

ORDINANCE NO. 2020-12-036

AN ORDINANCE OF THE CITY OF BELLINGHAM AMENDING THE LAND USE CHAPTER OF THE 2016 BELLINGHAM COMPREHENSIVE PLAN TO ADD NEW FOOD POLICIES.

WHEREAS, healthy, accessible food is an important community goal, as it supports the health and well-being of Bellingham's residents; and

WHEREAS, it is recognized that some Bellingham residents experience food insecurity, the causes of which include economic barriers and food deserts; and

WHEREAS, the Whatcom County Health Board has as one of its policies the integration of public health considerations, including access to healthy food, into planning processes; and

WHEREAS, during the public participation plan for the development of the 2016 Bellingham Comprehensive Plan, health and sustainability, along with urban villages, housing affordability and choices, and innovation, were identified as focus areas that would guide the development of new goals and policies. Acknowledging the breadth of factors that contribute to a healthy community, the plan includes a variety of policies related to access to healthy food (e.g. agricultural preservation, urban gardens, farmers markets, commercial and mixed-use zoning that allows grocery stores); and

WHEREAS, on November 19, 2018, the City Council Planning and Community Development Committee and Branden Born, associate professor of urban design and planning at the University of Washington, discussed food deserts, food systems, and restrictive covenants. As a follow-up to that discussion, City planning staff reviewed the Comprehensive Plan for existing food policies and researched potential new policies; and

WHEREAS, Staff's review found that the plan includes several policies supporting access to healthy food; however, City Council directed staff to prepare a docket request for new policies specific to preserving and improving access to grocery stores and healthy food, particularly in underserved areas; and

WHEREAS, the City Council added the amendments to the 2019-2020 list of Comprehensive Plan amendments (the docket) on August 26, 2019 (Resolution 2019-24); and

WHEREAS, on December 19, 2019, the City Council approved an ordinance relating to restrictive covenants that limit or prohibit the use of property for grocery stores, providing for exceptions, and adding a new section 20.10.027 to the Bellingham Municipal Code; and

WHEREAS, the responsible official reviewed the proposed amendments under the procedures of the State Environmental Policy Act, and a non-project Determination of Non-Significance was issued on September 4, 2020; and

WHEREAS, as required by RCW 36.70A.106, notice of the City's intent to adopt the proposed Comprehensive Plan amendments was sent the Department of Commerce on September 14, 2020; and

WHEREAS, after mailed and published notice as required by the Bellingham Municipal Code, the Planning Commission held a public hearing on the proposed amendments on October 1, 2020; and

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

WHEREAS, the Planning Commission considered the staff report and public comments received and thereafter made Findings of Fact, Conclusions and Recommendations for approval of the proposed amendments with a 6-0 vote; and

WHEREAS, after mailed and published notice as required by the Bellingham Municipal Code, the City Council held a public hearing on the proposed amendments on November 9, 2020; and

WHEREAS, the City Council has considered the recommendation of the Planning Commission, the staff report, other meeting materials, and all public comments and hereby adopts the Findings of Fact, Conclusions and Recommendations of the Planning Commission; and

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

NOW, THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. The Land Use Chapter of the Comprehensive Plan is hereby amended to add the following food policies:

Policy LU-82 Explore incentives and regulatory changes to encourage grocery stores, farmers markets, food carts and other mobile vendors to locate in underserved areas.

Policy LU-83 Encourage development patterns that support healthy, affordable food access.

Policy LU-84 Encourage healthy food purveyors, such as grocery stores, farmers markets and community food gardens, to be located near residential areas and public transit.

Policy LU-85 Limit the use of certain restrictive covenants that preclude the use of real property for grocery store operations and sales. Provide exceptions when certain conditions are met.

Policy LU-~~8286~~ Consider using health impact assessments to assess the potential health impacts of land use and development decisions.

Policy LU-8387 Support and encourage informal community gathering places in existing and new neighborhoods.

Policy LU-8488 Encourage the integration of arts and culture into public places.

Policy LU-8589 Accommodate the changing needs of residents as they age through considerations such as the design of safe, walkable neighborhoods; the convenient location of senior services; and universal design in building codes.

[NO OTHER CHANGES]

Section 2. City administration and the codifiers of this ordinance are authorized to make necessary clerical corrections including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any reference thereto.

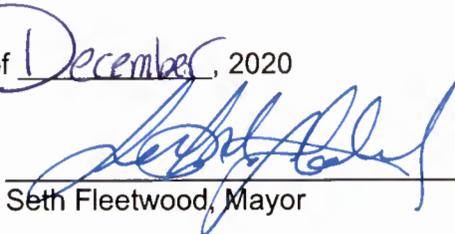
Section 3. The City Council agrees with and adopts the Findings of Fact, Conclusions and Recommendations of the Planning Commission attached as **Exhibit A** and incorporated by reference.

PASSED by the Council this 14th day of December, 2020



Gene Knutson, Council President

APPROVED by me this 17 day of December, 2020



Seth Fleetwood, Mayor

ATTEST: 

Andy Asbjornsen, Finance Director

APPROVED AS TO FORM:



Office of the City Attorney

Published: December 18, 2020

BELLINGHAM PLANNING COMMISSION FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS

FOOD POLICIES

OCTOBER 1, 2020

SUMMARY

Following the public hearing and deliberation on the Comprehensive Plan amendments to add new food policies to the Comprehensive Plan, the Bellingham Planning Commission determined that the changes are consistent with and will implement the goals and policies of the Bellingham Comprehensive Plan and should be recommended for approval.

I. FINDINGS OF FACT

1. Proposal Description:

During the public participation process for the 2016 Bellingham Comprehensive Plan, health and sustainability, along with urban villages, housing affordability and choices, and innovation, were identified as focus areas that would guide the development of new goals and policies. Acknowledging the range of factors that contribute to a healthy community, the plan includes several policies related to food access, from agricultural preservation to urban gardens and farmers markets, to commercial and mixed-use zoning that allows grocery stores.

In 2018 and 2019, the City Council Planning and Community Development Committee held several work sessions on food deserts, food systems, and restrictive covenants in response to the closing of the Birchwood neighborhood's only grocery store. During these discussions, the City Council identified a need for new legislation and additional food policies to help preserve and improve access to grocery stores and healthy food, especially in underserved areas, along transit routes, and in annexed areas. The subject proposal, initiated by the City Council, includes amendments to the land use chapter of the Comprehensive Plan to add new food policies.

2. Background Information:

According to the Washington State Growth Management Act, cities are allowed to amend their comprehensive plans once a year, with certain exceptions. The process to date has included the following meetings (meeting materials can be found by searching for the meeting date at <https://meetings.cob.org/>).

November 19, 2018: City staff and Branden Born, associate professor of urban design and planning at the University of Washington, discussed food deserts, food systems and restrictive covenants during a City Council Planning and Community Development Committee meeting.

February 25, 2019: As a follow-up to the November work session, planning staff presented information on existing and potential food policies in the Comprehensive Plan to the City Council Planning and Community Development Committee.

June 20, 2019: The Planning Commission held a public hearing and recommended to the City Council that the proposal be placed on the 2019-2020 docket.

August 26, 2019: The City Council held a public hearing and approved the inclusion of the proposal on the 2019-2020 docket (Resolution 2019-24).

December 19, 2019: The City Council approved an ordinance relating to restrictive covenants that limit or prohibit the use of property for grocery stores, providing for exceptions, and adding a new section 20.10.027 to the Bellingham Municipal Code (BMC).

3. Public Comments:

Notice of the Planning Commission public hearing was mailed to neighborhood association representatives and other parties with an interest in this topic. Notice was also published in the Bellingham Herald at least 30 days prior to the hearing. No written public comments were submitted on this topic prior to publication of the meeting packet.

4. State Environmental Policy Act (SEPA) Determination:

A non-project SEPA Determination of Non-Significance (DNS) was issued on September 4, 2020. Notice was mailed to the appropriate agencies and published in the Bellingham Herald and on the City's website. No public comments were submitted on the DNS prior to publication of the meeting packet.

5. Consistency with the Bellingham Comprehensive Plan and Review Criteria:

BMC 20.20.040 requires the Planning Commission to consider the following decision criteria when reviewing Comprehensive Plan amendments.

A. There exists an error, omission or inconsistency in the pertinent Comprehensive Plan or neighborhood plan provision; OR

B. All of the following criteria have been met:

1. The proposed amendment is consistent with the Growth Management Act (GMA) and other applicable laws;

The proposed amendments focus on preserving and improving access to grocery stores and healthy food, particularly in underserved areas. Staff finds the proposed amendments comply with and help implement several goals of the GMA, including the following:

- Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.
- Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.
- Encourage the conservation of productive forestlands and productive agricultural lands, and discourage incompatible uses.
- Retain open space, enhance recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks and recreation facilities.
- Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.
- Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons.

The proposal also meets the decision criteria outlined in Bellingham Municipal Code 20.20.040 and is consistent with other applicable laws.

The Planning Commission finds this criterion has been met.

2. The proposed amendment addresses changing circumstances, changing community values, and is consistent with and will help achieve the Comprehensive Plan goals and policies;

The proposed amendments address changing circumstances and changing community values by responding to recent community events that resulted in an area that is underserved by fresh food and other groceries. The new food policies help achieve the goals and policies of the Comprehensive Plan by building on the plan's existing food policies and providing more specificity regarding the need for adequate access to food in underserved areas.

The Comprehensive Plan identifies the guiding principles and goals for administrative and legislative decisions pertaining to the BMC. The proposed amendments are consistent with and will implement the goals and policies of the Comprehensive Plan, particularly those related to healthy neighborhoods. The following is a sampling of existing relevant goals and policies related to food access, which includes a breadth of topics, from agricultural preservation to urban gardens and farmers markets, to commercial and mixed-use zoning that allows grocery stores:

- **Land Use Chapter Introduction:** Bellingham accommodates growth primarily through compact development within the City limits, including infill development in areas served existing infrastructure and services and mixed-use urban villages (or "centers") that are connected by vibrant transit corridors... Vibrant centers of activity make it easier to walk, bike and use transit for daily needs; reduce greenhouse gas emissions; contribute to a sense of community; provide economic benefits; reduce the need for expansion of the City's urban growth area (UGA); and protect open space and agricultural land.
- **Policy LU-9:** Promote small-scale commercial uses (e.g. corner stores) within neighborhoods, particularly where these uses historically existed, to encourage walkability and provide opportunities for employment and placemaking.
- **Policy LU-11:** As neighborhood plans are developed and updated, important priorities and issues should be identified, including: ...
 - Spaces for small-scale community gardens, healthy mobile food vendors, and other opportunities for healthy, local food; ...
- **Policy LU-18:** Develop new plans and update existing plans as needed to reflect the unique nature of each urban village. The plans should consider the elements identified in Policy LU-11, as well as the following: ...
 - An appropriate mix of commercial, office and residential uses; ...
 - Sustainable development practices and the use of the Leadership in Energy and Environmental Design for Neighborhood Development (LEED-ND) rating system, or similar system, to measure the potential sustainability outcomes of the proposed plans.
- **Policy LU-20:** The Commercial designation includes a range of commercial development intensities, from small neighborhood commercial areas to large planned commercial areas. In general, commercial areas should provide a broad range of services, commercial uses, mixed commercial and residential uses, and personal service establishments. Many existing commercial zoning

categories allow and encourage mixed-use development, particularly in urban centers.

- **Policy LU-40:** Incorporate physical health and well-being into the location, design and operation of public facilities and services by considering the following: ...
 - Community gardens in accessible public open spaces; ...
- **Policy LU-58:** Work with the county on a regional growth strategy that preserves land outside the unincorporated UGA for long-term agricultural use, recreation, open space, and other uses consistent with rural character.
- **Sustainable Land Use Section Introduction:** This section complements the plan's other sustainability goals and policies, including those related to growth primarily within the existing City limits and in areas largely served by existing infrastructure and services, including the City's mixed-use urban villages. This approach reduces the need for additional development further out from the City's existing urban areas, thereby protecting open spaces and agricultural land and reducing dependency on single-occupancy vehicles. Well-designed infill in existing areas also helps balance opportunity and housing choice in every neighborhood.
- **Policy LU-81:** Increase access to healthy food for all Bellingham residents by encouraging and supporting healthy food retail, farmers markets, and small-scale urban farms (e.g. residential and community gardens).
- **Policy CD-26** Successfully integrate mixed-use development within urban villages and along certain high-capacity transit corridors linking urban villages as outlined in the Land Use and Transportation Chapters, providing residents with shopping and employment within walking distance.
- **GOAL ED-1** Build and maintain a positive and competitive business-friendly climate that will retain, grow and attract high-quality businesses.
- **GOAL ED-4** Foster vibrant urban villages.
- **Policy ED-26** Review land use regulations, development standards and design guidelines to ensure that the existing developed and remaining vacant or underutilized employment lands are used as efficiently as possible.
- **Policy ED-51:** Encourage locally-based food production, distribution and choice through the support of community gardens, farmers markets, and other small-scale initiatives.
- **The PRO Plan** notes that there are three community gardens – Fairhaven, Happy Valley and Lakeway. One is also proposed for Van Wyck Park.
- **PRO Plan 5.4.2 GOAL:** Provide a high quality, diversified open space system that protects and enhances significant and diverse environmental resources and features, including wildlife habitat, migration corridors, agricultural lands, natural meadows, urban forests, and water resources. Work with other City departments to achieve the following objectives...

The Planning Commission finds this criterion has been met.

3. **The proposed amendment will result in long-term benefit to the community and is in the community's overall best interests;**

The proposal will result in long term benefit to the community and is in the community's overall best interests in that the policies will support improved access to grocery stores and healthy food in the community, especially in underserved areas, along transit routes and in annexed areas.

Any potential impacts associated with subsequent proposals, like grocery stores in underserved areas, will be evaluated through the permit review process, when warranted.

The Planning Commission finds this criterion has been met.

4. The amendment will not adversely affect the public health, safety or general welfare; and

The proposal will not adversely affect the public health, safety or general welfare. Conversely, the proposed amendments support a healthy community through food access to the most vulnerable community members.

The Planning Commission finds this criterion has been met.

5. If a concurrent rezone is requested, the proposal must also meet the criteria for rezones in BMC 20.19.030.

This proposal does not include a rezone.

The Planning Commission finds this criterion has been met.

II. CONCLUSIONS

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

1. The proposed amendments, which comprise additional food policies for the land use chapter of the Comprehensive Plan, provide support for future potential regulatory changes and incentives related to food access, particularly in underserved areas.
2. The proposed amendments comply with and will implement the goals and policies of the Bellingham Comprehensive Plan.
3. The proposed amendments meet the decision criteria in BMC 20.20.040 for amending the Comprehensive Plan.

III. RECOMMENDATIONS

After careful consideration of all public comments, the staff report, other meeting materials, and the Findings and Conclusions, the Planning Commission recommends, with a 6-0 vote, that the City Council approve the proposed Comprehensive Plan amendments as shown in the draft ordinance.

ADOPTED this 1st day of October, 2020.

Mike Ester

Planning Commission Chairperson

Deborah Ann

ATTEST: _____

Recording Secretary

APPROVED AS TO FORM:

Alan G. R.

City Attorney