt the president and E G Saxon, the secretary of Bellingham Bay Improvement Company the corp that executed the foregoing inst (stat form) bef J W Kindall NP in and for the S of W res Bellingham SEAL (attached plat)

196708  
Bellingham Bay Improvement Company, a private corp of Wn  
to  
City of Bellingham, a municipal corp of the first class organized and existing under and by virtue of the laws of the State of Wn, in trust for the purposes and upon the conditions hereinafter specified

Deed  
Dated August 9th 1916  
Fld Dec 2 1916 at 8.15  
Bk 140 Pg 540  
\$1

C & Q C all int in the folg desc property sit in the City of Bellingham, WOWN to-wit:

A strip of land 60 feet in width being 30 feet on each side of a line described as follows, to-wit:

Beginning at a point on the south line of Illinois Street 30 feet east of the east corner of block 159, all according to Broadway Park Plat, as such plat was filed for record in the office of the auditor of WOWN, September 1st, 1906; thence north 0°36" east to an intersection with the west line of Cornwall Avenue (formerly Dock Street), as such Cornwall Avenue is extended and described in a deed of even date herewith between the parties hereto.

The courses and directions (same recitals as #196707)

(Corp Seal) BELLINGHAM BAY IMPROVEMENT COMPANY  
BY: G C Hyatt  
President  
Attest: E G Saxon,  
Secretary

Ackd in WOWN August 9th, 1916 by G C Hyatt president and E G Saxon, secretary of Bellingham Bay Improvement Company, the corp that executed the foregoing inst (stat form) bef J W Kindall NP in and for the S of W res Bellingham SEAL

196709  
Bellingham Bay Improvement Company, a private corp of Wn  
to  
City of Bellingham, a municipal corp of the first class organized and existing under and by virtue of the laws of the State of Wn, in trust for the purposes and upon the conditions hereinafter specified,

Deed  
Dated August 9th 1916  
Fld ~~140~~ Dec 2 1916 at 8.15  
Bk 140 Pg 541  
\$1

C & Q C all int in the folg desc property sit in WOWN/  
City of Bellingham WOWN to-wit:

AFTER RECORDING MAIL TO:  
BELLINGHAM SCHOOL DISTRICT #501  
1306 DUPONT STREET  
BELLINGHAM, WA 98225



1991000121  
Page: 1 of 1  
10/01/1999 11:36 AM  
DEED \$8.00  
Whatcom County, WA  
Request of: WHATCOM LAND TITLE

Filed for Record at Request of  
WHATCOM LAND TITLE COMPANY, INC.  
Escrow Number: W-49443

### Statutory Warranty Deed

Grantor(s): CYNTHIA JEAN TROTT  
Grantee(s): BELLINGHAM SCHOOL DISTRICT #501  
Abbreviated Legal: LOT 16, BLK 5, SQUALICUM PARK PLAT  
Additional legal(s) on page:  
Assessor's Tax Parcel Number(s): 380319 164380 0000

THE GRANTOR CYNTHIA JEAN TROTT, as her separate estate  
for and in consideration of TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION  
in hand paid, conveys and warrants to BELLINGHAM SCHOOL DISTRICT #501  
the following described real estate, situated in the County of WHATCOM, State of Washington:  
LOT 16, BLOCK 5, SQUALICUM PARK PLAT, A PART OF THE CONSOLIDATED CITY OF  
BELLINGHAM, WHATCOM COUNTY, WASHINGTON, ACCORDING TO THE PLAT THEREOF,  
RECORDED IN VOLUME 7 OF PLATS, PAGES 1 AND 2, RECORDS OF WHATCOM COUNTY,  
WASHINGTON.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

#### SUBJECT TO:

1. An agreement, including the terms and provisions thereof, recorded December 1, 1941,  
under Whatcom County Auditor's File No. 556845, made by Bellingham Securities  
Syndicate, Inc., J.E. McGinnis, et al, to the Public.

Dated this <sup>30th</sup> day of September, 1999

By

CYNTHIA JEAN TROTT

By

By

STATE OF WASHINGTON }  
County of WHATCOM } SS:

I certify that I know or have satisfactory evidence that CYNTHIA JEAN TROTT

is the person who appeared before me, and said person acknowledged that she  
signed this instrument and acknowledge it to be her free and voluntary act for the uses and purposes  
mentioned in this instrument.

Dated: September 30TH, 1999

LISA C. DINGLE-KYLE  
Notary Public in and for the State of WASHINGTON  
Residing at BELLINGHAM  
My appointment expires: 10/15/2001



2019-1103585

11/26/2019 10:46 AM

00194894201911035850030037

When recorded return to:

BELLINGHAM SCHOOL DISTRICT NO. 501  
1306 DUPONT STREET  
BELLINGHAM, WA 98225

Filed for Record at Request of  
WHATCOM LAND TITLE COMPANY, INC.  
Escrow Number: W-159414

3 pgs

### STATUTORY WARRANTY DEED

Grantor: **BROOKE JILLIAN and TRACY JILLIAN, a married couple**  
Grantee: **BELLINGHAM SCHOOL DISTRICT NO. 501, a municipal corporation**

THE GRANTOR, BROOKE JILLIAN and TRACY JILLIAN, a married couple for and in consideration of TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION in hand paid, conveys and warrants to BELLINGHAM SCHOOL DISTRICT NO. 501, a municipal corporation the following described real estate, situated in the County of WHATCOM, State of WASHINGTON:

LOT 15, BLOCK 5, AND THE NORTHERLY 1/3 OF LOT 14, BLOCK 5, SQUALICUM PARK PLAT, A PART OF THE CONSOLIDATED CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS, PAGE 1 AND 2, RECORDS OF WHATCOM COUNTY, WASHINGTON.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

Tax Parcel Number(s): 380319 165374 0000 PID 62495

Dated: November 19, 2019

Brooke Jillian  
BROOKE JILLIAN

Tracy J. Jillian  
TRACY JILLIAN

STATE OF WASHINGTON }  
COUNTY OF WHATCOM } SS:

I certify that I know or have satisfactory evidence that **BROOKE JILLIAN AND TRACY JILLIAN** is/are the person(s) who appeared before me, and said person(s) acknowledged that **THEY** signed this instrument and acknowledge it to be **THEIR** free and voluntary act for the uses and purposes mentioned in this instrument.

Dated: 11-21-19

Heather Ledray

HEATHER LEDRAY  
Notary Public in and for the State of WASHINGTON  
Residing at BELLINGHAM  
My appointment expires: 8/14/2020



EXHIBIT A

SUBJECT TO:

1. Covenants, conditions and restrictions, including the terms and provisions thereof, contained in instrument, but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law;

Recorded: April 7, 1926

Recording No.: 306743

Executed by: BELLINGHAM BAY IMPROVEMENT COMPANY

2. Matters disclosed by a Survey;  
Recorded: April 14, 2015  
Recording No.: 2150401342  
Records of: Whatcom County, Washington

We note this record of survey depicts existing fence lines which are at variance with deed lines of record. Said fence lines may indicate a potential for claims and may be subject to issues of unwritten title.

3. Matters disclosed by a Survey;  
Recorded: July 30, 2015  
Recording No.: 2150703576  
Records of: Whatcom County, Washington

We note this record of survey depicts existing fence lines which are at variance with deed lines of record. Said fence lines may indicate a potential for claims and may be subject to issues of unwritten title.

4. Reservations contained on the plat as follows:

1. The title to all coal deposits located at a greater depth than 200 feet beneath the surface of the real estate embraced within this plat.
2. BELLINGHAM BAY IMPROVEMENT COMPANY, its successors, grantees and assigns, in the title to such coal deposits, shall have the perpetual right to mine the same and shall also have the perpetual easement to transport through the lands embraced within this plat any and all coal deposits, whether contained in the lands embraced within this plat or in lands, other than those embraced within this plat; provided however, that such mining operations shall not be carried on or such transportation conducted within the limits of the land embraced within this plat at a place above 200 feet beneath the surface of such lands, nor in such manner as to interfere with the surface rights to the same.

5. Covenants, conditions, restrictions, reservations and easements in Agreement;  
Executed by: BELLINGHAM SECURITIES SYNDICATE, INC., et  
al.  
Recorded: December 1, 1941  
Recording No.: 556845

Said instrument has been amended or modified by the following instrument;  
Recorded: October 31, 1968, April 5, 1972, June 19, 1972, and July  
5, 1972  
Recording No.: 1052072, 1112520, 1117350, 1117351 and 1118576  
through 1118598, respectively

**NOTE:** Restrictions indicating any preference, limitation of discrimination  
based on race, color, religion, sex, handicap, familial status or national origin  
have been deleted.

... END OF EXHIBIT "A" ...



# City Council Agenda Bill

22767

Bill Number

**Subject: Discussion of a Resolution in Support of a Renewal of the Bellingham Transportation Fund in the November 2020 General Election**

Summary Statement: At the November 2010 general election, Bellingham voters approved a two-tenths of one percent (0.002) local sales tax to support local transportation priorities. This sales tax, which expires on March 31, 2021, has funded approximately \$5 million annually in transportation projects in the City of Bellingham over the last decade. The City Council will discuss a resolution expressing support for renewal of this tax levy on the November 2020 ballot. A Public Hearing on this resolution may be scheduled for the October 12 evening City Council meeting.

Previous Council Action: 6/30/2020, directed that a renewal of the Transportation Fund be placed on the November ballot

Fiscal Impact: \$5 million annually in revenue for transportation projects

Funding Source: Sales Tax Renewal

Attachments: 1. RESOLUTION

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	9/28/2020	Provide Direction	Councilmembers Michael Lilliquist and Hannah Stone	5 minutes

**Recommended Motion:**

**Council Committee:**  
Committee Of The Whole

**Agenda Bill Contact:**  
Mark Gardner, 778-8204

**Council Action:**

Reviewed By	Department	Date
<i>Mark J. Gardner</i>	Council Administration	9/22/2020
<i>Matthew T. Stamps</i>	Legal	9/22/2020
<i>Seth M. Fleetwood</i>	Executive	9/22/2020

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE BELLINGHAM CITY COUNCIL TO ENCOURAGE VOTERS OF BELLINGHAM TO RENEW THE BELLINGHAM TRANSPORTATION FUND IN THE NOVEMBER 2020 GENERAL ELECTION**

**WHEREAS**, the City of Bellingham is committed to providing safe transportation and mobility choices for community members, regardless of income, age, and ability level; and

**WHEREAS**, well-maintained streets, safe neighborhoods, accessible sidewalks, and a variety of transportation choices are vital components of a healthy community; and

**WHEREAS**, the quality of a community's transportation infrastructure is a key driver of economic prosperity; and

**WHEREAS**, a reliable transportation system with multiple mobility options lowers the cost of living for households of diverse income levels; and

**WHEREAS**, regular and routine maintenance of transportation infrastructure lessens the expense of extensive repairs in the future; and

**WHEREAS**, single-occupancy vehicles account for a significant portion of greenhouse gas emissions, and cleaner transportation alternatives will reduce emissions significantly; and

**WHEREAS**, in the November 2010 general election, Bellingham voters approved a two-tenths of one percent (0.002) local sales tax to support local transportation priorities and the formation of a Transportation Benefits District (TBD); and

**WHEREAS**, in December 2015, the TBD's rights, powers, functions, and responsibilities were assumed by the City of Bellingham and all sales tax revenue collected was remitted to the City's "Transportation Fund"; and

**WHEREAS**, on July 6, 2020, the City Council passed Ordinance 2020-07-018, identifying projects on the Transportation Improvement Plan that qualify as Transportation Fund Projects; and

City of Bellingham  
City Attorney  
210 Lottie Street  
Bellingham, Washington 98225  
360-778-8270

**WHEREAS**, over the last 10 years, the Transportation Fund has generated approximately \$5 million in revenue each year to:

- Repave and maintain 46 miles of arterial streets, to avoid costlier repairs in the future,
- Improve and connect 9 miles of sidewalks, to create more complete networks throughout neighborhoods,
- Create 40 marked or enhanced crosswalks, ADA ramps, and other pedestrian improvements, to fulfill goals of Bellingham's Pedestrian Master Plan,
- Construct bicycle safety improvements and bike lanes on 42 miles of city streets, to make substantial progress towards the goals of Bellingham's Bicycle Master Plan,
- Restore Sunday public bus service during the economic recession of 2008-2010, and add transit-related improvements such as bus stops and pull-out lanes, most of which would not have been possible without the support of the Bellingham Transportation Fund; and

**WHEREAS**, the voter-approved transportation sales tax expires on March 31, 2021; and

**WHEREAS**, the continuation of current levels of street repair, sidewalk modifications, bike lane enhancements, public transit projects, and other transportation improvements are dependent upon the local Transportation Fund; and

**WHEREAS**, the City wishes to continue and extend the transportation sales tax for an additional ten-year period, to provide ongoing funds necessary to pay or finance the cost of the following transportation improvement projects contained in the City's TIP and identified by City Council as eligible Transportation Fund Projects in Ordinance 2020-07-18:

- Annual Street Pavement Resurfacing Program, to avoid the expense of extensive repairs, and
- Non-Motorized Transportation Improvements to support pedestrians, cyclists, and wheelchair/scooter users of all ages and ability levels, and
- Climate Action Plan & Whatcom Transportation Authority ("WTA") Transit Plan, to reduce greenhouse gas emissions.

**WHEREAS**, renewal of the Transportation Fund will support local construction jobs, helping the community recover from the COVID-19 downturn.

City of Bellingham  
City Attorney  
210 Lottie Street  
Bellingham, Washington 98225  
360-778-8270

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLINGHAM:** to encourage registered voters of Bellingham to vote "yes" on Prop 2020-14, renew the two-tenths of one percent (0.002) sales and use tax, and support the local Transportation Fund in the November 2020 general election.

**PASSED** by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Council President

**APPROVED** by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Mayor

**ATTEST:** \_\_\_\_\_  
Finance Director

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Office of the City Attorney

City of Bellingham  
City Attorney  
210 Lottie Street  
Bellingham, Washington 98225  
360-778-8270



# City Council Agenda Bill

22768

Bill Number

Subject: **Summary of Electronic Home Monitoring**

Summary Statement: This will be a presentation summarizing the electronic home monitoring programs being overseen by Bellingham Municipal Court.

Previous Council Action: **None**

Fiscal Impact: **Adoption of 2019-2020 Biennial Budget**

Funding Source: **General Fund**

Attachments: 1. STAFF MEMO  
2. ELECTRONIC HOME DETENTION/MONITORING STATISTICAL REPORT

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Information Only	9/28/2020	Information/Discussion	Darlene Peterson/Kathy Smith	20 minutes

**Recommended Motion:**

**Council Committee:**  
Committee Of The Whole

**Agenda Bill Contact:**  
Darlene L. Peterson

**Council Action:**

Reviewed By	Department	Date
<i>Darlene L. Peterson</i>	Municipal Court	9/08/2020
<i>Peter M. Ruffatto</i>	Legal	9/18/2020
<i>Seth M. Fleetwood</i>	Executive	9/22/2020



**City of Bellingham**  
210 Lottie Street  
Bellingham, WA 98225

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**MEMORANDUM**

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**TO:** CITY COUNCIL  
**FROM:** DARLENE L. PETERSON  
**CC:** BRIAN HEINRICH  
**SUBJECT:** UPDATED REPORT OF ELECTRONIC MONITORING FOR SEPTEMBER 28, 2020  
**DATE:** SEPTEMBER 8, 2020

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An update will be given of the electronic home monitoring programs, GPS and SCRAM, by Kathy Smith, the Jail Alternatives and Diversion Manager and Darlene Peterson, Court Administrator.

# City of Bellingham

## Electronic Home Detention/Monitoring Statistical Report

*In February of 2016, the City of Bellingham began an electronic home detention/monitoring (EHD/EHM) program for qualifying and court-approved offenders. The program includes the use of GPS tracking devices and SCRAM (Secure Continuous Remote Alcohol Monitoring). Monitoring and other related services are provided by the Bellingham office of contracted vendor Friendship Diversion Services, based in Olympia, WA. The following report provides specific details regarding participation in the EHD/EHM*

**The report details statistics from the program's inception through August 31, 2020.** Data for the report was gathered from the Bellingham Municipal Court's EHD/EHM statistics, FDS invoices and statistics, and SCRAM compliance reports provided by Alcohol Monitoring Systems, Inc.

### GPS PROGRAM

The GPS program utilizes the ReliAlert tracking device which is attached to the defendant's ankle. The device updates a defendant's location and assesses compliance every 2 seconds, 24 hours, 7 days a week.

#### CURRENT STATISTICS



Defendants are ordered to participate in this alternative to jail for the following reasons:

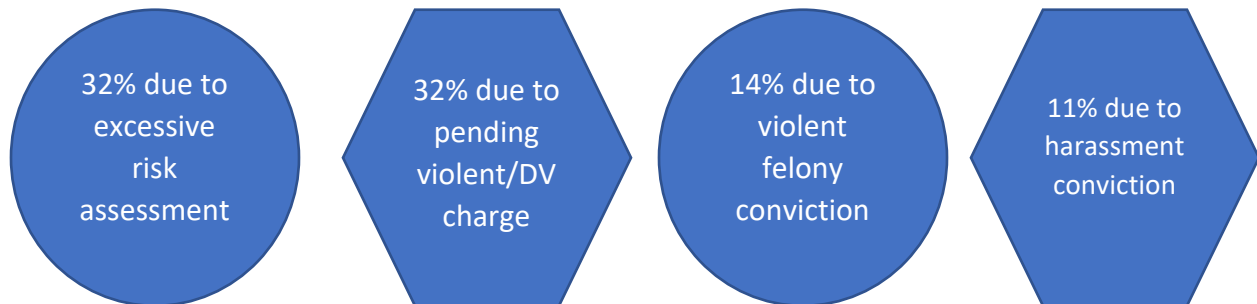
- pre-trial until bail/bond is posted;

- pre-trial active supervision to ensure s/he does not enter exclusion zones established by no contact/anti-harassment orders; and
- post-conviction (PC) “house arrest” as a jail alternative for those who have been sentenced to serve time as a result of their conviction.

Each newly arrested/charged defendant is screened for GPS program eligibility using a court-approved screening tool. 73.5% of all defendants screened were deemed eligible to participate in the GPS program.

*Defendants with certain conviction histories, as outlined in RCW 9.94A.734, are deemed permanently ineligible from serving in the GPS program post-conviction.*

#### ELIGIBILITY SCREENING STATISTICS



The remaining 11% of those found ineligible were due to escape, felony sex offense, reckless burning and/or unlawful imprisonment convictions.

***(Once the pending violent/domestic violence charge is resolved, the defendant may participate in the GPS program if s/he is not ineligible for any other reason.)***

Since the program’s inception, over 1400 defendants have participated in the GPS program, most of them enrolled to satisfy post-conviction jail sentences.

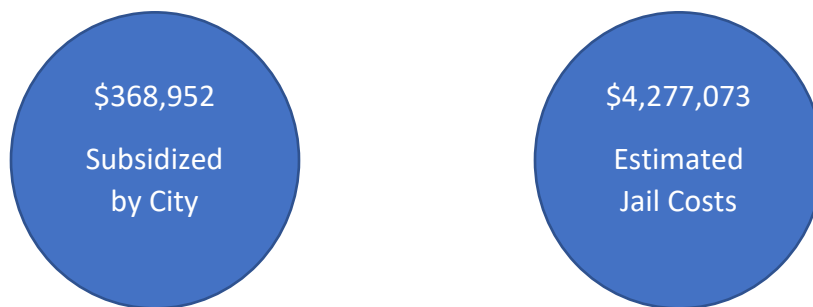
#### COMPLETION STATISTICS



YEAR	# OF PARTICIPANTS	# OF DAYS ORDERED
2016	255	3899
2017	304	5269
2018	302	4834
2019	373	5950
2020	247	3979

Defendants who choose to serve their sentence via house arrest are responsible for costs associated with the program. Those defendants who earn less than 150% of federal poverty income guidelines are subsidized by the City using a sliding fee scale created by the City. If these same defendants had served their sentences in jail, the City would have paid all jail costs associated with the sentence.

### COSTS



### SCRAM PROGRAM

The SCRAM program utilizes a device attached to the defendant's ankle that measures transdermal alcohol secretion by sampling a defendant's sweat for alcohol every 30 minutes, 24 hours, 7 days a week. The device can distinguish ingested alcohol from environmental alcohol sources, such as lotions, perfumes, cleaning products, etc. This continuous monitoring capability has far surpassed limitations of the Ethyl Glucuronide Urinalysis (EtG/UA), which can only detect the presence of alcohol in the body one to five days, depending on how much alcohol was consumed.

Technology-driven alcohol monitoring has been a key factor in the City's successful alcohol programs because it allows us to effectively supervise high-risk offenders to maintain individual and public safety. Use of the SCRAM device allows the Court to enforce accountability and compliance, reduce recidivism, and address the root cause of alcohol-related crimes: the abuse, misuse and addiction to alcohol. The device also allows county probation officers to sanction violations with attachment of the device rather than jail time, providing an intermediate option that allows the defendant to regain compliance without being incarcerated.

Many of the defendants ordered to participate in the SCRAM program as part of their pre-trial monitoring requirements are so ordered due to alleged offenses involving alcohol. All defendants

enrolled in the SCRAM program are monitored by the Whatcom County Probation Department. Defendants who resolves their cases while wearing the SCRAM device are typically required to continue wearing the device until their imposed sentence is complete.

#### CURRENT STATISTICS



YEAR	# OF PARTICIPANTS	# OF DAYS
2016	22	896
2017	97	6907
2018	138	11576
2019	179	21301
2020*	95	1942

The City receives monthly an annual SCRAM compliance reports that include information regarding the number of defendants currently enrolled, compliance averages, violation information\*, and other pertinent monitoring information. **99.6% of all days served on SCRAM were served sober.**

	% of Sober Days	COB Compliance Rate	National Compliance Rate	Average # of days on SCRAM	National Average # of days on SCRAM
2016	99.3%	91.7%	77.5%	16	60
2017	99.6%	76.3%	77.1%	34	61
2018	99.7%	87%	76.4%	98	100
2019	99.5%	72.3%**	75.5%	119	102
2020	99.4%	63**	74.6	176	106

\* Violations include but are not limited to tampering with the device, alcohol consumption, failing to upload data, failing to charge device, and failing to maintain monthly appointments with FDS staff.

\*\* It is believed that booking restrictions are negatively affecting compliance rates. Typically, multiple violations would result in issuance of a warrant and subsequent arrest. Due to booking restrictions, warrant arrests associated with non-domestic violent offenses are not able to be booked into the Whatcom County Jail, allowing defendants to continue to violate while in warrant status.



# City Council Agenda Bill

22769

Bill Number

**Subject: Consideration of an Ordinance Amending BMC 2.16.100 which Relates to the City's Electronic Home Detention and Monitoring Program**

Summary Statement: In February of 2016, the City of Bellingham began an electronic home detention and monitoring (EHD and EHM) program for qualifying, court-approved defendants. The original ordinance focused on home detention, which includes the use of GPS tracking. For several years the program has also utilized Secure Continuous Remote Alcohol Monitoring (SCRAM) technology to provide another alternative to jail and to further public safety. The proposed ordinance amends the code to explicitly recognize alcohol monitoring as part of the program.

Previous Council Action: **Establishment of the Electronic Home Detention and Monitoring Program by Ordinance in 2016.**

Fiscal Impact: In 2019, the expense to the City for Friendship Diversion Services (the EHD and EHM program contractor) was \$204,000.

Funding Source: **General Fund**

Attachments: 1. ORDINANCE AMENDING BMC 2.16.100

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	9/28/2020	Pass Ordinance	Peter Ruffatto, City Attorney	5 minutes

**Recommended Motion:**

**Council Committee:**  
Committee Of The Whole

**Agenda Bill Contact:**  
Peter Ruffatto, City Attorney, 360-778-8270

**Council Action:**

Reviewed By	Department	Date
<i>Peter M. Ruffatto</i>	Legal	9/22/2020
<i>Darlene L. Peterson</i>	Municipal Court	9/22/2020
<i>Peter M. Ruffatto</i>	Legal	9/22/2020
<i>Seth M. Fleetwood</i>	Executive	9/22/2020

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON AMENDING CHAPTER 2.16.100 OF THE BELLINGHAM MUNICIPAL CODE REGARDING ELECTRONIC HOME DETENTION AND MONITORING.**

**WHEREAS**, in 2016, the City of Bellingham, through and under the direction of the City's Department of Municipal Court, established an electronic home detention/monitoring program; and

**WHEREAS**, the program has been used extensively during to promote public safety and accountability while reducing the need to hold defendants and offenders at a jail facility; and

**WHEREAS**, defendants and offenders placed in the electronic home detention program may be able to continue certain activities, subject to order of the court, including school, work, treatment, counseling, probation/parole, medical/dental appointments, scheduled court hearings, attorney appointments and child care provisions; and

**WHEREAS**, in addition to GPS based home detention, the City's Department of Municipal Court utilizes an ankle bracelet that performs continuous alcohol monitoring to provide public safety and accountability as alternative to incarceration; and

**WHEREAS**, this ordinance recognizes the use of continuous alcohol monitoring as another alternative to incarceration and/or a condition of pretrial release as part of misdemeanor supervision services, through and under the direction of the city's department of municipal court.

**NOW, THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:**

**Section 1:** BMC 2.16.100 is hereby amended as follows:

**BMC 2.16.100 – Electronic home detention program**

A. An electronic home detention and monitoring program is hereby established to provide a form of misdemeanor supervision services, through and under the direction of the city's department of municipal court.

B. The program shall be operated in a manner consistent with public safety, and in accordance with the minimum standards set by, and provisions of, federal, state and local laws, and with such other standards, procedures, rules and regulations as may be promulgated from time to time by the city. The city administration may contract with independent contractors to perform monitoring and supervision of participants in the program.

C. Defendants who are in pretrial or postconviction status committed to jail for sentencing or who are awaiting trial or sentencing for misdemeanor and gross misdemeanor violations of law, and who are not precluded by court order ~~from serving such commitment in the city's electronic home detention program~~ and who meet the minimum standards established by the city, may serve their incarceration or await trial in an electronic home detention and monitoring program.

D. Defendants who are in pretrial or postconviction status awaiting trial or sentencing for misdemeanor and gross misdemeanor violations of law and who meet the minimum standards established by the city may be monitored for alcohol consumption in an electronic home monitoring program.

E. Eligibility standards and the process for determining eligibility shall be established by the city through and under the direction of the city's department of municipal court.

~~D~~E. The city administration is authorized to implement a fee subsidy plan in order to ensure maximum participation in the program. The amount of subsidy shall be subject to budget authority.

**PASSED** by the Council this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Council President

**APPROVED** by me this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Mayor

**ATTEST:** \_\_\_\_\_  
Finance Director

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Office of the City Attorney

Published:

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# City Council Agenda Bill

22665

Bill Number

**Subject: Consideration of an Ordinance Creating a Shelter Protection Area for Base Camp Located at 1530 Cornwall Avenue**

**Summary Statement:** The City issued a permit to the Lighthouse Mission Ministries (LMM) for the operation of a temporary shelter at 1530 Cornwall Ave. ("Base Camp"). Base Camp provides daily services and overnight shelter for up to 200 people, along with amenities including bathrooms, showers, laundry, meals and human and social services. On September 14, 2020 staff provided City Council an update on Base Camp including neighborhood impacts. Staff proposed the creation of a Shelter Protection Area to address concerns raised by LMM and adjacent business owners. The City Council directed staff to return with an ordinance. The protection area would place certain limitations on how the public may use the rights-of-way adjacent to Base Camp.

**Previous Council Action:** Passed Ordinance 2018-10-019, establishing regulations regarding temporary homeless shelters. Provided direction to staff on 9/14/20 to draft Shelter Protection Area Ordinance

**Fiscal Impact:** N/A

**Funding Source:** N/A

**Attachments:** 1. STAFF MEMO  
2. ORDINANCE

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	9/28/2020	Pass Ordinance	Tara Sundin, PCDD and Peter Ruffatto, Legal	10 minutes

**Recommended Motion:**

**Council Committee:**  
Committee Of The Whole

**Agenda Bill Contact:**  
Tara Sundin, Planning and Community Development, 360-778-8300

**Council Action:**

Reviewed By	Department	Date
<i>Rick M. Sepler</i>	Planning & Community Development	9/22/2020
<i>Peter M. Ruffatto</i>	Legal	9/22/2020
<i>Peter M. Ruffatto</i>	Legal	9/22/2020
<i>Seth M. Fleetwood</i>	Executive	9/22/2020



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**MEMORANDUM**

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**TO:** BELLINGHAM CITY COUNCIL

**FROM:** TARA SUNDIN, COMMUNITY & ECONOMIC DEVELOPMENT MANAGER

**CC:** MAYOR SETH FLEETWOOD  
RICK SEPLER, PCDD  
PETER RUFFATTO, LEGAL

**SUBJECT:** ORDINANCE TO CREATE A SHELTER PROTECTION AREA FOR BASE CAMP

**DATE:** SEPTEMBER 17, 2020

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The City issued a permit on August 7, 2020 to the Lighthouse Mission Ministries (LMM) for the operation of a temporary building encampment at 1530 Cornwall Ave. ("Base Camp"). Base Camp provides daily services and overnight shelter for up to 200 people, along with amenities including bathrooms, showers, laundry, drinking water, food, garbage and recycling containers, and human and social services.

LMM and businesses operating in the immediate vicinity have requested assistance to address observed and documented adverse behaviors occurring within the public right-of-way (ROW) adjacent to the shelter. The following behaviors and impacts have been observed in the vicinity of temporary building encampments, including Base Camp and a previous permitted temporary building encampment: debris, human waste, animal waste, unauthorized encampments, disorderly conduct, property damage, fires, public urination, pedestrian and vehicular obstruction, and public intoxication.

On September 14, 2020 staff provided City Council an update on Base Camp including neighborhood impacts. Staff proposed the creation of a Shelter Protection Area to address concerns of LMM and adjacent property and business owners and the City Council directed staff to return with an ordinance.

The creation of a narrowly tailored shelter protection area should minimize inappropriate behaviors near Base Camp, significantly reduce the opportunity for adverse behaviors and impacts in the area and encourage such behavior to be dispersed rather than concentrated. There are alternative places to parking, congregate and site for public, both housed and unsheltered in downtown. This tool will help ensure the success of Base Camp for the duration of the permit.

**ORDINANCE NO. \_\_\_\_\_**

**ORDINANCE ESTABLISHING A CERTAIN DESCRIBED AREA THAT IS LOCATED IMMEDIATELY ADJACENT TO AN APPROVED TEMPORARY BUILDING ENCAMPMENT TO PROHIBIT CERTAIN ACTIVITIES IN PERMIT PARKING AREAS AND OTHER PUBLIC SPACES THAT ADVERSELY AFFECT THE OPERATIONS OF THE ENCAMPMENT, RESIDENTS OF THE ENCAMPMENT, AND THE ADJACENT AREA.**

**WHEREAS**, the City of Bellingham passed Ordinance 2018-10-019 on October 22, 2018, establishing regulations regarding temporary homeless shelters; and

**WHEREAS**, the City of Bellingham issued a permit (Permit No. USE2020-0029) on August 7, 2020 to the Lighthouse Mission Ministries for the operation of a temporary building encampment at 1522/1530 Cornwall Ave. ("Base Camp") within the City; and

**WHEREAS**, the Base Camp operation provides daily services and overnight shelter for up to 200 people, along with amenities including bathrooms, showers, laundry, drinking water, food, garbage and recycling containers, and human and social services; and

**WHEREAS**, the operators of Base Camp and businesses operating in the immediate vicinity have requested assistance to address observed and documented adverse behaviors occurring within the public right-of-way (ROW) adjacent to the approved use; and

**WHEREAS**, the following behaviors and impacts have been observed in the vicinity of temporary building encampments, including Base Camp and a previous permitted temporary building encampment: debris, human waste, animal waste, unauthorized encampments, disorderly conduct, property damage, fires, public urination, pedestrian and vehicular obstruction, and public intoxication, with a substantial portion of the problematic behavior occurring during the hours of darkness; and

**WHEREAS**, the City has determined that the safety of those who are residing within temporary building encampments, the operation of such encampments, and the general public are at risk and due to these adverse behaviors, in particular when the activity occurs in a focused area adjacent to the encampment and those engaging in the behavior are not part of the encampment; and

**WHEREAS**, the establishment of a narrowly tailored shelter protection area would minimize inappropriate behaviors in proximity to Base Camp, significantly reduce the opportunity for adverse behaviors and impacts in the area, and encourage such behavior to be dispersed rather than concentrated; and

Ordinance – Shelter Protection Area - 1

**WHEREAS**, the City finds that the establishment of a protection area would not adversely affect the ability of the public, both housed and unsheltered, to use the City's right-of-way generally or find alternative places to park, congregate, or sit; and

**WHEREAS**, it is the intent of the City to address these issues with empathy, compassion, and recognition of the rights of all those persons who experience homelessness by utilizing education, social outreach, referral to social service and mental health providers, incremental enforcement, and the least intrusive means of enforcement available to achieve compliance, while providing City staff with narrowly tailored tools to ensure the success of Base Camp for the duration of the permit; and

**WHEREAS**, it is the intent of the City to implement this ordinance with ample notification of the establishment of the shelter protection area through outreach over a period of time to provide education, and ample use of warnings, all prior to taking enforcement action; and

**WHEREAS**, the Bellingham City Council possesses authority under RCW 35.22.280 and the Constitution of the State of Washington, Art. 11 § 11, to adopt ordinances regulating the use of public rights of way, streets, and other public places; and

**WHEREAS**, the Bellingham City Council possesses authority under RCW 46.61.570 to adopt ordinances placing restrictions on parking within the city; and

**WHEREAS**, the City's traffic engineer, under the supervision of the public works director, is authorized under BMC 11.33.060 to establish permit parking areas within the public right-of-way and to impose restrictions for parking in such areas including such restrictions and conditions as time and duration of parking, application processes, limitations on the number of vehicles registered to a permit, speed limits within the parking area, and periods of closure; and

**WHEREAS**, the City Council has considered this matter during a regularly scheduled public meeting, has given this matter careful review and consideration and finds that establishing regulations to protect Base Camp, adjacent property owners and businesses, and the community from adverse behaviors is in the public interest.

**NOW THEREFORE**, the City of Bellingham does ordain as follows:

**Section 1:** The City Council hereby adopts the whereas clauses set forth above as findings of the Council. Based on such findings, the City hereby designates the area around 1530 Cornwall Avenue and within the outer edges of York Street, Cornwall Avenue, Champion Street and Railroad Avenue and depicted in Exhibit A to this ordinance as a shelter protection area for the purpose of identifying the location for restrictions and prohibitions set forth in this ordinance. A site-specific plan shall be prepared that illustrates the exact location and extent of the shelter protection area and shall be posted conspicuously on the protection area

boundary. The shelter protection area designation shall terminate at the expiration of the temporary building encampment permit referenced above.

**Section 2:** BMC 11.33.060 is hereby amended by adding a new subsection, subsection 11.33.060(A)(40), as follows:

11.33.060 Stopping, standing or parking prohibited in specific places – Reserving portion of highway prohibited.

A. Except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or official traffic control device, no person shall stop, stand, or park a vehicle:

1. In any alley, provided, when lawful under the provisions of this title, it is unlawful to stop, stand, or park a vehicle in such a manner as to leave available less than eight feet of width of roadway in the alley, or adjacent thereto, for the free movement of vehicular traffic and in any event it shall be unlawful to park in that portion of the alley marked as a fire lane;
2. No person shall stand or park a passenger vehicle in any alley at any time except momentarily to pick up or discharge a passenger or passengers or to load or unload property and then only for a period not to exceed five minutes;
3. No person shall stand or park a commercial vehicle in any alley for any purpose or length of time other than the expeditious loading and unloading of goods and then in no case shall the stop for loading or unloading of materials exceed 30 minutes; provided, that any such vehicle is properly licensed as a commercial vehicle by the State of Washington Department of Motor Vehicles;
4. Upon or along any street or highway when traffic will be unreasonably obstructed;
5. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
6. Within 50 feet of the nearest rail of a railroad crossing;
7. Within six feet of the nearest rail or railroad tracks except as provided herein, in the case of a railroad crossing;
8. Upon any street, except when loading or unloading property if the vehicle is over 80 inches in width; provided, that such stopping, standing, or parking is permitted in areas zoned by this code as a manufacturing or industrial use district;

9. On or within 20 feet of a crosswalk;
10. On the roadway side of any vehicle stopped or parking at the edge or curb of a street;
11. In front of a public or private driveway or within five feet of the end of the curb leading thereto. A vehicle in violation of this provision may be impounded immediately in the manner provided by this title for unauthorized vehicles if such vehicle obstructs ingress or egress to or from the driveway;
12. Alongside or opposite any city street excavation or obstruction when such stopping, standing, or parking would obstruct traffic;
13. Within 200 feet of fire apparatus stopped in answer to a fire alarm;
14. Within any space signed or marked as a fire exit; also within that portion of any city street contiguous to and opposite any corridor, passage, fire escape, exit or entrance door, or any other place adjacent to, or any door opening in an outer wall of any building or other structure containing, in whole or in part, any theater, public auditorium, church, dance hall, or other place of public assembly through which the public must pass to leave such building;
15. Within 15 feet of a fire hydrant, unless otherwise designated;
16. In such a manner that motor fuel leaks from the tank thereof;
17. Within an intersection;
18. By reparking the vehicle in the same block to avoid a time limit regulation specified in this title;
19. In any garage, parking area, or other property owned and operated by the city where signs prohibit such parking without lawful authority or permission where the vehicle shall be parked for a consecutive period of time longer than that period lawfully permitted. Such violating vehicle may be summarily abated by impounding in the manner provided by this title for unlawfully parked vehicles. The impounding of such vehicle shall not prevent or preclude the institution and prosecution of charges in the municipal court or elsewhere for violation of this title;
20. In any park, except in areas designated by the director of the city parks department;
21. On a planting strip, provided, it is permissible to stop, stand, park, or angle park a vehicle in such strip on: (a) a city street serving only a commercial,

manufacturing or industrial area and when such strip is not planted, or (b) where the planting strip is paved or otherwise improved for parking purposes. The paved area, when constructed at sidewalk grade, shall be served by regulation concrete driveways and shall be separated from the sidewalk and from the curb by a planted area not less than four feet in width. The paved area, when constructed at roadway grade, shall be subject to the posted parking prohibitions applying to the adjacent roadway;

22. On a sidewalk or sidewalk area;

23. Within 30 feet upon the approach to any flashing signal, stop sign, yield sign, or traffic control signal located at the side of a roadway, except in parking management zone;

24. Upon any city street, if the vehicle is a trailer, unless the trailer is attached to a vehicle by which it may be propelled or drawn; provided, that in case of accident such trailer may be moved to the side of the street, and, if a good and sufficient red signal be displayed at both ends thereof during the hours of darkness, such trailer may be permitted or allowed to remain for a period not exceeding 24 hours pending removal; except that such trailer shall not remain upon any portion of a city street where standing or parking is limited or prohibited for a period longer than is necessary to effect its removal;

25. In one place upon the city street for a consecutive period in excess of the maximum time limit designated on an official posted sign controlling such parking space; or, for parking spaces not controlled by an official posted sign, for a consecutive period of time in excess of 72 hours;

26. On that portion of any street lawfully set aside for the movement of traffic in the direction opposite to that which the parked vehicle faces;

27. Between safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless official signs or markings indicate a different no-parking area opposite the ends of a safety zone;

28. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly signposted;

29. Upon any city street, if the vehicle has been left in the care of the owner or operator of any parking lot or garage, or his agent;

30. At any place or time where official signs or markings prohibit stopping, standing, or parking;
31. For purposes of unloading the vehicle in such a manner as to cause damage to the surface of the street;
32. For purposes of loading or transporting any materials in such a manner as to cause loud noises to the disturbance of the peace;
33. Within 10 feet of a United States mailbox, except temporarily for the purpose and while engaged in the delivery or pickup of postal items;
34. Upon any street or alley when such vehicle does not display current and proper vehicle license plates for the state in which it is purported to be registered;
35. Within any parking space or area signed or marked with insignia approved by the city engineer as a disabled parking space, including spaces provided on private property without charge, except as permitted by RCW [46.19.050](#) or other provision of law;
36. Registered to a vehicle rental company or car dealership, or their affiliates, or otherwise within the vehicle rental company's or car dealership's custody or control, upon any street when parked thereon by the owner, operator or agent of a vehicle rental company or car dealership, or with the knowledge of the owner, operator or agent that said vehicle is parked on the street, for the purpose of storing such vehicle. There shall be a rebuttable presumption that the vehicle has been parked upon the street by or with the knowledge of the owner, operator or agent of the rental car company or car dealership for storage purposes if the vehicle is parked upon the street within two square blocks of the place of business of the rental company or car dealership. Each vehicle parked in violation of this subsection shall constitute a separate offense;
37. Upon any designated bicycle lane;
38. Upon any designated fire lane on public or private property;
39. Within any access aisle located next to a space reserved for persons with physical disabilities.
40. Within any parking space or area signed as a City of Bellingham permit parking area, unless the person possesses a valid parking permit and the vehicle is registered under the permit. A violating vehicle may be summarily impounded in the manner provided by this title for unlawfully parked vehicles.

The impounding of such vehicle shall not prevent or preclude other enforcement in the municipal court or elsewhere for violation of this title. The restrictions that apply to any permit parking area within a shelter protection area established by ordinance shall include the following:

(a) No person shall enter or remain in parking stalls for any purpose other than to park or retrieve a motor vehicle or to place or retrieve an item of personal property in the motor vehicle; and

(b) No person shall use the parking area or vehicle for the purpose of housing or camping, including but not limited to, dwelling, sleeping, bathing, cooking, or use as a restroom.

The restrictions set forth in BMC 11.33.060(A)(40)(a) and (b), shall not apply to any permit parking area in the public right-of-way other than those that are within an area established by ordinance.

Violation of any permit condition or restriction imposed by ordinance or the city's traffic engineer may result in revocation of the permit. Following revocation, the violator and vehicle registered with the city shall be subject to a three month restriction from obtaining a permit for the lot where the violation occurred. Any such revocation shall be determined by the director of the department of public works who shall send a written notice to the permit holder, which notice shall contain the following information: that the permit will be revoked not sooner than 7 days from the date of the letter; that unless a written notice of appeal is filed with the department of public works, the permit will be deemed revoked; that if a written notice of appeal is filed within the required time, a hearing will be set; and the reasons for the revocation. Revocation appeals shall be heard and determined by the director of the department of public works. There shall be no refund based on time remaining on the permit following revocation.

B. Parking or standing shall be permitted in the manner provided by law at all other places except a time limit or other parking restriction may be imposed at other places by the city's traffic engineer under the supervision of the public works director. Official signs, including temporary signs, that establish time-limited parking or prohibit parking at certain times or entirely shall be enforceable according to their terms 24 hours after posting, including in areas where parking is otherwise permitted up to 72 hours.

C. No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.

D. It shall be unlawful for any person to reserve or attempt to reserve any portion of a highway for the purpose of stopping, standing, or parking to the exclusion of any other like person, nor shall any person be granted such right, except as provided in BMC [11.33.190](#).

E. It shall be unlawful for any person to remove or erase chalk marks placed on a vehicle's tire by a police officer or parking control official without first removing the vehicle beyond the block where the vehicle was located when the chalk marks were placed on the tire. [Ord. 2014-11-060 § 1; Ord. 2011-07-038; Ord. 2002-04-035 § 3; Ord. 2001-02-010; Ord. 2000-10-066; Ord. 1999-04-020].

**Section 3:** BMC 10.24.070 is hereby amended as follows:

10.24.070 Sitting or lying on public sidewalks prohibited.

A. Prohibition. No person shall sit or lie down upon a public sidewalk, or upon a blanket, chair, stool, bollard, planter, fountain, railing or any other object placed upon a public sidewalk, during the hours between 7:00 a.m. and 9:00 p.m. in the following zones:

1. Central Business District ("CBD"). The central business district, for the purposes of this section, is the area bounded by the streets hereafter named, including said streets and their abutting sidewalks: on the east bounded by State Street from Whatcom Creek to Maple Street, on the south Maple Street from State Street to Cornwall Street to the intersection of Chestnut and Bay Street, on the west from the intersection of Chestnut and Bay Street to Champion Street, on the southwest from Champion Street to the intersection of Cornwall and York Street, on the north from the intersection of Cornwall and York Street to Railroad and up to Whatcom Creek between Railroad and State Street.
2. The Fairhaven Business District ("FBD"). The Fairhaven business district, for the purposes of this section, shall be defined by the area bounded by the streets hereafter named, including said streets and their abutting sidewalks: the area bounded by Mill Avenue on the north from 10th Street to 13th Street to Larrabee Avenue on the east, Larrabee Avenue on the south from 13th Street to 10th Street from Larrabee to Mill Avenue on the west. In addition the prohibited area in the Fairhaven business district shall include 12th Street from Larrabee to Cowgill and Harris Avenue from 10th Street to 4th Street.

B. Prohibition – Shelter Protection Area. No person shall sit or lie down upon a public sidewalk, street, curb, parking lot, parking stall, planting strip, street median, landscaping bed, parking lot median, parkway, trail or right-of-way or upon a blanket,

Ordinance – Shelter Protection Area - 8

chair, stool, bollard, planter, fountain, railing or any other object placed upon a public sidewalk, street, curb, parking lot, parking stall, planting strip, street median, landscaping bed, parking lot median, parkway, trail or right-of-way within a shelter protection area established by ordinance.

**CB.** Exceptions. The prohibitions in subsections (A) and (B) of this section shall not apply to any person:

1. Sitting or lying down ~~on a sidewalk~~ due to a medical emergency.
2. Who, as the result of a disability, utilizes a wheelchair, walker, or similar device to move about the public ~~right-of-way sidewalk~~.
3. Operating or patronizing a commercial establishment conducted on the public ~~right -of-way sidewalk~~ pursuant to a street use permit; or a person participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on the public ~~right-of-waysidewalk~~ pursuant to a street use or other applicable permit;
4. Sitting on a chair or bench located on the public sidewalk which is supplied by a public agency or by the abutting private property owner;
5. Sitting on a public sidewalk within a bus stop zone while waiting for public or private transportation.

Nothing in any of these exceptions shall be construed to permit any conduct which is prohibited by BMC 10.24.010 (Disorderly conduct) or BMC 10.24.040 (Pedestrian interference).

**DC.** No person shall be cited under this section unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that the conduct violates this section.

**ED.** A violation of this section shall be a civil infraction and shall subject the violator to a fine of up to \$250.00, plus statutory assessment. If the person is unable to pay the monetary penalty, the court may order performance of a number of hours of community service in lieu of a monetary penalty. The default amount shall be \$100.00.

**FE.** Notwithstanding and in lieu of the penalties provided under subsection (ED) of this section, a person violating this section shall, upon conviction for a third or subsequent offense, be guilty of having committed a criminal misdemeanor and shall be punished by a fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or by both such fine and imprisonment.

**Section 4:** The City Attorney and the codifiers of this ordinance are authorized to make necessary clerical corrections including, but not limited to, the correction of scriveners/clerical errors, references, ordinance numbering, section/subsection numbers and any reference thereto.

**Section 5:** If any section, sentence, clause, or phrase (i.e., provision) of this ordinance or its application to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision and the remainder of this ordinance, or the application of such provisions to other persons or circumstances, shall not be affected.

**PASSED** by the Council this \_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_

Council President

**APPROVED** by me this \_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_

Mayor

**ATTEST:** \_\_\_\_\_

Finance Director

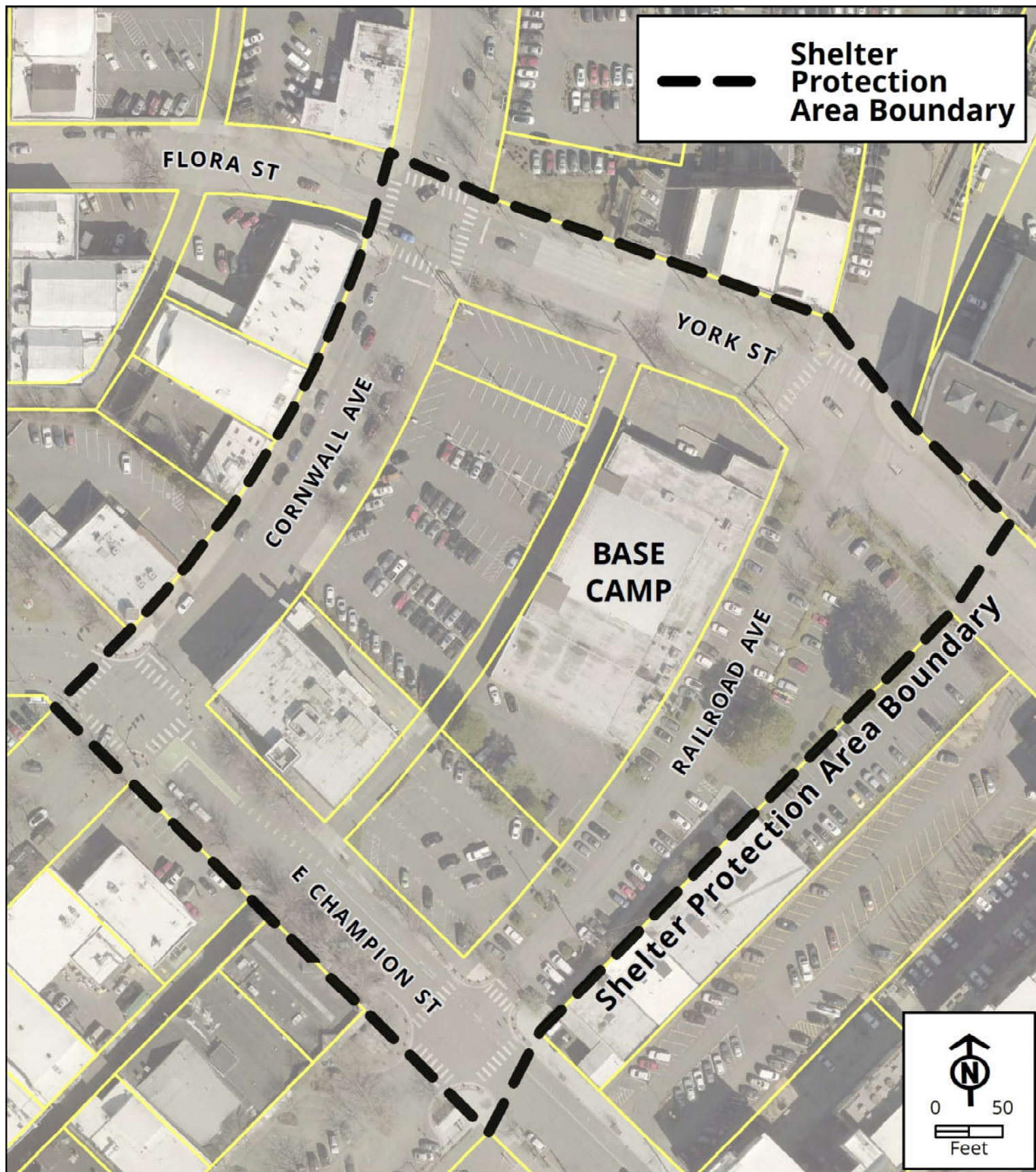
**APPROVED AS TO FORM:**

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Office of the City Attorney

Published:

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# City Council Agenda Bill

22747

Bill Number

**Subject: A Worksession to Consider Amending the Development Agreement with Parberry's Inc. and Associated Entities**

**Summary Statement:** The City entered into a Development Agreement with Parberry's Inc. on February 21, 2019. Within the terms of the Agreement, the City would invest in certain public infrastructure improvements if Parberry relocates its recycling business, a non-conforming use, and begins redeveloping Old Town within a specified timeframe. The Development Agreement contains two options to purchase real property owned by the City of Bellingham and adjacent to Parberry's real estate holdings. The amendments change the emphasis on "relocation" to "phasing out" non-conforming uses in the Milestones and further clarify street improvements. Pursuant to RCW 36.70B.200, a Public Hearing was held on September 14, 2020.

**Previous Council Action:** Adoption of the 2008 Old Town Subarea Plan. Adoption of a Resolution to enter into the Development Agreement with Parberry on 2/11/19. Public Hearing on 9/14/20 for Amended and Restated Development Agreement

**Fiscal Impact:** The City's financial commitments for infrastructure are estimated at \$2.5 million. Potential revenue expected as a result of the sale of 600 W. Holly St. is \$1,920,000 (per appraised value). The Astor parcel was sold to Parberry for the appraised value of \$130,000.

**Funding Source:** REET, Street, Water & Sewer, EDI, and Other

**Attachments:**

1. STAFF MEMO
2. RESOLUTION
3. FIRST AMENDED AND RESTATED DEV. AGREEMENT - REDLINE VERSION
4. FIRST AMENDED AND RESTATED DEV. AGREEMENT - CLEAN VERSION

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	9/28/2020	Pass Resolution	Tara Sundin, PCDD	30 minutes

**Recommended Motion:**

**Council Committee:**  
Committee Of The Whole

**Agenda Bill Contact:**  
Tara Sundin, Planning and Community Development, 360-778-8300

**Council Action:**

Reviewed By	Department	Date
<i>Rick M. Sepler</i>	Planning & Community Development	9/21/2020
<i>Amy B. Kraham</i>	Legal	9/21/2020
<i>Seth M. Fleetwood</i>	Executive	9/22/2020



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**MEMORANDUM**

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**TO:** BELLINGHAM CITY COUNCIL  
**FROM:** TARA SUNDIN, COMMUNITY & ECONOMIC DEVELOPMENT MANAGER  
**CC:** MAYOR SETH FLEETWOOD  
**SUBJECT:** 9.28.20 CITY COUNCIL WORKSESSION: AMENDED AND RESTATED DEVELOPMENT AGREEMENT WITH PARBERRY'S INC. TO REDEVELOP PROPERTY IN OLD TOWN  
**DATE:** SEPTEMBER 21, 2020

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As was discussed at the September 14, 2020 public hearing, the City of Bellingham (City) and Parberry Inc. (Parberry) entered into a Development Agreement on February 21, 2019 in response to the goals and policies of the Old Town Sub-Area Plan. The Development Agreement with Parberry was executed to create the conditions necessary to transition the area to an urban village. Circumstances have changed for the Parberry family, which means plans for one of their businesses, Northwest Recycling (NWR), have also changed. NWR is a non-conforming use located on a portion of Parberry's real estate holdings in Old Town. NWR operates on approximately portions of 3 of their combined 6 city blocks. NWR, a wholly owned subsidiary of Parberry's Inc., operates three distinct business segments including a scrap yard, a container rental business, and a residential recycling business (aka a material recovery facility) which processes curbside recycling. The Parberry family, due to personal decisions, has decided not to operate the residential recycling business long term, and therefore, has decided to sell this business segment rather than relocate it and continue operating it. Regardless of who owns the non-conforming uses, Parberry is agreeing to cease operations of all non-conforming uses by February 2023.

Parberry remains committed to its role in the redevelopment of Old Town. The City's commitments to Parberry in this Development Agreement are focused on redevelopment of Old Town and staff supports the continued partnership with Parberry. Parberry owns buildings in Old Town that are not utilized for NWR, including but not limited to 700 W Holly, the historical Courthouse on D Street, as well as the commercial buildings that house tenants such as Hana Teriyaki.

The **primary purpose of a development agreement** is to provide predictability and certainty for development and is typically used for vesting purposes. Vesting means that a land use application, such as a building permit, will be reviewed only under the land use statutes and ordinances in effect at the time of the submission of a complete. This helps developers know what rules to expect. There are certain exemptions to vesting that are outlined in the

Development Agreement. Development agreements do not guarantee or require a certain outcome. However, they can be used to incentivize activities, as is the case here. The City Council can't require Parberry to develop, but it can incentivize the likelihood of development through the certainty provided from vesting and through capital expenditures, such as the street improvements noted in the current Development Agreement. If Parberry does not perform, the City is no longer obligated to contribute to make the capital expenditures. Parberry controls 46% of the developable property in Old Town. If Parberry properties are not made available for development, it is unrealistic to believe Old Town will become an urban village.

While there are no guarantees, we believe Parberry remains committed to redeveloping Old Town. There is little risk to the City to maintain this partnership, which extends only certain milestones by just 9 months. The City does not invest in infrastructure unless development of Old Town proceeds in accordance with the Milestones.

**The following topics were raised by Council members following the hearing.**

**1. Milestones Amendments, including Extensions – More detail is provided as to why and how the revisions to the Milestone section are proposed.**

- a. Why? The Development Agreement, approved by City Council last year, granted the administration the authority to approve certain extensions to the Milestones. That was done on two occasions. In 2019, Parberry was actively seeking to purchase or lease property to relocate NWR and thereby fulfill its first Milestones, but found that recycling was not an outright permitted use in the City's Industrial zones, which made it essentially impossible to relocate. The first extension was granted to mirror the amount of time the City needed to add recycling as a permitted use through a code amendment in those areas. This extension was for 6 months and applied exclusively to Milestones #1 and #2, which were associated with relocation. The second extension was granted due to COVID, as it impacted both staff's and Parberry's ability to do business as usual and was for a period of 3 additional months.

NOTE: No additional extensions have been granted and staff is not seeking any additional extensions from Council on Milestones associated with development in Old Town.

- b. How? Below is a table that captures each Milestone and whether an administrative extension was granted. It also summarizes the proposed amendments. Where "No Change" is indicated, it either means that there is no change at all or that the original language, which was based on numbers of days between activities or events, is now stated as an exact calendar date. It was confusing to track Milestones as they were originally written, as the activities and months compounded on one another. Staff

believes that calendar dates will be easier for staff, Council, Parberry, and the public to track.

<b>Milestone</b>	<b>Administrative Extension Granted</b>	<b>Proposed Amendment</b>
Milestone 1a) Purchase/Lease Replacement Facility	6 months, plus 3 months = 9 month extension	Change to delete reference to purchase/lease replacement site due to Parberry's plan to sell rather than relocate the residential recycling facility. Administrative extension becomes moot point.
Milestone 1b) Submit Redevelopment Strategy	None	Change to update to reflect status - Milestone complete.
Milestone 2a) Submits permits for replacement facility.	6 months, plus 3 months = 9 month extension	Change to delete reference to submit permits for replacement facility given Parberry's plan to sell rather than relocate the residential recycling facility. Administrative extension becomes moot point.
Milestone 2b) Either scrapyard or residential recycling cease operation in Old Town.	6 months, plus 3 months = 9 month extension	Change to reflect administrative extension and add clarifying language about a the maximum term a third party can operate in Old Town. Reword deadline from "within 12 months of issuance of replacement facility" to February 21, 2022. Same deadline plus 9 months from extensions. Uses a date instead of a number of months between events.
Milestone 3) Apply for first Major Renovation Project	None	No change except to reword deadline from "24 months after execution of this Agreement" to "February 2021"(which remains 2 years after the original agreement was executed).
Milestone 4) All non-conforming uses out of Old Town	None	No change except to reword deadline from "24 months after issuance of permits for replacement facility" (which we expected would take 24 months to get to this point) to "February 2023" (which remains 4 years after the original agreement was executed) and add

		clarifying language about the maximum term a third party can operate in Old Town.
Milestone 5) First Major Renovation Project Complete.	None	No change except to reword deadline from “48 months after execution of this Agreement” to “February 2023” (which remains 4 years after the original agreement was executed).
Milestone 6) A second application is submitted for a redevelopment project in Old Town.	None	No change except to reword deadline from “12 months of satisfaction of Milestone #4” to February 2024 (which remains 5 years after the original agreement was executed).

- 2. The Redevelopment Strategy for Old Town** Parberry CEO, Kevin Moore, will join City staff on September 28th to discuss the redevelopment strategy in more detail and answer additional questions you may have regarding their commitment to implementing the Old Town Plan.

The Parberry family also owns other businesses and acts as landlord for tenant occupied buildings. They did a remarkable job renovating the San Juan Building located on Grand Avenue in downtown Bellingham. Brad Parberry is nearing completion on a major renovation to the oldest brick building in the State of Washington – the historical courthouse. With this passion for historic buildings, they plan to renovate 700 W Holly themselves and are very likely to remain owners of that property for the long-term. However, they never planned to be the “developer” of the several vacant blocks in Old Town, nor has staff had any expectation that they would be the developer. Rather, they have always planned to find qualified investors and developers with whom to partner or to whom to sell property.

**Why did the City provide incentives to Parberry?** The Old Town Sub-Area Plan estimates between 860-1120 housing units and up to 400,000 sq ft of commercial development (600 to 1150 jobs) could be accommodated, depending upon the floor area achieved and the type of dwelling unit built. Old Town’s proximity to Downtown makes it an ideal candidate for residential density. NWR is the dominant current use, resulting in impacts such as truck traffic and noise that make it incompatible with pedestrians and residential uses. Recall that Parberry’s own about 46% of the developable property in Old Town.

The Development Agreement contains two terms created to incentivize this development. First, a commitment to build street improvements is included. Second,

Parberry is granted an option to purchase 600 W Holly. Because the Development Agreement is transferrable to successors in interest to Parberry, they will continue to incentivize any subsequent owners of the properties. The goal is to attract investment to an area of our city that is perceived as riskier and one that will require more investment in foundations/earthwork due to the landfill and Model Toxic Control Act restrictive covenants.

- 3. Northwest Recycling & Sanitary Services –Recycling in Bellingham. What will happen to the recyclables collected by SSC if NWR sells its business to another recycling company or is not successful selling the business?** This question was raised by the information Kevin Moore provided about the Parberry family’s decision to sell the recycling business, but as Councilmember Lilliquist pointed out, is not really the subject of the Development Agreement, which is about incentivizing the fulfillment of the Old Town Plan, which includes having the recycling facility cease to operate in Old Town. As Mr. Lilliquist further noted, the recycling issue may be more appropriately discussed as a Public Works committee topic.

- 4. Affordable Housing – What’s the plan and how can the Levy help speed things up?** Parberry hosted a meeting with local non-profit housing developers to let them know that they are willing to entertain partnerships before they make the property available to others. I participated in this meeting along with representatives from Bellingham Housing Authority, Catholic Housing Services, Opportunity Council, Kulshan Community Land Trust, and other advocates. One of these agencies has expressed interest to Parberry and is strategizing the next steps internally. This is very promising, and I believe Parberry should be commended for its interest in creating affordable housing in Old Town.

Our Housing Levy generates approximately \$4,000,000/year, but is just one of a complex array of financing mechanisms required to build and operate a multi-story mixed-use development such as Samish Commons (Aloha) or Eleanor Apartments. For these types of projects, competitive 9% Low Income Housing Tax Credit (LIHTC) allocations and Housing Trust Fund dollars are virtually always part of the funding package. Samya Lutz and I are in regular communication with our housing providers. Samya meets with them bimonthly to collaborate. For example, all housing providers have agreed that our region’s focus and support with regard to the 9% LIHTC competition will go next to Mercy Housing’s development in Barkley Village. Old Town will also be a very high priority. It takes between three and five years to design, finance and construct a large affordable housing project. Obtaining some type of site security is a necessary precursor to moving forward with other steps.

Staff and representatives of Parberry, Inc. will provide a presentation on September 28, 2020 and be available for questions. In the meantime, please contact me if you have questions.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO THE FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT WITH PARBERRY TO IMPLEMENT THE CITY OF BELLINGHAM'S OLD TOWN SUB-AREA PLAN.**

**WHEREAS**, Parberry's Inc., Northwest Recycling, Inc., and Parberry Family Limited Partnership (collectively, "Parberry") owns approximately five (5) acres of real property within an area of Bellingham designated as the "Old Town Sub-area" by the Bellingham Comprehensive Plan. Property within the Old Town Sub-area owned by Parberry is referenced herein as the "Parberry Property"; and

**WHEREAS**, historically, the Parberry Property was zoned for commercial and some industrial uses, and was principally utilized as a recycling facility, including recycling operations, warehousing, outdoor storage, and administrative offices ("Northwest Recycling"); and

**WHEREAS**, the City of Bellingham (the "City") has adopted an amendment to its Comprehensive Plan for the Old Town Sub-area and an attendant amendment to its Land Use Development Code (the "Old Town Plan"). The Old Town Sub-area is designated and zoned as Commercial. The Old Town Sub-area is envisioned by the City to be an urban village with mixed residential and commercial uses; and

**WHEREAS**, pursuant to the Old Town Plan, Northwest Recycling at the Parberry Property is a nonconforming use. Redevelopment of the Parberry Property into a mixed-use urban village is appropriate and consistent with the Old Town Plan. Future development in the Old Town Sub-area must comply with the Old Town Plan and other applicable City regulations; and

**WHEREAS**, the elimination of the impacts to the neighborhood of the light industrial non-conforming use by the closure of operations of Northwest Recycling at its current site is critical to the creation of an urban village in the Old Town; and

**WHEREAS**, the City and Parberry entered into a Development Agreement on February 21, 2019 (the "Original Development Agreement") and have since that time negotiated an amendment to the Original Development Agreement to update the Original Agreement (the "First Amended and Restated Development Agreement") implementing part of the Old Town Plan by: (1) kick starting development in a significant portion of the Old Town Subarea; and (2) implementing one or more of the Capital Facilities Improvements, which commits the City to certain infrastructure obligations and specific expenditures for street improvements; and

**WHEREAS**, the Original Development Agreement is a development agreement under RCW 36.70B.170 through 36.70B.210 and contains vesting, use and mitigation

Parberry Resolution - 1

**City of Bellingham**

CITY ATTORNEY

210 Lottie Street

Bellingham, Washington 98225

Telephone (360) 778-8270

provisions in keeping with the statute. Pursuant to RCW 36.70B.200, a public hearing was held on January 28, 2019 and a resolution approving the Original Development Agreement was adopted on February 11, 2019 (the “Adoption of the Original Development Agreement Resolution”); and

**WHEREAS**, this First Amended and Restated Development Agreement is a development agreement under RCW 36.70B.170 through 36.70B.210 and contains vesting, use and mitigation provisions in keeping with the statute. Pursuant to RCW 36.70B.200, a public hearing was held on September 14, 2020 and a resolution approving the First Amended and Restated Development Agreement was adopted on \_\_\_\_\_ and updates the Original Agreement to reflect extensions to Milestones provided administratively due to the time necessary for the City’s process to clarify zoning related to recycling as well as to changes to Parberry’s business plans; and

**WHEREAS**, the Original Development Agreement included an option to purchase properties owned by the City and surplus to its needs which are located in the Old Town Sub-area, the sale of which would allow for a comprehensive redevelopment plan which is critical to creating a vibrant mixed-use neighborhood; and

**WHEREAS**, City Council’s public hearing held on January 28, 2019 process above satisfied the requirements of BMC 4.84 as it relates to Parberry’s options to purchase the City-owned property; and

**WHEREAS**, a portion of the funding used to purchase the 600 W. Holly St. property was from the City’s federally funded Community Development Block Grant (CDBG) program. Applicable federal regulations governing the disposition of real property purchased with these funds requires that the City hold a public hearing on any proposed sale and comply with those regulations regarding repayment of CDBG funds, if necessary. A public hearing was held on January 28, 2019 fulfilling this federal requirement.

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

The Mayor of Bellingham is authorized to enter into a First Amended and Restated Development Agreement with Parberry in substantially the same form as Exhibit A attached hereto and incorporated herein by this reference.

**PASSED** by the Council this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Council President

**APPROVED** by me this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Mayor

**ATTEST:** \_\_\_\_\_  
Finance Director

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Office of the City Attorney

When Recorded, Return to:

City of Bellingham  
Amy Kraham  
Office of the City Attorney  
210 Lottie Street  
Bellingham, WA 98225

**FIRST AMENDED AND RESTATED**

**DEVELOPMENT AGREEMENT BETWEEN  
PARBERRY AND THE CITY OF BELLINGHAM**

<b>Grantor:</b>	Parberry's Inc., Northwest Recycling, Inc., and Parberry Family Limited Partnership		
<b>Grantee:</b>	City of Bellingham		
<b>Legal Description</b> (abbreviated):	LOTS 7 , 8, 9 AND 10, BLOCK 3, PLAT OF THE TOWN OF NEW WHATCOM SUPPLEMENTAL AS THE SAME IS SHOWN AT PAGE 42, BOOK 1 OF PLATS, OFFICIAL RECORDS OF WHATCOM COUNTY AUDITOR  <b>Additional legal description for this parcel and full legal descriptions for additional parcels in Exhibit 1 attached hereto</b>		
<b>Assessor's Tax Parcel ID #:</b>	3803300373390000  <b>20 additional Tax Parcel ID numbers in Exhibit 1 attached hereto</b>	3803300443110000, 3803300313070000 and 3803300383200000	
<b>Reference Nos. of Documents Released or Assigned:</b>			

This **FIRST AMENDED AND RESTATED** DEVELOPMENT AGREEMENT ("Agreement") between PARBERRY'S INC., a Washington corporation, NORTHWEST RECYCLING, INC., a Washington corporation, and PARBERRY FAMILY LIMITED PARTNERSHIP, a Washington limited corporation (collectively, "Parberry") and the CITY OF BELLINGHAM (the "City"), a municipal corporation, is entered into as of the last date of signature below, and effective upon the date of execution by the City of Bellingham (the "First Amended and Restated Development Agreement") and replaces that certain Development Agreement Between Parberry and the City entered into between Parberry and the City on February 21, 2019 (the "Original Agreement."):-

**RECITALS**

A. Parberry owns approximately five (5) acres of real property within an area of Bellingham designated as the "Old Town Subarea" by the Bellingham Comprehensive Plan. Property within the Old Town Subarea owned by Parberry is referenced herein as the "Parberry Property," and more particularly described in **Exhibit 1** attached and incorporated herein by this reference, and illustrated in **Exhibit 2** attached.

First Amended and Restated Development Agreement – 092.1141.20+920

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B. Historically, the Parberry Property was zoned for commercial and some industrial uses, and was principally utilized as a recycling facility, including recycling operations, warehousing, outdoor storage, and administrative offices (“Northwest Recycling”).

C. In \_\_\_\_\_, 20\_\_\_\_, the City ~~Bellingham has~~ adopted an amendment to its Comprehensive Plan for the Old Town Subarea (also known as the Old Town Overlay District”) and an attendant amendment to its Land Use Development Code codified at BMC Chapter 20.35 (the “Old Town Plan”). The Old Town Subarea is now designated and zoned as Commercial. The Old Town Subarea is envisioned by the City to be an urban village with mixed residential and commercial uses.

D. Pursuant to the Old Town Subarea Plan, Northwest Recycling at the Parberry Property is a nonconforming use. Redevelopment of the Parberry Property into a mixed-use urban village is appropriate and consistent with the Old Town Plan. Future development in the Old Town Subarea must comply with the Old Town Subarea Plan and other applicable City regulations.

E. ~~Relocation~~ The elimination of the impacts to the neighborhood of the light industrial non-conforming use by the closure of operations of Northwest Recycling at its current site is critical to the creation of an urban village in the Old Town Subarea.

F. The City supports a healthy mix of housing in the Old Town Subarea that is affordable to a wide range of incomes levels. Parberry and the City will give strong consideration to public/private partnerships which encourage qualified below-market rate development projects. Further, the City will give strong consideration to such qualified projects by utilizing the Bellingham Home Fund and/or other resources to support those projects.

G. This Agreement implements part of the Old Town Plan by: (1) kick starting development in a significant portion of the Old Town Subarea; (2) implementing one or more of the Capital Facilities Improvements, which commits the City to certain infrastructure obligations and specific expenditures for street improvements; and (3) committing Parberry, its successors and assigns, and subsequent owners of the Parberry Property to dedication of the historic Courthouse Plaza envisioned by the Old Town Plan.

H. ~~The Original is~~ Agreement is a ~~d~~Development ~~a~~Agreement under RCW 36.70B.170 through 36.70B.210 and contains vesting, use and mitigation provisions in keeping with the statute. Pursuant to RCW 36.70B.200, a public hearing was held on January 28, 2019 and a resolution approving the Agreement was adopted on February 11, 2019 (the “Original Adoption of the Development Agreement Resolution”).

I. This Agreement is a development agreement under RCW 36.70B.170 through 36.70B.210 and contains vesting, use and mitigation provisions in keeping with the statute. Pursuant to RCW 36.70B.200, a public hearing was held on \_\_\_\_\_ and a resolution approving the Agreement was adopted on \_\_\_\_\_ and updates the Original Agreement to reflect extensions to Milestones provided administratively due to the time necessary for the City’s process to clarify zoning related to recycling as well as to changes to Parberry’s business plans.

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J. The Original Agreement included options to purchase two properties owned by the City and surplus to its needs which are located in the Old Town Subarea, the sale of which would allow for a comprehensive redevelopment plan which is critical to creating a vibrant mixed-use neighborhood.

K. On January 17, 2019 the City sold one of the properties, known as 707 Astor Street, to Parberry via that certain Quit Claim Deed recorded in Whatcom County under Auditor File Number 2020-0102019.

L. City Council's process above satisfies the requirements of BMC 4.84 as it relates to Parberry's options to purchase the City-owned properties.

M. A portion of the funding used to purchase the 600 W. Holly St. property was from the City's federally funded Community Development Block Grant (CDBG) program. Applicable federal regulations governing the disposition of real property purchased with these funds requires that the City hold a public hearing on any proposed sale and comply with those regulations regarding repayment of CDBG funds, if necessary. A public hearing was held on January 28, 2019 fulfilling this federal requirement.

## AGREEMENT

### 1. Parberry Obligations to Meet Milestones

Parberry hereby agrees to attain the following Milestones, which may be extended by written mutual consent of the Project Managers, so long as the term of this Agreement is not extended:

**Milestone 1** ~~(a) Milestone 1 of the Original Agreement required Parberry to submit a written Redevelopment Strategy within six (6) months of the execution of the Original Agreement. The Redevelopment Strategy included Parberry's approach to (i) Parberry's role, if any, in redevelopment of the Parberry Property and preparing the Parberry Property for redevelopment (i.e. whether Parberry will redevelop the Parberry Property itself or sell to one or more developers), (ii) Parberry's strategy for marketing the Parberry Property to prospective developers, and (iii) the overall approach to redevelopment of the Parberry Property (redeveloped incrementally or as a master plan). The Redevelopment Strategy is not binding on Parberry and redevelopment of the Parberry Property need not adhere to the Redevelopment Strategy. Parberry may change the Redevelopment Strategy at any time and from time to time, at its own discretion, but shall communicate changes to the Redevelopment Strategy to the City's Project Manager. Parberry has satisfied Milestone 1 as of the date of execution of this Agreement. enters into an agreement to purchase or lease a property suitable for relocation of Northwest Recycling (the "Replacement~~

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Facility”) and executes a lease or closes on the property within ten (10) months of execution of this Agreement, and (b) submits a written Redevelopment Strategy within six (6) months of the execution of this Agreement. The Redevelopment Strategy shall include Parberry’s approach to (i) Parberry’s role, if any, in redevelopment of the Parberry Property and preparing the Parberry Property for redevelopment (i.e. whether Parberry will redevelop the Parberry Property itself or sell to one or more developers), (ii) Parberry’s strategy for marketing the Parberry Property to prospective developers, and (iii) the overall approach to redevelopment of the Parberry Property (redeveloped incrementally or as a master plan). The Redevelopment Strategy shall not be binding on Parberry and redevelopment of the Parberry Property need not adhere to the Redevelopment Strategy. Parberry may change the Redevelopment Strategy at any time and from time to time, at its own discretion, but shall communicate changes to the Redevelopment Strategy to the City’s Project Manager.

**Milestone 2** ~~Parberry submits all applications necessary to relocate Northwest Recycling to the Replacement Facility within twelve (12) months of execution of this Agreement and thereafter diligently and continuously prosecutes the permit to approval. Parberry shall provide the City with copies of all permit applications, submittals and correspondence from the jurisdiction permitting the Replacement Facility. Parberry shall relocate~~ Either the scrapyard or residential recycling facility (to be chosen at Parberry’s discretion) shall cease to operate in Old Town no later than February 21, 2022. In the event Parberry enters into an agreement with a third party to lease, operate, manage or similarly control the non-conforming uses/operations on either the scrapyard or residential facility, Parberry agrees to include a termination date of such agreement no later than February 21, 2022. within twelve (12) months of issuance of the permits for Replacement Facility. See **Exhibit 3** for the location of the scrap yard and residential recycling facility.

**Milestone 3** A complete Project Permit application for redevelopment of the Parberry Property (the “First Project”) is submitted no later than February 21, 2021 ~~twenty-four (24) months after the execution of this Agreement~~, and construction commences on the First Project no later than ninety (90) days after the City issues all required permits. The term “Project Permit” shall have the meaning set forth in BMC 21.10.020 and shall specifically include a “Major Renovation Project” meaning construction of improvements to a building existing as of the date of this Agreement of at least 10,000 total square feet and two stories in height where the cost of

construction is reasonably anticipated to exceed fifty percent of the assessed value of the existing building.

- Milestone 4** Parberry agrees to cease all operations of all Parberry fully relocates all non-conforming uses remaining after the satisfaction of Milestone 2- on the Parberry Property no later than February 21, 2023. within twenty-four (24) months of issuance of all permits required for the Replacement Facility. In the event Parberry enters into an agreement with a third party to lease, operate, manage or similarly control the remaining non-conforming uses/operations on any or all of the Parberry Property, Parberry agrees to include a termination date of such agreement no later than February 21, 2023.
- Milestone 5** The First Project has received a Temporary Occupancy Permit from the City of Bellingham by February 21, 2023 ~~within forty-eight (48) months of the execution of this Agreement.~~
- Milestone 6** A second complete Project Permit application (the “Second Project”) is submitted no later than February 21, 2024 ~~within twelve (12) months of satisfaction of Milestone 4.~~ Construction shall commence on the Second Project no later than ninety (90) days after the City issues all required permits.

The Milestones set forth herein are based on Parberry’s and the City’s best estimate of a redevelopment schedule for the Parberry Property based on current market conditions. If any delay is anticipated by Parberry, such anticipated delay shall be communicated to the City Project Manager in writing when known by Parberry along with a request for an extension of the applicable Milestone which extension shall not be unreasonably denied so long as diligent progress has been made in achieving the applicable Milestone. The parties acknowledge that the continued presence of the low-barrier shelter located at 1013 Holly Street may inhibit Parberry’s ability to achieve certain Milestones. The City’s Project Manager, after consultation with Parberry’s Project Manager, may, in her sole discretion, extend the requirements of Section 1, including delays related to the presence of the low-barrier shelter. The City Project Manager shall not unreasonably deny such requests for extensions. The City represents and Parberry acknowledges that timely redevelopment is a significant element of the City’s agreement to enter into this Agreement. Reasonable extensions due to the City’s failure to provide timely the public infrastructure improvements identified in Section C of this Agreement shall be granted. Failure by Parberry to complete the above Milestones, as may be extended from time-to-time, shall be considered a breach of this Agreement, and, if Parberry fails to cure such breach within thirty days of written notice from the City, the City shall be relieved of its obligation to provide the public infrastructure set forth in Section 2(a) and 2(b), hereof, but such breach shall not result in termination of this Agreement. Provided, however, that if Parberry completes Milestones 1 through 4, which includes full relocation of all non-conforming uses, the City shall remain obligated to design and construct Section 2(a) pursuant to the timing provisions of Section 2(c). First Amended and Restated Development Agreement – 092.1141.201920

## 2. City Obligation to Provide Public Infrastructure

The parties acknowledge that redeveloping the Parberry Property in conformance with the Old Town Plan will require infrastructure improvements for, among other things, streets and utilities. To facilitate the relocation of Northwest Recycling and the redevelopment of the Old Town Subarea, a benefit to the community at large, the City agrees to fund and construct certain public infrastructure improvements as set forth in this section. Nothing in this Agreement shall preclude the City from constructing the public infrastructure improvements prior to the schedule below.

### a. C Street

The City shall design and construct, at its sole cost and expense, improvements to C Street from Holly Street to Maritime Heritage Park. Such development shall be “curb to curb” and shall specifically include street surfacing, curb and gutters and shall be done in accordance with the Old Town Subarea Plan. Notwithstanding Section 2(c) below, Nothing in this Agreement is intended to make the City responsible for any costs associated with sidewalks or streetlights with the exception of traffic signals noted below. Under no circumstances shall Parberry, or any subsequent owner of the Parberry Property, be required to pay curb to curb street cost for C Street.

It is anticipated that as the development occurs in Downtown, the Waterfront District and Old Town, upgrades to traffic control devices at the intersection of C Street and Holly Street will be required to help manage traffic flow. At this time, this upgrade to traffic control devices is anticipated to be a traffic signal. Development projects on the Parberry Property will not be required to participate in the cost of the design and construction of upgrades to the new traffic signal at C Street and Holly Street. The City will design and construct the traffic signal when it meets warrants. Construction of traffic signals will include bringing the existing curb ramps up to current ADA standards. Development projects on the Parberry Property will not be delayed by City permitting as a result of any delay associated with upgrades to the traffic control devices.

### b. Additional Streets

The City shall design and construct, at its sole cost and expense, improvements to additional streets shown on **Exhibit 4**. Such development shall be “curb to curb” and shall specifically include street surfacing, curb and gutters and shall be done in accordance with the Old Town Subarea Plan and any other applicable regulation in effect at the time of the improvement. Nothing in this Agreement is intended to make the City responsible for any costs associated with sidewalks or streetlights.

However, in the event either Parberry or any subsequent owner of the Parberry Property, on the one hand, or the City, on the other hand, desires that alternative streets within the Parberry Property be improved, instead of the ones shown on **Exhibit 4**, the party desiring the change shall make such a request to the other party in writing. The recipient of such change of street improvement request shall respond in writing within 30 days of the date of the receipt of the request. Such response may be a preliminary response that the party is considering the request but has not yet reached a conclusion. In no event shall the transmittal of the final written

decision be more than 120 days after the receipt of the initial request. Requests for change of street improvement sent to the City shall be sent to the Office of the City Attorney with a copy to the Director of Public Works. Requests for change of street improvement sent to Parberry shall be sent to Brad L. Parberry with a copy to the Parberry Chief Executive Officer.

Any improvements made to alternative streets other than the ones shown on **Exhibit 4** shall be for the full length of the blocks designated. It is the intent of the parties that the City not be responsible for providing any more than 820 linear feet of street improvement (not including C Street, as described above, or Holly Street, as described below) unless the completion of the block requires additional length.

In the event both parties agree to the proposed change, a modification to this Agreement attaching a revised **Exhibit 4** shall be executed by both parties. In the event the party receiving the request does not agree to the proposed change, **Exhibit 4** shall remain in effect.

### **c. Timing of Street Improvements**

The City shall commence its street improvement process upon written notice from Parberry. Parberry may elect to provide notice for street improvement in complete block sections or for all blocks of a particular street at one time. In order to improve a street, the City must have adequate time to budget and plan appropriately, and therefore specific written notice must be provided to the City no later than April 30 for street improvements to be performed in the following calendar year. After receiving notice from Parberry consistent with the requirements of this Section (c), the City shall schedule the construction at a time during the following calendar year chosen by the City in its sole discretion, provided the City may delay commencement of construction of street improvements until a building permit is submitted to the City by Parberry, or a subsequent owner of the Parberry Property, for construction of a Major Construction Project or Major Renovation Project on the property abutting the street that will be improved.

The City shall complete the street improvements identified in this Agreement as development progresses on the Parberry Property (as further described below), provided, that prior to the City commencing construction of an improvement on a street, Northwest Recycling shall vacate both sides of a block and non-conforming uses on that block shall have been discontinued. Further, prior to the City budgeting and planning for the street improvements, complete land use permit applications for redevelopment of the property located adjacent to the street that will be improved shall have been submitted to the City of Bellingham. If street improvements are necessary for the First Major Construction Project or First Major Renovation Project, as determined by the City of Bellingham in the permitting process, the City will waive the requirement for Northwest Recycling to vacate both sides of a block and discontinue non-conforming uses on that block.

As of the date hereof, Parberry has selected 700 W. Holly Street as its First Major Renovation Project. The construction of street improvements that would typically be required of Parberry pursuant to BMC 20.35, 13.04 and 13.08 and any other applicable code provision, shall not be required along C Street as part of the development of 700 W. Holly Street. However, Parberry shall be responsible for the costs associated with the curb to property line street

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improvements designed and constructed by the City adjacent to 700 W. Holly, which shall extend to the Astor and C Street intersection (the “C Street Curb to Property Improvements”). When the City commences design and construction of C Street from curb to curb, it shall also design and construct the C Street Curb to Property Improvements (the “Combined C Street Improvement Project”). Costs associated with the C Street Curb to Property Improvements shall be accounted for separately in the Combined C Street Improvement Project. Parberry’s responsibility for the costs of design and construction shall be based on an engineer’s estimate developed by the City which shall be based on the cost of design and construction to a private developer, not to a public entity (the “Engineer’s Estimate”). Final invoicing will reflect actual construction costs as would be paid by a private developer, not a public entity. Parberry shall have thirty (30) days from the date of receipt of the Engineer’s Estimate to notify the City in writing of its approval or disapproval. If Parberry disapproves of the engineer’s estimate, it may: (1) notify the City in writing of its disapproval and submit its own engineer’s estimate within 30 days of receipt of the City’s Engineer’s Estimate, which the City shall either accept or reject in its sole discretion; or (2) design and construct the C Street Curb to Property Improvements adjacent to 700 W. Holly and extending to the intersection of C street and Astor, which construction shall be completed within one hundred and twenty (120) days of the City’s physical completion (“Physical Completion” as defined in the Standard Specifications for Road, Bridge, and Municipal Construction (2020 edition) (the “Standard Specifications”)) of the curb to curb street improvements. Parberry shall not begin construction of the C Street Curb to Property Improvements prior to the Physical Completion of the City’s curb to curb street improvements. In the event the City rejects Parberry’s engineer’s estimate, Parberry shall complete construction of the C Street Curb to Property Improvements within one hundred and twenty (120) days of the City’s Physical Completion of the curb to curb improvements. Parberry shall not begin construction of the C Street Curb to Property Improvements prior to the Physical Completion of the City’s curb to curb street improvements. The City shall invoice Parberry for the costs associated with the design of the C Street Curb to Property Improvements within sixty (60) days of project advertisement and for costs associated with construction within sixty (60) days of project Substantial Completion, as defined in the Standard Specifications. Parberry shall reimburse the City within thirty (30) days of receipt of such invoice and any delinquent amount shall bear interest at the 12% per year or the maximum allowed by law. Non-payment of such invoices shall be a default under this Agreement and if not cured within thirty (30) days of such breach after notice from the City in writing shall result in termination of this Agreement. If this Agreement terminates or the City is no longer obligated to construct the infrastructure herein, prior to the City completing the Combined C Street Improvement Project, the City shall not be required to complete the C Street Curb to Property Improvements and these improvements may be required as part of the redevelopment of other Parberry Properties.

**d. Holly Street**

Provided the development of the Parberry Property is in accordance with the maximum build-out and development permitted under the Old Town Plan, Parberry, or any subsequent owner or developer of the Parberry Property, shall not be required to perform any curb-to-curb improvements to Holly Street, or pay any mitigation or other fees in lieu of such improvements. Nothing in this Agreement shall prohibit the City, as a permitting agency, from placing

[requirements on permits for the development of 700 W. Holly Street, including those related to accessibility to the building.](#)

**e. Traffic Concurrency**

Pursuant to Bellingham's development regulations, redevelopment of the Parberry Property will require evaluation for transportation impacts and potential mitigation based on the specific land uses proposed for redevelopment of the property.

- i. Pursuant to BMC 13.70, evaluation for Multimodal Transportation Concurrency is required prior to submittal of a land use application for redevelopment.
- ii. Depending on the scope and scale of redevelopment, a project-specific Transportation Impact Analysis (TIA) may be required to identify transportation impacts to nearby streets and intersections, as well as potential mitigating measures, if necessary. Provided, in the event the TIA identifies as potential mitigation a road improvement the City is obligated to perform under this Agreement, such TIA shall not obviate the City's obligation to perform such improvement.
- iii. Pursuant to BMC 19.06, assessment of Transportation Impact Fees (TIF) is required based on the TIF rate in effect at the time of building permit application. A pre-application estimate of the TIF is made on the application for Multimodal Transportation Concurrency (BMC 13.70).

**f. Water and Sewer**

The City shall be responsible for maintaining City-owned water lines capable of supporting maximum development permitted for the Parberry Property under the Old Town Plan. Parberry, or subsequent owners of the Parberry Property, shall be responsible for costs associated with water service, including, but not limited to, costs for permits, connection fees and demand charges.

The City shall be responsible for maintaining City-owned sewer system capable of supporting maximum development permitted for the Parberry Property under the Old Town Plan. Parberry, or subsequent owners of the Parberry Property, shall be responsible for costs associated with sewer service, including, but not limited to, costs for permits, connection fees and demand charges.

The City shall be wholly responsible for, and hereby guarantees the adequacy of the availability of, water and sewer, consistent with the City's Water System Plan and/or the City's Comprehensive Sewer Plan, so long as the development of the Parberry Property is in accordance with the maximum build-out and development permitted under the Old Town Subarea Plan dated March 2008. Any development in excess of that contemplated under the Old

Town Subarea Plan, whether as a result of a change in regulations or any other reason, is beyond the scope of this guarantee.

**g. Stormwater**

The City shall be responsible for installing a stormwater drainage and collection system to convey stormwater runoff from the Parberry Property and all public roads, sidewalks, and any other public areas abutting the Parberry Property.

The City shall not be responsible for on-site stormwater management associated with private development on or within the Parberry Property. Parberry, or any subsequent owner of the Parberry Property, shall be responsible for the design and construction of stormwater systems for managing stormwater onto and off any given development, and for compliance with applicable local, state and federal regulations applicable at the time of complete application for any and all permits.

**3. Redevelopment**

**a. Holly Street Landfill Covenant.**

The City agrees to assist Parberry in its effort to amend the Restrictive Covenant recorded under Whatcom County Auditor file number 2050502787 (the “Restrictive Covenant”) to remove the ground-floor residential restriction contained in Section 1 of the Restrictive Covenant or allow for the mitigation of the health and safety concerns associated with the ground-floor residential restriction.

**b. Shoreline Buffer.**

The City acknowledges the existing foundation walls are located within the shoreline buffer on the property located at 600 W. Holly Street (the “Holly Street Property”). The City agrees the foundation walls are a nonconformance that can be continued and maintained pursuant to Section 22.05.040 of the Bellingham Municipal Code, and that fill may be placed on the landward side of the foundation walls in order to create a level grade across the Holly Street Property. Alternatively, the foundation walls can be removed prior to filling the Holly Street Property to create a level grade. Prior to removing the existing foundation walls, a geotechnical report shall be submitted to the City verifying the stability of the adjoining property will not be impacted as a result of the removal of the foundation wall. Grading within the shoreline buffer shall comply with the requirements of Section 22.08.160 of the Bellingham Municipal Code. In either case, further encroachment (waterward) into the required 50-foot buffer shall not occur. Future buildings shall not be constructed within the 50-foot buffer or the additional five (5) foot setback from the edge of said buffer.

**4. Impact Fees and Credits**

**a. Plaza Credits**

In the context of undertaking any future development of the Parberry Property under the Old Town Plan, Parberry, for itself and any subsequent owner of the Parberry Property, agrees to [First Amended and Restated Development Agreement – 092.1141.201920](#)

dedicate the Courthouse Plaza within 60 days of written request by the City. The location of the Courthouse Plaza is indicated on **Exhibit 2**. Parberry, or any subsequent owner of the Parberry Property, shall dedicate to the City its ownership interests in the portion of the Parberry Property where the Courthouse Plaza is located in accordance with the dimensions set forth below, and in the form of a quit claim deed. This is a material term of this Agreement and the City reserves its right to pursue specific performance among other remedies available at law or equity. Nothing herein limits the parties' rights to remedies available at law or equity for breach of any other provision of this Agreement.

**b. Plaza Dimensions**

The Courthouse Plaza is not expected to exceed 7500 square feet and will be located on the northeasterly corner of E Street and Holly Street. The dimensions of the Parberry Property to be dedicated for the Courthouse Plaza shall be 75 feet, more or less, abutting E Street, by 100 feet, more or less, abutting Holly Street and shall in any event comprise the entirety of Tax Parcel No. 3803-3000-2339.

**i. Timing for Dedication**

The parties acknowledge that any benefit conferred upon Parberry and its successors under this Section b, as well as any obligation to dedicate the Parberry Property as a plaza, is contingent upon an amendment to the City's Capital Facilities Plan allowing for a category of plaza development in the Old Town Subarea. The City agrees to make all good faith efforts to ensure that the necessary amendment is prepared and approved during the next revisions to the Capital Facilities Plan and, in any event, no later than December 31, 2021, and neither Parberry nor its successors shall have any obligations under this Section unless and until such amendment is effective.

No sooner than six months following such amendment to the Capital Facilities Plan, either Parberry, or its successors, shall dedicate the Courthouse Plaza property upon one year's prior written notice by the City to Parberry, or the subsequent owner of the Parberry Property. In no event shall Parberry dedicate the Courthouse Plaza prior to the City's written request.

**ii. Compensation for Dedicated Property**

At the time of such dedication, Parberry, or the subsequent owner of the Parberry Property, may elect from the following options for compensation, at the property owner's sole discretion:

A) Dedicate a plaza area(s) in return for a transfer of the floor area, in accordance with BMC 20.35.070(D)(4)(c)(1) as effective at the date of this Agreement. This Agreement constitutes approval by the City for the transfer of the entirety of the floor area from the Courthouse Plaza property dedicated to the City to increase the allowed floor area of any receiving development site(s) or project(s) on or within the Parberry Property as determined in the sole discretion of Parberry, or the subsequent owner of the Parberry Property, so long as the development site(s) or project(s) adhere to height restrictions and floor area allowances provided

for in BMC 20.35. Further approval by the Director for such transfer of floor area shall not be required notwithstanding BMC 20.35.070(D)(4)(c)(1); or

B) Dedicate a plaza area(s) in return for a credit against park impact fees, in accordance with BMC 19.04.140(A), provided that the credit is based on the fair market value of the dedicated land at the highest and best use that would be permitted by either 1) the Old Town Subarea Plan as it exists at the time of this Agreement, or 2) subsequent amendments to the Old Town Subarea Plan in effect at the time of development, whichever allows for the highest fair market value; and is established by private appraisers acceptable to the City and Parberry, or the subsequent owner of the Parberry Property, and provided further that the Adoption of the Development Agreement Resolution constitutes approval by the City to transfer freely park impact fee credits resulting from a dedication of a plaza area(s) located on the Parberry Property to any development or project on or within the Parberry Property in the sole discretion of Parberry, or the subsequent owner of the Parberry Property; or

C) Convey the plaza area(s) in return for payment by the City of an amount equal to the fair market value of the land at the highest and best use that would be permitted by either 1) the Old Town Subarea Plan as it exists at the time of this Agreement, or 2) subsequent amendments to the Old Town Subarea Plan in effect at the time of development, whichever allows for a higher fair market value; as established by private appraisers acceptable to the City and Parberry, or a subsequent owner of the Parberry Property.

**c. Other Impact Fees**

Other than the means by which this Agreement addresses plaza credits, Parberry for itself and any subsequent owner of the Parberry Property, acknowledges that development of the Parberry Property may require impact fees for traffic, fire services, parks and open space and school facilities, as well as development charges for water, sewer and stormwater.

**5. Resolution of Low-Barrier Shelter**

The City and Lighthouse Mission Ministries (“LMM”) have been working together to find a permanent location for a low-barrier shelter currently operating on the 1000 block of E. Holly Street (the “Low Barrier Shelter”). As of the date hereof, LMM and the City have not been successful in finding an acceptable location. Pursuant to RCW 35.21.915, City of Bellingham Emergency Ordinance Number 2018-04-007, City of Bellingham Resolution Number 2017-27, and Temporary Use Permit Number ADM2018-0019, as well as Director’s Interpretation #ADM2018-0008, LMM is currently operating the temporary facility through May 22, 2022. During the Term of this Agreement, the City agrees not to lease 600 W. Holly Street to accommodate a permanent or temporary low-barrier homeless shelter.

**6. Relocation Costs**

Parberry shall bear all costs of relocating their operations from the Old Town area to another site, including the cost of land acquisition, site improvements, compliance requirements, facility construction, equipment purchase and all other similar costs. Further, Parberry shall bear all costs of site remediation to existing Parberry Property, if any.

## 7. Vesting

Under this Agreement, and during the term of this Agreement, Parberry and any subsequent owner of the Parberry Property shall have a vested right to develop the Parberry Property in accordance with, and to the extent permissible under Existing Land Use Regulations. The term “Existing Land Use Regulations” means any ordinance, code, rule or law of the City in effect at the time of the Adoption of the Development Agreement Resolution setting forth development regulations, building standards and project elements, including but not limited to those establishing permitted uses, densities, intensities, building height, building size, setbacks, parking, loading, landscaping, signage, fencing, screening, design specifications, and other similar development guidelines specifically including, but not limited to, the following sections of the Bellingham Municipal Code: Title 16 Environment, Title 17 Buildings and Construction, Title 18 Subdivisions, Title 20 Land Use Development, and Title 21 Administration of Development Regulations, provided that these code provisions were adopted as a matter of local discretion and are not implementing a State of Washington mandate. Development of the Parberry Property shall not be subject, during the Term of this Agreement, to any amendments to, or replacements of, the Existing Land Use Regulations. Nothing herein relieves Parberry of any obligation it may have during the Term to comply with state or federal laws or regulations of any kind, and as provided in RCW 36.70B.170(4), the proposed redevelopment of the Parberry Property shall not vest against new development regulations to the extent the new regulations are required by a serious threat to public health and safety.

Parberry, for itself and any subsequent owner of the Parberry Property, acknowledges that the Existing Land Use Regulations contemplate the exercise of further discretionary powers by the City under the public review and approval procedures required by the municipal code in effect at the time of submittal for government approvals to develop the Parberry Property. Other than as specifically identified herein, nothing in this Agreement shall be construed to limit the authority or the obligations of the City to exercise that discretion.

## 8. Option to Purchase.

a. **600 W. Holly Street.** The City hereby grants Parberry an option through February 21, 2023 ~~for (48) forty-eight months from the date of execution of this Agreement~~ (the “600 W. Holly Option Period”) to purchase the property located at 600 and 612 W. Holly Street, Bellingham, Washington and legally described and illustrated on **Exhibit 5** attached hereto (the “Holly Street Property”) at a purchase price determined that is equal to the fair market value of the property in its AS-IS condition (the “Fair Market Value”) as determined by MAI appraisal (the “Appraisal”), in accordance with BMC 4.84. The Appraisal shall be commenced within ninety (90) days of the effective date of this Agreement. The appraiser shall be selected jointly by the City and Parberry and Parberry shall pay the appraiser’s fee, provided, fifty percent (50%) of the cost of the appraisal shall be credited toward the purchase price at closing if Parberry purchases the Holly Street Property. If the City and Parberry cannot agree on an appraiser within fifteen (15) days after written notice from either party, then each party will select an appraiser, and the two appraisers shall try to reach agreement on Fair Market Value and if they do agree, the resulting amount will be the purchase price and each party will pay the cost of its appraiser. If the appraisers do not agree on Fair Market Value, the two appraisers will pick jointly a third appraiser and the third appraiser shall choose either the final value figure given by the City’s First Amended and Restated Development Agreement – 092.1141.201920

appraiser or the final value figure given by Parberry's appraiser (i.e., no splitting the difference). The City and Parberry shall each pay half the cost of the third appraiser. Each appraiser must have MAI certification and must have at least ten (10) years' experience appraising similar properties in Washington. The Fair Market Value shall automatically increase three percent (3%) per annum beginning on the one-year anniversary of the final date of the Appraisal and the purchase price shall be the Fair Market Value in effect on the date Parberry exercises its option.

i. The option shall be exercisable by written notice to the City, provided, Parberry shall not be entitled to exercise the option if Parberry is in default of this Agreement. If Parberry exercises the option, closing shall occur within one hundred twenty (120) days thereafter, with the purchase price paid in cash at closing, so long as the appraisal has been completed and an easement for the Whatcom Creek boardwalk has been recorded against the 600 W. Holly Street Property by the City. The City and Parberry shall each pay half of the escrow fee and any similar closing costs. Any transfer tax shall be paid by the City as seller, in accordance with the statute, unless, as currently, there is an applicable exemption. Title shall be conveyed by Quitclaim Deed free of any monetary liens and free of any encumbrances not on the title on the date of this Agreement. The City shall pay for a standard coverage title insurance policy for Parberry and Parberry shall pay the additional premium for extended coverage if requested by Parberry. The title insurance company shall be selected by Parberry and shall also provide escrow services on the transfer.

ii. By mutual agreement, the purchase price for the Holly Street Property will be paid according to one of the following: (1) Parberry may purchase the property for the appraised value as determined above; or (2) Parberry may trade the City a parcel owned by Parberry in the Old Town Subarea of equal value, simultaneous with the closing on the Holly Street Property. The appraisal selection and resolution provisions of the preceding section shall apply to this section as well.

iii. It is anticipated that the Fair Market Value of the Holly Street Property will increase as a result of the redevelopment of the Parberry Property, and that such increase might exceed the three percent per annum increases in Fair Market Value provided for in this Agreement. The City and Parberry intend that the benefit of the increased value of the Holly Street Property resulting from redevelopment of the Parberry Property inure to the benefit of Parberry, provided Parberry exercises its option to purchase the Holly Street Property. This allocation of increased value is part of the overall economics of this Agreement and is a material inducement for Parberry to relocate its Northwest Recycling operations and invest in redevelopment the Parberry Property, which redevelopment will result in overall value to the City and the citizens of Bellingham. Any increase in Fair Market Value of the Holly Street Property beyond the three percent per annum increases provided in this Agreement shall not give rise to or be the basis of any claim or request by the City to re-negotiate the terms of this Agreement or the purchase price of the Holly Street Property.

iv. In the event the City receives a bona fide offer (at a price acceptable to

City staff) to purchase or lease the Holly Street Property from a third party in any written form during the Option Period, the City will notify Parberry of such offer and Parberry will have thirty (30) days to exercise its option or the City will be free to accept the third party offer or negotiate with the third party. If Parberry decides to exercise its option, it will have sixty (60) days to close its purchase of the Holly Street Property. Notwithstanding the foregoing, the City's lease of the Holly Street Property shall not terminate Parberry's option to purchase and Parberry shall continue to have the option to purchase the Holly Street Property subject to the lease.

v. Nothing in this Agreement or option to purchase shall alter the City's responsibility related to contamination on the Holly Street Landfill site and, as between the City and Parberry, the City shall remain responsible for remediating any pre-existing hazardous substances located on the Holly Street Property.

vi. Section 8 of this Agreement and the option rights granted to Parberry herein shall be a covenant running with and affecting the Holly Street Property until such time as the 600 W. Holly Option Period expires, provided, if Parberry exercises its option to purchase, all of the terms, conditions and obligation of this Agreement shall continue in full force and effect with respect to the Holly Street Property.

**b.——707 Astor Street.** Parberry exercised its option to purchase 707 Astor Street legally ~~The City hereby grants Parberry an option from the date of execution of this Agreement until its termination (the “707 Astor Street Property Option Period”) to purchase the property located at 707 Astor Street, Bellingham, Washington and legally~~ described and illustrated on **Exhibit 6** attached hereto (the “Astor Street Property”) in 2020, at a purchase price determined in accordance with BMC 4.84 (purchase price shall be fair market value of the property, as determined by MAI appraisal). ~~The appraiser shall be selected jointly by the City and Parberry. If the City and Parberry cannot agree on an appraiser within fifteen (15) days after written notice from either party, then each party will select an appraiser, and the two appraisers shall try to reach agreement on value. If they do agree, the resulting amount will be the purchase price and each party will pay the cost of its appraiser. If they do not agree, the two appraisers will jointly pick a third appraiser and the third appraiser shall choose either the final value figure given by the City's appraiser or the final value figure given by Parberry's appraiser (i.e., no splitting the difference). The City and Parberry shall each pay half the cost of the third appraiser. Parberry shall have fifteen (15) days after determination of the final purchase price to withdraw exercise of the purchase option by notice to the City, but if Parberry withdraws its exercise of the option, Parberry shall pay all the appraisal fees. Each appraiser must have MAI certification and must have at least ten (10) years' experience appraising similar properties in Washington.~~

**e.——**~~The option shall be exercisable by written notice to the City, provided, Parberry shall not be entitled to exercise the option if Parberry is in default of this Agreement. If Parberry exercises the option, closing shall occur within one hundred twenty (120) days thereafter so long as the appraisal has been completed, with the purchase price paid in cash at closing. The City and Parberry shall each pay half of the escrow fee and any similar closing costs. Any transfer tax shall be paid by the City as seller, in accordance with the statute, unless, as currently, there is~~ First Amended and Restated Development Agreement – 092.1141.20+920

~~an applicable exemption. Title shall be conveyed by Quitclaim Deed free of any monetary liens and free of any encumbrances not on the title on the date of this Agreement. The City shall pay for a standard coverage title insurance policy for Parberry and Parberry shall pay the additional premium for extended coverage if requested by Parberry. The title insurance company shall be selected by Parberry and shall also provide escrow services on the transfer.~~

~~d. — By mutual agreement, the purchase price will be one of the following: (1) Parberry may purchase the property for the appraised value as determined above; or (2) Parberry may trade the City a parcel owned by Parberry in the Old Town Subarea of equal value, simultaneous with the closing on the 707 Astor Street Property. The appraisal selection and resolution provisions of the preceding section shall apply to this section as well.~~

~~**e.b. — In the event the City receives a bona fide offer (at a price acceptable to City staff) to purchase or lease the Astor Street Property from a third party in any written form during the 707 Astor Street Option Period, the City will notify Parberry of such offer and Parberry will have thirty (30) days to exercise its option or the City will be free to accept the third party offer or negotiate with the third party. If Parberry decides to exercise its option, it will have sixty (60) days to close on its purchase of the Astor Street Property. Notwithstanding the foregoing, the City's lease of the Astor Street Property shall not terminate Parberry's option to purchase and Parberry shall continue to have the option to purchase the Astor Street Property subject to the lease.**~~

~~**f.c. — In the event Parberry purchases either the Holly Street Property or the Astor Street Property, neither shall be utilized for non-conforming uses.**~~

~~**g.d. — Buy-Back.** In the event Parberry is in default of its obligation to meet the Milestones set forth in Section 1 of this Agreement, and fails to cure such default within thirty (30) days after receipt of written notice from the City, and provided Parberry has not commenced construction of a new building with at least three stories or thirty-five (35) feet of height as defined in BMC 20.08.020 and fifty thousand (50,000) square feet, as also defined in BMC 20.08.020, on the Holly Street Property as of the date of such default, the City shall have the option to buy the Holly Street Property back from Parberry at the same purchase price paid by Parberry.~~

~~**h.e. — Effect of Agreement.** Section 8 of this Agreement and the option rights granted to Parberry herein shall be a covenant running with and affecting the Holly Street Property and the Astor Street Property until such time as the 600 W. Holly Option Period and the 707 Astor Street Option Period, respectively, expire, provided, if Parberry exercises its option to purchase one or both of the properties, all of the terms, conditions and obligation of this Agreement shall continue in full force and effect with respect to such purchased property.~~

## 9. Term

This Agreement ~~shall~~ commenced on the date of the Adoption of the Development Agreement Resolution, February 11, 2019 and shall remain in effect until February 10, 2029~~for ten (10) years~~ (the "Term"). Any action permitted or required under this Agreement such as First Amended and Restated Development Agreement — 092.1141.201920

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permit submittal, road construction, or project development must commence during the term of this Agreement even though additional time may be needed for completion of such actions.

## **10. Assignment**

Parberry desires assurances that it, its successors or assigns, and any subsequent owner of the Parberry Property may develop the Parberry Property, as well as the Holly Street Property and/or Astor Street Property, if purchased pursuant to Section 8 hereof, in accordance with the vested rights set forth in this Agreement. It is the intent of the parties that the benefits and burdens of this Agreement shall be enjoyed by Parberry, Parberry's successors and assigns, and any subsequent owner of the Parberry Property who takes fee simple title or beneficial possession of all or any portion of the Parberry Property.

All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors and assigns, and all other persons acquiring the Parberry Property, or any portion thereof, or any interest therein.

## **11. Project Managers**

For the City: Tara Sundin, Community and Economic Development Manager, 210 Lottie Street, Bellingham, WA 98225, (360) 778-8392.

For Parberry: Kevin Moore, Chief Executive Officer, 1280 D Street, Bellingham, WA 98225, (360) 733-0100.

## **12. General Provisions**

**a. Legal Fees.** In the event any legal action is taken by either Party against the other Party to enforce any of the terms and conditions of this Agreement, it is agreed that the unsuccessful Party to such action shall pay to the prevailing Party therein all court costs, reasonable attorneys' fees and expenses incurred by the prevailing Party.

**b. Relationship of the Parties.** The execution of this Agreement shall not create any agency, partnership, joint venture, association or any other relationship between the Parties other than as independent contracting parties. Neither Party shall act as an agent for the other party or shall have the authority to bind or make commitments on behalf of the other Party. This Agreement has been entered into solely for the benefit of the Parties hereto and does not create any interest in any third party.

**c. Entire Waiver; Amendment.** This Agreement constitutes the entire agreement among the Parties concerning the subject matter hereof and supersedes all previous correspondence, communications, agreements and understandings, whether oral or written among the Parties. This Agreement may not be modified, in whole or in part, except upon unanimous approval of the Parties and by a writing signed by all the Parties.

**d. Advice of Counsel.** This Agreement was negotiated at arms-length with each Party receiving advice from independent legal counsel. It is the intent of the Parties that no part of this Agreement be construed against either of the Parties because of the identity of the drafter.

**e. Headings.** The headings used in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement nor the intent of any provision thereof.

**f. Construction.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability shall not affect any other provision in this Agreement and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

**g. Governing Law.** This Agreement, and all amendments or supplements thereto, shall be governed by and construed in accordance with the laws of the State of Washington.

Exhibit List:

- Exhibit 1 – Legal Description of the Parberry Property
- Exhibit 2 – Illustration of the Parberry Property
- Exhibit 3 – Location of Scrapyard and Residential Recycling Facilities
- Exhibit 4 – Street Improvements
- Exhibit 5 – Legal Description and Illustration of Holly Street Property
- Exhibit 6 - Legal Description and Illustration of Astor Street Property

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20~~2019~~<sup>20</sup>.

**CITY OF BELLINGHAM**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Department Head

Attest:

Approved as to Form

\_\_\_\_\_  
Finance Director

\_\_\_\_\_  
Office of the City Attorney

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**PARBERRY'S INC.**

**NORTHWEST RECYCLING, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**PARBERRY FAMILY LIMITED PARTNERSHIP**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF WHATCOM )

On this day personally appeared before me SETH FLEETWOOD, to me known to be the Mayor of the City of Bellingham, the municipal corporation that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such corporation, for the uses and purposes therein mentioned, and on oath stated that she was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this      day of      , 2020.

Printed Name \_\_\_\_\_  
 NOTARY PUBLIC in and for the State of Washington,  
 residing at \_\_\_\_\_  
 My Commission Expires \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF WHATCOM )

On this day personally appeared before me \_\_\_\_\_, to me known to be the \_\_\_\_\_ of Parberry's Inc., the corporation that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such corporation, for the uses and purposes therein mentioned, and on oath stated that [he/she] was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Printed Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF WHATCOM )

On this day personally appeared before me \_\_\_\_\_, to me known to be the \_\_\_\_\_ of Northwest Recycling, Inc., the corporation that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such corporation, for the uses and purposes therein mentioned, and on oath stated that [he/she] was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Printed Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF WHATCOM )

On this day personally appeared before me \_\_\_\_\_, to me known to be the \_\_\_\_\_ of Parberry Family Limited Partnership, the corporation that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such corporation, for the uses and purposes therein mentioned, and on oath stated that [he/she] was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Printed Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

**EXHIBIT 1  
PARBERRY PROPERTY**

Parcel Number & Address	Legal Description & Parcel Number
1. 0 Astor Street	<p>SUPPLEMENTAL MAP OF WHATCOM NW 8 FT VAC SE 1/2 DIVISION ST ABTG LOTS 7 THRU 10 BLK 3 AS VAC ORD 9083 8/1982</p> <p>See full legal description attached as Exhibit 1.1 hereto.</p> <p>3803300373390000</p>
2. 0 C Street	<p>SUPPLEMENTAL MAP OF WHATCOM LOTS 7 THRU 10 BLK 3-TOG WI VAC 12 FT OF DIVISION ST ABTG AS VAC ORD 33 PG 11-TOG WI VAC 12 FT DIVISION ST ABTG AS VAC ORD 33 PG 11</p> <p>See full legal description attached as Exhibit 1.2 hereto.</p> <p>3803300403370000</p>
3. 0 C Street	<p>LOT 4 BLK 3-TOG WI VAC 12 FT DIVISION ST ABTG VAC CITY ORD VOL 33 PG 11-TOG WI VAC 12 FT DIVISION ST ABTG AS VAC CITY ORD VOL 33 PG 11-TOG WI 8 FT ABTG AS VAC</p> <p>See full legal description attached as Exhibit 1.3 hereto.</p> <p>3803300463430000</p>
4. 1419 C Street	<p>LOTS 1-2-3-5-6-NW 2/3 OF 11-12-13 THRU 20 BLK 3-TOG WI VAC 12 FT DIVISION ST ABTG VAC CITY ORD 33 PG 11-TOG WI 12 FT DIVISION ST AS VAC CITY ORD 65 PG 11-8</p> <p>See full legal description attached as Exhibit 1.4 hereto.</p> <p>3803300403510000</p>
5. 0 D Street	<p>SUPPLEMENTAL MAP OF WHATCOM SE 1/3 OF LOTS 11-12 BLK 3-TOG WI VAC 12 FT DIVISION ST ABTG VAC CITY ORD 33 PG 11-TOG WI VAC 12 FT DIVISION ST AS VAC ORD 33 PG 11-TOG WI 8 FT AS VAC ORD 9083</p> <p>See full legal description attached as Exhibit 1.5 hereto.</p> <p>3803300343390000</p>

Parcel Number & Address	Legal Description & Parcel Number	
6. 1315 D Street	<p>SUPPLEMENTAL MAP OF WHATCOM          LOTS 1 THRU 4-13 THRU 16 BLK 5-SUBJ TO          R/W ESMT OVER S 10 FT OF LOTS 4-13 DESC AF 947914-TOG WI          VAC CENTER ST ABTG AS VAC ORD 7280-SUBJ TO COVENANT          TO BIND</p> <p>See full legal description attached as Exhibit 1.6 hereto.</p> <p>3803300113480000</p>	
7. 1407 D Street	<p>SUPPLEMENTAL MAP OF WHATCOM          SW 1/2 OF LOT 4-ALL LOTS 5 THRU 8 BLK 6- TOG WI VAC 12 FT          CENTER ST ABTG</p> <p>See full legal description attached as Exhibit 1.7 hereto.</p> <p>3803300243540000</p>	
8. 1411 D Street	<p>SUPPLEMENTAL MAP OF WHATCOM          ALL LOT 3-NE 1/2 OF LOT 4 BLK 6-          TOG WI VAC 12 FT CENTER ST ABTG</p> <p>See full legal description attached as Exhibit 1.8 hereto.</p> <p>3803300293590000</p>	
9. 1415 D Street	<p>SUPPLEMENTAL MAP OF WHATCOM          LOTS 1-2 BLK 6-TOG WI VAC 12 FT          CENTER ST ABTG</p> <p>See full legal description attached as Exhibit 1.9 hereto.</p> <p>3803300323630000</p>	
10. 1401 E Street	<p>SUPPLEMENTAL MAP OF WHATCOM          LOTS 3-4 BLK 11</p> <p>See full legal description attached as Exhibit 1.10 hereto.</p> <p>3803300053730000</p>	

11.1408 E Street	<p>SUPPLEMENTAL MAP OF WHATCOM LOTS 9 THRU 16 BLK 6-TOG WI VAC 12 FT CENTER ST ABTG</p> <p>See full legal description attached as Exhibit 1.11 hereto.</p> <p>3803300183640000</p>
12.1411 E Street	<p>SUPPLEMENTAL MAP OF WHATCOM LOT 2 BLK 11</p> <p>See full legal description attached as Exhibit 1.12 hereto.</p> <p>3803300093770000</p>
13.1413 E Street	<p>SUPPLEMENTAL MAP OF WHATCOM LOT 1 BLK 11</p> <p>See full legal description attached as Exhibit 1.13 hereto.</p> <p>3803300123810000</p>
14.0 W Holly Street	<p>SUPPLEMENTAL MAP OF WHATCOM NWLY 50 FT OF LOTS 1 THRU 4 BLK 32</p> <p>See full legal description attached as Exhibit 1.14 hereto.</p> <p>3802255523290000</p>
15.0 W Holly Street	<p>SUPPLEMENTAL MAP OF WHATCOM LOTS 13 THRU 16 BLK 32-SUBJ TO ESMT TO CITY OF BELLINGHAM FOR SLOPE FILL DESC AF 735979-TOG WI SELY 20 FT VAC E STREET ABTG AS VAC ORD 8900 12/15/1980</p> <p>See full legal description attached as Exhibit 1.15 hereto.</p> <p>3802255483330000</p>
16.700 W Holly Street	<p>SUPPLEMENTAL MAP OF WHATCOM LOTS 3 THRU 16 BLK 4-SUBJ TO ESMT TO CITY OF BELLINGHAM FOR SLOPE FILL DESC AF 733697 OVER LOTS 8 THRU 13</p> <p>See full legal description attached as Exhibit 1.16 hereto.</p> <p>3803300203260000</p>

17.701 W Holly Street	<p>SUPPLEMENTAL MAP OF WHATCOM LOTS 1 THRU 4-13 THRU 16 BLK 31-SUBJ TO ESMT TO CITY OF BELLINGHAM FOR SLOPE FILL ON LOT 1 DESC AF 733698</p> <p>See full legal description attached as Exhibit 1.17 hereto.</p> <p>3803300113080000</p>
18.800 W Holly Street	<p>SUPPLEMENTAL MAP OF WHATCOM LOTS 9-10-11 BLK 5-TOG WI VAC PTN CENTER ST ABTG-SUBJ TO ESMT TO CITY OF BELLINGHAM FOR SLOPE FILL DESC AF 735976</p> <p>See full legal description attached as Exhibit 1.18 hereto.</p> <p>3803300023390000</p>
19.800 W Holly Street	<p>SUPPLEMENTAL MAP OF WHATCOM LOTS 5 THRU 8 BLK 5-TOG WI VAC PTN CENTER ST ABTG-SUBJ TO R/W ESMT OVER N 10 FT OF LOT 5 DESC AF 947913</p> <p>See full legal description attached as Exhibit 1.19 hereto.</p> <p>3803300063360000</p>
20.801 W Holly Street	<p>SUPPLEMENTAL MAP OF WHATCOM SE 50 FT OF LOTS 1 THRU 4 BLK 32-SUBJ TO ESMT TO CITY OF BELLINGHAM FOR SLOPE FILL DESC AF 735975</p> <p>See full legal description attached as Exhibit 1.20 hereto.</p> <p>3802255513260000</p>
21.900 W Holly Street	<p>SUPPLEMENTAL MAP OF WHATCOM LOTS 1 THRU 8 BLK 12-SUBJ TO ESMT TO CITY OF BELLINGHAM FOR SLOPE FILL DESC AF 735978 ON LOTS 5 THRU 8</p> <p>See full legal description attached as Exhibit 1.21 hereto.</p> <p>3802255533590000</p>

**EXHIBITS 1.1 - 1.21  
PARBERRY PROPERTY**

**Exhibit 1.1**

(O Astor Street)

3803300373390000

lying in the vacated right-of-way of Division Street between Astor and Bancroft Streets, and lying across Block 3, Plat of the Town of New Whatcom Supplemental as the same is shown at Page 42, Book 1 of Plats, Official Records of the Whatcom County Auditor, adjacent to Lots 7 through 10 as shown on the map attached hereto, and situated in the county of Whatcom, state of Washington. (See Exhibit 1.1A attached hereto.)

**Exhibit 1.2**

(O C Street)

3803300403370000

LOTS 7, 8, 9, and 10, Block 3, "Supplemental Map of the Town of Whatcom, Whatcom County, W.T. 1884", now a part of the consolidated City of Bellingham, Whatcom County, Washington, as per the map thereof, recorded in Book 1 of Plats, page 42, in the Auditor's office of said county and state, TOGETHER WITH the vacated portion of Division Street abutting on said lots, which vacated portion is the Southeasterly 20 feet of Division Street.

**Exhibit 1.3**

(O C Street)

3803300463430000

Lot 4, Block 3, "Supplemental Map of the Town of Whatcom, Whatcom County, W. T., 1884, now a part of the consolidated City of Bellingham, Whatcom County, Washington, as per the map thereof, recorded in Book 1 of Plats, page 42, in the Auditor's office of said county and state, TOGETHER WITH the Southeasterly 12 feet of vacated Division Street abutting.

**Exhibit 1.4**  
(1419 C Street)  
3803300403510000

Lots 1 through 3, inclusive, and Lots 5 and 6, TOGETHER WITH the Southeasterly 12 feet of vacated Division Street abutting, ALSO Lots 11 through 20, inclusive, TOGETHER WITH the Northwesterly 12 feet of vacated Division Street abutting, ALL in Block 3, "Supplemental Map of the Town of Whatcom, County, W. T., 1884," now a part of the consolidated City of Bellingham, Whatcom County, Washington, as per the map thereof, recorded in Book 1 of Plats, page 42, in the Auditor's office of said County and State.

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**Exhibit 1.5**  
(0 D Street)  
3803300343390000

The Southeast one-third of Lots 11 and 12, and also the vacated 12 feet of the division street abutting, Block 3, "Supplemental Map of the Town of Whatcom, Whatcom County, W.T., 1884" now a part of the consolidated City of Bellingham, Whatcom County, Washington, as per the map thereof, recorded in Book 1 of Plats, page 42, in the Auditor's office of said county and state.

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**Exhibit 1.6**  
(1315 D Street)  
3803300113480000

Lots 1, 2, 3, 4, 13, 14, 15 and 16, BLOCK 3, along with vacated Center Street abutting said lots;

ALL of said lots and block being in "Supplemental Map of the Town of Whatcom, Whatcom County, W. T.", according to the Plat thereof, recorded in Volume 1 of Plats, Page 42, records of Whatcom County, Washington.

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**Exhibit 1.7**  
(1407 D Street)  
3803300243540000

The Southwest half of lot 4 and all of lots 5, 6, 7 and 8, Block 6, Supplemental Map of the Town of Whatcom W. T., as per the map thereof, recorded in Volume 1 of Plats, page 42, records of Whatcom County, Washington. Together with the vacated Southwesterly 12 feet abutting said lots.

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**Exhibit 1.8**  
(1411 D Street)  
3803300293590000

Lot 3 and the Northeasterly one-half of Lot 4, Block 6, "Supplemental Map of the Town of Whatcom", as per plat thereof recorded in Volume 1 of Plats, Page 42, Records of Whatcom County, Washington Auditor.

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**Exhibit 1.9**  
(1415 D Street)  
3803300323630000

LOTS 1 AND 2, BLOCK 6, "SUPPLEMENTAL MAP OF THE TOWN OF WHATCOM, WHATCOM COUNTY, W.T., 1884," AS PER THE MAP THEREOF, RECORDED IN BOOK 1 OF PLATS, PAGE 42, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE, TOGETHER WITH THE VACATED SOUTHEASTERLY 12 FEET OF CENTER STREET ADJOINING.

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**Exhibit 1.10**  
(1401 E Street)  
3803300053730000

Lots 3 and 4, Block 11, "Supplemental Map of the Town of Whatcom, Whatcom County, W.T. 1884" now a part of the consolidated City of Bellingham, Whatcom County, Washington, as per the map thereof, recorded in Book 1 of Plats, page 42, in the Auditor's office of said county and state.

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**Exhibit 1.11**

(1408 E Street)

3803300183640000

LOTS 9 THROUGH 16, BLOCK 6, 'SUPPLEMENTAL MAP OF THE TOWN OF WHATCOM, WHATCOM COUNTY, W.T. 1884,' NOW A PART OF THE CONSOLIDATED CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, AS PER THE MAP THEREOF, RECORDED IN BOOK 1 OF PLATS, PAGE 42, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE.

TOGETHER WITH THAT PORTION OF VACATED CENTER STREET WHICH HAS ATTACHED TO SAID PREMISES BY OPERATION OF LAW.

SITUATE IN WHATCOM COUNTY, WASHINGTON

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**Exhibit 1.12**

(1411 E Street)

3803300093770000

Lot 2, Block 11, Supplemental Map of the Town of Whatcom, Whatcom County, W.T., according to the recorded Plat thereof recorded in Volume 1 of Plats, Page 42, records of Whatcom County, Washington.

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**Exhibit 1.13**

(1413 E Street)

3803300123810000

Lot 1, Block 11, Supplemental Map of the Town of Whatcom, Whatcom County, W.T., according to the recorded Plat thereof recorded in Volume 1 of Plats, Page 42, records of Whatcom County, Washington.

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**Exhibit 1.14**

(0 W Holly Street)

3802255523290000

The Northwestern half of Lots 1, 2, 3 and 4, Block 32, "Supplemental Map of the Town of Whatcom, Whatcom County, W.T. 1884," now a part of the consolidated City of Bellingham, Whatcom County, Washington, as per the map thereof, recorded in Book 1 of Plats, page 42, in the Auditor's office of said county and state.

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**Exhibit 1.15**

(0 W Holly Street)  
3802255483330000

Lots 13, 14, 15 and 16, Block 32, "Supplemental Map of the Town of Whatcom, Whatcom County, W. T., 1884," now a part of the consolidated City of Bellingham, Whatcom County, Washington, as per the map thereof, recorded in Book 1 of Plats, page 42, in the Auditor's office of said county and state.

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**Exhibit 1.16**

(700 W Holly Street)  
3803300203260000

TRACT II. Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16, BLOCK 4;

ALL of said lots and block being in "Supplemental Map of the Town of Whatcom, Whatcom County, W. T.", according to the Plat thereof, recorded in Volume 1 of Plats, Page 42, records of Whatcom County, Washington.

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**Exhibit 1.17**

(701 W Holly Street)  
3803300113080000

Lots 1, 2, 3, 4, 13, 14, 15 and 16, Block 31, "Supplemental Map of the Town of Whatcom, Whatcom County, W. T.", according to the Plat thereof, recorded in Volume 1 of Plats, Page 42, records of Whatcom County, Washington.

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**Exhibit 1.18**

(800 W Holly Street)  
3803300023390000

Lots 9, 10 and 11, and also that portion of vacated Center Street abutting thereon, Block 5, "Supplemental Map of the Town of Whatcom, Whatcom County, W. T.", according to the Plat thereof, recorded in Volume 1 of Plats, Page 42, records of Whatcom County, Washington.

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**Exhibit 1.19**

(800 W Holly Street)  
3803300063360000

Lots 5, 6, 7 and 8 and that portion of vacated Center Street abutting thereon, Block 5, "Supplemental Map of the Town of Whatcom, Whatcom County, W.T.", according to the plat thereof, recorded in Volume 1 of Plats, page 42, records of Whatcom County, Washington.

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**Exhibit 1.20**

(801 W Holly Street)  
3802255513260000

The Southeast 50 feet of Lot 1 to 4, Block 32, "Supplemental Map of the Town of Whatcom, Whatcom County, W. T., 1884," according to the Plat thereof, recorded in Volume 1 of Plats, page 42, records of Whatcom County, Washington, subject to easements of record.

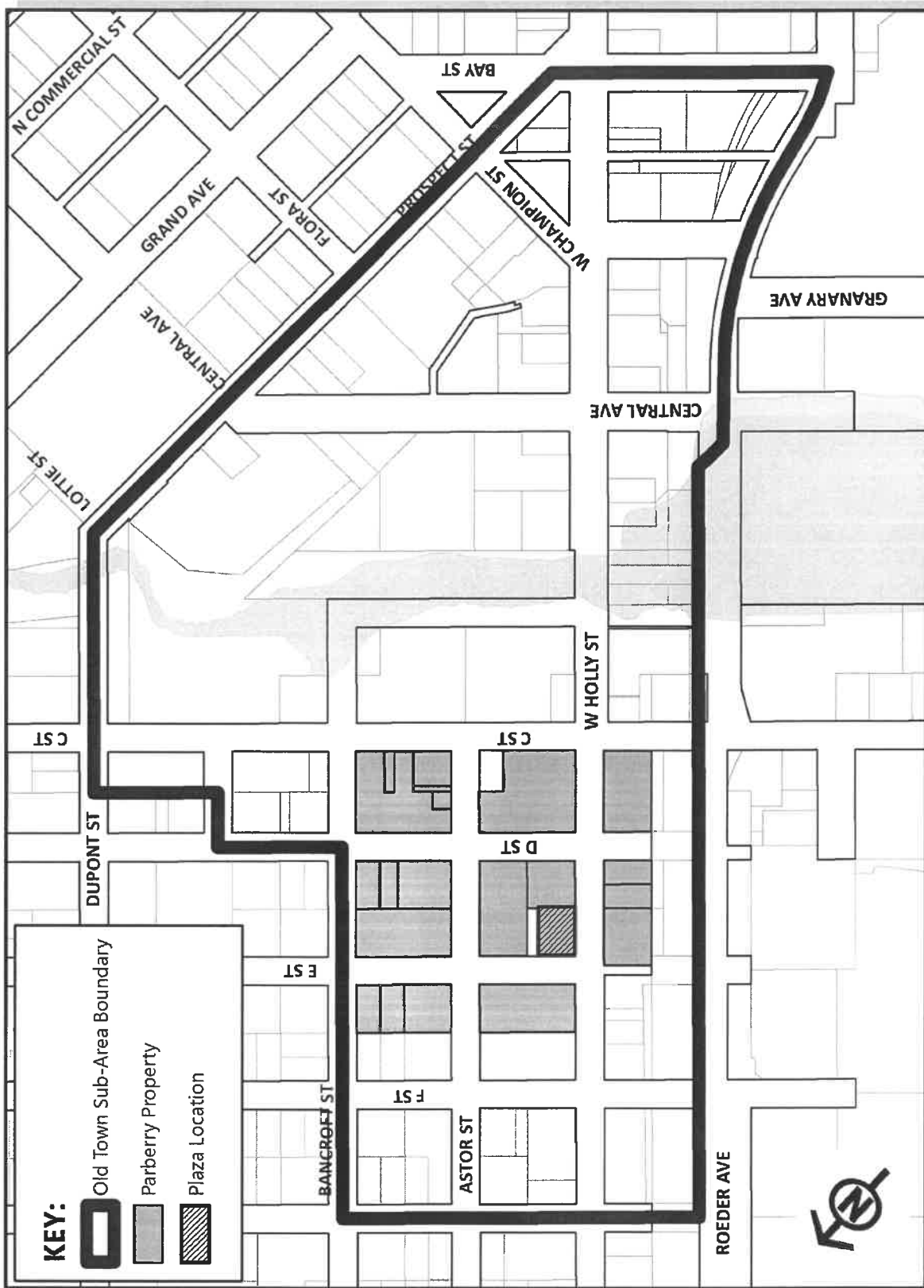
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**Exhibit 1.21**

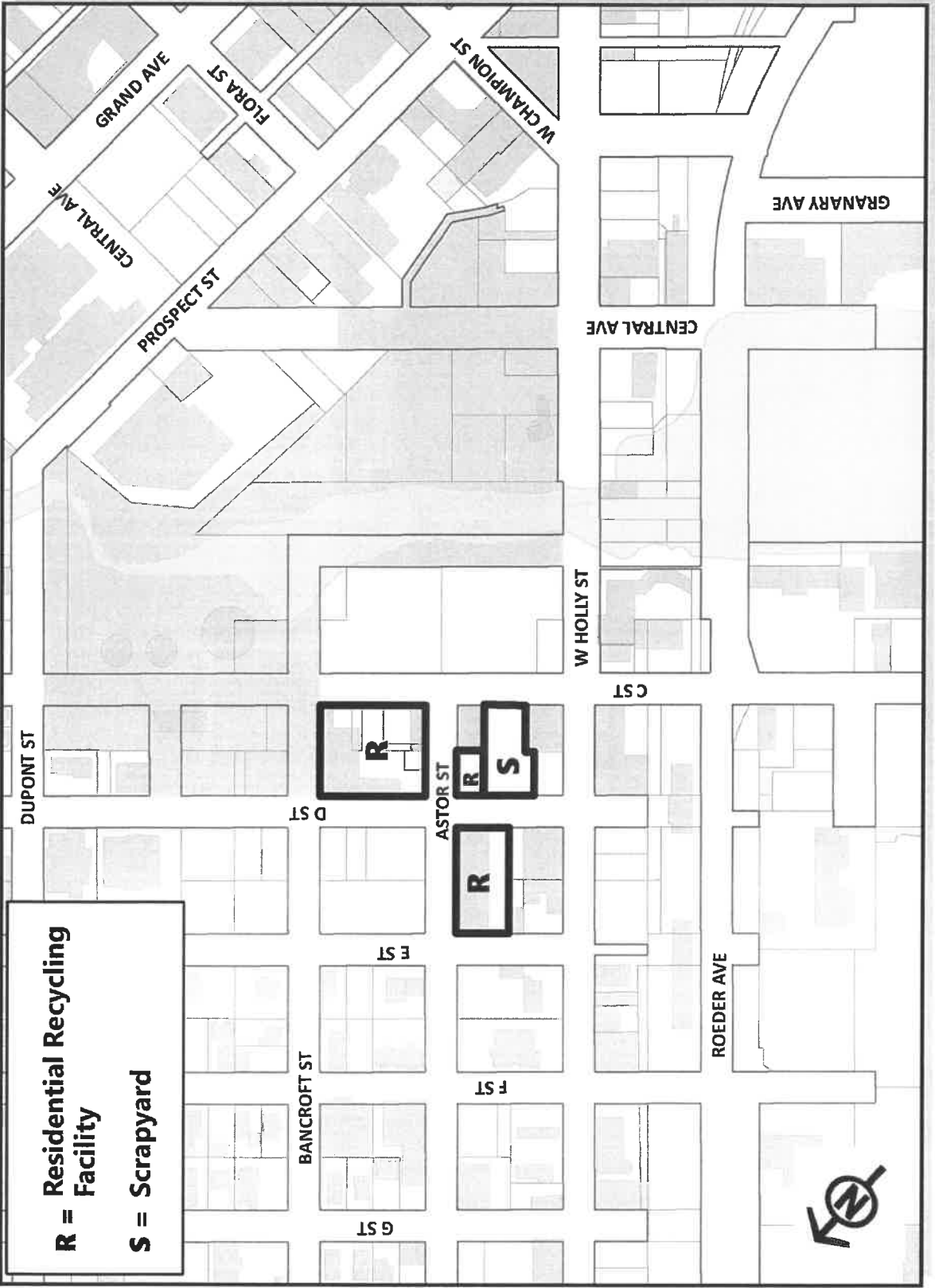
(900 W Holly Street)  
3802255533590000

Lots 1, 2, 3, 4, 5, 6, 7 and 8, Block 12, "Supplemental Map of the Town of Whatcom, Whatcom County, W.T., 1884," now a part of the consolidated City of Bellingham, Whatcom County, Washington, as per the map thereof, recorded in Book 1 of Plats, Page 42, in the Auditor's office of said county and state.

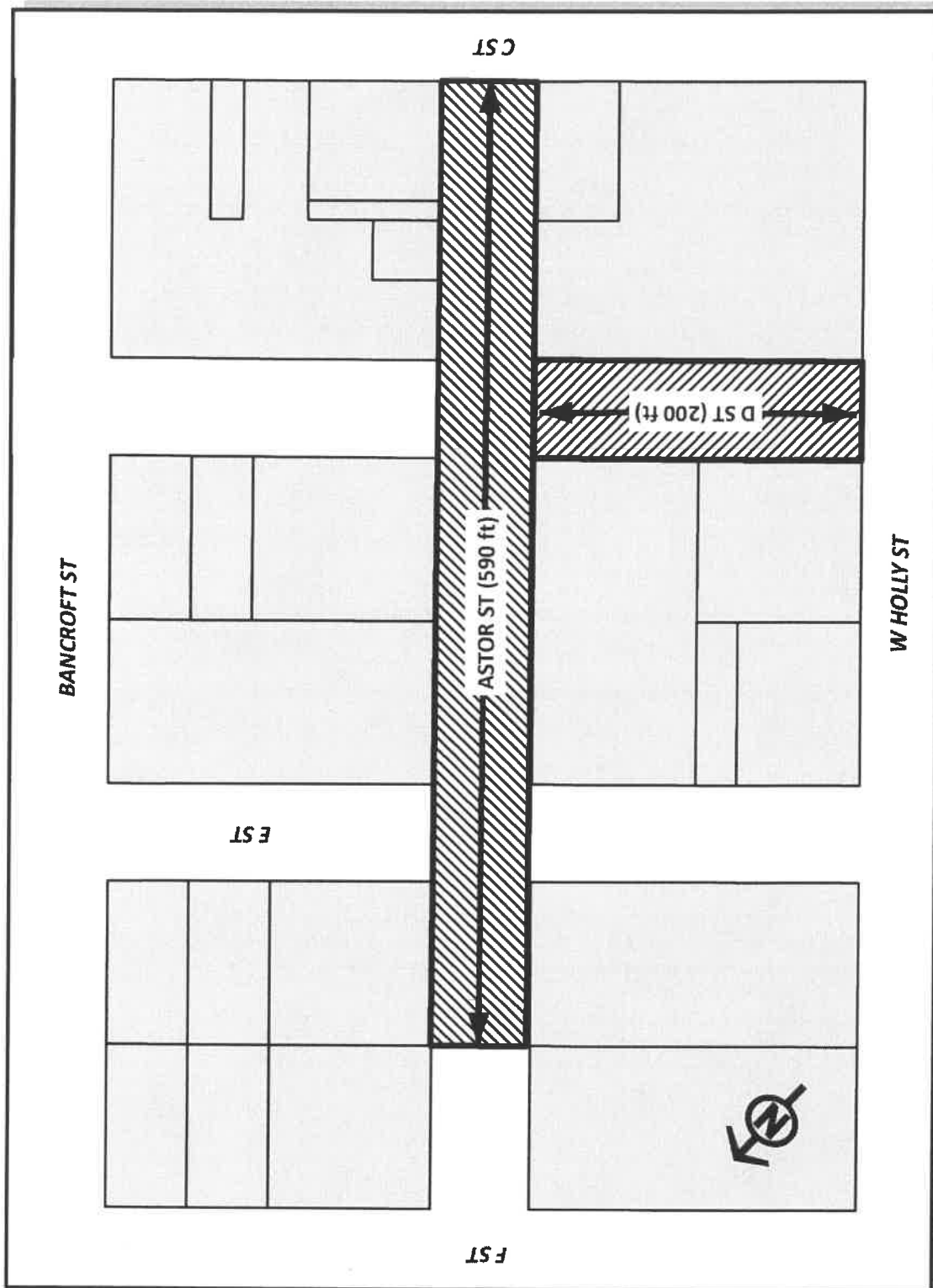
# EXHIBIT 2: ILLUSTRATION OF PARBERRY PROPERTY



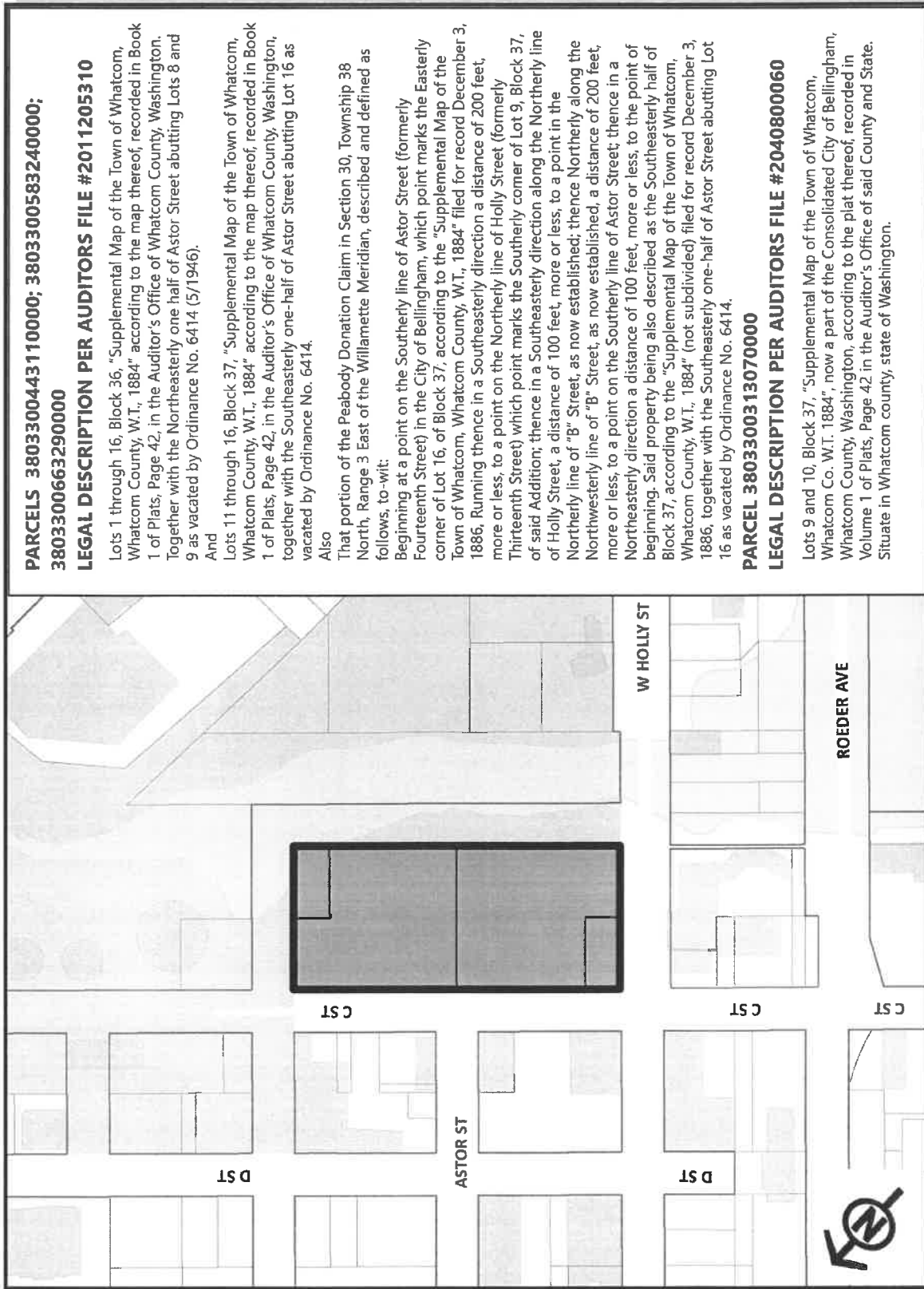
**EXHIBIT 3: LOCATION OF SCRAPYARD &  
RESIDENTIAL RECYCLING FACILITIES**



# EXHIBIT 4: ADDITIONAL STREETS



# EXHIBIT 5: LEGAL DESCRIPTION AND ILLUSTRATION OF HOLLY STREET PROPERTY



**PARCELS 3803300443110000; 3803300583240000;  
3803300663290000**

## LEGAL DESCRIPTION PER AUDITORS FILE #2011205310

Lots 1 through 16, Block 36, "Supplemental Map of the Town of Whatcom, Whatcom County, W.T., 1884" according to the map thereof, recorded in Book 1 of Plats, Page 42, in the Auditor's Office of Whatcom County, Washington. Together with the Northeasterly one-half of Astor Street abutting Lots 8 and 9 as vacated by Ordinance No. 6414 (5/1946).

And

Lots 11 through 16, Block 37, "Supplemental Map of the Town of Whatcom, Whatcom County, W.T., 1884" according to the map thereof, recorded in Book 1 of Plats, Page 42, in the Auditor's Office of Whatcom County, Washington, together with the Southeasterly one-half of Astor Street abutting Lot 16 as vacated by Ordinance No. 6414.

Also

That portion of the Peabody Donation Claim in Section 30, Township 38 North, Range 3 East of the Willamette Meridian, described and defined as follows, to-wit:

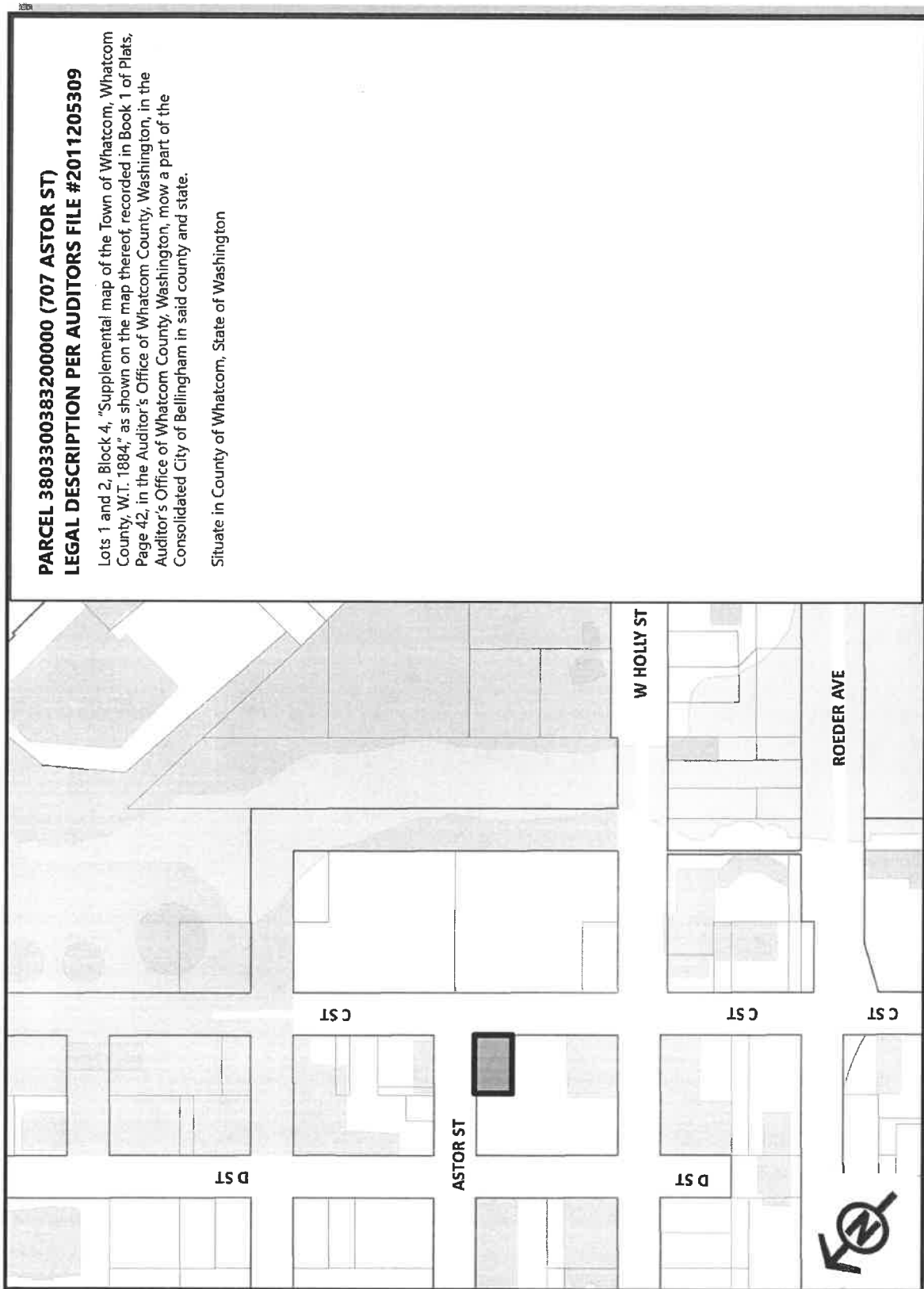
Beginning at a point on the Southerly line of Astor Street (formerly Fourteenth Street) in the City of Bellingham, which point marks the Easterly corner of Lot 16, of Block 37, according to the "Supplemental Map of the Town of Whatcom, Whatcom County, W.T., 1884" filed for record December 3, 1886, Running thence in a Southeasterly direction a distance of 200 feet, more or less, to a point on the Northerly line of Holly Street (formerly Thirteenth Street) which point marks the Southerly corner of Lot 9, Block 37, of said Addition; thence in a Southeasterly direction along the Northerly line of Holly Street, a distance of 100 feet, more or less, to a point in the Northerly line of "B" Street, as now established; thence Northerly along the Northwesterly line of "B" Street, as now established, a distance of 200 feet, more or less, to a point on the Southerly line of Astor Street; thence in a Northeasterly direction a distance of 100 feet, more or less, to the point of beginning. Said property being also described as the Southeasterly half of Block 37, according to the "Supplemental Map of the Town of Whatcom, Whatcom County, W.T., 1884" (not subdivided) filed for record December 3, 1886, together with the Southeasterly one-half of Astor Street abutting Lot 16 as vacated by Ordinance No. 6414.

## PARCEL 3803300313070000

## LEGAL DESCRIPTION PER AUDITORS FILE #2040800060

Lots 9 and 10, Block 37, "Supplemental Map of the Town of Whatcom, Whatcom Co. W.T. 1884", now a part of the Consolidated City of Bellingham, Whatcom County, Washington, according to the plat thereof, recorded in Volume 1 of Plats, Page 42 in the Auditor's Office of said County and State. Situate in Whatcom county, state of Washington.

# EXHIBIT 6: LEGAL DESCRIPTION AND ILLUSTRATION OF ASTOR STREET PROPERTY



*When Recorded, Return to:*

City of Bellingham  
Amy Kraham  
Office of the City Attorney  
210 Lottie Street  
Bellingham, WA 98225

**FIRST AMENDED AND RESTATED  
DEVELOPMENT AGREEMENT BETWEEN  
PARBERRY AND THE CITY OF BELLINGHAM**

<b>Grantor:</b>	Parberry's Inc., Northwest Recycling, Inc., and Parberry Family Limited Partnership		
<b>Grantee:</b>	City of Bellingham		
<b>Legal Description</b> (abbreviated):	LOTS 7 , 8, 9 AND 10, BLOCK 3, PLAT OF THE TOWN OF NEW WHATCOM SUPPLEMENTAL AS THE SAME IS SHOWN AT PAGE 42, BOOK 1 OF PLATS, OFFICIAL RECORDS OF WHATCOM COUNTY AUDITOR  <b>Additional legal description for this parcel and full legal descriptions for additional parcels in Exhibit 1 attached hereto</b>		
<b>Assessor's Tax Parcel ID #:</b>	3803300373390000  <b>20 additional Tax Parcel ID numbers in Exhibit 1 attached hereto</b>	3803300443110000, 3803300313070000 and 3803300383200000	
<b>Reference Nos. of Documents Released or Assigned:</b>			

This FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT ("Agreement") between PARBERRY'S INC., a Washington corporation, NORTHWEST RECYCLING, INC., a Washington corporation, and PARBERRY FAMILY LIMITED PARTNERSHIP, a Washington limited corporation (collectively, "Parberry") and the CITY OF BELLINGHAM (the "City"), a municipal corporation, is entered into as of the last date of signature below, and effective upon the date of execution by the City of Bellingham (the "First Amended and Restated Development Agreement") and replaces that certain Development Agreement Between Parberry and the City entered into between Parberry and the City on February 21, 2019 (the "Original Agreement").

**RECITALS**

A. Parberry owns approximately five (5) acres of real property within an area of Bellingham designated as the "Old Town Subarea" by the Bellingham Comprehensive Plan. Property within the Old Town Subarea owned by Parberry is referenced herein as the "Parberry Property," and more particularly described in **Exhibit 1** attached and incorporated herein by this reference, and illustrated in **Exhibit 2** attached.

First Amended and Restated Development Agreement – 09.14.20

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B. Historically, the Parberry Property was zoned for commercial and some industrial uses, and was principally utilized as a recycling facility, including recycling operations, warehousing, outdoor storage, and administrative offices (“Northwest Recycling”).

C. In \_\_\_\_\_, 20\_\_, the City adopted an amendment to its Comprehensive Plan for the Old Town Subarea (also known as the Old Town Overlay District”) and an attendant amendment to its Land Use Development Code codified at BMC Chapter 20.35 (the “Old Town Plan”). The Old Town Subarea is now designated and zoned as Commercial. The Old Town Subarea is envisioned by the City to be an urban village with mixed residential and commercial uses.

D. Pursuant to the Old Town Subarea Plan, Northwest Recycling at the Parberry Property is a nonconforming use. Redevelopment of the Parberry Property into a mixed-use urban village is appropriate and consistent with the Old Town Plan. Future development in the Old Town Subarea must comply with the Old Town Subarea Plan and other applicable City regulations.

E. The elimination of the impacts to the neighborhood of the light industrial non-conforming use by the closure of operations of Northwest Recycling at its current site is critical to the creation of an urban village in the Old Town Subarea.

F. The City supports a healthy mix of housing in the Old Town Subarea that is affordable to a wide range of incomes levels. Parberry and the City will give strong consideration to public/private partnerships which encourage qualified below-market rate development projects. Further, the City will give strong consideration to such qualified projects by utilizing the Bellingham Home Fund and/or other resources to support those projects.

G. This Agreement implements part of the Old Town Plan by: (1) kick starting development in a significant portion of the Old Town Subarea; (2) implementing one or more of the Capital Facilities Improvements, which commits the City to certain infrastructure obligations and specific expenditures for street improvements; and (3) committing Parberry, its successors and assigns, and subsequent owners of the Parberry Property to dedication of the historic Courthouse Plaza envisioned by the Old Town Plan.

H. The Original Agreement is a development agreement under RCW 36.70B.170 through 36.70B.210 and contains vesting, use and mitigation provisions in keeping with the statute. Pursuant to RCW 36.70B.200, a public hearing was held on January 28, 2019 and a resolution approving the Agreement was adopted on February 11, 2019 (the “Original Agreement Resolution”).

I. This Agreement is a development agreement under RCW 36.70B.170 through 36.70B.210 and contains vesting, use and mitigation provisions in keeping with the statute. Pursuant to RCW 36.70B.200, a public hearing was held on \_\_\_\_\_ and a resolution approving the Agreement was adopted on \_\_\_\_\_ and updates the Original Agreement to reflect extensions to Milestones provided administratively due to the time necessary for the City’s process to clarify zoning related to recycling as well as to changes to Parberry’s business plans.

First Amended and Restated Development Agreement – 09.14.20

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J. The Original Agreement included options to purchase two properties owned by the City and surplus to its needs which are located in the Old Town Subarea, the sale of which would allow for a comprehensive redevelopment plan which is critical to creating a vibrant mixed-use neighborhood.

K. On January 17, 2019 the City sold one of the properties, known as 707 Astor Street, to Parberry via that certain Quit Claim Deed recorded in Whatcom County under Auditor File Number 2020-0102019.

L. City Council's process above satisfies the requirements of BMC 4.84 as it relates to Parberry's options to purchase the City-owned properties.

M. A portion of the funding used to purchase the 600 W. Holly St. property was from the City's federally funded Community Development Block Grant (CDBG) program. Applicable federal regulations governing the disposition of real property purchased with these funds requires that the City hold a public hearing on any proposed sale and comply with those regulations regarding repayment of CDBG funds, if necessary. A public hearing was held on January 28, 2019 fulfilling this federal requirement.

## **AGREEMENT**

### **1. Parberry Obligations to Meet Milestones**

Parberry hereby agrees to attain the following Milestones, which may be extended by written mutual consent of the Project Managers, so long as the term of this Agreement is not extended:

**Milestone 1** Milestone 1 of the Original Agreement required Parberry to submit a written Redevelopment Strategy within six (6) months of the execution of the Original Agreement. The Redevelopment Strategy included Parberry's approach to (i) Parberry's role, if any, in redevelopment of the Parberry Property and preparing the Parberry Property for redevelopment (i.e. whether Parberry will redevelop the Parberry Property itself or sell to one or more developers), (ii) Parberry's strategy for marketing the Parberry Property to prospective developers, and (iii) the overall approach to redevelopment of the Parberry Property (redeveloped incrementally or as a master plan). The Redevelopment Strategy is not binding on Parberry and redevelopment of the Parberry Property need not adhere to the Redevelopment Strategy. Parberry may change the Redevelopment Strategy at any time and from time to time, at its own discretion, but shall communicate changes to the Redevelopment Strategy to the City's Project Manager. Parberry has satisfied Milestone 1 as of the date of execution of this Agreement.

**Milestone 2** Either the scrapyard or residential recycling facility (to be chosen at Parberry's discretion) shall cease to operate in Old Town no later than

February 21, 2022. In the event Parberry enters into an agreement with a third party to lease, operate, manage or similarly control the non-conforming uses/operations on either the scrapyard or residential facility, Parberry agrees to include a termination date of such agreement no later than February 21, 2022. See **Exhibit 3** for the location of the scrap yard and residential recycling facility.

- Milestone 3** A complete Project Permit application for redevelopment of the Parberry Property (the “First Project”) is submitted no later than February 21, 2021, and construction commences on the First Project no later than ninety (90) days after the City issues all required permits. The term “Project Permit” shall have the meaning set forth in BMC 21.10.020 and shall specifically include a “Major Renovation Project” meaning construction of improvements to a building existing as of the date of this Agreement of at least 10,000 total square feet and two stories in height where the cost of construction is reasonably anticipated to exceed fifty percent of the assessed value of the existing building.
- Milestone 4** Parberry agrees to cease all operations of all non-conforming uses remaining after the satisfaction of Milestone 2 on the Parberry Property no later than February 21, 2023. In the event Parberry enters into an agreement with a third party to lease, operate, manage or similarly control the remaining non-conforming uses/operations on any or all of the Parberry Property, Parberry agrees to include a termination date of such agreement no later than February 21, 2023.
- Milestone 5** The First Project has received a Temporary Occupancy Permit from the City of Bellingham by February 21, 2023.
- Milestone 6** A second complete Project Permit application (the “Second Project”) is submitted no later than February 21, 2024. Construction shall commence on the Second Project no later than ninety (90) days after the City issues all required permits.

The Milestones set forth herein are based on Parberry’s and the City’s best estimate of a redevelopment schedule for the Parberry Property based on current market conditions. If any delay is anticipated by Parberry, such anticipated delay shall be communicated to the City Project Manager in writing when known by Parberry along with a request for an extension of the applicable Milestone which extension shall not be unreasonably denied so long as diligent progress has been made in achieving the applicable Milestone. The parties acknowledge that the continued presence of the low-barrier shelter located at 1013 Holly Street may inhibit Parberry’s ability to achieve certain Milestones. The City’s Project Manager, after consultation with Parberry’s Project Manager, may, in her sole discretion, extend the requirements of Section 1, including delays related to the presence of the low-barrier shelter. The City Project Manager

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shall not unreasonably deny such requests for extensions. The City represents and Parberry acknowledges that timely redevelopment is a significant element of the City's agreement to enter into this Agreement. Reasonable extensions due to the City's failure to provide timely the public infrastructure improvements identified in Section C of this Agreement shall be granted. Failure by Parberry to complete the above Milestones, as may be extended from time-to-time, shall be considered a breach of this Agreement, and, if Parberry fails to cure such breach within thirty days of written notice from the City, the City shall be relieved of its obligation to provide the public infrastructure set forth in Section 2(a) and 2(b), hereof, but such breach shall not result in termination of this Agreement. Provided, however, that if Parberry completes Milestones 1 through 4, which includes full relocation of all non-conforming uses, the City shall remain obligated to design and construct Section 2(a) pursuant to the timing provisions of Section 2(c).

## **2. City Obligation to Provide Public Infrastructure**

The parties acknowledge that redeveloping the Parberry Property in conformance with the Old Town Plan will require infrastructure improvements for, among other things, streets and utilities. To facilitate the relocation of Northwest Recycling and the redevelopment of the Old Town Subarea, a benefit to the community at large, the City agrees to fund and construct certain public infrastructure improvements as set forth in this section. Nothing in this Agreement shall preclude the City from constructing the public infrastructure improvements prior to the schedule below.

### **a. C Street**

The City shall design and construct, at its sole cost and expense, improvements to C Street from Holly Street to Maritime Heritage Park. Such development shall be "curb to curb" and shall specifically include street surfacing, curb and gutters and shall be done in accordance with the Old Town Subarea Plan. Notwithstanding Section 2(c) below, nothing in this Agreement is intended to make the City responsible for any costs associated with sidewalks or streetlights with the exception of traffic signals noted below. Under no circumstances shall Parberry, or any subsequent owner of the Parberry Property, be required to pay curb to curb street cost for C Street.

It is anticipated that as the development occurs in Downtown, the Waterfront District and Old Town, upgrades to traffic control devices at the intersection of C Street and Holly Street will be required to help manage traffic flow. At this time, this upgrade to traffic control devices is anticipated to be a traffic signal. Development projects on the Parberry Property will not be required to participate in the cost of the design and construction of upgrades to the new traffic signal at C Street and Holly Street. The City will design and construct the traffic signal when it meets warrants. Construction of traffic signals will include bringing the existing curb ramps up to current ADA standards. Development projects on the Parberry Property will not be delayed by City permitting as a result of any delay associated with upgrades to the traffic control devices.

**b. Additional Streets**

The City shall design and construct, at its sole cost and expense, improvements to additional streets shown on **Exhibit 4**. Such development shall be “curb to curb” and shall specifically include street surfacing, curb and gutters and shall be done in accordance with the Old Town Subarea Plan and any other applicable regulation in effect at the time of the improvement. Nothing in this Agreement is intended to make the City responsible for any costs associated with sidewalks or streetlights.

However, in the event either Parberry or any subsequent owner of the Parberry Property, on the one hand, or the City, on the other hand, desires that alternative streets within the Parberry Property be improved, instead of the ones shown on **Exhibit 4**, the party desiring the change shall make such a request to the other party in writing. The recipient of such change of street improvement request shall respond in writing within 30 days of the date of the receipt of the request. Such response may be a preliminary response that the party is considering the request but has not yet reached a conclusion. In no event shall the transmittal of the final written decision be more than 120 days after the receipt of the initial request. Requests for change of street improvement sent to the City shall be sent to the Office of the City Attorney with a copy to the Director of Public Works. Requests for change of street improvement sent to Parberry shall be sent to Brad L. Parberry with a copy to the Parberry Chief Executive Officer.

Any improvements made to alternative streets other than the ones shown on **Exhibit 4** shall be for the full length of the blocks designated. It is the intent of the parties that the City not be responsible for providing any more than 820 linear feet of street improvement (not including C Street, as described above, or Holly Street, as described below) unless the completion of the block requires additional length.

In the event both parties agree to the proposed change, a modification to this Agreement attaching a revised **Exhibit 4** shall be executed by both parties. In the event the party receiving the request does not agree to the proposed change, **Exhibit 4** shall remain in effect.

**c. Timing of Street Improvements**

The City shall commence its street improvement process upon written notice from Parberry. Parberry may elect to provide notice for street improvement in complete block sections or for all blocks of a particular street at one time. In order to improve a street, the City must have adequate time to budget and plan appropriately, and therefore specific written notice must be provided to the City no later than April 30 for street improvements to be performed in the following calendar year. After receiving notice from Parberry consistent with the requirements of this Section (c), the City shall schedule the construction at a time during the following calendar year chosen by the City in its sole discretion, provided the City may delay commencement of construction of street improvements until a building permit is submitted to the City by Parberry, or a subsequent owner of the Parberry Property, for construction of a Major Construction Project or Major Renovation Project on the property abutting the street that will be improved.

The City shall complete the street improvements identified in this Agreement as development progresses on the Parberry Property (as further described below), provided, that prior to the City commencing construction of an improvement on a street, Northwest Recycling shall vacate both sides of a block and non-conforming uses on that block shall have been discontinued. Further, prior to the City budgeting and planning for the street improvements, complete land use permit applications for redevelopment of the property located adjacent to the street that will be improved shall have been submitted to the City of Bellingham. If street improvements are necessary for the First Major Construction Project or First Major Renovation Project, as determined by the City of Bellingham in the permitting process, the City will waive the requirement for Northwest Recycling to vacate both sides of a block and discontinue non-conforming uses on that block.

As of the date hereof, Parberry has selected 700 W. Holly Street as its First Major Renovation Project. The construction of street improvements that would typically be required of Parberry pursuant to BMC 20.35, 13.04 and 13.08 and any other applicable code provision, shall not be required along C Street as part of the development of 700 W. Holly Street. However, Parberry shall be responsible for the costs associated with the curb to property line street improvements designed and constructed by the City adjacent to 700 W. Holly, which shall extend to the Astor and C Street intersection (the “C Street Curb to Property Improvements”). When the City commences design and construction of C Street from curb to curb, it shall also design and construct the C Street Curb to Property Improvements (the “Combined C Street Improvement Project”). Costs associated with the C Street Curb to Property Improvements shall be accounted for separately in the Combined C Street Improvement Project. Parberry’s responsibility for the costs of design and construction shall be based on an engineer’s estimate developed by the City which shall be based on the cost of design and construction to a private developer, not to a public entity (the “Engineer’s Estimate”). Final invoicing will reflect actual construction costs as would be paid by a private developer, not a public entity. Parberry shall have thirty (30) days from the date of receipt of the Engineer’s Estimate to notify the City in writing of its approval or disapproval. If Parberry disapproves of the engineer’s estimate, it may: (1) notify the City in writing of its disapproval and submit its own engineer’s estimate within 30 days of receipt of the City’s Engineer’s Estimate, which the City shall either accept or reject in its sole discretion; or (2) design and construct the C Street Curb to Property Improvements adjacent to 700 W. Holly and extending to the intersection of C street and Astor, which construction shall be completed within one hundred and twenty (120) days of the City’s physical completion (“Physical Completion” as defined in the Standard Specifications for Road, Bridge, and Municipal Construction (2020 edition) (the “Standard Specifications”)) of the curb to curb street improvements. Parberry shall not begin construction of the C Street Curb to Property Improvements prior to the Physical Completion of the City’s curb to curb street improvements. In the event the City rejects Parberry’s engineer’s estimate, Parberry shall complete construction of the C Street Curb to Property Improvements within one hundred and twenty (120) days of the City’s Physical Completion of the curb to curb improvements. Parberry shall not begin construction of the C Street Curb to Property Improvements prior to the Physical Completion of the City’s curb to curb street improvements. The City shall invoice Parberry for the costs associated with the design of the C Street Curb to Property Improvements within sixty (60) days of project advertisement and for costs associated with construction within sixty (60) days of project Substantial Completion, as defined in the Standard Specifications. Parberry shall

reimburse the City within thirty (30) days of receipt of such invoice and any delinquent amount shall bear interest at the 12% per year or the maximum allowed by law. Non-payment of such invoices shall be a default under this Agreement and if not cured within thirty (30) days of such breach after notice from the City in writing shall result in termination of this Agreement. If this Agreement terminates or the City is no longer obligated to construct the infrastructure herein, prior to the City completing the Combined C Street Improvement Project, the City shall not be required to complete the C Street Curb to Property Improvements and these improvements may be required as part of the redevelopment of other Parberry Properties.

**d. Holly Street**

Provided the development of the Parberry Property is in accordance with the maximum build-out and development permitted under the Old Town Plan, Parberry, or any subsequent owner or developer of the Parberry Property, shall not be required to perform any curb-to-curb improvements to Holly Street, or pay any mitigation or other fees in lieu of such improvements. Nothing in this Agreement shall prohibit the City, as a permitting agency, from placing requirements on permits for the development of 700 W. Holly Street, including those related to accessibility to the building.

**e. Traffic Concurrency**

Pursuant to Bellingham's development regulations, redevelopment of the Parberry Property will require evaluation for transportation impacts and potential mitigation based on the specific land uses proposed for redevelopment of the property.

- i. Pursuant to BMC 13.70, evaluation for Multimodal Transportation Concurrency is required prior to submittal of a land use application for redevelopment.
- ii. Depending on the scope and scale of redevelopment, a project-specific Transportation Impact Analysis (TIA) may be required to identify transportation impacts to nearby streets and intersections, as well as potential mitigating measures, if necessary. Provided, in the event the TIA identifies as potential mitigation a road improvement the City is obligated to perform under this Agreement, such TIA shall not obviate the City's obligation to perform such improvement.
- iii. Pursuant to BMC 19.06, assessment of Transportation Impact Fees (TIF) is required based on the TIF rate in effect at the time of building permit application. A pre-application estimate of the TIF is made on the application for Multimodal Transportation Concurrency (BMC 13.70).

**f. Water and Sewer**

The City shall be responsible for maintaining City-owned water lines capable of supporting maximum development permitted for the Parberry Property under the Old Town Plan. Parberry, or subsequent owners of the Parberry Property, shall be responsible for costs associated

with water service, including, but not limited to, costs for permits, connection fees and demand charges.

The City shall be responsible for maintaining City-owned sewer systems capable of supporting maximum development permitted for the Parberry Property under the Old Town Plan. Parberry, or subsequent owners of the Parberry Property, shall be responsible for costs associated with sewer service, including, but not limited to, costs for permits, connection fees and demand charges.

The City shall be wholly responsible for, and hereby guarantees the adequacy of the availability of, water and sewer, consistent with the City's Water System Plan and/or the City's Comprehensive Sewer Plan, so long as the development of the Parberry Property is in accordance with the maximum build-out and development permitted under the Old Town Subarea Plan dated March 2008. Any development in excess of that contemplated under the Old Town Subarea Plan, whether as a result of a change in regulations or any other reason, is beyond the scope of this guarantee.

**g. Stormwater**

The City shall be responsible for installing a stormwater drainage and collection system to convey stormwater runoff from the Parberry Property and all public roads, sidewalks, and any other public areas abutting the Parberry Property.

The City shall not be responsible for on-site stormwater management associated with private development on or within the Parberry Property. Parberry, or any subsequent owner of the Parberry Property, shall be responsible for the design and construction of stormwater systems for managing stormwater onto and off any given development, and for compliance with applicable local, state and federal regulations applicable at the time of complete application for any and all permits.

**3. Redevelopment**

**a. Holly Street Landfill Covenant.**

The City agrees to assist Parberry in its effort to amend the Restrictive Covenant recorded under Whatcom County Auditor file number 2050502787 (the "Restrictive Covenant") to remove the ground-floor residential restriction contained in Section 1 of the Restrictive Covenant or allow for the mitigation of the health and safety concerns associated with the ground-floor residential restriction.

**b. Shoreline Buffer.**

The City acknowledges the existing foundation walls are located within the shoreline buffer on the property located at 600 W. Holly Street (the "Holly Street Property"). The City agrees the foundation walls are a nonconformance that can be continued and maintained pursuant to Section 22.05.040 of the Bellingham Municipal Code, and that fill may be placed on the landward side of the foundation walls in order to create a level grade across the Holly Street Property.

Alternatively, the foundation walls can be removed prior to filling the Holly Street Property to create a level grade. Prior to removing the existing foundation walls, a geotechnical report shall be submitted to the City verifying the stability of the adjoining property will not be impacted as a result of the removal of the foundation wall. Grading within the shoreline buffer shall comply with the requirements of Section 22.08.160 of the Bellingham Municipal Code. In either case, further encroachment (waterward) into the required 50-foot buffer shall not occur. Future buildings shall not be constructed within the 50-foot buffer or the additional five (5) foot setback from the edge of said buffer.

#### **4. Impact Fees and Credits**

##### **a. Plaza Credits**

In the context of undertaking any future development of the Parberry Property under the Old Town Plan, Parberry, for itself and any subsequent owner of the Parberry Property, agrees to dedicate the Courthouse Plaza within 60 days of written request by the City. The location of the Courthouse Plaza is indicated on **Exhibit 2**. Parberry, or any subsequent owner of the Parberry Property, shall dedicate to the City its ownership interests in the portion of the Parberry Property where the Courthouse Plaza is located in accordance with the dimensions set forth below, and in the form of a quit claim deed. This is a material term of this Agreement and the City reserves its right to pursue specific performance among other remedies available at law or equity. Nothing herein limits the parties' rights to remedies available at law or equity for breach of any other provision of this Agreement.

##### **b. Plaza Dimensions**

The Courthouse Plaza is not expected to exceed 7500 square feet and will be located on the northeasterly corner of E Street and Holly Street. The dimensions of the Parberry Property to be dedicated for the Courthouse Plaza shall be 75 feet, more or less, abutting E Street, by 100 feet, more or less, abutting Holly Street and shall in any event comprise the entirety of Tax Parcel No. 3803-3000-2339.

##### **i. Timing for Dedication**

The parties acknowledge that any benefit conferred upon Parberry and its successors under this Section b, as well as any obligation to dedicate the Parberry Property as a plaza, is contingent upon an amendment to the City's Capital Facilities Plan allowing for a category of plaza development in the Old Town Subarea. The City agrees to make all good faith efforts to ensure that the necessary amendment is prepared and approved during the next revisions to the Capital Facilities Plan and, in any event, no later than December 31, 2021, and neither Parberry nor its successors shall have any obligations under this Section unless and until such amendment is effective.

No sooner than six months following such amendment to the Capital Facilities Plan, either Parberry, or its successors, shall dedicate the Courthouse Plaza property upon one year's prior written notice by the City to Parberry, or the subsequent owner of the Parberry Property. In no event shall Parberry dedicate the Courthouse Plaza prior to the City's written request.

## **ii. Compensation for Dedicated Property**

At the time of such dedication, Parberry, or the subsequent owner of the Parberry Property, may elect from the following options for compensation, at the property owner's sole discretion:

A) Dedicate a plaza area(s) in return for a transfer of the floor area, in accordance with BMC 20.35.070(D)(4)(c)(1) as effective at the date of this Agreement. This Agreement constitutes approval by the City for the transfer of the entirety of the floor area from the Courthouse Plaza property dedicated to the City to increase the allowed floor area of any receiving development site(s) or project(s) on or within the Parberry Property as determined in the sole discretion of Parberry, or the subsequent owner of the Parberry Property, so long as the development site(s) or project(s) adhere to height restrictions and floor area allowances provided for in BMC 20.35. Further approval by the Director for such transfer of floor area shall not be required notwithstanding BMC 20.35.070(D)(4)(c)(1); or

B) Dedicate a plaza area(s) in return for a credit against park impact fees, in accordance with BMC 19.04.140(A), provided that the credit is based on the fair market value of the dedicated land at the highest and best use that would be permitted by either 1) the Old Town Subarea Plan as it exists at the time of this Agreement, or 2) subsequent amendments to the Old Town Subarea Plan in effect at the time of development, whichever allows for the highest fair market value; and is established by private appraisers acceptable to the City and Parberry, or the subsequent owner of the Parberry Property, and provided further that the Adoption of the Development Agreement Resolution constitutes approval by the City to transfer freely park impact fee credits resulting from a dedication of a plaza area(s) located on the Parberry Property to any development or project on or within the Parberry Property in the sole discretion of Parberry, or the subsequent owner of the Parberry Property; or

C) Convey the plaza area(s) in return for payment by the City of an amount equal to the fair market value of the land at the highest and best use that would be permitted by either 1) the Old Town Subarea Plan as it exists at the time of this Agreement, or 2) subsequent amendments to the Old Town Subarea Plan in effect at the time of development, whichever allows for a higher fair market value; as established by private appraisers acceptable to the City and Parberry, or a subsequent owner of the Parberry Property.

## **c. Other Impact Fees**

Other than the means by which this Agreement addresses plaza credits, Parberry for itself and any subsequent owner of the Parberry Property, acknowledges that development of the Parberry Property may require impact fees for traffic, fire services, parks and open space and school facilities, as well as development charges for water, sewer and stormwater.

## **5. Resolution of Low-Barrier Shelter**

The City and Lighthouse Mission Ministries ("LMM") have been working together to find a permanent location for a low-barrier shelter currently operating on the 1000 block of E. Holly Street (the "Low Barrier Shelter"). As of the date hereof, LMM and the City have not been

successful in finding an acceptable location. Pursuant to RCW 35.21.915, City of Bellingham Emergency Ordinance Number 2018-04-007, City of Bellingham Resolution Number 2017-27, and Temporary Use Permit Number ADM2018-0019, as well as Director's Interpretation #ADM2018-0008, LMM is currently operating the temporary facility through May 22, 2022. During the Term of this Agreement, the City agrees not to lease 600 W. Holly Street to accommodate a permanent or temporary low-barrier homeless shelter.

## **6. Relocation Costs**

Parberry shall bear all costs of relocating their operations from the Old Town area to another site, including the cost of land acquisition, site improvements, compliance requirements, facility construction, equipment purchase and all other similar costs. Further, Parberry shall bear all costs of site remediation to existing Parberry Property, if any.

## **7. Vesting**

Under this Agreement, and during the term of this Agreement, Parberry and any subsequent owner of the Parberry Property shall have a vested right to develop the Parberry Property in accordance with, and to the extent permissible under Existing Land Use Regulations. The term "Existing Land Use Regulations" means any ordinance, code, rule or law of the City in effect at the time of the Adoption of the Development Agreement Resolution setting forth development regulations, building standards and project elements, including but not limited to those establishing permitted uses, densities, intensities, building height, building size, setbacks, parking, loading, landscaping, signage, fencing, screening, design specifications, and other similar development guidelines specifically including, but not limited to, the following sections of the Bellingham Municipal Code: Title 16 Environment, Title 17 Buildings and Construction, Title 18 Subdivisions, Title 20 Land Use Development, and Title 21 Administration of Development Regulations, provided that these code provisions were adopted as a matter of local discretion and are not implementing a State of Washington mandate. Development of the Parberry Property shall not be subject, during the Term of this Agreement, to any amendments to, or replacements of, the Existing Land Use Regulations. Nothing herein relieves Parberry of any obligation it may have during the Term to comply with state or federal laws or regulations of any kind, and as provided in RCW 36.70B.170(4), the proposed redevelopment of the Parberry Property shall not vest against new development regulations to the extent the new regulations are required by a serious threat to public health and safety.

Parberry, for itself and any subsequent owner of the Parberry Property, acknowledges that the Existing Land Use Regulations contemplate the exercise of further discretionary powers by the City under the public review and approval procedures required by the municipal code in effect at the time of submittal for government approvals to develop the Parberry Property. Other than as specifically identified herein, nothing in this Agreement shall be construed to limit the authority or the obligations of the City to exercise that discretion.

## **8. Option to Purchase.**

**a. 600 W. Holly Street.** The City hereby grants Parberry an option through February 21, 2023 (the "600 W. Holly Option Period") to purchase the property located at 600

and 612 W. Holly Street, Bellingham, Washington and legally described and illustrated on **Exhibit 5** attached hereto (the “Holly Street Property”) at a purchase price determined that is equal to the fair market value of the property in its AS-IS condition (the “Fair Market Value”) as determined by MAI appraisal (the “Appraisal”), in accordance with BMC 4.84. The Appraisal shall be commenced within ninety (90) days of the effective date of this Agreement. The appraiser shall be selected jointly by the City and Parberry and Parberry shall pay the appraiser’s fee, provided, fifty percent (50%) of the cost of the appraisal shall be credited toward the purchase price at closing if Parberry purchases the Holly Street Property. If the City and Parberry cannot agree on an appraiser within fifteen (15) days after written notice from either party, then each party will select an appraiser, and the two appraisers shall try to reach agreement on Fair Market Value and if they do agree, the resulting amount will be the purchase price and each party will pay the cost of its appraiser. If the appraisers do not agree on Fair Market Value, the two appraisers will pick jointly a third appraiser and the third appraiser shall choose either the final value figure given by the City’s appraiser or the final value figure given by Parberry’s appraiser (i.e., no splitting the difference). The City and Parberry shall each pay half the cost of the third appraiser. Each appraiser must have MAI certification and must have at least ten (10) years’ experience appraising similar properties in Washington. The Fair Market Value shall automatically increase three percent (3%) per annum beginning on the one-year anniversary of the final date of the Appraisal and the purchase price shall be the Fair Market Value in effect on the date Parberry exercises its option.

i. The option shall be exercisable by written notice to the City, provided, Parberry shall not be entitled to exercise the option if Parberry is in default of this Agreement. If Parberry exercises the option, closing shall occur within one hundred twenty (120) days thereafter, with the purchase price paid in cash at closing, so long as the appraisal has been completed and an easement for the Whatcom Creek boardwalk has been recorded against the 600 W. Holly Street Property by the City. The City and Parberry shall each pay half of the escrow fee and any similar closing costs. Any transfer tax shall be paid by the City as seller, in accordance with the statute, unless, as currently, there is an applicable exemption. Title shall be conveyed by Quitclaim Deed free of any monetary liens and free of any encumbrances not on the title on the date of this Agreement. The City shall pay for a standard coverage title insurance policy for Parberry and Parberry shall pay the additional premium for extended coverage if requested by Parberry. The title insurance company shall be selected by Parberry and shall also provide escrow services on the transfer.

ii. By mutual agreement, the purchase price for the Holly Street Property will be paid according to one of the following: (1) Parberry may purchase the property for the appraised value as determined above; or (2) Parberry may trade the City a parcel owned by Parberry in the Old Town Subarea of equal value, simultaneous with the closing on the Holly Street Property. The appraisal selection and resolution provisions of the preceding section shall apply to this section as well.

iii. It is anticipated that the Fair Market Value of the Holly Street Property will increase as a result of the redevelopment of the Parberry Property, and that

such increase might exceed the three percent per annum increases in Fair Market Value provided for in this Agreement. The City and Parberry intend that the benefit of the increased value of the Holly Street Property resulting from redevelopment of the Parberry Property inure to the benefit of Parberry, provided Parberry exercises its option to purchase the Holly Street Property. This allocation of increased value is part of the overall economics of this Agreement and is a material inducement for Parberry to relocate its Northwest Recycling operations and invest in redevelopment the Parberry Property, which redevelopment will result in overall value to the City and the citizens of Bellingham. Any increase in Fair Market Value of the Holly Street Property beyond the three percent per annum increases provided in this Agreement shall not give rise to or be the basis of any claim or request by the City to re-negotiate the terms of this Agreement or the purchase price of the Holly Street Property.

iv. In the event the City receives a bona fide offer (at a price acceptable to City staff) to purchase or lease the Holly Street Property from a third party in any written form during the Option Period, the City will notify Parberry of such offer and Parberry will have thirty (30) days to exercise its option or the City will be free to accept the third party offer or negotiate with the third party. If Parberry decides to exercise its option, it will have sixty (60) days to close its purchase of the Holly Street Property. Notwithstanding the foregoing, the City's lease of the Holly Street Property shall not terminate Parberry's option to purchase and Parberry shall continue to have the option to purchase the Holly Street Property subject to the lease.

v. Nothing in this Agreement or option to purchase shall alter the City's responsibility related to contamination on the Holly Street Landfill site and, as between the City and Parberry, the City shall remain responsible for remediating any pre-existing hazardous substances located on the Holly Street Property.

vi. Section 8 of this Agreement and the option rights granted to Parberry herein shall be a covenant running with and affecting the Holly Street Property until such time as the 600 W. Holly Option Period expires, provided, if Parberry exercises its option to purchase, all of the terms, conditions and obligation of this Agreement shall continue in full force and effect with respect to the Holly Street Property.

**b. 707 Astor Street.** Parberry exercised its option to purchase 707 Astor Street legally described and illustrated on **Exhibit 6** attached hereto (the "Astor Street Property") in 2020.

**c.** In the event Parberry purchases either the Holly Street Property or the Astor Street Property, neither shall be utilized for non-conforming uses.

**d. Buy-Back.** In the event Parberry is in default of its obligation to meet the Milestones set forth in Section 1 of this Agreement, and fails to cure such default within thirty (30) days after receipt of written notice from the City, and provided Parberry has not commenced

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construction of a new building with at least three stories or thirty-five (35) feet of height as defined in BMC 20.08.020 and fifty thousand (50,000) square feet, as also defined in BMC 20.08.020, on the Holly Street Property as of the date of such default, the City shall have the option to buy the Holly Street Property back from Parberry at the same purchase price paid by Parberry.

**e. Effect of Agreement.** Section 8 of this Agreement and the option rights granted to Parberry herein shall be a covenant running with and affecting the Holly Street Property and the Astor Street Property until such time as the 600 W. Holly Option Period and the 707 Astor Street Option Period, respectively, expire, provided, if Parberry exercises its option to purchase one or both of the properties, all of the terms, conditions and obligation of this Agreement shall continue in full force and effect with respect to such purchased property.

## **9. Term**

This Agreement commenced on the date of the Adoption of the Development Agreement Resolution, February 11, 2019 and shall remain in effect until February 10, 2029 (the “Term”). Any action permitted or required under this Agreement such as permit submittal, road construction, or project development must commence during the term of this Agreement even though additional time may be needed for completion of such actions.

## **10. Assignment**

Parberry desires assurances that it, its successors or assigns, and any subsequent owner of the Parberry Property may develop the Parberry Property, as well as the Holly Street Property and/or Astor Street Property, if purchased pursuant to Section 8 hereof, in accordance with the vested rights set forth in this Agreement. It is the intent of the parties that the benefits and burdens of this Agreement shall be enjoyed by Parberry, Parberry’s successors and assigns, and any subsequent owner of the Parberry Property who takes fee simple title or beneficial possession of all or any portion of the Parberry Property.

All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors and assigns, and all other persons acquiring the Parberry Property, or any portion thereof, or any interest therein.

## **11. Project Managers**

For the City: Tara Sundin, Community and Economic Development Manager, 210 Lottie Street, Bellingham, WA 98225, (360) 778-8392.

For Parberry: Kevin Moore, Chief Executive Officer, 1280 D Street, Bellingham, WA 98225, (360) 733-0100.

## 12. General Provisions

**a. Legal Fees.** In the event any legal action is taken by either Party against the other Party to enforce any of the terms and conditions of this Agreement, it is agreed that the unsuccessful Party to such action shall pay to the prevailing Party therein all court costs, reasonable attorneys' fees and expenses incurred by the prevailing Party.

**b. Relationship of the Parties.** The execution of this Agreement shall not create any agency, partnership, joint venture, association or any other relationship between the Parties other than as independent contracting parties. Neither Party shall act as an agent for the other party or shall have the authority to bind or make commitments on behalf of the other Party. This Agreement has been entered into solely for the benefit of the Parties hereto and does not create any interest in any third party.

**c. Entire Waiver; Amendment.** This Agreement constitutes the entire agreement among the Parties concerning the subject matter hereof and supersedes all previous correspondence, communications, agreements and understandings, whether oral or written among the Parties. This Agreement may not be modified, in whole or in part, except upon unanimous approval of the Parties and by a writing signed by all the Parties.

**d. Advice of Counsel.** This Agreement was negotiated at arms-length with each Party receiving advice from independent legal counsel. It is the intent of the Parties that no part of this Agreement be construed against either of the Parties because of the identity of the drafter.

**e. Headings.** The headings used in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement nor the intent of any provision thereof.

**f. Construction.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability shall not affect any other provision in this Agreement and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

**g. Governing Law.** This Agreement, and all amendments or supplements thereto, shall be governed by and construed in accordance with the laws of the State of Washington.

### Exhibit List:

- Exhibit 1 – Legal Description of the Parberry Property
- Exhibit 2 – Illustration of the Parberry Property
- Exhibit 3 – Location of Scrapyard and Residential Recycling Facilities
- Exhibit 4 – Street Improvements
- Exhibit 5 – Legal Description and Illustration of Holly Street Property
- Exhibit 6 - Legal Description and Illustration of Astor Street Property

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**CITY OF BELLINGHAM**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Department Head

Attest:

Approved as to Form

\_\_\_\_\_  
Finance Director

\_\_\_\_\_  
Office of the City Attorney

**PARBERRY'S INC.**

**NORTHWEST RECYCLING, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**PARBERRY FAMILY LIMITED PARTNERSHIP**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF WHATCOM )

On this day personally appeared before me SETH FLEETWOOD, to me known to be the Mayor of the City of Bellingham, the municipal corporation that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such corporation, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Printed Name \_\_\_\_\_  
 NOTARY PUBLIC in and for the State of Washington,  
 residing at \_\_\_\_\_  
 My Commission Expires \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF WHATCOM )

On this day personally appeared before me \_\_\_\_\_, to me known to be the \_\_\_\_\_ of Parberry's Inc., the corporation that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such corporation, for the uses and purposes therein mentioned, and on oath stated that [he/she] was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Printed Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF WHATCOM )

On this day personally appeared before me \_\_\_\_\_, to me known to be the \_\_\_\_\_ of Northwest Recycling, Inc., the corporation that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such corporation, for the uses and purposes therein mentioned, and on oath stated that [he/she] was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Printed Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF WHATCOM )

On this day personally appeared before me \_\_\_\_\_, to me known to be the \_\_\_\_\_ of Parberry Family Limited Partnership, the corporation that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such corporation, for the uses and purposes therein mentioned, and on oath stated that [he/she] was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Printed Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

**EXHIBIT 1  
PARBERRY PROPERTY**

Parcel Number & Address	Legal Description & Parcel Number
1. 0 Astor Street	<p>SUPPLEMENTAL MAP OF WHATCOM NW 8 FT VAC SE 1/2 DIVISION ST ABTG LOTS 7 THRU 10 BLK 3 AS VAC ORD 9083 8/1982</p> <p>See full legal description attached as Exhibit 1.1 hereto.</p> <p>3803300373390000</p>
2. 0 C Street	<p>SUPPLEMENTAL MAP OF WHATCOM LOTS 7 THRU 10 BLK 3-TOG WI VAC 12 FT OF DIVISION ST ABTG AS VAC ORD 33 PG 11-TOG WI VAC 12 FT DIVISION ST ABTG AS VAC ORD 33 PG 11</p> <p>See full legal description attached as Exhibit 1.2 hereto.</p> <p>3803300403370000</p>
3. 0 C Street	<p>LOT 4 BLK 3-TOG WI VAC 12 FT DIVISION ST ABTG VAC CITY ORD VOL 33 PG 11-TOG WI VAC 12 FT DIVISION ST ABTG AS VAC CITY ORD VOL 33 PG 11-TOG WI 8 FT ABTG AS VAC</p> <p>See full legal description attached as Exhibit 1.3 hereto.</p> <p>3803300463430000</p>
4. 1419 C Street	<p>LOTS 1-2-3-5-6-NW 2/3 OF 11-12-13 THRU 20 BLK 3-TOG WI VAC 12 FT DIVISION ST ABTG VAC CITY ORD 33 PG 11-TOG WI 12 FT DIVISION ST AS VAC CITY ORD 65 PG 11-8</p> <p>See full legal description attached as Exhibit 1.4 hereto.</p> <p>3803300403510000</p>
5. 0 D Street	<p>SUPPLEMENTAL MAP OF WHATCOM SE 1/3 OF LOTS 11-12 BLK 3-TOG WI VAC 12 FT DIVISION ST ABTG VAC CITY ORD 33 PG 11-TOG WI VAC 12 FT DIVISION ST AS VAC ORD 33 PG 11-TOG WI 8 FT AS VAC ORD 9083</p> <p>See full legal description attached as Exhibit 1.5 hereto.</p> <p>3803300343390000</p>

Parcel Number & Address	Legal Description & Parcel Number	
6. 1315 D Street	<p>SUPPLEMENTAL MAP OF WHATCOM          LOTS 1 THRU 4-13 THRU 16 BLK 5-SUBJ TO          R/W ESMT OVER S 10 FT OF LOTS 4-13 DESC AF 947914-TOG WI          VAC CENTER ST ABTG AS VAC ORD 7280-SUBJ TO COVENANT          TO BIND</p> <p>See full legal description attached as Exhibit 1.6 hereto.</p> <p>3803300113480000</p>	
7. 1407 D Street	<p>SUPPLEMENTAL MAP OF WHATCOM          SW 1/2 OF LOT 4-ALL LOTS 5 THRU 8 BLK 6- TOG WI VAC 12 FT          CENTER ST ABTG</p> <p>See full legal description attached as Exhibit 1.7 hereto.</p> <p>3803300243540000</p>	
8. 1411 D Street	<p>SUPPLEMENTAL MAP OF WHATCOM          ALL LOT 3-NE 1/2 OF LOT 4 BLK 6-          TOG WI VAC 12 FT CENTER ST ABTG</p> <p>See full legal description attached as Exhibit 1.8 hereto.</p> <p>3803300293590000</p>	
9. 1415 D Street	<p>SUPPLEMENTAL MAP OF WHATCOM          LOTS 1-2 BLK 6-TOG WI VAC 12 FT          CENTER ST ABTG</p> <p>See full legal description attached as Exhibit 1.9 hereto.</p> <p>3803300323630000</p>	
10. 1401 E Street	<p>SUPPLEMENTAL MAP OF WHATCOM          LOTS 3-4 BLK 11</p> <p>See full legal description attached as Exhibit 1.10 hereto.</p> <p>3803300053730000</p>	

11.1408 E Street	<p>SUPPLEMENTAL MAP OF WHATCOM LOTS 9 THRU 16 BLK 6-TOG WI VAC 12 FT CENTER ST ABTG</p> <p>See full legal description attached as Exhibit 1.11 hereto.</p> <p>3803300183640000</p>
12.1411 E Street	<p>SUPPLEMENTAL MAP OF WHATCOM LOT 2 BLK 11</p> <p>See full legal description attached as Exhibit 1.12 hereto.</p> <p>3803300093770000</p>
13.1413 E Street	<p>SUPPLEMENTAL MAP OF WHATCOM LOT 1 BLK 11</p> <p>See full legal description attached as Exhibit 1.13 hereto.</p> <p>3803300123810000</p>
14.0 W Holly Street	<p>SUPPLEMENTAL MAP OF WHATCOM NWLY 50 FT OF LOTS 1 THRU 4 BLK 32</p> <p>See full legal description attached as Exhibit 1.14 hereto.</p> <p>3802255523290000</p>
15.0 W Holly Street	<p>SUPPLEMENTAL MAP OF WHATCOM LOTS 13 THRU 16 BLK 32-SUBJ TO ESMT TO CITY OF BELLINGHAM FOR SLOPE FILL DESC AF 735979-TOG WI SELY 20 FT VAC E STREET ABTG AS VAC ORD 8900 12/15/1980</p> <p>See full legal description attached as Exhibit 1.15 hereto.</p> <p>3802255483330000</p>
16.700 W Holly Street	<p>SUPPLEMENTAL MAP OF WHATCOM LOTS 3 THRU 16 BLK 4-SUBJ TO ESMT TO CITY OF BELLINGHAM FOR SLOPE FILL DESC AF 733697 OVER LOTS 8 THRU 13</p> <p>See full legal description attached as Exhibit 1.16 hereto.</p> <p>3803300203260000</p>

17.701 W Holly Street	<p>SUPPLEMENTAL MAP OF WHATCOM LOTS 1 THRU 4-13 THRU 16 BLK 31-SUBJ TO ESMT TO CITY OF BELLINGHAM FOR SLOPE FILL ON LOT 1 DESC AF 733698</p> <p>See full legal description attached as Exhibit 1.17 hereto.</p> <p>3803300113080000</p>
18.800 W Holly Street	<p>SUPPLEMENTAL MAP OF WHATCOM LOTS 9-10-11 BLK 5-TOG WI VAC PTN CENTER ST ABTG-SUBJ TO ESMT TO CITY OF BELLINGHAM FOR SLOPE FILL DESC AF 735976</p> <p>See full legal description attached as Exhibit 1.18 hereto.</p> <p>3803300023390000</p>
19.800 W Holly Street	<p>SUPPLEMENTAL MAP OF WHATCOM LOTS 5 THRU 8 BLK 5-TOG WI VAC PTN CENTER ST ABTG-SUBJ TO R/W ESMT OVER N 10 FT OF LOT 5 DESC AF 947913</p> <p>See full legal description attached as Exhibit 1.19 hereto.</p> <p>3803300063360000</p>
20.801 W Holly Street	<p>SUPPLEMENTAL MAP OF WHATCOM SE 50 FT OF LOTS 1 THRU 4 BLK 32-SUBJ TO ESMT TO CITY OF BELLINGHAM FOR SLOPE FILL DESC AF 735975</p> <p>See full legal description attached as Exhibit 1.20 hereto.</p> <p>3802255513260000</p>
21.900 W Holly Street	<p>SUPPLEMENTAL MAP OF WHATCOM LOTS 1 THRU 8 BLK 12-SUBJ TO ESMT TO CITY OF BELLINGHAM FOR SLOPE FILL DESC AF 735978 ON LOTS 5 THRU 8</p> <p>See full legal description attached as Exhibit 1.21 hereto.</p> <p>3802255533590000</p>

**EXHIBITS 1.1 - 1.21**  
**PARBERRY PROPERTY**

**Exhibit 1.1**

(O Astor Street)

3803300373390000

lying in the vacated right-of-way of Division Street between Astor and Bancroft Streets, and lying across Block 3, Plat of the Town of New Whatcom Supplemental as the same is shown at Page 42, Book 1 of Plats, Official Records of the Whatcom County Auditor, adjacent to Lots 7 through 10 as shown on the map attached hereto, and situated in the county of Whatcom, state of Washington. (See Exhibit 1.1A attached hereto.)

**Exhibit 1.2**

(O C Street)

3803300403370000

LOTS 7, 8, 9, and 10, Block 3, "Supplemental Map of the Town of Whatcom, Whatcom County, W.T. 1884", now a part of the consolidated City of Bellingham, Whatcom County, Washington, as per the map thereof, recorded in Book 1 of Plats, page 42, in the Auditor's office of said county and state, TOGETHER WITH the vacated portion of Division Street abutting on said lots, which vacated portion is the Southeasterly 20 feet of Division Street.

**Exhibit 1.3**

(O C Street)

3803300463430000

Lot 4, Block 3, "Supplemental Map of the Town of Whatcom, Whatcom County, W. T., 1884, now a part of the consolidated City of Bellingham, Whatcom County, Washington, as per the map thereof, recorded in Book 1 of Plats, page 42, in the Auditor's office of said county and state, TOGETHER WITH the Southeasterly 12 feet of vacated Division Street abutting.

**Exhibit 1.4**  
(1419 C Street)  
3803300403510000

Lots 1 through 3, inclusive, and Lots 5 and 6, TOGETHER WITH the Southeasterly 12 feet of vacated Division Street abutting, ALSO Lots 11 through 20, inclusive, TOGETHER WITH the Northwesterly 12 feet of vacated Division Street abutting, ALL in Block 3, "Supplemental Map of the Town of Whatcom, County, W. T., 1884," now a part of the consolidated City of Bellingham, Whatcom County, Washington, as per the map thereof, recorded in Book 1 of Plats, page 42, in the Auditor's office of said County and State.

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**Exhibit 1.5**  
(0 D Street)  
3803300343390000

The Southeast one-third of Lots 11 and 12, and also the vacated 12 feet of the division street abutting, Block 3, "Supplemental Map of the Town of Whatcom, Whatcom County, W.T., 1884" now a part of the consolidated City of Bellingham, Whatcom County, Washington, as per the map thereof, recorded in Book 1 of Plats, page 42, in the Auditor's office of said county and state.

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**Exhibit 1.6**  
(1315 D Street)  
3803300113480000

Lots 1, 2, 3, 4, 13, 14, 15 and 16, BLOCK 3, along with vacated Center Street abutting said lots;

ALL of said lots and block being in "Supplemental Map of the Town of Whatcom, Whatcom County, W. T.", according to the Plat thereof, recorded in Volume 1 of Plats, Page 42, records of Whatcom County, Washington.

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**Exhibit 1.7**  
(1407 D Street)  
3803300243540000

The Southwest half of lot 4 and all of lots 5, 6, 7 and 8, Block 6, Supplemental Map of the Town of Whatcom W. T., as per the map thereof, recorded in Volume 1 of Plats, page 42, records of Whatcom County, Washington. Together with the vacated Southwesterly 12 feet abutting said lots.

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**Exhibit 1.8**  
(1411 D Street)  
3803300293590000

Lot 3 and the Northeasterly one-half of Lot 4, Block 6, "Supplemental Map of the Town of Whatcom", as per plat thereof recorded in Volume 1 of Plats, Page 42, Records of Whatcom County, Washington Auditor.

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**Exhibit 1.9**  
(1415 D Street)  
3803300323630000

LOTS 1 AND 2, BLOCK 6, "SUPPLEMENTAL MAP OF THE TOWN OF WHATCOM, WHATCOM COUNTY, W.T., 1884," AS PER THE MAP THEREOF, RECORDED IN BOOK 1 OF PLATS, PAGE 42, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE, TOGETHER WITH THE VACATED SOUTHEASTERLY 12 FEET OF CENTER STREET ADJOINING.

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**Exhibit 1.10**  
(1401 E Street)  
3803300053730000

Lots 3 and 4, Block 11, "Supplemental Map of the Town of Whatcom, Whatcom County, W.T. 1884" now a part of the consolidated City of Bellingham, Whatcom County, Washington, as per the map thereof, recorded in Book 1 of Plats, page 42, in the Auditor's office of said county and state.

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**Exhibit 1.11**

(1408 E Street)

3803300183640000

LOTS 9 THROUGH 16, BLOCK 6, 'SUPPLEMENTAL MAP OF THE TOWN OF WHATCOM, WHATCOM COUNTY, W.T. 1884,' NOW A PART OF THE CONSOLIDATED CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, AS PER THE MAP THEREOF, RECORDED IN BOOK 1 OF PLATS, PAGE 42, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE.

TOGETHER WITH THAT PORTION OF VACATED CENTER STREET WHICH HAS ATTACHED TO SAID PREMISES BY OPERATION OF LAW.

SITUATE IN WHATCOM COUNTY, WASHINGTON

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**Exhibit 1.12**

(1411 E Street)

3803300093770000

Lot 2, Block 11, Supplemental Map of the Town of Whatcom, Whatcom County, W.T., according to the recorded Plat thereof recorded in Volume 1 of Plats, Page 42, records of Whatcom County, Washington.

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**Exhibit 1.13**

(1413 E Street)

3803300123810000

Lot 1, Block 11, Supplemental Map of the Town of Whatcom, Whatcom County, W.T., according to the recorded Plat thereof recorded in Volume 1 of Plats, Page 42, records of Whatcom County, Washington.

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**Exhibit 1.14**

(0 W Holly Street)

3802255523290000

The Northwestern half of Lots 1, 2, 3 and 4, Block 32, "Supplemental Map of the Town of Whatcom, Whatcom County, W.T. 1884," now a part of the consolidated City of Bellingham, Whatcom County, Washington, as per the map thereof, recorded in Book 1 of Plats, page 42, in the Auditor's office of said county and state.

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**Exhibit 1.15**

(0 W Holly Street)  
3802255483330000

Lots 13, 14, 15 and 16, Block 32, "Supplemental Map of the Town of Whatcom, Whatcom County, W. T., 1884," now a part of the consolidated City of Bellingham, Whatcom County, Washington, as per the map thereof, recorded in Book 1 of Plats, page 42, in the Auditor's office of said county and state.

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**Exhibit 1.16**

(700 W Holly Street)  
3803300203260000

TRACT II. Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16, BLOCK 4;

ALL of said lots and block being in "Supplemental Map of the Town of Whatcom, Whatcom County, W. T.", according to the Plat thereof, recorded in Volume 1 of Plats, Page 42, records of Whatcom County, Washington.

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**Exhibit 1.17**

(701 W Holly Street)  
3803300113080000

Lots 1, 2, 3, 4, 13, 14, 15 and 16, Block 31, "Supplemental Map of the Town of Whatcom, Whatcom County, W. T.", according to the Plat thereof, recorded in Volume 1 of Plats, Page 42, records of Whatcom County, Washington.

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**Exhibit 1.18**

(800 W Holly Street)  
3803300023390000

Lots 9, 10 and 11, and also that portion of vacated Center Street abutting thereon, Block 5, "Supplemental Map of the Town of Whatcom, Whatcom County, W. T.", according to the Plat thereof, recorded in Volume 1 of Plats, Page 42, records of Whatcom County, Washington.

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**Exhibit 1.19**

(800 W Holly Street)  
3803300063360000

Lots 5, 6, 7 and 8 and that portion of vacated Center Street abutting thereon, Block 5, "Supplemental Map of the Town of Whatcom, Whatcom County, W.T.", according to the plat thereof, recorded in Volume 1 of Plats, page 42, records of Whatcom County, Washington.

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**Exhibit 1.20**

(801 W Holly Street)  
3802255513260000

The Southeast 50 feet of Lot 1 to 4, Block 32, "Supplemental Map of the Town of Whatcom, Whatcom County, W. T., 1884," according to the Plat thereof, recorded in Volume 1 of Plats, page 42, records of Whatcom County, Washington, subject to easements of record.

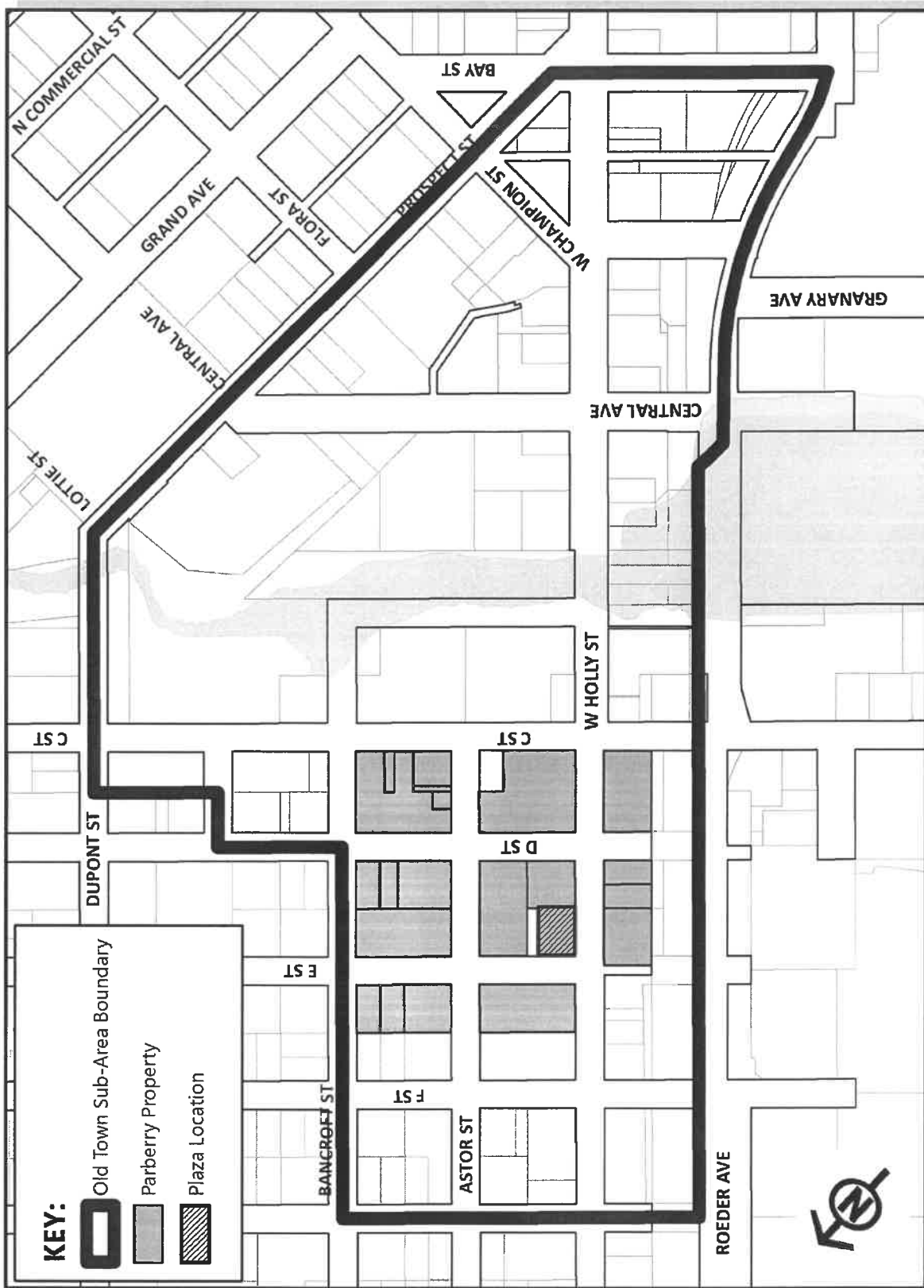
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**Exhibit 1.21**

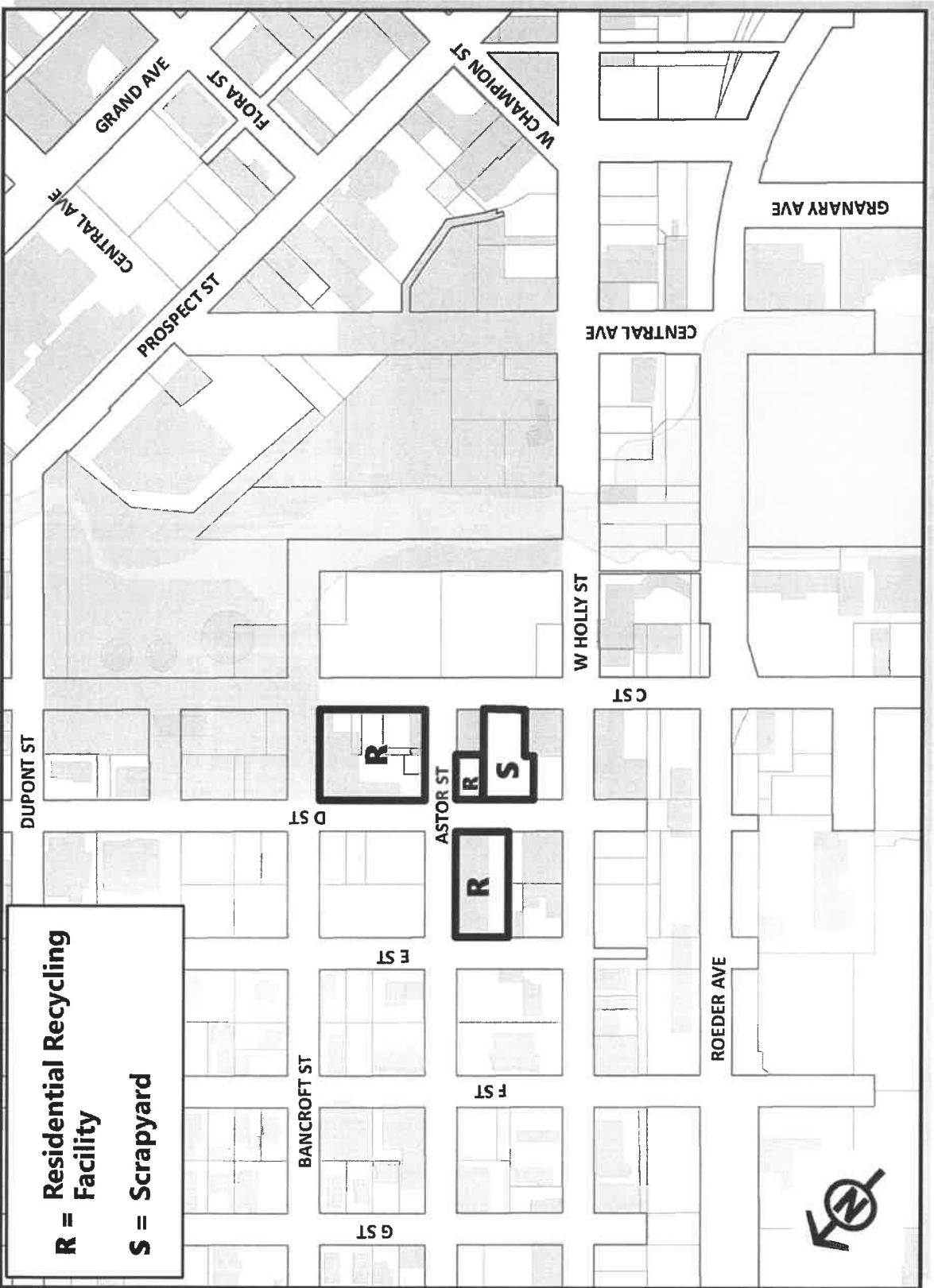
(900 W Holly Street)  
3802255533590000

Lots 1, 2, 3, 4, 5, 6, 7 and 8, Block 12, "Supplemental Map of the Town of Whatcom, Whatcom County, W.T., 1884," now a part of the consolidated City of Bellingham, Whatcom County, Washington, as per the map thereof, recorded in Book 1 of Plats, Page 42, in the Auditor's office of said county and state.

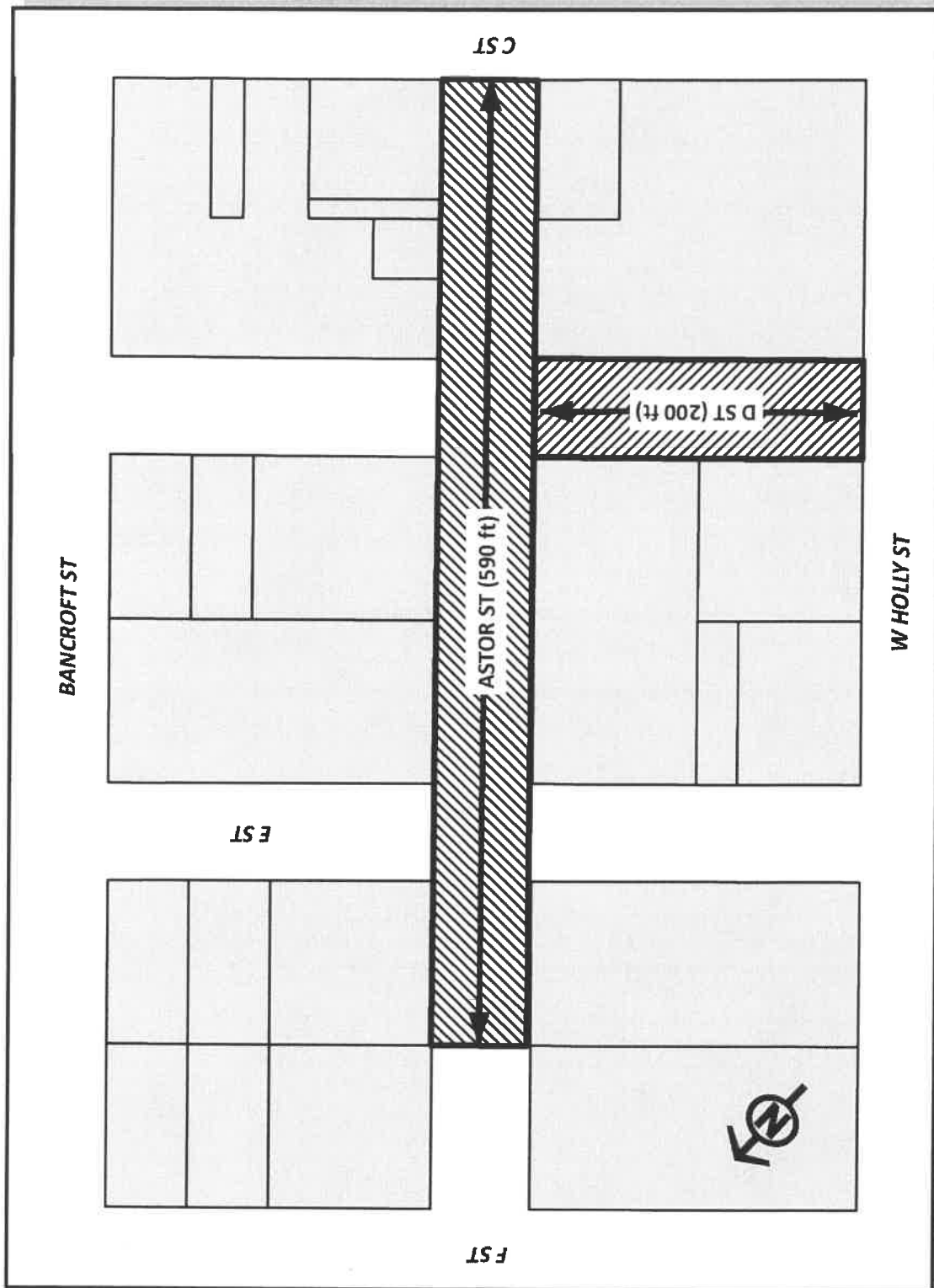
# EXHIBIT 2: ILLUSTRATION OF PARBERRY PROPERTY



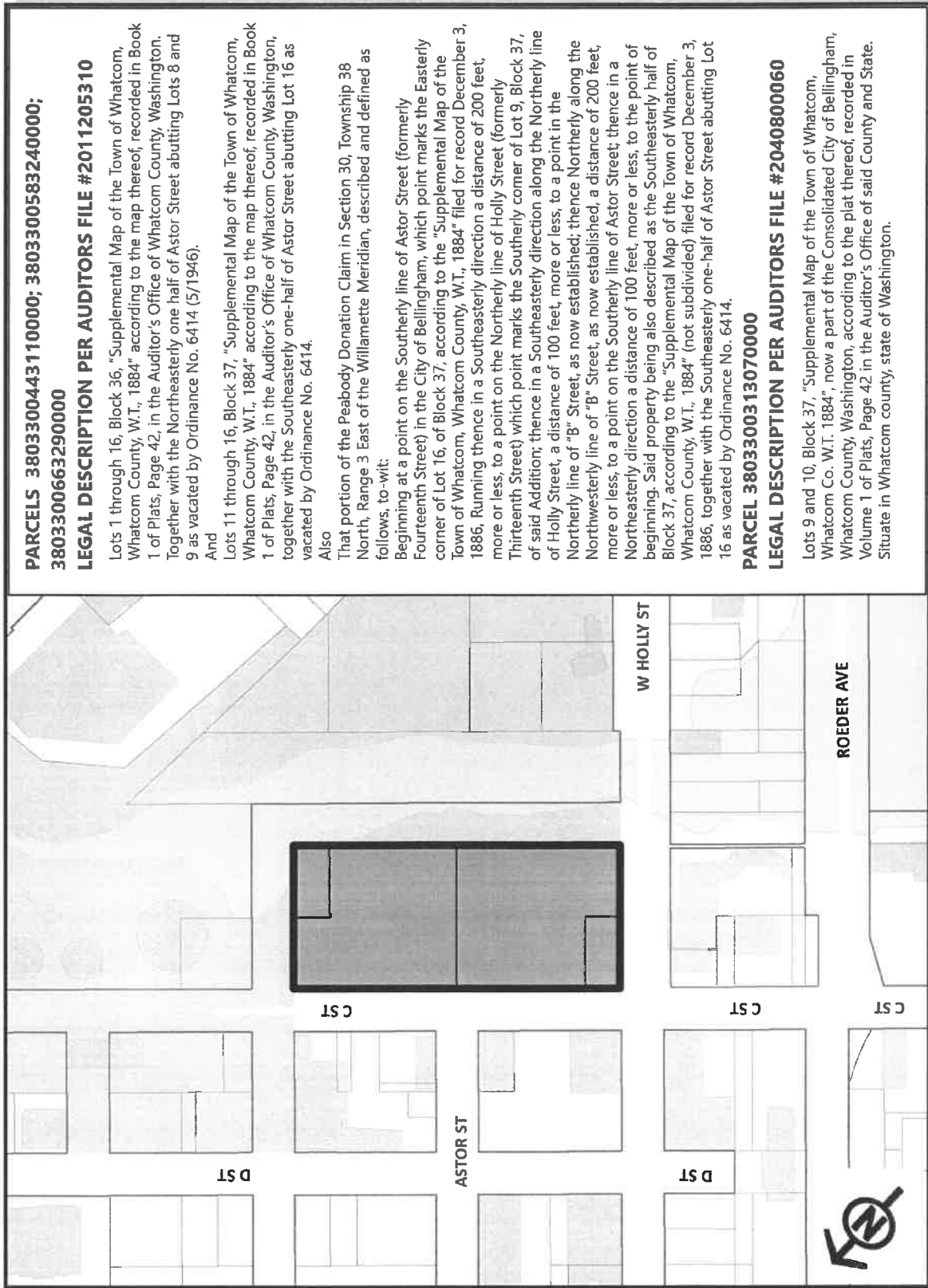
**EXHIBIT 3: LOCATION OF SCRAPYARD &  
RESIDENTIAL RECYCLING FACILITIES**



# EXHIBIT 4: ADDITIONAL STREETS



# EXHIBIT 5: LEGAL DESCRIPTION AND ILLUSTRATION OF HOLLY STREET PROPERTY



**PARCELS 3803300443110000; 3803300583240000;  
3803300663290000**

**LEGAL DESCRIPTION PER AUDITORS FILE #2011205310**

Lots 1 through 16, Block 36, "Supplemental Map of the Town of Whatcom, Whatcom County, W.T., 1884" according to the map thereof, recorded in Book 1 of Plats, Page 42, in the Auditor's Office of Whatcom County, Washington. Together with the Northeasterly one-half of Astor Street abutting Lots 8 and 9 as vacated by Ordinance No. 6414 (5/1946).

And

Lots 11 through 16, Block 37, "Supplemental Map of the Town of Whatcom, Whatcom County, W.T., 1884" according to the map thereof, recorded in Book 1 of Plats, Page 42, in the Auditor's Office of Whatcom County, Washington, together with the Southeasterly one-half of Astor Street abutting Lot 16 as vacated by Ordinance No. 6414.

Also

That portion of the Peabody Donation Claim in Section 30, Township 38 North, Range 3 East of the Willamette Meridian, described and defined as follows, to-wit:

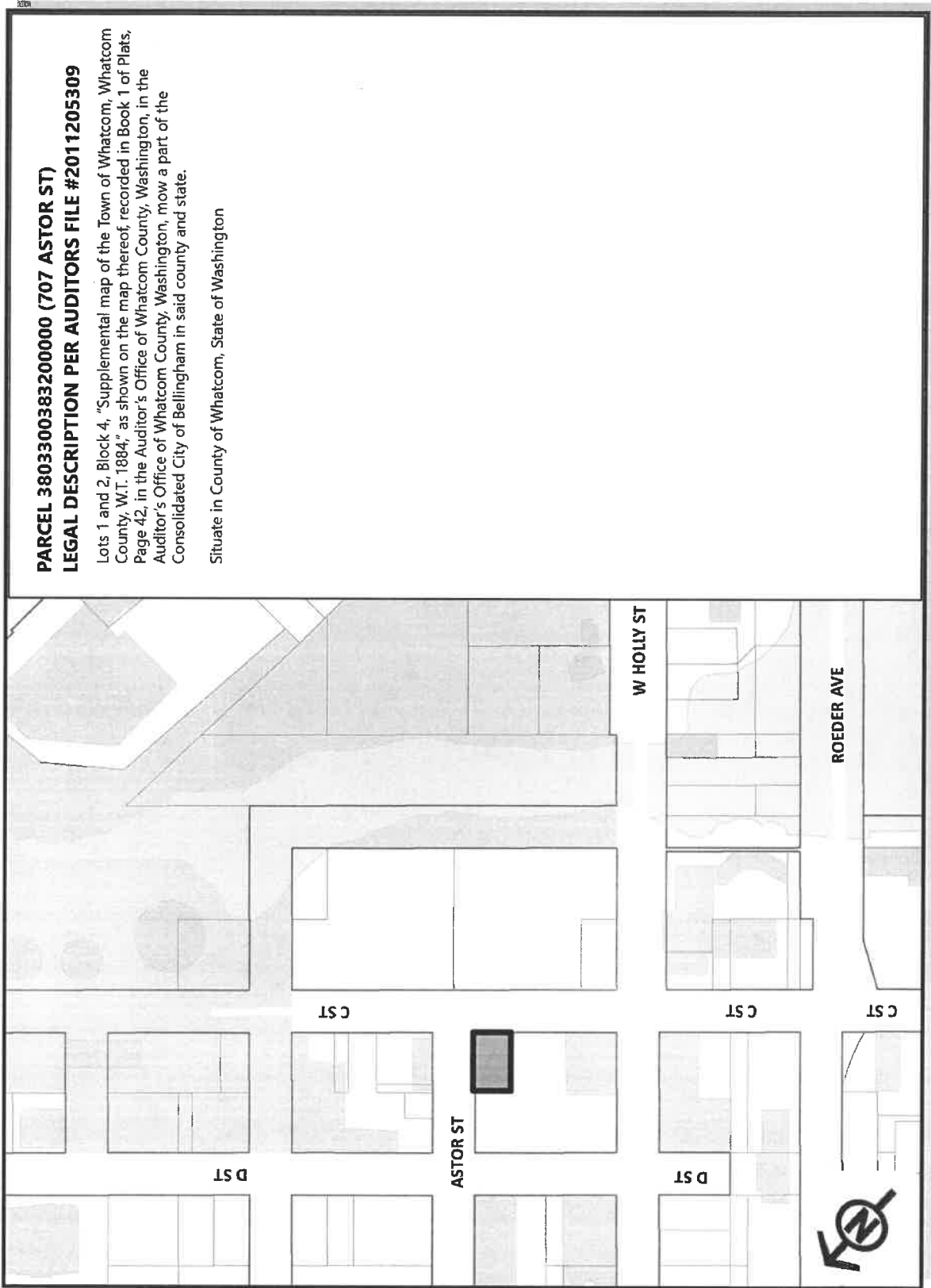
Beginning at a point on the Southerly line of Astor Street (formerly Fourteenth Street) in the City of Bellingham, which point marks the Easterly corner of Lot 16, of Block 37, according to the "Supplemental Map of the Town of Whatcom, Whatcom County, W.T., 1884" filed for record December 3, 1886, Running thence in a Southeasterly direction a distance of 200 feet, more or less, to a point on the Northerly line of Holly Street (formerly Thirteenth Street) which point marks the Southerly corner of Lot 9, Block 37, of said Addition; thence in a Southeasterly direction along the Northerly line of Holly Street, a distance of 100 feet, more or less, to a point in the Northerly line of "B" Street, as now established; thence Northerly along the Northwesterly line of "B" Street, as now established, a distance of 200 feet, more or less, to a point on the Southerly line of Astor Street; thence in a Northeasterly direction a distance of 100 feet, more or less, to the point of beginning. Said property being also described as the Southeasterly half of Block 37, according to the "Supplemental Map of the Town of Whatcom, Whatcom County, W.T., 1884" (not subdivided) filed for record December 3, 1886, together with the Southeasterly one-half of Astor Street abutting Lot 16 as vacated by Ordinance No. 6414.

**PARCEL 3803300313070000**

**LEGAL DESCRIPTION PER AUDITORS FILE #2040800060**

Lots 9 and 10, Block 37, "Supplemental Map of the Town of Whatcom, Whatcom Co. W.T. 1884", now a part of the Consolidated City of Bellingham, Whatcom County, Washington, according to the plat thereof, recorded in Volume 1 of Plats, Page 42 in the Auditor's Office of said County and State. Situate in Whatcom county, state of Washington.

# EXHIBIT 6: LEGAL DESCRIPTION AND ILLUSTRATION OF ASTOR STREET PROPERTY





# City Council Agenda Bill

22770

Bill Number

Subject: **Authorization of Payroll Labor Cost Payments Dated July 16 to July 31, 2020**

Summary Statement: For payroll payments related to the period of July 16 to July 31, 2020

Totals \$ 3,822,311.25

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

Fiscal Impact: **Payroll labor costs payments 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	9/28/2020	Authorize Payroll	N/A	0 minutes

**Recommended Motion:**

**Council Committee:**

**Agenda Bill Contact:**

i. wilson, HR Payroll, 778-8222

**Reviewed By**

*Andrew D. Asbjornsen*

**Department**

Finance Department

**Date**

9/22/2020

**Council Action:**

*Matthew T. Stamps*

Legal

9/22/2020

*Seth M. Fleetwood*

Executive

9/22/2020



# City Council Agenda Bill

22771

Bill Number

Subject: **Authorization of Payroll Labor Cost Payments Dated August 1 to August 15, 2020**

Summary Statement: For payroll payments related to the period of August 1 to August 15, 2020

Totals \$ 3,657,709.75

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

Fiscal Impact: **Payroll labor costs payments 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	9/28/2020	Authorize Payroll	N/A	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

L. Russell, HR Payroll, 778-8252

Reviewed By

*Andrew D. Asbjornsen*

Department

Finance Department

Date

9/22/2020

Council Action:

*Matthew T. Stamps*

Legal

9/22/2020

*Seth M. Fleetwood*

Executive

9/22/2020



# City Council Agenda Bill

22772

Bill Number

Subject: **Authorization of Payroll Labor Cost Payments Dated August 16 to August 31, 2020**

Summary Statement: For payroll payments related to the period of August 16 to August 31, 2020

Totals \$ 3,797,800.07

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

Fiscal Impact: **Payroll labor costs payments 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	9/28/2020	Authorize Payroll	N/A	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

L. Russell, HR Payroll, 778-8252

Reviewed By

*Andrew D. Asbjornsen*

Department

Finance Department

Date

9/22/2020

Council Action:

*Matthew T. Stamps*

Legal

9/22/2020

*Seth M. Fleetwood*

Executive

9/22/2020



# City Council Agenda Bill

22773

Bill Number

Subject: **Authorization of A/P Transactions Issued September 04, 2020 Through September 10, 2020**

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

A/P EFT and EDI transactions, and check(s) #550385 through #550469, were issued during the pay period of September 04, 2020 through September 10, 2020, in the amount of \$1,430,227.15.

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

Fiscal Impact: **Payments 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	9/28/2020	Authorize Accounts Payable	N/A	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Rossner Gideon, Finance Department

Council Action:

Reviewed By	Department	Date
<i>Andrew D. Asbjornsen</i>	Finance Department	9/22/2020
<i>Matthew T. Stamps</i>	Legal	9/22/2020
<i>Seth M. Fleetwood</i>	Executive	9/22/2020



# City Council Agenda Bill

22774

Bill Number

Subject: **Authorization of A/P Transactions Issued September 11, 2020 Through September 17, 2020**

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

A/P EFT and EDI transactions, and check(s) #550470 through #550557, were issued during the pay period of September 11, 2020 through September 17, 2020, in the amount of \$1,995,117.71.

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

Fiscal Impact: **Payments 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	9/28/2020	Authorize Accounts Payable	N/A	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Rossner Gideon, Finance Department

Council Action:

Reviewed By	Department	Date
<i>Andrew D. Asbjornsen</i>	Finance Department	9/22/2020
<i>Matthew T. Stamps</i>	Legal	9/22/2020
<i>Seth M. Fleetwood</i>	Executive	9/22/2020



# City Council Agenda Bill

22746

Bill Number

Subject: **An Ordinance Relating to Land Use Planning, Amending Bellingham Municipal Code (BMC) Title 20 to Establish Regulations for Electronic Message Center Signs on Public Zoned Land**

Summary Statement: This draft ordinance establishes regulations for electronic message center signs in public land use designations. Currently, "public" zoning does not allow electronic message signs and specifies that signs can only be unlighted or indirectly lighted. The proposal would allow electronic message signs (EMSs) in public zones while limiting the size of all signs to 50 square feet when located within 100 feet of a residential zone boundary. This would enable EMSs as a communication tool in "public" zones to provide the public with information about activities, events and services of community interest. The Planning Commission voted 7-0 on 7/16/2020 to forward a recommendation of approval to City Council along with one amendment to the draft ordinance.

Previous Council Action: **None specific to the draft ordinance**

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

Funding Source: **General Fund**

Attachments:

1. ATTACHMENT 1 - STAFF MEMO
2. ATTACHMENT 2 - STAFF REPORT
3. EXHIBIT A1 TO ATTACHMENT 2
4. EXHIBIT A2 TO ATTACHMENT 2
5. EXHIBIT B1 TO ATTACHMENT 2
6. EXHIBIT B2 TO ATTACHMENT 2
7. EXHIBIT B3 TO ATTACHMENT 2
8. EXHIBIT C1 TO ATTACHMENT 2
9. EXHIBIT C2 TO ATTACHMENT 2
10. ATTACHMENT 3 - SEPA
11. ATTACHMENT 4 - DRAFT ORDINANCE
12. EXHIBIT A TO ATTACHMENT 4
13. ATTACHMENT 5 - PLANNING COMMISSION MINUTES FROM 7/16/20 PUBLIC HEARING
14. PUBLIC HEARING NOTICE

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Public Hearing - Vote Requested	9/28/2020	Vote to Approve	Chris Koch, PCDD	10 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:

Chris Koch, Planning and Community Development, 360-778-8300

Reviewed By

*Rick M. Sepler*

Department

Planning & Community Development

Date

9/08/2020

Council Action:

Daniel Hammill / Pinky Vargas moved for first and second reading.  
MOTION CARRIED 7-0

*Alan A. Marriner*

Legal

9/08/2020

*Seth M. Fleetwood*  
- 280 -

Executive

9/08/2020

# ATTACHMENT 1



City of Bellingham  
210 Lottie Street  
Bellingham, WA 98225

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## MEMORANDUM

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**TO:** CITY COUNCIL

**FROM:** RICK SEPLER, AICP, PLANNING DIRECTOR  
CHRIS KOCH, PLANNER

**CC:** GREG AUCUTT, ASST PLANNING DIRECTOR  
KURT NABBEFELD, DEVELOPMENT SERVICES MANAGER

**SUBJECT:** AMENDMENTS TO BMC TITLE 20 TO ESTABLISH REGULATIONS FOR ELECTRONIC MESSAGE CENTER SIGNS IN PUBLIC LAND USE DESIGNATIONS

**DATE:** AUGUST 28, 2020

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Currently, “public” zoning does not allow electronic message signs and specifies that signs can only be unlighted or indirectly lighted. There is no limit to the size, height, or form of signage if city owned, provided it is reviewed by the Bellingham Arts Commission with their recommendation forwarded to the Mayor for final approval. If not owned by the city, signage in public zones that is visible from beyond the property line is subject to the same limitations as the permitted uses of the most stringent adjacent zoning designation. Accordingly, signage visible from residential single and residential multi zones is limited to 16 and 32 square feet respectively. Signage visible from commercial and industrial zones varies but is much more permissive in size.

The proposal would allow electronic message signs (EMSs) in public zones while limiting the size of all signs to 50 square feet when located within 100 feet of a residential zone boundary. This would enable EMSs as a communication tool in “public” zoning designations to provide the public with information about activities, events and services of community interest. Freestanding EMSs would be limited to monument signs; other freestanding signage (sans the EMS) could be pole or monument signage. Building mounted wall signage would be unlimited except when located within 100 feet of a residential zone boundary as outlined above. The existing provision that city owned signs be reviewed by the Bellingham Arts Commission is retained.

The subject amendments were initiated by the Planning and Community Development Department (PCDD) in response to a request from the Bellingham Public Schools (BPS) to install electronic reader boards at all of their 22 schools as a communication tool for schools. BPS

secured initial funding for electronic message signs with the community's approval of the 2018 school bond.

The PCDD work program includes a comprehensive update of the City's sign code for all zoning districts. However, a date certain to begin the work has not been established as other projects have been prioritized ahead of it. Also, the scale of the project is large and staff resources are limited. The City had been corresponding with BPS since early 2018 with assurance of pending amendments to the City's sign codes, but given existing circumstances, PCDD is electing to initiate BPS's request while school bond money is still available. PCDD sees a mutual benefit to the proposed amendments as they would enable the city to install said signs on City owned property zoned public for purposes of providing public information on community activities, events, and services.

The proposed code amendments are consistent with applicable Land Use and Community Design goals and policies referenced in the staff report. They ensure that new signs in public zones are complementary to adjacent uses in scale, context and content, while still providing for adequate use identification and property protection. And they will provide additional opportunities to disseminate public information.

The Planning Commission reviewed the proposed amendments in a public hearing on July 16, 2020 and voted 7-0 to forward a recommendation of approval to City Council with one amendment to change the overnight "off time" of certain electronic message signs from 10PM to 6AM, to 10PM to 7AM. This change is in response to a request from Bellingham Public Schools and to be consistent with other restrictions such as with construction noise.

## **NEXT STEPS**

Given that the proposed amendments appear non-controversial and have drawn little public interest, staff recommends that City Council vote on the matter following the public hearing. Staff agrees with the Planning Commission's recommendation to amend the ordinance to change the overnight "off time" of certain electronic message signs from 10PM to 6AM, to 10PM to 7AM. These changes are shown in the draft ordinance in legislative format with omissions shown in ~~double strike through~~ and additions shown double underlined.

**CITY OF BELLINGHAM PLANNING STAFF REPORT**

<b>Agenda Topic:</b>	<i>Amendments to BMC Title 20 to establish regulations for electronic message center signs in Public land use designations.</i>
<b>For:</b>	<i>July 16, 2020</i>
<b>Staff Contact:</b>	<i>Chris Koch, Planner II</i>

**I. SUMMARY OF PROPOSAL**

Currently, “public” zoning does not allow electronic message signs and specifies that signs can only be unlighted or indirectly lighted. There is no limit to the size, height, or form of signage if city owned, provided it is reviewed by the Bellingham Arts Commission with their recommendation forwarded to the Mayor for final approval. If not owned by the city, signage in public zones that is visible from beyond the property line is subject to the same limitations as the permitted uses of the most stringent adjacent zoning designation. Accordingly, signage visible from residential single and residential multi zones is limited to 16 and 32 square feet respectively. Signage visible from commercial and industrial zones varies but is much more permissive in size.

The proposal would allow electronic message signs (EMSs) in public zones while limiting the size of all signs to 50 square feet when located within 100 feet of a residential zone boundary. This would enable EMSs as a communication tool in “public” zoning designations to provide the public with information about activities, events and services of community interest. Freestanding EMSs would be limited to monument signs; other freestanding signage (sans the EMS) could be pole or monument signage. Building mounted wall signage would be unlimited except when located within 100 feet of a residential zone boundary as outlined above. The existing provision that city owned signs be reviewed by the Bellingham Arts Commission is retained.

**II. PLANNING COMMISSION ROLE**

The proposal before the Commission is a legislative development code amendment requiring a Type VI process. The Planning Commission must hold a public hearing and issue findings of fact and conclusions along with a recommendation to the City Council. Draft finding and conclusions are included in the staff report, see **Attachment A**. The Commission should adopt or modify the draft findings as needed to support the Commission’s ultimate recommendation.

**III. BACKGROUND**

The subject amendments are being initiated by the Planning and Community Development Department (PCDD) in response to a request from the Bellingham Public Schools (BPS) to install electronic reader boards at all of their 22 schools as a communication tool for schools. BPS secured initial funding for electronic message signs with the community’s approval of the 2018 school bond.

1 The PCDD work program includes a comprehensive update of the City's sign code for all zoning  
2 districts. However, a date certain to begin the work has not been established as other projects  
3 have been prioritized ahead of it. Also, the scale of the project is large and staff resources are  
4 limited. The City had been corresponding with BPS since early 2018 with assurance of pending  
5 amendments to the City's sign codes, but given existing circumstances, PCDD is electing to  
6 initiate BPS's request while school bond money is still available. PCDD sees a mutual benefit to  
7 the proposed amendments as they would enable the city to install said signs on City owned  
8 property zoned public for purposes of providing public information on community activities,  
9 events, and services.

#### 10 11 **IV. ISSUES**

12  
13 The technology used and supporting EMSs has increased over the years and the signs have  
14 grown in popularity. Energy efficient LEDs have made it possible to produce brighter and better  
15 viewing angles for electronic signage. EMSs can be controlled through offsite computers,  
16 touchscreens, sensors and even smartphones. The signs can include video, digital images,  
17 movement and all types of animated graphic displays. Messages can fade, bounce, scroll or  
18 wipe-off between text, images or content. They are used for wayfinding, business promotion and  
19 advertising, as well as public information, including emergency messaging.

20  
21 The technology also brings with it possible safety impacts to drivers and the surrounding public.  
22 Signs by their nature are intended to attract attention, however excessive light can be blinding  
23 or disruptive to nearby businesses and residential structures. Video or action graphics can  
24 distract drivers, bicyclists and pedestrians.

25  
26 These impacts can affect public safety, welfare and community character, however with  
27 appropriate restrictions these potential impacts can be reduced or eliminated. Such restrictions  
28 could be: duration of message display, message transition, and frame effects like animation.

#### 29 30 **V. COMPREHENSIVE PLAN GOALS AND POLICIES**

31  
32 Zoning and development codes are intended to implement the visions, goals and policies of the  
33 comprehensive plan. The following excerpts are from the city's plan.

34  
35 **Policy LU-4** Protect the unique character and qualities of existing neighborhoods, while  
36 identifying opportunities for improved livability, safety, and housing affordability and diversity.

37  
38 **Policy LU-7** Periodically review and update the City's residential zoning regulations and  
39 design standards to promote quality development that considers and complements existing  
40 neighborhoods.

41  
42 **GOAL CD-1** Promote streetscapes that enhance the economic vitality and overall visual  
43 quality of the City, support the circulation network, and support pedestrian-scale streets and  
44 patterns of activity.

45  
46 **GOAL CD-4** Provide a well-designed, pedestrian-friendly, and community-oriented  
47 environment.

48  
49 **Policy CD-13** Review and update the City's sign standards to:

- 50 • Encourage signs to be complementary in scale to the building architecture and site  
51 design.

- Discourage multiple or large signs that clutter, distract, or dominate the streetscape of commercial areas.
- Encourage replacement of pole signs with context-sensitive monument and building signs, and prohibit new pole signs.
- Encourage the consolidation of signs on a single structure where a commercial development includes multiple businesses.
- Encourage signs on multi-tenant buildings to be complementary in size and style for all commercial and mixed-use zones.
- Discourage signs that are distracting to drivers.
- Continue to ensure that there will be no increase in the existing number of billboard signs allowed in the City or in the urban growth area (UGA) as of the date of adoption of this plan, and consider amortization of existing billboards.
- Use design review for new signs to protect views of significant land forms and community features, avoid visual clutter, and ensure Citywide design standards are met.

**Staff Response:** The proposed code amendments are consistent with the Land Use and Community Design goals and policies referenced. They ensure that new signs in public zones are complementary to adjacent uses in scale, context and content, while still providing for adequate use identification and property protection.

## **VI. ANALYSIS**

Within public zones, uses are generally owned and operated by public agencies and institutions such as public K-12 schools, Bellingham Technical College, U.S. Post Office, athletic and recreational facilities such as those at the City's Civic Athletic Complex, Lake Padden Golf Course, and regional and neighborhood parks.

Currently, "public" zoning does not allow electronic message signs and specifies that signs can only be unlighted or indirectly lighted. There is no limit to the size or height of signage if city owned provided it is reviewed by the Bellingham Arts Commission with their recommendation forwarded to the Mayor for final approval. If not owned by the city, signage in public zones that is visible from beyond the property line is subject to the same limitations as the permitted uses of the most stringent adjacent zoning designation. Accordingly, signage visible from residential single and residential multi zones is limited to 16 and 32 square feet respectively. Signage visible from commercial and industrial zones varies but is much more permissive in size.

Bellingham Public Schools provided three draft concept electronic message signs of various sizes for consideration (Attachment D). Each of the signs integrate an electronic message sign panel of approximately 15 square feet into a larger sign that includes the school name and mascot. Sign dimensions are summarized in the table below:

	Height	Sign Size	EMS Panel Size
Tall	12'-0"	~78 sq. ft.	~ 15 sq. ft.
Medium	8'-8"	~54 sq. ft.	~ 15 sq. ft.
Short	6'-8"	~45 sq. ft.	~ 15 sq. ft.

The Parks and Recreation Department reviewed the proposed amendments and have no objections to them. They indicated that they are currently using temporary construction reader boards in three community parks for COVID messaging and find that it is working well and could be well-utilized in a more permanent form in the future.

As noted in the Issues section above, these signs can be both a beneficial communication device and also have impacts on public safety, welfare and community character. Staff believes that appropriate restrictions such as decreasing the size, scale, brightness, movement ability and duration of message, and on-time. These restrictions still allows the sign owner to express a message, communicate upcoming events and provide public information and services.

## **VII. PUBLIC COMMENT**

Notice of the Planning Commission hearing was mailed to the Mayor's Neighborhood Advisory Commission and registered neighborhood associations. The notice was also published the Bellingham Herald.

No public comments in response to this notice have been received as of the date of printing of this report.

## **VIII. STATE ENVIRONMENTAL POLICY ACT (SEPA)**

A non-project SEPA Determination of Non-Significance was issued on June 30, 2020. No public comments have been received regarding this determination as of the printing of this report.

## **IX. STAFF RECOMMENDATION**

Staff believes the code amendments are consistent with and will implement the goals and policies of the Bellingham Comprehensive Plan and ensure compatibility between public and residential zoning districts, while also providing additional opportunities to inform the general public.

### **Staff Recommendation -**

Staff recommends the Planning Commission adopt the draft findings, conclusions of law and recommendation of approval for the proposed code amendments.

## **X. LIST OF ATTACHMENTS**

- ~~A.~~ Draft Findings of Fact, Conclusions and Recommendations See Attachment 4 – Exhibit A in the City Council Agenda Bill
- ~~B.~~ Draft Ordinance Attachment 4 in the City Council Agenda Bill
- ~~C.~~ Exhibit A1 - Submittal from Bellingham Public Schools
- ~~D.~~ Exhibits B1, B2, & B3 - Preliminary EMS designs submitted by Bellingham Public Schools
- ~~E.~~ Exhibits C1 & C2 - Zoning Map

**Attachment 2 (Exhibit A1)**



*Superintendent*  
Greg Baker

*Board of Directors*  
Kelly M. Bashaw  
Douglas W. Benjamin  
Camille Diaz Hackler  
Jennifer I. Mason  
Quenby M. Peterson

May 18, 2018

Mr. Brian Heinrich  
Deputy Administrator  
City of Bellingham  
210 Lottie Street  
Bellingham, WA 98225

Dear Mr. Heinrich,

Bellingham Public Schools is interested in installing electronic reader boards at all of our 22 schools. We understand that the City is considering updating their sign code in the 2018-19 work plan. Please keep us apprised of updates concerning this code and work.

Thank you,

Greg Baker, Ed.D.  
Superintendent

## Attachment 2 (Exhibit A2)



*Superintendent*  
Greg Baker

*Board of Directors*  
Kelly M. Bashaw  
Douglas W. Benjamin  
Camille Diaz Hackler  
Jenn Mason  
Katie Rose

July 10, 2020

City of Bellingham  
Planning Commission  
210 Lottie Street  
Bellingham, WA 98225

Dear Commissioners,

Thank you for the opportunity to comment on the proposed municipal code changes regarding signage in public zoning. As you know this request was brought before the city at our request and supported by the community in its approval of the Bellingham Public Schools 2018 capital facilities bond.

Reviewing the draft ordinance and staff report, we are pleased with many of the revisions supporting electronic message signs at our schools. However, there are a few minor matters we would like to address.

Section 2 – 3. D. (i) C. – As written electronic message signs are to be no more than 16 square feet when within 100’ of residential zones. While this is completely understandable given the potential light and visual impact to our residential neighbors, the district would prefer to have a 50/50 split of the entire 50 square feet of allowed signage. 25 square feet of static signage for the name of the school and 25 square feet message center. Aesthetically this would balance the signs and offer a slightly larger electronic message sign than proposed.

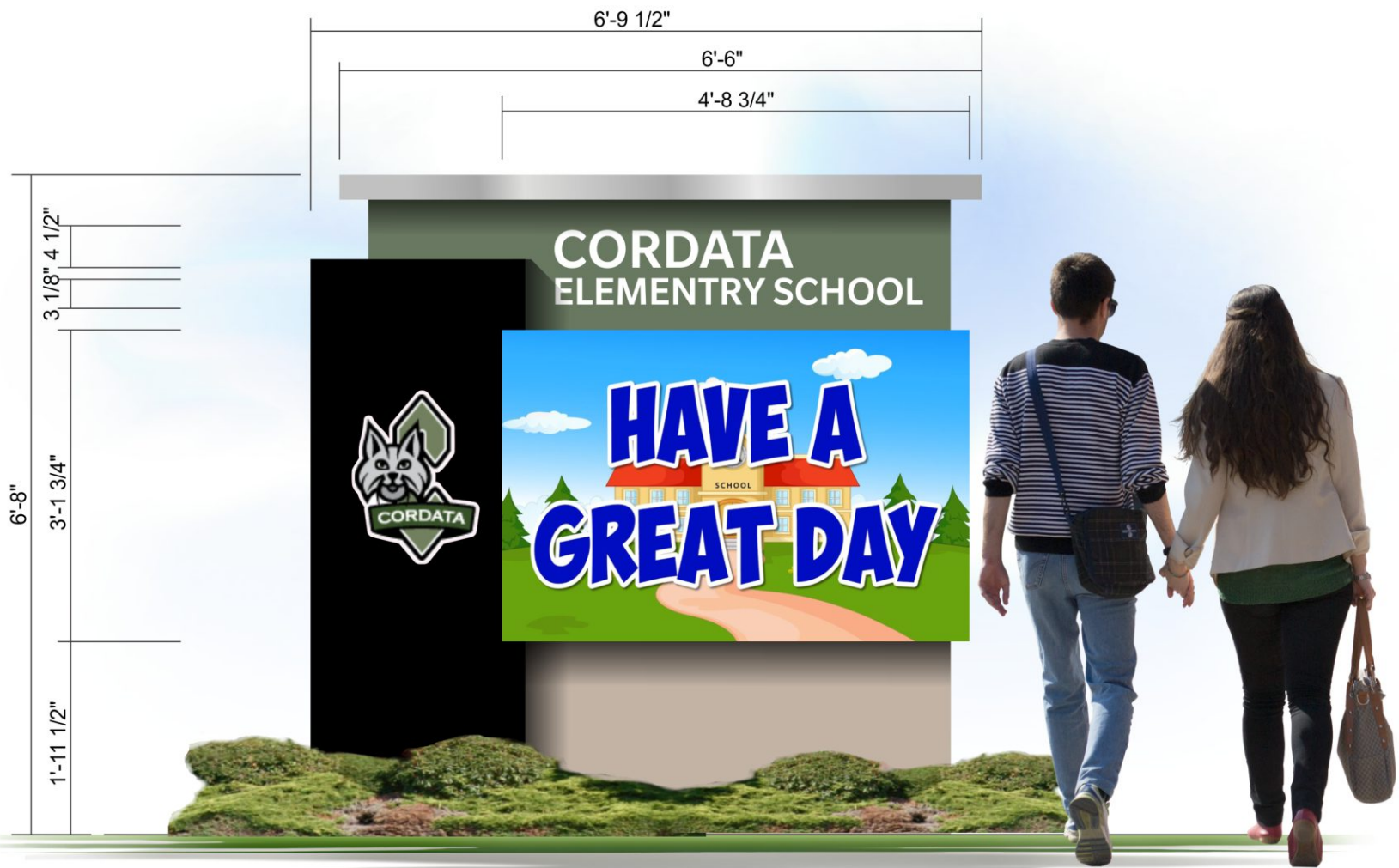
Section 2 – 3. D. (iii) A. – The district feels that five seconds is essentially static and does not offer families, students and community members the opportunity to see more than one message on what is supposed to be a ‘changeable copy’ sign. Having performed drive-by sampling at both the 25 miles per hour speed limit and 20 miles per hour when school would be in session, a five second hold appears to be too long. The district would prefer a two to three second hold. The intent is to give the passersby an opportunity to know what is going on at the specific school with more than one message.

Section 2 – 3. D. (iii) E. While early morning messaging to parents, students and the community is appreciated, it seems that allowing electronic message signs to have the same operating hours as construction noise would be more consistent with current city code. The district would recommend a 7 a.m. to 10 p.m. operating time. We feel this is adequate time to communicate with the parents, students and our community; during winter hours, this time frame reduces the potential light impact to adjacent residential uses.

Again, we greatly appreciate the city’s efforts to help us communicate with our students, families and community members.

Sincerely,

Greg Baker



**LOW PROFILE EMC MONUMENT SIGN**

One (1) D/F LED Illuminated Full Color Display Sign.

Sign base to be welded metal framework and facing, painted with acrylic polyurethane satin finish.  
LED display to be full color LED digital with wireless remote access and SM Infinity cloudware display software.  
"School" graphics to be non-illuminated computer cut 3M opaque vinyl applied to base panels.

Sign to be mounted on two 4" square tube steel poles with mounting plates. Poles and plates attached to concrete foundation with J-bolts.

Electrical to location by other. Exact location for sign tbd. (D/F or S/F determined by location)





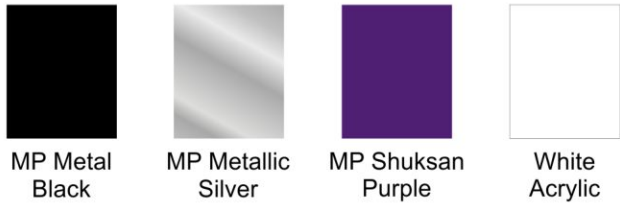
MEDIUM PROFILE EMC MONUMENT SIGN

One (1) D/F LED Illuminated Full Color Display Sign.

Sign base to be welded metal framework and facing, painted with acrylic polyurethane satin finish. LED display to be full color LED digital with wireless remote access and SM Infinity cloudware display software. "School" graphics to be non-illuminated computer cut 3M opaque vinyl applied to base panels.

Sign to be mounted on two 4" square tube steel poles with mounting plates. Poles and plates attached to concrete foundation with J-bolts.

Electrical to location by other. Exact location for sign tbd. (D/F or S/F determined by location)



<input type="checkbox"/> Sales Drawing	<input type="checkbox"/> Final Drawing	<input type="checkbox"/> Production Drawing
Client Approval	Sign Date	
Project Mgr. Approval	Sign Date:	



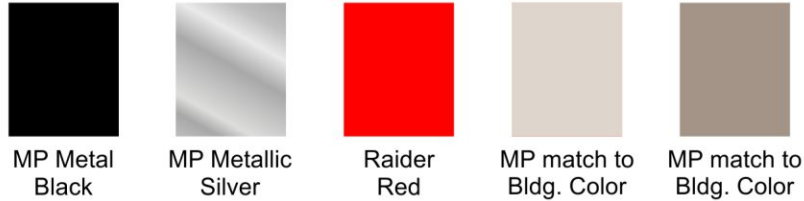
HIGH PROFILE EMC MONUMENT SIGN

One (1) D/F LED Illuminated Full Color Display Sign.

Sign base to be welded metal framework and facing, painted with acrylic polyurethane satin finish.  
LED display to be full color LED digital with wireless remote access and SM Infinity cloudware display software.  
"School" graphics to be non-illuminated computer cut 3M opaque vinyl applied to base panels.

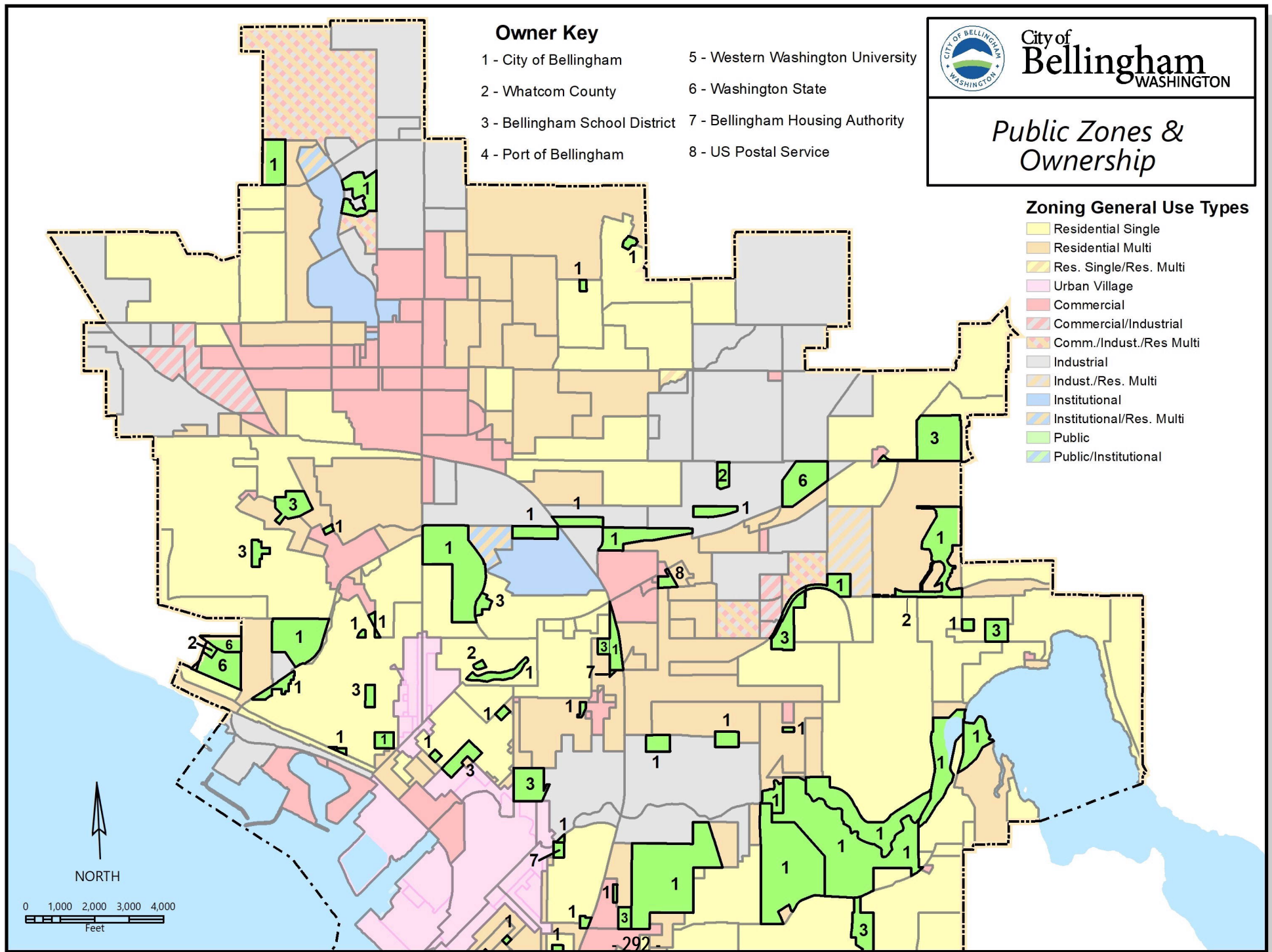
Sign to be mounted on two 4" square tube steel poles with mounting plates. Poles and plates attached to concrete foundation with J-bolts.

Electrical to location by other. Exact location for sign tbd.  
(D/F or S/F determined by location)

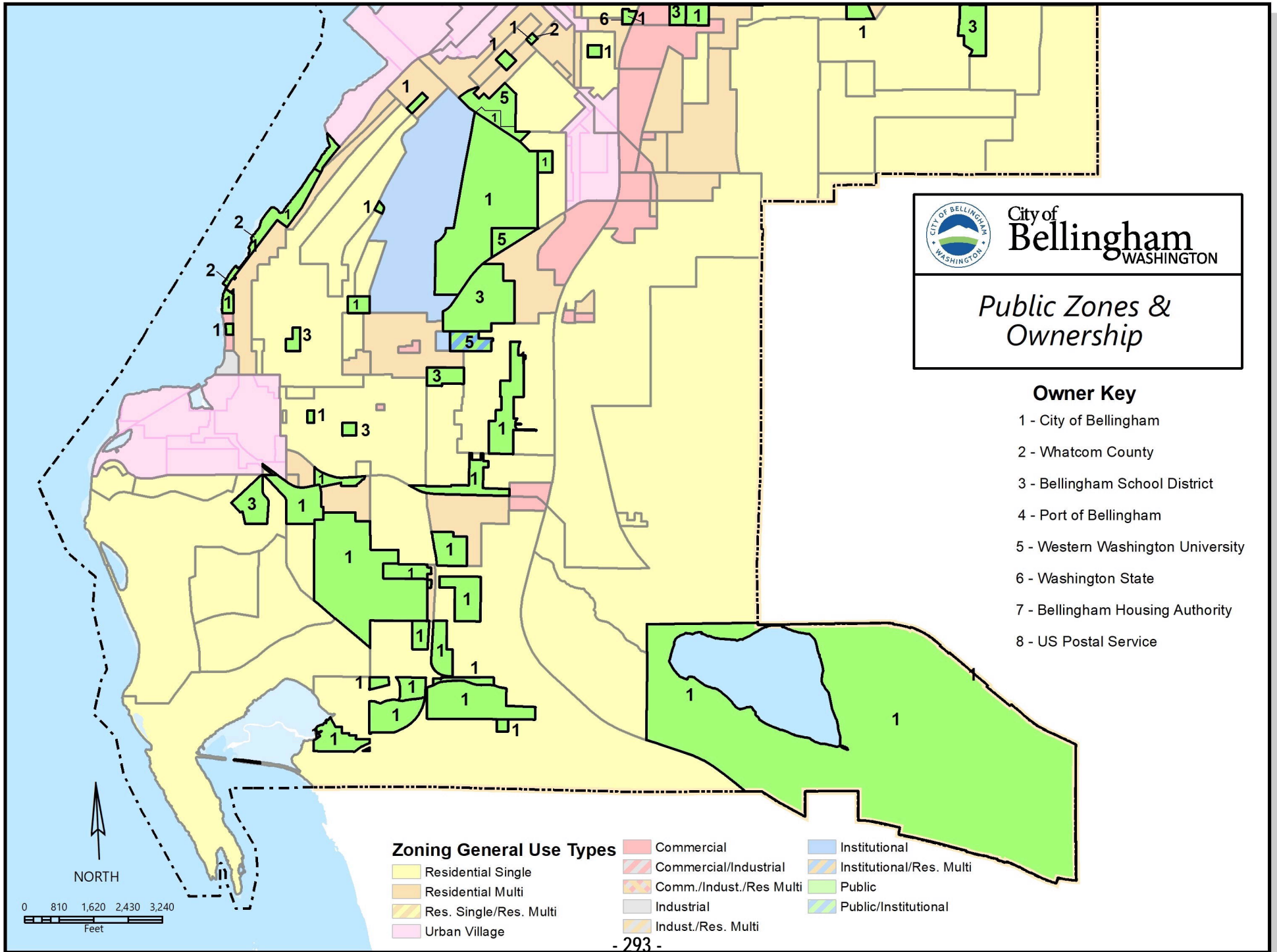


<input type="checkbox"/> Sales Drawing	<input type="checkbox"/> Final Drawing	<input type="checkbox"/> Production Drawing
Client Approval	Sign Date	
Project Mgr. Approval	Sign Date:	





# Attachment 2 (Exhibit C2)





## Attachment 3

### Planning and Community Development Department

210 Lottie Street, Bellingham, WA 98225

Phone: (360) 778-8300 Fax: (360) 778-8301 TTY: (360) 778-8382

Email: [planning@cob.org](mailto:planning@cob.org) Web: [www.cob.org](http://www.cob.org)

## Determination of Non-Significance (DNS)

SEP2020-0019

**Date of Issuance of Threshold Determination:** 6/30/2020

**Project Description:** Non-project SEPA review of proposed code amendments establishing regulations for electronic message center signs in Public zones.

**Project Location:** City of Bellingham, WA - amendments are applicable to the Public zoning designation only.

**Proponent:** City of Bellingham, 210 Lottie St. Bellingham, WA 98225

**Lead Agency:** City of Bellingham, Planning and Community Development Department (PCDD)

### Environmental Information Considered:

Environmental information includes, but is not limited to, the following documents as updated:

1. City of Bellingham 2016 Comprehensive Plan and associated SEPA DNS (SEP2015-5009) issued February 14, 2016;
2. Bellingham Municipal Code (BMC); and
3. Draft ordinance for proposed code amendments establishing regulations for electronic message center signs in Public zones.
4. Planning Commission staff report for July 16, 2020.
5. SEPA Checklist, dated June 29, 2020.

The lead agency for this proposal has determined that the project does not have a probable adverse impact on the environment. An environmental impact statement is not required under RCW 43.21.C.030(2)(c). This decision was made after review of a completed environmental checklist on file with the lead agency. This information is available to the public upon request.

- ☒ This DNS is issued under WAC 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date of issuance. Anyone wishing to comment on this threshold determination is invited to submit written comments to the PCDD by **5:00pm on 7/14/2020**.

**Appeal Rights:** Pursuant to BMC 16.20.210(D), there is no administrative appeal of this environmental determination. An appeal to the Growth Management Hearings Board shall be of the government action together with its accompanying environmental determination as required by RCW 43.21C.075(2) and RCW 36.70A.280(1)(a).

### Staff Contact:

Chris Koch, Planner  
ckoch@cob.org or 360-778-8349  
Planning and Community Development Department  
210 Lottie Street - Bellingham, WA 98225

### Responsible Official:

Kurt Nabbefeld, Development Services Manager  
Planning and Community Development Department  
210 Lottie Street, Bellingham, WA 98225

A handwritten signature in blue ink, appearing to read "K. Nabbefeld", is written over a horizontal line.

Signature

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE RELATING TO LAND USE PLANNING, AMENDING BELLINGHAM MUNICIPAL CODE (BMC) TITLE 20 TO ESTABLISH REGULATIONS FOR ELECTRONIC MESSAGE CENTER SIGNS ON PUBLIC ZONED LAND.**

**WHEREAS**, the City of Bellingham has established standards in the sign code for the design, placement, and size of signs in the community in order to protect the public health, safety, and welfare; and

**WHEREAS**, it is the purpose of the regulations, standards and criteria of this code to permit and encourage the design of signs which are responsive to the needs of the public in obtaining information about community activities, events and services; and

**WHEREAS**, the City of Bellingham recognizes that a well-informed public contributes to the well-being of the community; and

**WHEREAS**, the City of Bellingham recognizes that expanding the types of permitted signs in the Public general use type land use designation to include electronic message center signs that are able to display a range of information in a limited space can better serve the needs of the greater community; and

**WHEREAS**, the subject amendments are being initiated in response to a request from the Bellingham School District to install electronic reader boards at all of their 22 schools as a communication tool for schools, with the District having secured initial funding with the community's approval of the 2018 school bond; and

**WHEREAS**, the Bellingham Comprehensive Plan directs that the City review and update the City's sign standards to encourage context sensitive monument signs that are complementary in scale to the building architecture and site design, and discourage signs that are distracting to drivers (Policy CD-13); and

**WHEREAS**, on June 30, 2020, the City of Bellingham as lead agency under the procedures of the State Environmental Policy Act issued a Determination of Non-Significance; and

**WHEREAS**, in accordance with the Growth Management Act, the State of Washington Department of Commerce was notified on June 29, 2020 of the City's intent to adopt the amendments to the City's environment and land use regulations; and

**WHEREAS**, the Bellingham Planning Commission held a public hearing on July 16, 2020 on the amendments, with appropriate public notice provided; and

**WHEREAS**, the Planning Commission considered the staff report and comments received, and recommended approval of the proposed ordinance; and

City of Bellingham  
City Attorney  
210 Lottie Street  
Bellingham, Washington 98225  
360-778-8270

1 **WHEREAS**, the Planning Commission adopted Findings of Fact, Conclusions and  
2 Recommendations on July 16, 2020 to approve the proposed amendments (7-0) with one  
3 change which would increase the overnight "off time" of certain electronic message signs  
4 from 10PM to 6AM, to 10PM to 7AM; and  
5

6 **WHEREAS**, the Bellingham City Council held a public hearing on September 14, 2020 on the  
7 amendments, with appropriate public notice provided; and  
8

9 **WHEREAS**, the City Council finds that the amendments are appropriate and consistent with  
10 the State Growth Management Act and the Bellingham Comprehensive Plan;  
11

12 **NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:**  
13

14 **Section 1.** BMC 20.08.020 regarding Specific Definitions is amended to add the following  
15 terms:  
16

17 "Sign, Electronic message" or "Electronic message sign" means a sign containing a message  
18 or display that consists of a pattern of lights or other technology which is capable of changing  
19 at intermittent intervals in order to vary the message being communicated.  
20

21 "Video" means the use of live action shot with a video camera or creative animation(s)  
22 created through the use of computer graphic imaging, which is displayed on an electronic  
23 message sign or similar device.  
24

25 **Section 2.** BMC 20.12.040(A)(3) regarding signs in Public general use types is amended as  
26 follows:  
27

28 3. Public General Use Type.

29 a. ~~Signage shall be unlighted or indirectly lighted and limited to a size and message to~~  
30 ~~adequately identify the use.~~

31 b. ~~If city owned, the sign shall be subject to review by the Bellingham arts commission. If~~  
32 ~~not owned by the city, signage visible from beyond the property line shall be subject~~  
33 ~~to the same limitations as the permitted uses of the most stringent adjacent general~~  
34 ~~use type.~~

35 c. Sign size shall not exceed 50 square feet when located within 100 feet of a residential  
36 zone.

37 d. Electronic Message Signs. The following performance standards shall apply to  
38 electronic message signs:

39 (i) Freestanding Electronic Message Signs.

40 (A) Freestanding electronic message signs shall be monument signs only.

41 (B) Sign height shall not exceed 8 feet.

42 (C) The electronic message sign shall be constructed as an integral part of a  
43 permanent sign constructed on the site and shall not exceed 50 percent of the  
44 sign area for that sign, or 16 square feet when it is located within 100' of a  
45 residential zone. Integral shall be considered to be incorporated into the  
46 framework and architectural design of the freestanding sign.

City of Bellingham  
City Attorney  
210 Lottie Street  
Bellingham, Washington 98225  
360-778-8270

1 (ii) Wall Mounted Electronic Message Signs:

2 (A) All wall mounted signs shall be flush against the side of the building.

3 (B) The electronic message sign shall not exceed 16 square feet when it is  
4 located within 100' of a residential zone regardless of whether it's a stand-  
5 alone wall mounted sign or integrated within a larger wall mounted sign.

6 (iii) All Electronic Message Signs.

7 (A) Static Image Display Minimum. Electronic message signs which provide  
8 changing messages shall not blink or flash or change their message more  
9 frequently than once every five (5) seconds.

10 (B) Maximum Transition Time Between Static Images. Electronic message signs  
11 shall transition between static images immediately as to prevent drawn out  
12 frame animations which may result in the illusion of motion.

13 (C) Brightness. All electronic message signs shall come equipped with an  
14 automatic dimming photocell device which will automatically adjust the  
15 display's brightness based on preset levels relative to ambient light conditions.  
16 All electronic message signs shall operate at brightness levels of no more than  
17 0.3 foot-candles above ambient light levels. All electronic message signs shall  
18 also be preset to prevent luminance beyond 5,000 nits during daylight hours  
19 and 500 nits at night. Certification of these limits shall be provided by the  
20 developer prior to building permit issuance.

21 (D) Electronic message signs may be used only to advertise activities or services  
22 available on the property on which the sign is located, or to present public  
23 service information.

24 (E) Off-Times. When the sign location is within 300 feet of any primary residential  
25 building in a residential general use type, the sign shall be equipped with an  
26 automatic timer that will shut the sign off between the hours of 10:00 p.m. and  
27 ~~6:00~~ 7:00 a.m.

28 (F) Dispersal Requirements. One electronic message sign shall be permitted on  
29 each site or development complex. One additional bonus electronic message  
30 sign shall be permitted if the following conditions exist:

31 1 The second sign is located along or facing a separate street abutting the  
32 site or development complex; and

33 2 The second sign is located a minimum of 500 feet from the first permitted  
34 electronic message sign on the same site.

35 (G) No Animation or Video. Electronic message signs shall be used to display one  
36 static image for no less than the minimum time period specified herein before  
37 moving on to another static image display. Displays shall not appear to flash,  
38 undulate, or pulse, or portray explosions, imitate any form of traffic control  
39 device, display fireworks, flashes of light, or blinking or chasing lights. Displays  
40 shall not appear to move toward or away from the viewer, expand or contract,  
41 bounce, rotate, spin, twist, or otherwise portray graphics, video or animation  
42 as it moves onto, is displayed on, or leaves the signboard.

43 (H) Malfunctioning Sign. In the event that a sign is malfunctioning, the owner of  
44 said sign shall turn the sign off until such time that the sign is repaired and  
45 functioning correctly in compliance with this section.

46  
City of Bellingham  
City Attorney  
210 Lottie Street  
Bellingham, Washington 98225  
360-778-8270

**Section 3.** BMC 20.42.050(D)(3) regarding performance standards for signs in Public general use types is amended as follows:

3. Signs.

- a. Signage shall be ~~unlighted or indirectly lighted~~ and limited to a size and message to adequately identify the use.
- b. If city owned, the sign shall be subject to review by the Bellingham arts commission. If ~~not owned by the city, signage visible from beyond the property line shall be subject to the same limitations as the permitted uses of the most stringent adjacent general use type.~~
- c. Sign size shall not exceed 50 square feet when located within 100 feet of a residential zone.
- d. Electronic Message Signs. The following performance standards shall apply to electronic message signs:
  - (i) Freestanding Electronic Message Signs.
    - (A) Freestanding electronic message signs shall be monument signs only.
    - (B) Sign height shall not exceed 8 feet.
    - (C) The electronic message sign shall be constructed as an integral part of a permanent sign constructed on the site and shall not exceed 50 percent of the sign area for that sign, or 16 square feet when it is located within 100' of a residential zone. Integral shall be considered to be incorporated into the framework and architectural design of the freestanding sign.
  - (ii) Wall Mounted Electronic Message Signs:
    - (A) All wall mounted signs shall be flush against the side of the building.
  - (iii) All Electronic Message Signs.
    - (A) Static Image Display Minimum. Electronic message signs which provide changing messages shall not blink or flash or change their message more frequently than once every five (5) seconds.
    - (B) Maximum Transition Time Between Static Images. Electronic message signs shall transition between static images immediately as to prevent drawn out frame animations which may result in the illusion of motion.
    - (C) Brightness. All electronic message signs shall come equipped with an automatic dimming photocell device which will automatically adjust the display's brightness based on preset levels relative to ambient light conditions. All electronic message signs shall operate at brightness levels of no more than 0.3 foot-candles above ambient light levels. All electronic message signs shall also be preset to prevent luminance beyond 5,000 nits during daylight hours and 500 nits at night. Certification of these limits shall be provided by the developer prior to building permit issuance.
    - (D) Electronic message signs may be used only to advertise activities or services available on the property on which the sign is located, or to present public service information.
    - (E) Off-Times. When the sign location is within 300 feet of any primary residential building in a residential general use type, the sign shall be equipped with an automatic timer that will shut the sign off between the hours of 10:00 p.m. and ~~6:00~~ 7:00 a.m.

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(F) Dispersal Requirements. One electronic message sign shall be permitted on each site or development complex. One additional bonus electronic message sign shall be permitted if the following conditions exist:

1 The second sign is located along or facing a separate street abutting the site or development complex; and

2 The second sign is located a minimum of 500 feet from the first permitted electronic message sign on the same site.

(G) No Animation or Video. Electronic message signs shall be used to display one static image for no less than the minimum time period specified herein before moving on to another static image display. Displays shall not appear to flash, undulate, or pulse, or portray explosions, imitate any form of traffic control device, display fireworks, flashes of light, or blinking or chasing lights. Displays shall not appear to move toward or away from the viewer, expand or contract, bounce, rotate, spin, twist, or otherwise portray graphics, video or animation as it moves onto, is displayed on, or leaves the signboard.

(H) Malfunctioning Sign. In the event that a sign is malfunctioning, the owner of said sign shall turn the sign off until such time that the sign is repaired and functioning correctly in compliance with this section.

**Section 4.** The Council agrees with, and hereby adopts the July 16, 2020 Findings of Fact, Conclusions and Recommendations of the Planning Commission, attached as **Exhibit A**.

**PASSED** by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Council President

**APPROVED** by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Mayor

**ATTEST:** \_\_\_\_\_  
Finance Director

City of Bellingham  
City Attorney  
210 Lottie Street  
Bellingham, Washington 98225  
360-778-8270

**APPROVED AS TO FORM:**

Office of the City Attorney

Published:

## **Attachment 4 - Exhibit A**

# **BELLINGHAM PLANNING COMMISSION FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS**

**JULY 16, 2020**

### **SUMMARY**

Following the public hearing and deliberation on the proposed amendments to Bellingham Municipal Code Title 20 to establish regulations for electronic message center signs in Public land use designations, the Bellingham Planning Commission has determined that the proposed changes comply with, and will implement, the goals and policies of the Bellingham Comprehensive Plan.

## **I. FINDINGS OF FACT**

### **1. Proposal Description:**

Currently, "public" zoning does not allow electronic message signs and specifies that signs can only be unlighted or indirectly lighted. There is no limit to the size or height of signage if city owned provided it is reviewed by the Bellingham Arts Commission with their recommendation forwarded to the Mayor for final approval. If not owned by the city, signage in public zones that is visible from beyond the property line is subject to the same limitations as the permitted uses of the most stringent adjacent zoning designation. Accordingly, signage visible from residential single and residential multi zones is limited to 16 and 32 square feet respectively. Signage visible from commercial and industrial zones varies but is much more permissive in size.

The proposal would allow electronic message signs (EMSs) in public zones while limiting the size of all signs to 50 square feet when located within 100 feet of a residential zone boundary. This would enable EMSs as a communication tool in "public" zoning designations to provide the public with information about activities, events and services of community interest. Freestanding EMSs would be limited to monument signs; other freestanding signage (sans the EMS) could be pole or monument signage. Building (wall) mounted signage would be unlimited except when located within 100 feet of a residential zone boundary as outlined above. The existing provision that city owned signs be reviewed by the Bellingham Arts Commission is retained.

### **2. Background Information/Procedural History:**

The subject amendments are being initiated by the Planning and Community Development Department (PCDD) in response to a request from the Bellingham Public Schools (BPS) to install electronic reader boards at all of their 22 schools as a communication tool for schools. BPS secured initial funding for electronic message signs with the community's approval of the 2018 school bond.

The PCDD work program includes a comprehensive update of the City's sign code for all zoning districts. However, a date certain to begin the work has not been established as other projects have been prioritized ahead of it. Also, the scale of the project is large and staff resources are limited. The City had been corresponding with BPS since early 2018 with assurance of pending amendments to the City's sign codes, but given existing circumstances, PCDD is electing to initiate BPS's request while school bond money is still available. PCDD sees a mutual benefit to the proposed amendments as they would enable the city to install said signs on City owned property zoned public for purposes of providing public information on community activities, events, and services.

On July 16, 2020 the Planning Commission held a public hearing on the proposed code amendments. The Commission discussed public comment received from Bellingham Public Schools (BPS) and recommended incorporating BPS's suggestion to change the required overnight "off hours" for certain electronic message signs from 10PM to 6AM, to 10PM to 7AM, consistent with the allowed operating hours for construction noise.

### **3. Public Comment:**

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.

One public comment was submitted from Bellingham Public Schools prior to the public hearing. No public testimony was taken at the Planning Commission hearing.

### **4. State Environmental Policy Act (SEPA) Determination:**

A non-project SEPA Determination of Non-Significance (DNS) was issued on June 30, 2020. 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, or after, publication of the meeting packet.

### **5. Consistency with the Bellingham Comprehensive Plan:**

Zoning and development codes are intended to implement the visions, goals and policies of the comprehensive plan. The following excerpts are from the city's plan.

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

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

**GOAL CD-1** Promote streetscapes that enhance the economic vitality and overall visual quality of the City, support the circulation network, and support pedestrian-scale streets and patterns of activity.

**GOAL CD-4** Provide a well-designed, pedestrian-friendly, and community-oriented environment.

**Policy CD-13** Review and update the City's sign standards to:

- Encourage signs to be complementary in scale to the building architecture and site design.
- Discourage multiple or large signs that clutter, distract, or dominate the streetscape of commercial areas.
- Encourage replacement of pole signs with context-sensitive monument and building signs, and prohibit new pole signs.
- Encourage the consolidation of signs on a single structure where a commercial development includes multiple businesses.
- Encourage signs on multi-tenant buildings to be complementary in size and style for all commercial and mixed-use zones.
- Discourage signs that are distracting to drivers.

- Continue to ensure that there will be no increase in the existing number of billboard signs allowed in the City or in the urban growth area (UGA) as of the date of adoption of this plan, and consider amortization of existing billboards.
- Use design review for new signs to protect views of significant land forms and community features, avoid visual clutter, and ensure Citywide design standards are met.

The proposed code amendments, as amended by the Commission to change the required overnight off hours for certain electronic message signs from 10PM to 6AM, to 10PM to 7AM, are consistent with the Land Use and Community Design goals and policies referenced. They ensure that new signs in public zones are complementary to adjacent uses in scale, context and content, while still providing for adequate use identification and property protection.

## II. CONCLUSIONS

1. The proposed amendments, as amended by the Commission, will clarify and allow electronic message signs in the Public zoning designation.
2. Electronic message signs can affect public safety, welfare and community character, however with appropriate restrictions these potential impacts can be reduced or eliminated.
3. The proposed amendments include restrictions such as decreasing the size, scale, brightness, movement ability and duration of message, and on-time. These restrictions allow sign owners to express a message, communicate upcoming events and provide public information and services, while protecting public safety and community character.
4. The proposed code 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 with the following amendments to draft ordinance:

1. Amend draft BMC 20.12.040(A)(3)(d)(iii)(E) as follows:


Off-Times. When the sign location is within 300 feet of any primary residential building in a residential general use type, the sign shall be equipped with an automatic timer that will shut the sign off between the hours of 10:00 p.m. and ~~6:00~~ 7:00 a.m.


2. Amend draft BMC 20.42.050(D)(3)(d)(iii)(E) as follows:

Off-Times. When the sign location is within 300 feet of any primary residential building in a residential general use type, the sign shall be equipped with an automatic timer that will shut the sign off between the hours of 10:00 p.m. and ~~6:00~~ 7:00 a.m.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

  
\_\_\_\_\_  
Planning Commission Chairperson

ATTEST:   
\_\_\_\_\_  
Recording Secretary

APPROVED AS TO FORM:   
\_\_\_\_\_  
City Attorney

**RECORD OF PROCEEDINGS OF THE PLANNING COMMISSION  
CITY OF BELLINGHAM, WASHINGTON**

Thursday  
July 16, 2020  
Video Recorded

7:00 PM  
Online Zoom Webinar  
[www.cob.org](http://www.cob.org)

**Call to Order / Roll Call**

**Present:** Ali Taysi; Mike Estes (Chair); Steve Crooks, Phyllis McKee, Makenzie Graham and Scott Jones

**Absent:**

**Approval of Minutes**

No minutes were considered for approval.

**Public Comment Period**

*Opportunity for citizens to speak informally to the Planning Commissioners on any subject not listed on the agenda. Speakers are allowed a MAXIMUM of three (3) minutes to address the Commission. Speakers will not be required to disclose their address.*

No testimony provided.

**PUBLIC HEARING**

*The consideration of the proposed amendments to Bellingham Municipal Code Title 20 to establish regulations for electronic message signs on Public zoned land, which are intended to improve public access to information on community activities, events and services.*

Kurt Nabbefeld provided a brief history on the sign code and staff's intent to make some changes to the code in its entirety in the future. He explained the proposal before them comes from the Bellingham School District and shared that it only applies to the public zone.

Chris Koch discussed the regulations as they currently exist and how the proposed amendments to BMC 20 would change those for publicly zoned properties. He pointed out that the Parks Department reviewed the packet and did not have any issues with the recommendations. He shared some initial concepts the Bellingham School District submitted with their application with regard to the size and styles of potential signage.

Chris stated the Bellingham School District requested three changes to the recommendations in the staff report:

- 1) The size of an electronic message sign, within 100' of a residential zone, be allowed to be "up to" 25 sq. ft. vs the City's recommendation of no larger than 16 sq. ft., which is consistent with existing regulations. *Staff does not support this change.*
- 2) The time of transition between static images be decreased to 2 seconds, vs. the City's recommendation of 5 seconds. *Staff does not support this change.*
- 3) The time of day/night that the sign is shut off – the school district would like it to be from 10pm-7am vs. the City's recommendation of 10pm-6am. *Staff supports this change.*

**Public Comment**

No public comment taken.

### **Commissioner Question/Comment**

There was a brief conversation about possible electronic signs in the City parks.

There was a discussion about the amount of time between static images. It was pointed out that 2 seconds could be distracting and dangerous. It was also stated that 5 seconds could be too long and not much information could be received when driving past.

There was a brief conversation about what types of messages could be displayed on the signs.

**MOTION: Steve Crooks/Ali Taysi moved to amend BMC 20 to require electronic signs be shut off between 10pm-7am.**

**VOTE: MOTION PASSES 6-0**

**MOTION: Steve Crooks / Ali Taysi moved to accept the Findings of Fact, Conclusions and Recommendation found in the July 16, 2020 staff report, as modified, and forward a recommendation of approval to City Council.**

There was support expressed for this ordinance and the thought that went into some of the regulations that were included (timing of the screen changes and monument size).

**VOTE: MOTION PASSES 6-0**

### **Old/New Business**

#### Shoreline Committee Report

Steve Crooks reported on the July 9, 2020 meeting and recommendations made by the committee.

### **Adjournment**

Minutes prepared by:

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Heather Aven, Recording Secretary

Minutes edited by Planning Commission members and various Planning Staff.



## BELLINGHAM CITY COUNCIL

210 Lottie Street, Bellingham, Washington 98225

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## BELLINGHAM CITY COUNCIL NOTICE OF PUBLIC HEARING

Notice is hereby given that the Bellingham City Council will hold a public hearing on **September 14, 2020 at 7:00 PM**, or as soon thereafter as possible during their Regular City Council meeting, which will take place remotely, to take public comment on the following:

The consideration of proposed amendments to Bellingham Municipal Code Title 20 to establish regulations for electronic message signs on Public zoned land which are intended to improve public access to information on community activities, events and services.

Detailed information can be found at: [meetings.cob.org](http://meetings.cob.org) five days prior to the public hearing.

**Staff Contact:** Chris Koch, Planner II, (360) 778-8349 or [ckoch@cob.org](mailto:ckoch@cob.org)

Anyone wishing to comment on this item is invited to do so. Advanced testimony by mail, email, and telephone is accepted and strongly encouraged by sending comments to the Council Office, 210 Lottie Street, [ccmail@cob.org](mailto:ccmail@cob.org), or phone (360) 778-8200 to be received prior to 10:00 a.m. Wednesday, September 9, 2020 to be included in the agenda packet. Comment received after that will be distributed to Council but not included in the published packet. Anyone wishing to testify live during the public hearing can do so by registering at the following link: <https://www.cob.org/cc091420>. This link can be used before the meeting to pre-register or during the meeting to register and immediately join the meeting. Pre-registration is encouraged.

Those who would like to listen in by phone can do so using any of the following phone numbers:

- (253) 215-8782
- (346) 248-7799
- (669) 900-6833
- (301) 715-8592
- (312) 626-6799
- (929) 205-6099

Meeting ID: 929-4178-5654

Password: 9

Contact the Legislative Assistant at (360) 778-8200 for additional assistance prior to the meeting. Thank you.

Publication date: August 14, 2020

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