

**AN ORDINANCE OF THE CITY OF BELLINGHAM AMENDING
BMC 13.70 MULTIMODAL TRANSPORTATION CONCURRENCY**

WHEREAS, the City has a responsibility under State law (RCW 36.70A.070 (6)(b)) to measure, monitor, and maintain locally adopted level of service (LOS) standards for the multimodal transportation network; and

WHEREAS, The Transportation Element of the Bellingham Comprehensive Plan adopts Person Trips Available by Concurrency Service Area as the City LOS standard for the multimodal transportation network; and

WHEREAS, the City is required to adopt transportation concurrency measures to ensure that adequate transportation facilities exist or are provided concurrently with development, according to local land use priorities and LOS standards, or that funding to provide the transportation facilities is in place within a three-year time period; and

WHEREAS, a portion of the Bellingham Urban Growth Area totaling 220 acres was annexed to the City of Bellingham in 2009; and

WHEREAS, the map of Concurrency Service Areas in BMC 13.70 covers the incorporated City limits of Bellingham and must be amended to reflect the inclusion of the newly annexed area within City limits; and

WHEREAS, a new definition for "Multi Use Trails" is proposed under BMC 13.70.020 to specify which off-street multi-use trails are considered part of the multimodal transportation network within each Concurrency Service Area; and

WHEREAS, the City's SEPA Official has reviewed this Ordinance and related environmental checklist and has issued a Determination of Non-Significant (DNS) environmental impact (SEP2010-00002) under the State Environmental Policy Act; and

WHEREAS, as required by RCW 36.70.106, notice of the City's intent to adopt a new Multimodal Transportation Concurrency Management Ordinance was filed with the Department of Commerce on January 28, 2010, and sent to other reviewing agencies at least 60 days prior to the effective date of this ordinance; and

WHEREAS, after mailed and published notice of the proposed amendments to BMC 13.70 Multimodal Transportation Concurrency, the Planning Commission held a public hearings on the proposed amendments on March 11, 2010; and

WHEREAS, the Planning Commission considered the staff report, engaged in deliberation, and voted 6-0 (Commissioner Matsumoto absent) to recommend that the City Council adopt the proposed changes to BMC 13.70 in the staff report; and

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1 **WHEREAS**, the Planning Commission considered the staff report, engaged in
2 deliberation, and voted 6-0 (Commissioner Matsumoto absent) to recommend that the City
3 Council adopt the proposed changes to BMC 13.70 in the staff report; and
4

5 **WHEREAS**, after mailed and published notice, the City Council held a public hearing
6 on the proposed amendments to BMC 13.70 Multimodal Transportation Concurrency on
7 March 29, 2010; and
8

9 **WHEREAS**, the City Council voted 5-2 to remand the proposed changes back to the
10 Transportation Commission for review and recommendation;
11

12 **WHEREAS**, the City Council has considered the staff report, public comment
13 received, and the Planning Commission Findings of Fact and Conclusions; and
14

15 **WHEREAS**, the City Council voted 5-2 to remand the proposed changes back to the
16 Transportation Commission for review and recommendation; and
17

18 **WHEREAS**, the Transportation Commission reviewed the staff proposed changes
19 and voted 8-0 (One Commissioner absent) to recommend approval to City Council; and
20

21 **WHEREAS**, the City Council agrees with and hereby adopts the Findings of Fact,
22 Conclusions and Recommendations of the Bellingham Planning Commission and the
23 Transportation Commission; and
24

25 **WHEREAS**, the proposed amendments to BMC 13.70 Multimodal Transportation
26 Concurrency are consistent with the goals and policies of the Bellingham Comprehensive
27 Plan, the Countywide Planning Policies, and the GMA.
28

29 **NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF**
30 **BELLINGHAM:**
31

32 **Section 1: Text and map amendments to Bellingham Municipal Code Chapter "BMC**
33 **13.70.000 MULTIMODAL TRANSPORTATION CONCURRENCY"** are hereby adopted as
34 follows:
35

36 **13.70.000 Multimodal Transportation Concurrency Management**
37

38 **13.70.010 Authority and Purpose**
39

- 40 A. An ORDINANCE adopting a Multimodal Transportation Concurrency Management
41 system for pedestrian, bicycle, and transit facilities, as well as arterial streets within
42 the Bellingham City limits, as required by the Growth Management Act (RCW
43 36.70A.070(6)(e)).
44
- 45 B. The purpose of this ordinance is to establish a Multimodal Transportation
46 Concurrency Management program to ensure that adequate multimodal

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1 transportation capacity in the form of "person trips" is available prior to, or concurrent
2 with, final approval of development permits.

- 3
4 C. Upon annexation to the City of Bellingham, newly incorporated areas will be classified
5 and evaluated as Type 3 CSA's unless the CSA map indicates otherwise.
6
7

8 **13.70.020 Definitions Specific to Concurrency Management**
9

10 **Adequate Multimodal Transportation Facilities and Services** means pedestrian,
11 bicycle, transit, and arterial street facilities which have the capacity to serve
12 development while meeting the City's adopted level of service (LOS) standards.
13

14 **Arterial Street** means any street that the Public Works Department has classified and
15 adopted as a primary, secondary, or collector arterial in the Transportation Element of
16 the Bellingham Comprehensive Plan.
17

18 **Calculated Level of Service (LOS)** means the assessment of the number of person
19 trips available in the committed multimodal transportation system compared to the
20 multimodal transportation demands of new development, measured in person trips
21 available.
22

23 **Committed Multimodal Transportation System** means the entire system of
24 multimodal transportation facilities and services used to calculate person trips
25 available relative to a development proposal. It includes existing and proposed
26 pedestrian, bicycle, transit, and arterial street facilities and services, which are
27 adopted in the Transportation Element of the Bellingham Comprehensive Plan with a
28 financial commitment for construction in the first, second, or third years of the most
29 current adopted Six-Year Transportation Improvement Program, or for which other
30 financial commitments have been secured. Related components of the committed
31 multimodal transportation system include:
32

- 33 1) State highways and freeways within the City;
34
35 2) WTA transit routes and frequency, as identified in WTA Strategic Plans;
36
37 3) Park and ride lot locations;
38
39 4) High occupancy vehicle exclusive lanes; and
40
41 5) Projects to be provided by the State, cities or other jurisdictions may become
42 part of the committed transportation system upon decision of the Director of
43 Public Works. The Director of Public Works may make adjustments to the
44 committed transportation system for corrections, updates, and modifications
45 concerning costs; revenue sources; acceptance of facilities pursuant to
46 dedications which are consistent with the adopted comprehensive plan; or the

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1 date of construction (scheduled for completion within the six-year period) of
2 any facility enumerated in the Six-Year Transportation Improvement Program.

- 3
4 6) Developer committed improvements for arterials, transit, pedestrian, and/or
5 bicycle facilities.
6

7
8 **Concurrency** means that adequate transportation facilities are in place at the time of
9 development approval or that a financial commitment is in place to complete the
10 improvements or strategies needed for adequate transportation facilities within six
11 years. Bellingham requires completion of adequate transportation facilities within
12 three years. Concurrency, as required by the 1990 Growth Management Act (RCW
13 36.70A.070(6)), means that the City may only permit development approval if a
14 development would not cause level of service to fall below the City's adopted LOS
15 standard of Person Trips Available within Concurrency Service Areas (CSA). For
16 purposes of meeting the Growth Management Act requirements, in addition to City
17 multimodal transportation facilities, the City will incorporate State highways of regional
18 significance within the calculation of Person Trips Available, but will not apply
19 concurrency to Highways of Statewide Significance consistent with RCW 47.06.140.
20 The City will only include Whatcom County or other transportation arterials outside of
21 the City's jurisdiction in the calculation of Person Trips Available according to an
22 executed interlocal agreement with the controlling jurisdiction or agency.
23

24 **Concurrency Application** means formal submittal of a Concurrency Application
25 Form to the Public Works Department identifying the complete scope and information
26 needed to calculate the associated person trip generation of a proposed
27 development. The concurrency application is the applicant's written request seeking
28 review and approval of transportation concurrency from the City.
29

30 **Concurrency Approval** means a determination by the Public Works Department that
31 adequate person trips are available and the operational level of service (LOS) will not
32 fall below the adopted level of service (LOS) standard due to transportation impacts
33 created by the proposed development.
34

35 **Concurrency Evaluation** means the process, which may include a trip generation
36 analysis by the applicant, to determine whether adequate person trips are available
37 for a proposed development.
38

39 **Concurrency Management System** means the procedures and processes used by
40 the City Public Works Department to determine that development permit approvals
41 will meet the City's transportation concurrency requirements.
42

43 **Concurrency Measurement Point** means a specific location on the multimodal
44 transportation network used to measure vehicle traffic volume or transit service
45 frequency (See Table 1).
46

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1 **Concurrency Mitigation** means transportation demand management strategies
2 and/or multimodal transportation facility improvements constructed or financed by a
3 developer which provides additional person trips for the facility which are needed to
4 provide adequate Person Trips Available to serve the development proposal.
5 Concurrency Mitigation applies to pedestrian, bicycle, transit, and arterial street
6 facilities.

7
8 **Concurrency Service Area** means a defined geographic area in which concurrency
9 measurements points provide data used to calculate the number of Person Trips
10 Available to new development on the transportation network serving the area (See
11 Figure 2).
12

13 **Development** means specified improvements or changes in use of land, designed or
14 intended to permit a use of land which will contain more dwelling units or buildings
15 than the existing use of the land, or to otherwise change the use of the land or
16 buildings/improvements on the land in a manner that will increase the number of
17 person trips generated by the existing use of the land, and that requires a
18 development permit from the City. A phased development is any development
19 involving multiple buildings where issuance of building permits could occur for
20 individual buildings.
21

22 **Final Certificate of Concurrency** means the final certificate issued by the Public
23 Works Department confirming the availability and reservation of a specified amount of
24 capacity on the committed transportation system specific to the approved permit for
25 development. A Final Certificate of Concurrency must be issued concurrently with
26 development permit approval to account for any reduction in person trip reservation
27 from Temporary Certificate of Concurrency.
28

29 **Financial Commitment** consists of the following:
30

- 31 1) Revenue designated in the most currently adopted Six-Year Transportation
32 Improvement Program for multimodal transportation facilities or strategies
33 comprising the committed multimodal transportation system. Projects to be
34 used in defining the committed multimodal transportation system for the
35 calculation of Person Trips Available shall represent those projects that are
36 identified as fully funded for construction in the first, second, or third years of
37 the adopted Six-Year Transportation Improvement Program; or
38
- 39 2) Revenue from federal or state grants for which the City has received notice of
40 approval; or
41
- 42 3) Revenue or secure bond that is assured by an applicant in a form approved by
43 the City in a voluntary agreement to complete adequate transportation
44 facilities within three years; and/or
45
- 46 4) Budgeted WTA service expansions.

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1
2 **Growth Management Act (GMA)** means the Washington State Growth Management
3 Act enacted in 1990 and approved amendments.

4
5 **Interlocal Agreement** means an executed legal instrument structuring binding
6 relationships between political entities as defined by RCW 39.34.

7
8 **Level of Service (LOS) Standard** means the Person Trips Available (PTA) within
9 each Concurrency Service Area (CSA) to serve new development as adopted in the
10 Transportation Element of the Comprehensive Plan.

11
12 **Multi-Use Trails include:**

- 13 1.) Off-street multiuse trails that are used for incidental alternative transportation
14 purposes, in addition to the recreational purpose that they serve, that provide a
15 safe alternative to unmarked bicycle routes on arterial streets;
- 16 2.) Paved or prepared crushed rock surface trails. Trails with adequate drainage,
17 and smooth even surface facilitating safe travel by cyclists. Trails with stairs,
18 large roots, rocky sections, off-camber cross-sections, or areas with persistent
19 standing water/puddles are not included;
- 20 3.) Trails that are at least 6-feet, but preferably 8-feet or more, in width to facilitate
21 safe bi-directional passage of cyclists and pedestrians;
- 22 4.) Trails with slopes/grades of generally less than 5% average with maximum grades
23 of less than 12%.

24
25 **Peak Hour Project Trips** means the person trips estimated to be generated by a
26 proposed development during the one-hour weekday afternoon period during which
27 the greatest volume of users are on the multimodal transportation system. The peak
28 hour project trips shall be estimated based on procedures identified in the City's
29 Development Guidelines and Improvement Standards Manual. The peak hour project
30 trips are used to determine Transportation Concurrency for development.

31
32 **Peak Hour Vehicle Traffic** means vehicle traffic volumes during the one-hour
33 weekday afternoon period during which the greatest volume of vehicle traffic uses the
34 arterial system, as identified separately at each appropriate Concurrency
35 Measurement Point.

36
37 **Person Trips Available (PTA)** means the ability of the committed transportation
38 system to accommodate the transportation impacts of new development within a
39 Concurrency Service Area (CSA) and is expressed in terms of weekday PM peak
40 hour person trips available. For purposes of the concurrency evaluation, the available
41 person trips will be based on the total person trips calculated for each travel mode

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1 less the already used person trips for that mode. The sum of the available person
2 trips for each mode will be the total available person trips for each concurrency
3 evaluation area.
4

5 **SEPA** means the State Environmental Policy Act (RCW 43.21) as implemented by
6 the City of Bellingham.
7

8 **Six-Year Transportation Improvement Program** means the expenditures
9 programmed by the City for capital purposes over the next six-year period in the Six-
10 Year Transportation Improvement Program pursuant to RCW 35.77.010. The financial
11 plan underlying the adopted Six-Year Transportation Improvement Program identifies
12 all applicable and available revenue sources, and the plan forecasts these revenues
13 through the six-year period with reasonable assurance that such funds will be timely
14 put to such ends.
15

16 **Temporary Certificate of Concurrency** means the initial certificate issued by the
17 Public Works Department confirming the availability and reservation of a specified
18 amount of capacity on the committed transportation system specific to the proposed
19 development.
20

21 **Transit-Oriented Development (TOD)** means land use development that generally
22 has the following characteristics:
23

- 24 • A local node containing a mixture of uses in close proximity including office,
25 residential, retail, public and civic uses;
- 26
- 27 • High density, high-quality development within 10-minute walk (¼ to ½ mile
28 radius) surrounding transit stop;
- 29
- 30 • Reduced and managed parking inside 10-minute walk (¼ to ½ mile radius)
31 surrounding transit stop;
- 32
- 33 • Transit stop as prominent feature of development;
- 34
- 35 • Walkable design with pedestrian as the highest priority;
- 36
- 37 • Designed to include the easy use of bicycles, scooters, and other non-
38 motorized transportation modes; and
- 39
- 40 • In some cases, supplemental transit systems including trolleys, streetcars,
41 and, where feasible, regional light rail or heavy rail systems.
42

43 **Transportation Mitigation** includes all non-concurrency measures required by City
44 development regulations, State Environmental Policy Act (SEPA) requirements, and
45 Traffic Impact Fee (TIF) assessment to mitigate the non-concurrency related
46 transportation impacts from a proposed development.

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1
2 **Transportation Demand Management (TDM) Strategies** means techniques or
3 programs that reduce single-occupant vehicle commute travel or improve the capacity
4 of a transportation facility and that are approved by the Public Works Department.
5 TDM Strategies may include but are not limited to vanpooling, carpooling, and public
6 transit, access management, signalization, and channelization.
7

8 **Travel Demand Forecast Model** is the City's computerized transportation model,
9 which is used to develop and analyze peak hour travel demands on the City's
10 transportation facilities. This information is used as the basis for the Transportation
11 Element of the Bellingham Comprehensive Plan and in other transportation planning
12 and traffic engineering applications.
13

14 **13.70.030 Applicability**

- 15
16 A. A Temporary Certificate of Concurrency issued by the Public Works Department is
17 required for a development permit application to be determined as complete for
18 review by City staff.
19

20
21 **13.70.040 Timing of Concurrency Review**

- 22
23 A. A Temporary or Final Certificate of Concurrency must be in effect for the proposed
24 project at the time of application for development permits. Non-exempt applications
25 without a valid Certificate of Concurrency shall be considered an incomplete
26 application.
27
28 B. A Temporary Certificate of Concurrency shall expire one year after issuance unless a
29 development permit application for the project has been submitted to the City and has
30 been determined to be complete.
31

32 **13.70.050 Concurrency Evaluation**

- 33
34 A. A concurrency application and concurrency evaluation shall be provided by the
35 applicant for each proposed development permit application.
36
37 1) The concurrency evaluation shall be conducted for the specific property, uses,
38 densities and intensities based on information provided in the concurrency
39 application.
40
41 2) Changes to the proposed uses, densities, and intensities that create additional
42 impacts on transportation facilities shall be subject to an additional
43 concurrency evaluation.
44

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- 3) The concurrency evaluation will be conducted as part of the required traffic study as set forth in the City's Development Guidelines and Improvement Standards Manual.
- 4) In conducting the concurrency evaluation, the calculated level of service (LOS) standard for vehicle trip generation will be compared to the adopted (LOS) standard for each impacted arterial street.
- 5) Arterial street LOS measurements will be combined with the following other variables to calculate multimodal person trips (See Table 1, below):
 - a. Degree of pedestrian network completeness;
 - b. Degree of bicycle network completeness; and
 - c. Seated capacity and frequency of public transit bus routes.

- B. The Public Works Department will review the concurrency evaluation and comments will be provided per the City's Development Guidelines and Improvement Standards Manual.
- C. The Public Works Department will maintain a listing of all pending concurrency applications, concurrency approvals, and Temporary and Final Certificates of Concurrency.
 - 1) The projected person trips generated by each proposed development project that has received a Temporary Certificate of Concurrency shall be accounted for as part of subsequent concurrency evaluations.
- D. In order to monitor the cumulative effect of exempt development approvals (as defined in Section 13.70.090 of this ordinance) on the level of service (LOS) for arterials, as well as completeness of pedestrian and bicycle networks and the seated capacity and frequency of public transit routes, the concurrency evaluation will include the impacts of exempt development approvals in all relevant concurrency monitoring reports. This will be measured through annual City traffic counts on arterial streets, ridership statistics provided by Whatcom Transportation Authority, and City measurements of completeness for pedestrian and bicycle networks.
- E. The requirements of this section shall be applied at the time of approval of an initial development phase and may be adjusted for any subsequent development phase based on the cumulative impact of all the phases. All exempt development permit applications which have been submitted by the same developer on the same or contiguous parcels of land within the one-year period immediately prior to a current concurrency application shall be included in the application and concurrency evaluation.

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BMC 13.70 TABLE 1. Bellingham Transportation Concurrency Program Policy Dials

Mode	Transportation Concurrency Service Areas		
	Type 1 ¹	Type 2 ²	Type 3 ³
Motorized			
Auto			
Mode weight factor ⁴	0.70	0.80	0.90
Transit			
Mode weight factor ⁵	1.00	1.00	0.80
Non-Motorized			
Pedestrian			
Percent threshold for minimum system complete ⁶	50%	50%	50%
Person trip credit for 1% greater than minimum threshold ⁷	20	20	20
Mode weight factor ⁸	1.00	0.90	0.80
Bicycle			
Percent threshold for minimum system complete ⁸	50%	50%	50%
Person trip credit for 1% greater than threshold ⁷	20	20	20
Mode weight factor ⁹	1.00	0.90	0.80
Multi-Use Trails ¹⁰	10	10	10
Person Trip credit for ea 1% of Bicycle ¹¹	10	10	10
Mode weight factor ¹²	1.00	0.90	0.80

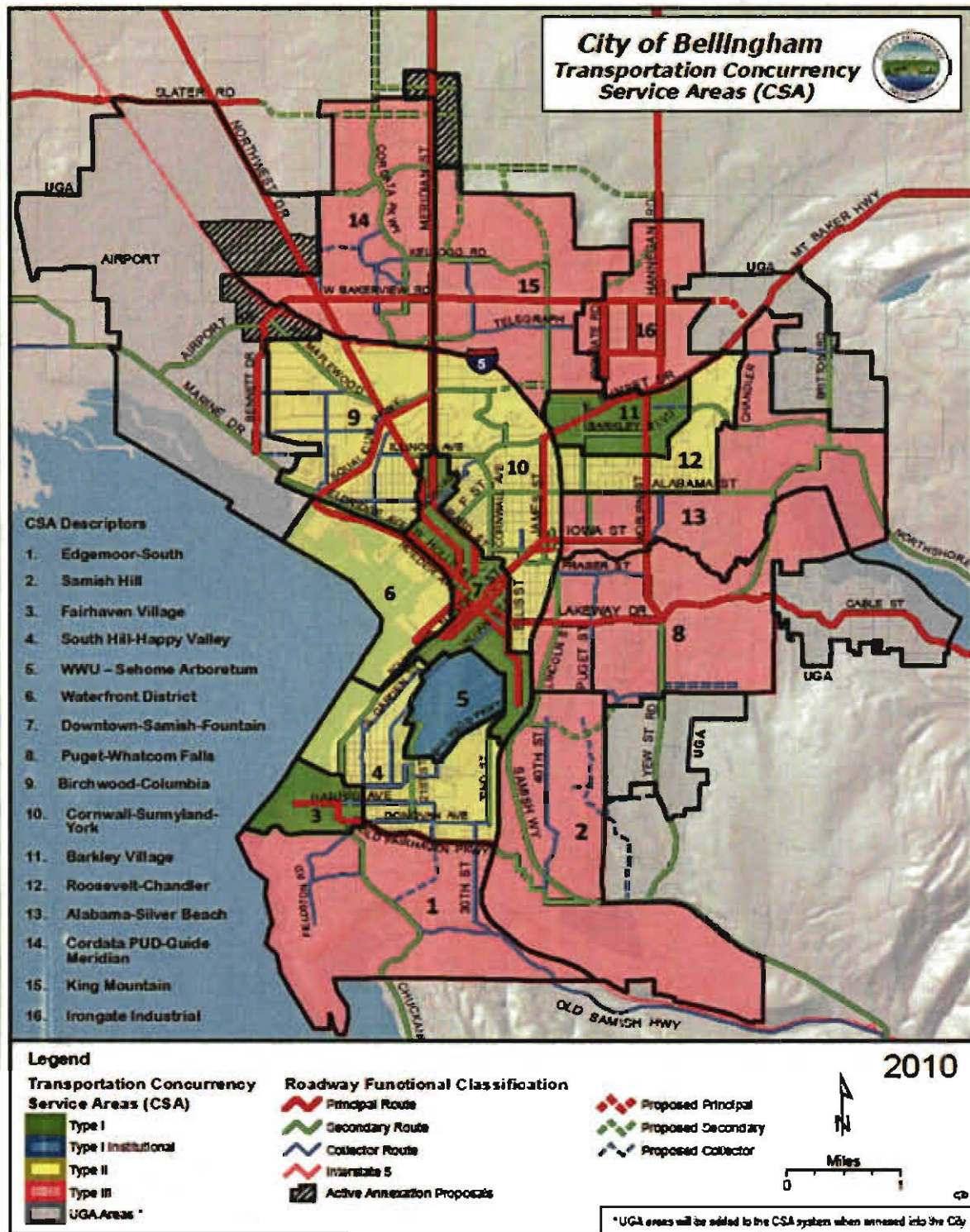
1. Type 1 = Urban Village areas with adopted master plans, high-density mixed use zoning, or an active master plan process.
2. Type 2 = Medium density areas adjacent to and influenced by Urban Villages.
3. Type 3 = Lower density and auto-oriented areas outside of Urban Villages.
4. Auto mode weight factor considers the importance of roadways to a service area, relative to the availability of other mode alternatives.
5. Transit mode weight factor considers the availability/viability of the transit mode to a service area.
6. This is the minimum level of the planned system completed for it to be considered a viable mode alternative.
7. Person trips credited to service area based on the amount of the system completed minus the minimum threshold.
8. Pedestrian mode weight factor considers the importance of pedestrian facilities to a service area, relative to land use and travel patterns.
9. Bicycle mode weight factor considers the importance of bicycle facilities to a service area, relative to land use and travel patterns.
10. Multi-use trails = relatively level, multi-use trails connecting activity centers, destinations, and biking facilities.
11. Person trips credited to service area based on each comparative 1% of the total planned bike system adopted in Comprehensive Plan. 10 rather than 20 person trip credits are awarded for each 1% in recognition that not all bicyclists will be able to make use of off-street gravel trails.
12. Multi-use trail mode weight factor considers the importance of bike-friendly trails to a service area, relative to land use and travel patterns.

TRANSPORTATION

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1 **13.70.060 Concurrency Approval**

- 2
- 3 A. The City shall not grant concurrency approval or issue a Temporary Certificate of
- 4 Concurrency for a proposed development permit application unless there are
- 5 adequate transportation facilities and person trips available on the existing or the
- 6 committed transportation system to serve the new development.
- 7
- 8 B. If the concurrency evaluation shows that adequate person trips are available, then the
- 9 concurrency application shall be approved. The Public Works Director shall issue a
- 10 finding of concurrency approval and a Temporary Certificate of Concurrency.
- 11
- 12 1) A Temporary Certificate of Concurrency must be issued prior to determination of
- 13 complete application for a development permit.
- 14
- 15 2) A Temporary Certificate of Concurrency shall expire exactly one (1) year after the
- 16 date of issue by the Public Works Department.
- 17
- 18 C. The determination of concurrency approval shall become final at the time of final
- 19 development permit approval as per Section 13.70.070, below.
- 20
- 21 D. The issue of concurrency approval may be raised as part of any appeal of the
- 22 development permit for which the concurrency approval was granted.
- 23
- 24 E. If a Temporary Certificate of Concurrency is issued for a proposed development, but
- 25 the proposed development permit is denied, expires, or is voluntarily withdrawn, then
- 26 the Temporary Certificate of Concurrency will be rescinded and transportation
- 27 capacity will not be reserved for that development.
- 28

29 **13.70.070 Final Certificate of Concurrency**

- 30
- 31 A. A Final Certificate of Concurrency shall be issued upon final approval of the
- 32 development permit for which a Temporary Certificate of Concurrency was issued.
- 33
- 34 B. The Final Certificate of Concurrency will only be valid for the type and intensity of
- 35 development that was approved by the city, unless concurrency approval also
- 36 covered subsequent project phases.
- 37
- 38 C. The Final Certificate of Concurrency shall be adjusted to account for any reduction in
- 39 traffic impact and capacity reserved by the Temporary Certificate of Concurrency.
- 40
- 41 D. If a proposed development project is modified during the review process and results
- 42 in an increased generation of person trips, then a new concurrency application,
- 43 evaluation, approval, and Temporary Certificate of Concurrency will be required prior
- 44 to development approval and issuance of Final Certificate of Concurrency.
- 45

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- 1 E. The information contained on the Final Certificate of Concurrency shall include the
2 following:
3
4 1) The property location and Whatcom County Assessor's parcel number (s) for
5 the development project;
6
7 2) The number and type of dwelling units, square footage of commercial or
8 industrial floor area, specific uses, densities, and intensities for which permit(s)
9 were approved, including the number of person trips generated and accounted
10 for in that particular Concurrency Service Area;
11
12 3) Mitigating measures required to ensure adequate transportation capacity for
13 the approved development project, as approved by the Public Works
14 Department;
15
16 4) An effective date; and
17
18 5) An expiration date.
19
20 F. A Final Certificate of Concurrency shall be valid for the same time period as the
21 development permit. If the development permit approval does not have an expiration
22 date, the Final Certificate of Concurrency shall be valid for five (5) years from the date
23 issued.
24
25 G. The Final Certificate of Concurrency may be extended by requesting a new issuance
26 from the Public Works Department with an updated expiration date. The Final
27 Certificate of Concurrency can be extended to remain in effect for the life of each
28 subsequent development permit approval for the same parcel, as long as the
29 applicant obtains the subsequent development permit approval prior to the expiration
30 of the first development permit approval.
31
32 H. No development shall be required to hold more than one valid Final Certificate of
33 Concurrency, unless the applicant or subsequent owner proposes changes or
34 modifications to the property location, density, intensity, or land use that creates
35 additional impacts on transportation facilities.
36
37 I. A Final Certificate of Concurrency runs with the land and is valid only for subsequent
38 development permit approvals for the same parcel, and to new owners of the original
39 parcel for which it was issued. A Final Certificate of Concurrency cannot be
40 transferred to a different parcel and shall be limited to uses and intensities for which it
41 was originally issued.
42
43 J. A Final Certificate of Concurrency may be voluntarily surrendered or withdrawn by the
44 owner of the parcel(s) for which the certificate was issued.
45

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1 K. Upon issuance of a Final Certificate of Concurrency, the City generally will be bound
2 by its terms for the life of the certificate. The City is not bound, however, when
3 funding is lost from previously committed transportation projects that would have
4 added capacity needed for the specific Final Certificate of Concurrency.
5

6 **13.70.080 Denial of Concurrency**
7

8 A. If adequate person trips are not available to serve a proposed development, then the
9 concurrency evaluation shall not be approved and a Temporary Certificate of
10 Concurrency shall not be issued.
11

12 B. If the concurrency evaluation is not approved, the applicant shall select one of the
13 following options:
14

15 1) Accept the denial of the concurrency evaluation and application for Temporary
16 Certificate of Concurrency. The development application will be determined to
17 be incomplete, the project will be removed from subsequent concurrency
18 evaluations, and the project will receive no further review by the City of
19 Bellingham.
20

21 2) Amend and re-submit the concurrency application within 90-days to:
22

23 a) Reduce the scale and impact of the development project to be within
24 the range of person trips available;

25 b) Phase the development project to match future construction of
26 multimodal transportation infrastructure or services that adds needed
27 person trip capacity;
28

29 c) Provide transportation demand management or person trip reduction
30 strategies, when the department determines that such strategies will
31 be reasonably sufficient as to reduce the impact to be within the
32 range of person trips available; or
33

34 d) Voluntarily arrange, by a financial commitment or instrument
35 approved by the Public Works Director to implement multimodal
36 transportation improvements or transportation demand management
37 strategies needed to achieve concurrency. Transportation mitigation
38 must be acceptable to the City in form and amount, to guarantee the
39 applicant's financial obligation for capital improvements to achieve
40 concurrency approval for the development units.
41

42 3) The 90-day period to amend the concurrency application shall begin no later
43 than 14 days after notification of denial for the concurrency evaluation and
44 Temporary Certificate of Concurrency, as required under this ordinance.
45
46

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- 1 4) If the applicant elects to amend the concurrency application within the 90-day
2 period, then the applicant's 14-day appeal deadline shall begin on the date the
3 Public Works Director issues a written decision on the amended concurrency
4 application.
5
6 5) Appeal the denial of concurrency and non-issuance of a Temporary Certificate
7 of Concurrency, pursuant to the provisions of Section 13.70.140 of this
8 ordinance.
9

- 10 C. If a development that is consistent with the zoning provided in the Comprehensive
11 Plan fails the concurrency evaluation, the City may review whether the underlying
12 zoning is appropriate in the given area, as well as the feasibility of providing increased
13 multimodal transportation capacity in the area, consistent with the adopted
14 Comprehensive Plan and projected six-year transportation improvement program
15 funding.
16

17 **13.70.090 Exemptions from Concurrency Application**

18
19 The following development permits shall be exempt from requiring a new concurrency
20 application and evaluation:
21

- 22 A. Development projects with applications determined to be complete prior to the
23 effective date of this ordinance shall be considered to have concurrency approval as
24 long as the accompanying development permit is valid and has not been modified
25 after the effective date of this ordinance. If the accompanying development permit
26 does not expire, capacity shall be considered to exist for three (3) years after the
27 effective date of the ordinance codified in this chapter.
28
29 1) If the accompanying development permit has expired, or if the development
30 project has been modified with a resulting increase in traffic impact, then a
31 concurrency application, evaluation, approval, and Temporary Certificate of
32 Concurrency shall be required prior to any new permit application review for
33 completeness.
34
35 B. Extension of previously issued, unexpired development permits.
36
37 C. Phases of projects that were disclosed by the applicant and subject to a concurrency
38 evaluation as part of the original application (i.e., phased development), provided that
39 a concurrency evaluation was approved for the expansion or subsequent phase.
40
41 D. No Impact. Development applications for projects which do not create concurrency
42 impacts to the City's transportation facilities; such development includes but is not
43 limited to:
44
45 1) Any addition or accessory structure to a residence with no change in use or
46 increase in the number of dwelling units;

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- 2) Interior renovations with no change in use or increase in the number of development units;
- 3) Interior completion of a structure for use(s) with the same or less intensity as the existing use or a previously approved use;
- 4) Replacement structure with no change in use or increase in the number of development units;
- 5) Temporary construction trailers;
- 6) Driveway resurfacing, or parking lot paving;
- 7) Re-roofing structures; and
- 8) Demolitions.

E. Permit Actions Exempt From Concurrency. The following permits are issued as a result of legislative or quasi-judicial actions, do not have transportation capacity impacts, and are therefore exempt from concurrency evaluation requirements.

- 1) Boundary line adjustments;
- 2) Variance;
- 3) Parking waiver or joint parking;
- 4) Vision clearance waiver;
- 6) Billboard relocation;
- 7) Exempt home occupation;
- 8) Lot line adjustment;
- 9) Non-conforming use status determination;
- 10) Over-height fence;
- 11) Shoreline statement of exemption;
- 12) Site area exception (BMC 20.30.040 (B) (1) (d)); and
- 13) Wireless communication facility that does not require either a planned development approval or conditional use permit.

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1
2 F. Accounting for Multimodal Transportation Capacity Used (See Table 1).
3

- 4 1.) Public Works will regularly conduct arterial traffic counts to account for
5 arterial transportation capacity used by development;
6 2.) Public Works will annually update inventories of completed pedestrian and
7 bicycle networks; and
8 3.) Public Works will coordinate with Whatcom Transportation Authority
9 (WTA) to obtain annual ridership statistics, seated capacity inventories,
10 and service frequency data.
11

12 G. Transportation Report on Annual Concurrency. The Public Works Department shall
13 annually produce and publish a Transportation Report on Annual Concurrency
14 (TRAC) in conjunction with the 6-Year Transportation Improvement Program. The
15 TRAC shall document person trips available on the multimodal transportation network
16 and shall, to the extent possible, identify multimodal transportation facilities and
17 services and concurrency service areas where potential concurrency problems may
18 arise. Potential mitigation and transportation demand management strategies will be
19 suggested, as needed.
20

21 **13.70.100 Annual Inventory of Person Trips Available**
22

- 23 A. The City's travel demand forecast model shall be updated as needed and the City will
24 recalculate available person trips to include:
25 1.) Changes in the adopted Six-Year Transportation Improvement Program and
26 any other transportation improvements which have a financial commitment for
27 construction within six years;
28 2.) Inventories of completed pedestrian and bicycle networks; and
29 3.) Annual ridership statistics, seated capacity inventories, and service frequency
30 data.
31

32 **13.70.110 Adopted Arterial Level of Service Standards**
33

- 34 A. The transportation level of service (LOS) standards for arterial streets and multimodal
35 facilities and services are described and contained in the Transportation Element of
36 the current City of Bellingham Comprehensive Plan.
37

38 **13.70.120 Intergovernmental Coordination**
39

- 40 A. The City shall consider establishing agreements, or continue existing agreements with
41 other local governments, agencies, jurisdictions, and the State of Washington to
42 coordinate the imposition of level of service standards and concurrency management
43 programs. Existing agreements shall continue in force until modified or terminated.
44
45 B. The City shall apply this transportation concurrency management ordinance, fees,
46 and mitigation requirements to developments within its jurisdiction that impact

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1 transportation facilities under the jurisdiction of other local government agencies and
2 the State of Washington, if interlocal agreements are in place at the time of the
3 concurrency evaluation, unless the agreement sets forth alternative standards, fees,
4 and mitigations.

- 5
6 C. The City may agree to accept and implement conditions and mitigations that are
7 imposed by other jurisdictions on development in their jurisdiction pursuant to
8 interlocal agreements or other agreements in place.
9

10 **13.70.130 Relationship to SEPA**

- 11
12 A. A determination of concurrency approval shall be an administrative action of the City
13 of Bellingham that is categorically exempt from the State Environmental Policy Act.
14 However, this does not mean to imply that the development proposal itself is exempt
15 from SEPA review, regardless of its exempt status under this ordinance.
16

17 **13.70.140 Administrative Appeals**

- 18
19 A. The applicant may appeal the denial of concurrency approval and denial of
20 Temporary Certificate of Concurrency on any of the following grounds:
21
22 1) A technical error; or
23
24 2) The applicant provided accurate alternative data or a traffic mitigation plan that
25 was rejected by the City;
26
27 B. Appeals of a concurrency evaluation denial shall be made according to the process
28 set forth in BMC 21.10.250 for open record hearings before the Hearing Examiner.
29
30 C. Applicants must file an appeal, and submit full payment the specified appeal fee,
31 within 14 days of the date that the City issues written notification of denial.
32
33 D. The City shall reserve person trips for the proposed development units during the
34 appeal.
35
36

37 **13.70.150 Fees**

- 38
39 A. The fees charged for processing a concurrency application, including review of the
40 concurrency evaluation, issuance of a Temporary Certificate of Concurrency, or
41 appeal of concurrency evaluation denial shall be as specified in the schedule as
42 established by City Council resolution.
43
44 B. Development by municipal, county, state and federal governments, and special
45 districts (as that term is defined in state law) are exempt from the Temporary
46 Certificate of Concurrency Application Fee.
47

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1 **Section 2.** The Findings of Fact, Conclusions and Recommendations of the Planning
2 Commission as shown in Exhibit A are hereby adopted by the City Council.


3
4 **Section 3: EFFECTIVE DATE.**

5
6 These revisions to Bellingham Municipal Code Chapter "**BMC 13.70 MULTIMODAL**
7 **TRANSPORTATION CONCURRENCY MANAGEMENT**" shall become effective on
8 Tuesday, June 1, 2010.

9
10
11 **PASSED** by the Council this 24th day of May, 2010.

12
13 
14 _____
15 Council President

16
17
18 **APPROVED** by me this 2nd day of June, 2010.

19
20
21 
22 _____
23 Mayor

24
25
26 **ATTEST:** 
27 _____
28 Finance Director

29
30
31 **APPROVED AS TO FORM:**

32 
33 _____
34 Office of the City Attorney

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37
Published: May 28, 2010

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Exhibit A

**BELLINGHAM PLANNING COMMISSION FINDINGS OF FACT,
CONCLUSIONS, AND RECOMMENDATIONS**

MARCH 11, 2010

10 **SUMMARY**

11 A proposal from the Public Works Department to amend the Concurrency Service Area (CSA)
12 map and Table 1. In BMC 13.70, consistent with the recommendations for change made in the
13 2009 Transportation Report on Annual Concurrency. The proposed amendments are to the
14 regulatory chapter BMC 13.70 only and are not subject to the criteria listed in BMC 20.20.060
15 governing Comprehensive Plan and Neighborhood Plan amendments.

16
17 **I. FINDINGS OF FACT**

18
19
20 **1. Proposal Description -**

21
22 The Bellingham Public Works Department has proposed map and text amendments to BMC
23 13.70 Multimodal Transportation Concurrency as per recommendations in the 2009
24 Transportation Report on Annual Concurrency (TRAC). Specifically, these amendments
25 include:

- 26
27
- 28 1. Revisions to BMC 13.70 Concurrency Service Area (CSA) map boundaries,
29 addition of a new Fountain District Urban Village CSA, and creation of a separate
30 Waterfront District CSA;
 - 31 2. Adjustment of the policy dials applied to bicycle and pedestrian facilities in CSA's
32 in BMC 13.70 Table 1.;
 - 33 3. Addition of "Multi-Use (formerly "Bicycle-Friendly") Trails" to BMC 13.70 Table 1.,
34 with appropriate policy dials and Person Trip credits awarded in CSA's; and
 - 35 4. Amendments listed above are proposed to become effective on April 1, 2010.
- 36
37

38 **2. Background Information/Procedural History -**

- 39
- 40 • November 24, 2008 – Bellingham City Council adopted amendments to BMC 13.70
41 Multimodal Transportation Concurrency and Transportation Element of the Bellingham
42 Comprehensive Plan, which fundamentally transform level of service (LOS) calculations
43 from auto-centric method to multimodal method consistent with multimodal policies of
44 the Transportation Element and urban infill strategies of the Land Use Element of the
45 Bellingham Comprehensive Plan.
 - 46 • January 1, 2009 – revised BMC 13.70 implemented.
 - 47 • March 19, 2009 – Transportation Report on Annual Concurrency (TRAC) presented to
48 Planning Commission with recommendations for changes/adjustments in 2009.
- 49

- 1 • March 19, 2009 – Transportation Report on Annual Concurrency (TRAC) presented to
- 2 City Council with recommendations for changes/adjustments in 2009.
- 3 • April – December, 2009 – On-going work to update auto and transit data, analyze effects
- 4 of policy dial adjustments, inventory changes to pedestrian and bicycle facilities,
- 5 incorporate annexed areas, make CSA boundary adjustments.
- 6
- 7 • January 28, 2010: Public Works sent 60-day Notice of intent to amend BMC 13.70 to
- 8 Washington Department of Commerce and all interested State agencies;
- 9 • February 1, 2010: Planning Director signed DNS for SEP2010-00002 Minor text and
- 10 map amendments to BMC 13.70 Multimodal Transportation Concurrency;
- 11 • February 4, 2010: SEPA DNS and Checklist mailed to State agencies, MNAC, and other
- 12 interested parties;
- 13 • February 5, 2010: Planning Department posted SEPA DNS Notice on City web site;
- 14 • February 6, 2010: Legal Notice of SEPA DNS published in Bellingham Herald with 14-
- 15 day public comment period ending on February 19, 2010;
- 16 • February 7, 2010: 30-day Legal Notice of March 11, 2010 Public Hearing published in
- 17 Bellingham Herald;
- 18 • February 19, 2010: SEPA public comment period ended – no comments received;
- 19 • February 26, 2010: Staff report mailed to Planning Commissioners and made available
- 20 to public.
- 21 • March 11, 2010: Public Hearing conducted for amendments to BMC 13.70.
- 22
- 23

24 **3. Public Comment -**

25
26 At publication of staff report, no public comments have been received regarding the proposal. If
27 any are received, they will be provided to each Council member.
28

29
30 **4. State Environmental Policy Act (SEPA) Determination –**

31
32 A non-project SEPA Determination of Non-Significance was issued by the City of Bellingham on
33 February 1, 2010 with a 14-day public comment period. No comments were received.
34

35
36 **5. Commerce (formerly CTED) Notice of Intent to Amend Development Regulations -**

37
38 A letter notifying the Washington State Department of Commerce (formerly CTED) of
39 Bellingham’s intent to amend BMC 13.70 was issued on January 28, 2010. Commerce issued a
40 receipt of Bellingham’s letter on February 1, 2010. No comments have been received.
41
42
43
44
45 |

1 **II. CONCLUSIONS**

2
3 Based on the staff report and the information presented at the public hearing, the Planning
4 Commission concludes that:

- 5
- 6 1. The underlying assumptions have changed since the November 2008 adoption of BMC
- 7 13.70 Multimodal Transportation Concurrency. Annexations have added land area to
- 8 the City, which must be incorporated in to the Concurrency Service Area map;
- 9
- 10 2. These amendments are part of a city-wide, non-project proposal that does not
- 11 specifically affect a particular piece of property or development proposal. All property
- 12 within Bellingham city limits will be required to comply with the pre-application
- 13 requirements of BMC 13.70 as identified on the CSA map and in Table 1;
- 14
- 15 3. The proposed amendments to BMC 13.70 Multimodal Transportation Concurrency are
- 16 consistent with the Bellingham Comprehensive Plan and Washington State law
- 17 requirements for Transportation Concurrency (RCW 36.70.070(6)(b));
- 18
- 19 4. The proposed amendments are consistent with the specific changes to BMC 13.70
- 20 recommended in the 2009 Transportation Report on Annual Concurrency (TRAC),
- 21 presented to the Planning Commission on March 19, 2009 and the City Council on April
- 22 13, 2009; and
- 23
- 24 5. The proposed amendments promote a more desirable land use pattern for the
- 25 community as stated in the infill land use strategies and multimodal transportation
- 26 policies adopted in the Bellingham Comprehensive Plan.
- 27

28 **III. RECOMMENDATIONS**

29
30 Based on the findings and conclusions, the Bellingham Planning Commission recommends that
31 the City Council approve the proposed amendments to BMC 13.70 Multimodal Transportation
32 Concurrency with an effective date of April 1, 2010.
33

ADOPTED this 11th day of March, 2010.

Thomas J. Powell
Planning Commission Chairperson

ATTEST: [Signature]
Recording Secretary

APPROVED AS TO FORM:
[Signature]
City Attorney

34
35