

ORDINANCE NO. 2017-05-015

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5 **AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON, RELATING TO LAND**
6 **USE AND ZONING; ESTABLISHING A NEW SECTION 20.24.020 OF THE BELLINGHAM**
7 **MUNICIPAL CODE (BMC) TO PROVIDE FOR A REVIEW PROCESS AND CRITERIA WHEN**
8 **DETERMINING UNCLASSIFIED USES IN COMMERCIAL AND INDUSTRIAL DISTRICTS.**
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10 **WHEREAS**, the City of Bellingham Comprehensive Plan was adopted to provide guidance for
11 the community on accommodating growth and redevelopment; and
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13 **WHEREAS**, Title 20 (Land Use Development) of the Bellingham Municipal Code was adopted
14 to fully implement the Comprehensive Plan; and
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16 **WHEREAS**, certain development regulations and codes in Title 20 have been identified as
17 needing clarification; and
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19 **WHEREAS**, the proposed minor code amendments clarify the purpose, intent and
20 requirements of the BMC; and
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22 **WHEREAS**, the proposed code amendments will create a review process and criteria giving
23 the Planning and Community Development Director the authority to permit or prohibit
24 unclassified uses in commercial and industrial zones; and
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26 **WHEREAS**, Title 21 (Administration of Development Regulations) of the BMC establishes a
27 process for consideration of amendments to development regulations; and
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29 **WHEREAS**, on February 22, 2017 notice of the city's intent to adopt the proposed code
30 amendments was sent to the Washington State Department of Commerce pursuant to RCW
31 36.70A.106; and
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33 **WHEREAS**, the responsible official reviewed the proposed amendments under the procedures
34 of the State Environmental Policy Act, and issued a non-project Determination of Non-
35 Significance (DNS) for the proposed changes on February 24, 2017; and
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37 **WHEREAS**, after mailed and published notice as required by BMC 21.10, the Bellingham
38 Planning Commission conducted a public hearing on March 16, 2017, and
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40 **WHEREAS**, the Bellingham Planning Commission considered the staff report and testimony
41 at the hearing, and thereafter made Findings of Fact, Conclusions and Recommendations for
42 adoption of the proposed amendments; and
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44 **WHEREAS**, after mailed and published notice as required by BMC 21.10, the Bellingham City
45 Council held a public hearing on the proposed code amendments on May 8, 2017; and
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WHEREAS, the Bellingham City Council considered the recommendation of the Planning Commission, the staff report, the public testimony, and voted to approve the code amendments, and hereby adopts the Findings of Fact, Conclusions and Recommendations of the Planning Commission.

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

SECTION 1. The Bellingham City Council adopts the Planning Commission Findings of Fact, Conclusions, and Recommendations as shown in Exhibit A.

SECTION 2. A new Section 20.24.020 of the Bellingham Municipal Code is established as follows:

20.24.020 Interpretation - unclassified uses in commercial and industrial zoning districts.

- A. Upon inquiry by an applicant, an administrative Interpretation shall be made by the director to determine if a proposed use may be established that is not specifically listed as either allowed, allowed conditionally or prohibited in a specific commercial or industrial zoning district. The interpretation shall be prepared consistent with the process and procedures specified in BMC 21.10.270. In preparing the interpretation, the director shall use the criteria established in Section 20.24.020(B). Should an interpretation be made that an unclassified use may be allowed or allowed conditionally, the director shall allow for the establishment of the use following adopted processes. Should an interpretation be made that a proposed use is not allowed within a specific zoning district, the director shall indicate which zones, if any, do permit the proposed use.

- B. In order to make a determination that an unclassified use is allowed or allowed conditionally, the director must find the following:
 - 1. The proposed use would be consistent with the purpose and intent of the zoning district in which it is proposed to be established and/or would be in the public interest; and

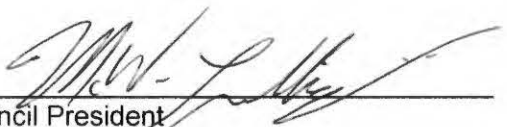
 - 2. The proposed use would be consistent with the policies of the Comprehensive Plan; and

 - 3. The proposed use would not generate greater vehicular traffic levels, noise, light and glare, odors, emissions or other similar impacts than those associated with uses that are specifically listed as permitted or conditional within the subject zoning district. Uses that generate similar vehicular traffic levels, noise, light and glare, odors, emissions or other similar impacts to an allowed conditional use shall require conditional use approval.

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SECTION 3. Severability. If any sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause of phrase or work of this ordinance.

PASSED by the Council this 22nd day of May, 2017.

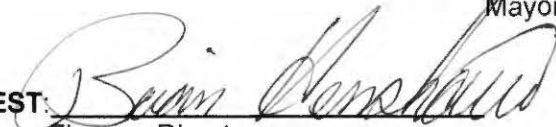


Council President


APPROVED by me this 6th day of June, 2017.



Mayor

ATTEST: 

Finance Director

APPROVED AS TO FORM:


Office of the City Attorney

Published:
May 26, 2017

Exhibit A

BELLINGHAM PLANNING COMMISSION FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS

MARCH 16, 2017

SUMMARY

Following the public hearing and deliberation on proposed land use development code amendments regarding fencing materials used on common property lines between different zoning designations, establishing a review process and criteria that would allow the Director to determine unclassified uses in commercial and industrial zones, and adopting additional language for building mounted signage in the Fairhaven Urban Village, the Bellingham Planning Commission has determined that the proposed code amendments comply with, and will implement, the goals and policies of the Bellingham Comprehensive Plan and should be approved.

I. FINDINGS OF FACT

Throughout the year, potential clarifying or minor amendments to the zoning code and other development regulations are often identified by PCD staff, applicants, community members, the Planning Commission, the Mayor/City Administration and City Council. Although the annual amendment process for the Comprehensive Plan (the "Annual Docket") has been established and includes the opportunity to process code amendments, these minor fixes are usually overshadowed by the need to address formal applications and left unaddressed.

Although minor amendments to development regulations that are consistent with the Comprehensive Plan may be considered outside of the annual amendment process at the discretion of the PCD Director, Planning Commission, and City Council (consistent with the requirement of BMC Chapter 20.22), the significant resources necessary to facilitate the required notice, environmental review and public hearings associated with a code revision typically results in postponement of consideration until the proposal can be included in a more comprehensive review of the applicable code section.

A "Running List" is a method to record, retain and consolidate these proposed revisions so that they may be considered collectively once or twice a year (dependent on available resources). After preliminary discussion at the Planning Commission's September 22, 2016 meeting, it was determined that three items on the Running List should move forward at this time. These items were identified because of their minor nature, their ability to clarify existing regulations, and available staff resources needed to conduct the review process. The three amendments are:

1. Fence Materials between Residential and Transitional Zoning. Addressing fence materials used on common property lines between single-family residential zoning and urban village transitional zoning. Currently, the municipal code is silent on the type of fence required and chain link has been used. Requiring fencing to be designed to integrate in to the architecture of the building and prohibiting chain link fencing between commercial and residential areas could soften the transition between the zoning districts and uses and ensure appropriate materials are used.
2. Unclassified Uses in Commercial and Industrial Zones. In a number of cases, uses that are proposed for commercial or industrial areas are prohibited due to their not

Exhibit A

being specifically listed in the zoning code - regardless of the fact that they would have the same or lesser impacts than a listed use. Currently when an applicant proposes a use that is not listed in the applicable permitted uses section there is no specific criteria to evaluate proposals. This proposed revision would establish a process that would allow the PCD Director to approve unlisted uses provided that their impact would be the same or less than those allowed in the district.

In making the determination, the Director would evaluate the proposed use to ensure it is consistent with the purpose and intent of the zoning district and the comprehensive plan. Additionally, the Director would be required to find that the proposed use would not generate greater vehicular traffic levels, noise, light and glare, odors or other similar impacts than those uses specifically permitted in the zoning district.

Establishing a review process and criteria ensures that these industrial and commercial use interpretations are standardized, efficient for the applicant and staff, reviewed in relation to comparable impacts generated by permitted uses and consistently applied.

3. Fairhaven Building Mounted Signage. Currently building mounted signage in Fairhaven is regulated per BMC 20.37.370 D.4. Staff believes that additional language is needed to ensure appropriate signage size, in relation to the building and pedestrian area, is regulated. Additionally, clarification of the existing code language would make the permitting process more predictable for property owners, applicants and staff.

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 in the Bellingham Herald.

The Planning Commission held a public hearing on March 16, 2017, though no members of the public testified at the hearing. Staff presented the proposed code amendments and discussed them with the Commissioners.

State Environmental Policy Act (SEPA) Determination

A non-project SEPA Determination of Non-Significance was issued on February 24, 2017. No comments were received regarding this determination.

Consistency with the Bellingham Comprehensive Plan -

Zoning and development codes are intended to implement the visions, goals and policies of the comprehensive plan. Relevant comprehensive plan goals and policies were included in the Planning Commission's consideration of the proposed neighborhood plan amendment.

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.

Policy LU-23 Regularly review and update the City's commercial zoning regulations (e.g. text and associated maps), design standards, and design review process as needed to allow design

Exhibit A

flexibility and creativity, address emerging issues, and foster compatibility of development with the character of surrounding areas.

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

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-3 Establish and reinforce district and neighborhood characteristics recognized both within the community and throughout the region.

GOAL CD-4 Provide a well-designed, pedestrian-friendly, and community-oriented environment.

GOAL CD-5 Ensure that the design and development of urban villages and transit corridors convey a positive image of the district they are located within, contribute to the economic vitality and perception of the City, and improve visual and physical transitions into adjacent neighborhoods.

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.

Policy CD-15 Establish appropriate transitions between commercial, industrial, higher-density residential, mixed-use development, and lower-density residential areas. Consider methods such as architectural techniques, landscaped buffers, or transitional uses such as plazas and pedestrian-scale offices, retail, services and live/work units.

Policy CD-22 Use design standards and design review to accomplish the following:

- Retain and create places and structures in the City that have unique features.
- Ensure elements of design, proportion, rhythm, scale and massing are appropriate for proposed structures and sites and contextually compatible with surrounding development.
- Maintain the integrity of zones with unique or historic qualities such as Fairhaven.

Exhibit A

- Encourage the use of high-quality and durable materials, as well as innovative building techniques and designs.

The proposed code amendments are consistent with the Land Use and Community Design goals and policies referenced. They ensure elements of design are carefully considered and new fences and signs are complementary in scale and context, while still providing for adequate business identification and property protection.

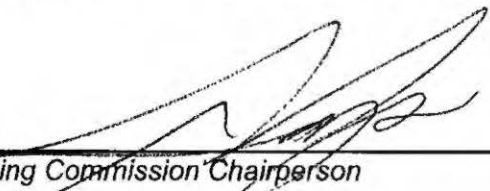
II. CONCLUSIONS

The code amendments are consistent with and will implement the goals and policies of the Bellingham Comprehensive Plan and ensure fencing compatibility between residential and transitional urban village zoning districts. The amendments also create a standardized review process and criteria, which ensures consistent application of the codes, for unclassified uses in industrial and commercial zoning districts. The proposed 2017 Running List amendments help clarify existing development regulations and promote high standards of development within the city.

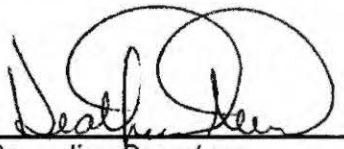
III. RECOMMENDATIONS

Based on the findings and conclusions of law, the Bellingham Planning Commission recommends that the City Council adopt the proposed code amendments as attached.

ADOPTED this 16th day of March, 2017.

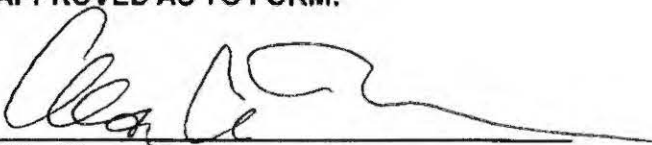


Planning Commission Chairperson

ATTEST: 

Recording Secretary

APPROVED AS TO FORM:



City Attorney