

ORDINANCE NO. 2023-07-020

AN ORDINANCE RELATING TO LAND USE PLANNING, AMENDING CHAPTER 20.35, ARTICLE II, OF THE BELLINGHAM MUNICIPAL CODE (BMC) REGARDING THE OLD TOWN OVERLAY DISTRICT.

WHEREAS, in 2008, the City adopted an amendment (Ordinance No. 2008-03-022) to its Comprehensive Plan for the Old Town Subarea (also known as the “Old Town Plan”) and an amendment to its Land Use Development Code codified at BMC Chapter 20.35 (the “Old Town Overlay District”); and

WHEREAS, in 2016, the City adopted the 2016 Bellingham Comprehensive Plan (Comprehensive Plan) via Ordinance 2016-11-037 which includes a system of urban villages and transit corridors that would accommodate a significant share of the City's future growth, while preserving established, stable neighborhoods as a key infill growth strategy; and

WHEREAS, Old Town is one of six urban villages adopted with master plans, development regulations and design standards; and

WHEREAS, the Comprehensive Plan directs the following:

- To achieve a healthy mix of housing that is affordable to a wide range of incomes, implement and seek new, innovative tools, including, but not limited to: density bonuses; ... purchase and transfer of development rights (TDR) programs; and public-private partnerships for shared parking facilities, wetland mitigation, and regional stormwater management (Policy LU-10); and
- Continue effective incentives and develop new incentives where needed for the planned urban villages (Policy LU-15); and
- In instances where a proponent controls multiple properties within an existing urban village and seeks to address the coordinated provision of infrastructure, cooperatively develop plans, approaches and agreements, including development agreements (Policy LU-17); and
- Provide builders, developers and architects with a set of clear objectives and performance goals which promote the highest attainable standard of quality consistent with economic feasibility for new development (Policy CD-14); and
- Limit urban sprawl by linking land use and transportation planning (Goal T-1), reduce dependence on single-occupancy vehicles (Goal T-4), and review parking standards to reduce the impacts of parking on urban form, pedestrian mobility, and the natural environment (LU-71); and

WHEREAS, Old Town has seen very limited private development since adoption of the Subarea Plan in 2008; and

WHEREAS, development in Old Town is challenging for many reasons, including, but not limited to the following: 1) its location in a historically contaminated landfill area known as the Holly Street Landfill Site, which restricts property use and construction methods; 2) the adjacency of a soon to be built 300-bed homeless shelter; 3) the scale of the envisioned development, which necessitates a long time horizon with attendant unknown future risks; 4) the proximity of passive railroad crossings and the attendant loud noise from train horns; 5)

the location a portion of the Property on former tidelands and landfill material which adds to development expense; 6) the complete transformation of an industrial use area to a commercial and residential one; and 7) the high cost of financing due to increasing interest rates; and

WHEREAS, a Development Agreement between the City and Parberry's, a significant property owner and former operator of Northwest Recycling, dated February 10, 2019, was amended and restated in 2020 and recorded under AF# 2021-0102090 in Whatcom County ("2020 Parberry Development Agreement") which outlines specific capital investments the City will make adjacent to Parberry-owned property; and

WHEREAS, Parberry discontinued its operation known as Northwest Recycling located in the Old Town Subarea, a non-conforming use pursuant to the City's Comprehensive Plan, and is in the process of selling the property on which it was located; 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 Subarea; and

WHEREAS, the Parberrys have met every milestone outlined in the Development Agreement, which includes the discontinuation and/or relocation of non-conforming uses and renovation of 700 W Holly; and

WHEREAS, developers, referred to as the Old Town Village, LLC, and Capron, LLC, (collectively, "Developers") have purchased parcels from Parberry and are considering the purchase of additional parcels within the Old Town Subarea, which is envisioned by the City to be an urban village with a range of residential and commercial uses, and have become successors in interest to the 2020 Parberry Development Agreement; and

WHEREAS, Developers and the City are negotiating a new Development Agreement, which will be considered by the City Council at the same time as this Ordinance; and

WHEREAS, given the risk associated with redevelopment in Old Town, Developers are seeking greater flexibility provided by the proposed revisions to the Old Town Overlay District; and

WHEREAS, the proposed text amendments to Title 20 BMC were processed consistent with the applicable amendment procedures in Chapter 20.22 BMC; and

WHEREAS, on March 30, 2023, 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 City notified the State of Washington Department of Commerce of its intent to adopt the amendments to the City's environment and land use regulations on March 30, 2023; and

WHEREAS, the Bellingham Planning Commission held a public hearing on the amendments on April 20, 2023, 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

WHEREAS, the Planning Commission adopted Findings of Fact, Conclusions and Recommendations to the City Council on April 20, 2023; and

WHEREAS, on June 15, 2023, the City of Bellingham, as lead agency under the procedures of the State Environmental Policy Act, issued a Final Determination of Non-Significance; and

WHEREAS, the Bellingham City Council held a public hearing on the amendments on June 26, 2023, with appropriate public notice provided, and held one work session on July 10, 2023; and

WHEREAS, the City Council finds that the amendments are appropriate and consistent with the State Growth Management Act and the Bellingham Comprehensive Plan;

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. BMC 20.35.065(B) regarding Old Town Overlay District - Permitted Uses, is amended as follows:

B. *Uses Permitted with Conditions.* The following uses are allowed provided they are established and operated in accordance to the applicable conditions:

1. Boat sales; limited to properties southwest of Holly Street, unless allowed as an interim use for a period of time specified in a Development Agreement with the City.
2. Boat repair and storage; complete minor boat and engine repair is permitted; however, hull work is prohibited. Boats must be operational or being actively repaired. Limited to properties southwest of Holly Street, unless allowed as an interim use for a period of time specified in a Development Agreement with the City.
3. [NO CHANGES BEYOND THIS POINT]

Section 2. BMC 20.35.070(D) regarding Old Town Overlay District - Development Regulations, is amended as follows:

D. *Floor Area Ratio (FAR).*

1. *Purpose.* The maximum floor area ratio (FAR) standards are intended to accomplish several purposes of the old town subarea plan. Combined with the established height limits herein, the FAR allows for greater modulation in individual buildings and the greater urban fabric. They also provide architects greater flexibility in how to mass buildings on sites and relate projects to unique on- and off-site features.
2. *Floor Area Ratio (FAR) Standard.* The maximum FAR for all sites in the old town overlay district is 3.5, or 5.0 with use of floor area transfers and bonuses as outlined in subsections (D)(3) and (4) of this section.

3. *Transfer of Floor Area.* Transfer of FAR among properties that are part of a single development plan is allowed when approved by the planning director, provided:
 - a. The designs for the sending and receiving properties are reviewed at the same time, unless an acceptable alternative process is commemorated in a Development Agreement with the City.
 - b. The property owner(s) executes a covenant with the city that is attached to and recorded with the deed of both the site transferring and the site receiving the floor area reflecting the respective increase and decrease of potential floor area.
4. *Floor Area Bonus Options.* Floor area bonus options are offered as incentives to encourage facilities and amenities that implement the old town subarea plan.
 - a. Projects may use more than one bonus option unless specifically stated otherwise; bonus floor area amounts are additive.
 - b. The maximum floor area ratio increase that may be earned through the bonus options is 1.5 for a maximum FAR on site of 5.0.
 - c. *Bonus Options.*
 - i. [NO CHANGES]
 - ii. *Affordable Housing.* Housing for low and middle income residents receives bonus floor area when approved by the planning director. For each square foot of floor area certified by the director as affordable housing, four square feet of bonus floor area is earned up to a maximum of ~~((0.5))~~1.5 FAR. When commemorated in a Development Agreement with the City, an alternative floor area bonus option may be granted when a parcel is sold to or committed to a developer that agrees to construct and lease or sell 100% of the housing units to low or middle income households. The project must have controls in place, subject to approval by the director to ensure that the project's residences remain permanently affordable in accordance with subsections (D)(4)(c)(ii)(A) and (B) of this section. Purchasers of affordable homes constructed under this chapter shall meet the following requirements:
 - (A) *Annual Income.* All purchasers or tenants shall be from a household whose annual income, at the household's initial occupancy of the single-family residence, is 80 percent or less of the median income (determined by Housing and Urban Development) as adjusted by family size of the Bellingham Standard Metropolitan Statistical Area (SMSA), specifically defined as Whatcom County; and
 - (B) *Housing Expenses.* The monthly expenditure by a purchaser, as described in subsection (D)(4)(c)(ii)(A) of this section, for housing including rent or mortgage repayment, insurance, taxes and utilities (water and sewer) shall not exceed 38 percent of the gross household income at the time of purchase and the amount for rent or mortgage repayment shall not exceed

30 percent of gross household income. All other variable living expenses associated with the resident's occupancy shall not be a factor in the calculation of affordability.

iii.-iv. [NO CHANGES BEYOND THIS POINT]

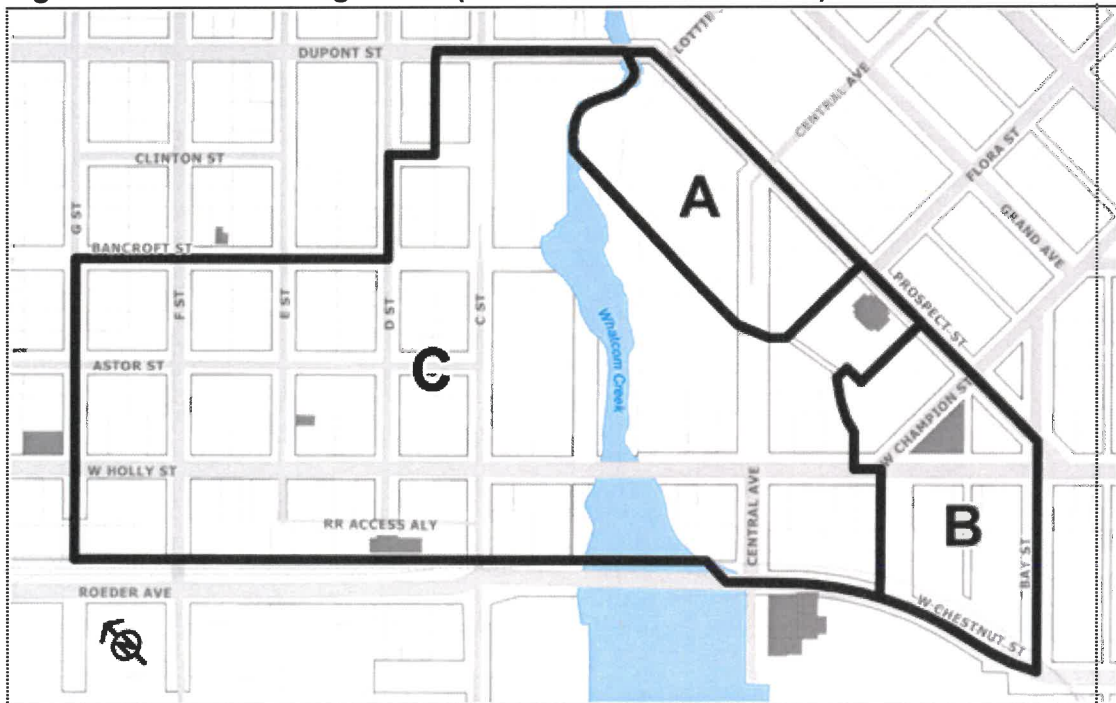
v. Public Benefit. The planning director may administratively approve up to a maximum 1.5 bonus FAR for developer generated proposals that would provide a public need, service, or amenity that is determined by the director to be essential for the betterment of the City and neighborhood. The developer must demonstrate, to the satisfaction of the director, how the proposal will be adequate and proportionate to the requested increase in FAR, and consistent with the Bellingham Comprehensive Plan and Old Town Subarea Plan.

Section 3. BMC 20.35.075 regarding Old Town Overlay District Development - Parking, is amended as follows:

A. Auto parking.

1. ~~Uses ((on Tracts A and B as shown on Figure 20.35.075))in the Old Town Overlay District are exempt from minimum on-site parking requirements(, except for hotels and motels, which shall provide the number of spaces required in BMC 20.12.010(B)).~~

Figure 20.35.075 Parking Tracts (FIGURE TO BE DELETED)



~~B. Uses on Tract C as shown on Figure 20.35.075 shall provide parking as follows:~~

1. ~~Residential.~~ Minimum of one parking space per studio, one bedroom or two-bedroom dwelling unit. An additional one-half parking space per unit shall be provided for each bedroom over two per unit.
2. ~~Commercial.~~ Minimum one space per 700 square feet of gross floor area, including office, retail, service, eating and drinking establishments, entertainment, and uses similar to those previously mentioned.
3. ~~If a use is not readily classified within the residential and commercial classifications, then the planning director shall determine the standards which shall be applied.~~
4. ~~Buildings existing as of (date of adoption of this chapter) are exempt from the requirement to provide additional parking due to a use change.~~
5. ~~The planning director may exempt existing buildings listed on the local, state or federal register of historic places from required parking for a one-time floor area expansion, provided (a) the floor area expansion is limited to an area equal to 10 percent of the area of the existing building and (b) existing conforming parking on-site shall not be displaced except as otherwise may be allowed. If the listed historic building provides 10 percent or less of the on-site parking that would be required for an equivalent new building, the planning director may allow displacement of some or all of the on-site parking.~~

~~C. Shared Parking.~~

1. ~~Purpose.~~ To efficiently utilize parking resources where the potential for shared parking provisions with adjacent land uses has been analyzed and found to be appropriate.
2. ~~The amount of off-street parking required by this chapter may be reduced by an amount determined by the planning director when shared parking facilities for two or more uses are proposed; provided, that the requirements stated in BMC 20.12.010(A)(6) are met.~~

~~D. Parking Reduction Allowed.~~ The planning director may administratively reduce parking for uses that are inherently less auto dependent, and for mitigation provided in lieu of the parking reduction. Mitigation may be accomplished through adoption of a program, fee-in-lieu, and installation of infrastructure that promotes use of alternative transportation and less auto dependence. Such uses, programs or infrastructure improvements may include, but are not limited to: senior and affordable housing, implementation of a shared car service (i.e., Zipcar™), enhanced bike storage facilities, purchase of WTA transit passes through the urban village trip reduction credits (BMC 19.06.040(E) Table 19.06.040(B)), installation of covered transit shelters where approved by the Whatcom Transportation Authority and public works department, and off-site pedestrian infrastructure improvements. The applicant must demonstrate, to the satisfaction of the director, how the proposed mitigation will be adequate and proportionate to the requested parking reduction. Parking reductions authorized by this subsection cannot be combined with those allowed in BMC 20.12.010(A)(5).

E. All When parking is provided on-site, all parking standards in Chapter 20.12 BMC concerning applicability, general provisions, design provisions and improvement standards shall apply.

B. Bike Parking.

1. Number of Spaces Required. Bicycle parking is required for certain use categories to encourage the use of bicycles by providing safe and convenient places to park bicycles. These regulations ensure adequate short- and long-term bicycle parking based on the demand generated by the different use categories and on the level of security necessary to encourage the use of bicycles for short and long stays.

a. The required minimum number of bicycle parking spaces for each use category is shown on Table 20.35.075. No bicycle parking is required for uses not listed.

b. The required minimum number of bicycle parking spaces is based on the primary uses on a site. When there are two or more separate primary uses that operate at the same time on a site, the required bicycle parking for the site is the sum of the required parking for the individual primary uses.

2. Exemptions.

a. No long-term bicycle parking is required on a site where there are less than 2,500 square feet of gross building area.

b. No bicycle parking is required for unattended surface parking lots.

3. Bicycle Parking Standards.

a. Short-Term Bicycle Parking.

i. Purpose. Short-term bicycle parking encourages shoppers, customers, messengers, and other visitors to use bicycles by providing a convenient and readily accessible place to park bicycles. Short-term bicycle parking should serve the main entrance of a building and should be visible to pedestrians and bicyclists.

ii. Standards.

(A) Required short-term bicycle parking shall be located:

(1) Outside a building;

(2) On the site;

(3) At the same grade as the sidewalk or at a location that can be reached by an accessible route; and

(4) Within 50 feet of the main entrance to the building as measured along the most direct pedestrian access route. For sites that have more than one primary building, the bicycle parking shall be within 50 feet of a

main entrance as measured along the most direct pedestrian access route, and shall be distributed to serve all primary buildings.

(B) Short-term bike parking may be located within the public right-of-way provided the location and design are subject to public works department approval.

Table 20.35.075 Minimum Required Bicycle Parking

<u>Specific Use</u>	<u>Long-term Spaces</u>	<u>Short-term Spaces</u>
<u>1. Multifamily housing</u>	<u>2, or 0.5 per bedroom and studio unit.</u>	<u>2, or 0.05 per bedroom and studio unit.</u>
<u>2. Commercial: Retail Sales and Service, including Eating and Drinking Establishments</u>	<u>2, or 1 per 12,000 sq.ft. of gross floor area.</u>	<u>2, or 1 per 5,000 sq.ft. of gross floor area.</u>
<u>3. Commercial: Office</u>	<u>2, or 1 per 10,000 sq.ft. of gross floor area.</u>	<u>2, or 1 per 20,000 sq.ft. of gross floor area.</u>
<u>4. Commercial: Off-street parking lots and garages available to the general public without charge or on a fee basis</u>	<u>2, or 1 per 20 automobile spaces.</u>	<u>6, or 1 for each 20 automobile spaces.</u>
<u>Note: Wherever this table indicates two numerical standards, such as "2, or 1 per 5,000 sq.ft. of gross floor area," the larger number applies. Fractions of 0.5 or greater are rounded up to the next whole number.</u>		

b. Long-Term Bicycle Parking.

i. Purpose. Long-term bicycle parking provides employees, residents, commuters and others who generally stay at a site for several hours a secure and weather-protected place to park bicycles. Although long-term parking does not have to be provided on site, the intent of these standards is to allow bicycle parking to be within a reasonable distance in order to encourage bicycle use.

ii. Standards. Required long-term bicycle parking shall be:

(A) Provided in racks or lockers that meet the standards of subsection (B)(3)(c) of this section;

(B) Located on the site or in an area where the closest point is within 300 feet of the site;

(C) Covered. At least 50 percent of required long-term bicycle parking shall be covered and meet the standards of subsection (B)(3)(c)(v) of this section (Covered Bicycle Parking); and

(D) Secured. To provide security, long-term bicycle parking shall be in at least one of the following locations:

(1) In a locked room;

(2) In an area that is enclosed by a fence with a locked gate. The fence shall either be eight feet high or be floor-to-ceiling;

(3) Within view of an attendant or security guard;

(4) In an area that is monitored by a security camera; or

(5) In an area that is visible from employee work areas.

c. Standards for All Bicycle Parking.

i. Purpose. These standards ensure that required bicycle parking is designed so that bicycles may be securely locked without undue inconvenience and will be reasonably safeguarded from intentional or accidental damage.

ii. Bicycle Lockers. Where required bicycle parking is provided in lockers, the lockers shall be securely anchored.

iii. Bicycle Racks. Required bicycle parking may be provided in floor, wall, or ceiling racks. Where required bicycle parking is provided in racks, the racks shall meet the following standards:

(A) The bicycle frame and one wheel can be locked to the rack with a high security, U-shaped shackle lock if both wheels are left on the bicycle;

(B) A bicycle six feet long can be securely held with its frame supported so that the bicycle cannot be pushed or fall in a manner that will damage the wheels or components; and

(C) The rack shall be securely anchored.

iv. Parking and Maneuvering Areas.

(A) Each required bicycle parking space shall be accessible without moving another bicycle;

(B) There shall be an aisle at least five feet wide behind all required bicycle parking to allow room for bicycle maneuvering. Where the bicycle parking is adjacent to a sidewalk, the maneuvering area may extend into the right-of-way; and

(C) The area devoted to bicycle parking shall be hard surfaced.

v. Covered Bicycle Parking. Covered bicycle parking, as required by this section, can be provided inside buildings, under roof overhangs or awnings, in bicycle lockers, or within or under other structures. Where required covered bicycle parking is not within a building or locker, the cover shall be:

(A) Permanent;

(B) Designed to protect the bicycle from rainfall; and

(C) At least seven feet above the floor or ground.

vi. Signs. If required bicycle parking is not visible from the street or main building entrance, a sign shall be posted at the main building entrance indicating the location of the parking.

Section 4. The Council agrees with, and hereby adopts the April 20, 2023 Findings of Fact, Conclusions and Recommendations of the Planning Commission, attached as **Exhibit A**.

PASSED by the Council this 24th day of July, 2023


Council President

APPROVED by me this 26th day of July, 2023


Mayor

ATTEST:


Finance Director

APPROVED AS TO FORM:


Office of the City Attorney

Published:

July 28, 2023

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

April 20, 2023

Summary

Following the public hearing and deliberation on the proposed amendments to the Old Town Overlay District development regulations found in Bellingham Municipal Code (BMC) 20.35.055-.085, 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:

The proposal is for consideration of proposed text amendments to the Old Town Overlay District development regulations found in Bellingham Municipal Code (BMC) 20.35.055-.085. The proposed amendments include, but not limited to:

- 1) Allowing additional interim light industrial uses,
- 2) Adjusting floor area bonuses and transfers between development sites, and
- 3) Aligning parking standards with those of the Downtown District Urban Village.

The proposal before the Planning Commission is a legislative development code amendment requiring a Type VI process pursuant to BMC 21.10.040(l)(2). The Commission must hold a public hearing and issue findings of fact and conclusions along with a recommendation to the City Council. The Commission should adopt or modify the draft findings as needed to support the ultimate recommendations.

The proposed text amendments to the Land Use Development Ordinance, Title 20 BMC, are being processed consistent with the applicable amendment procedures in Chapter [20.22](#) BMC. Consistent with BMC 20.22.010, the amendments were initiated by the City at the request of Old Town Village LLC pursuant to a 2023 Letter of Intent jointly signed by both parties.

2. Background Information & Procedural History:

2008: BMC [20.35.055-.085](#) Old Town Overlay District was adopted.

March 17, 2023: A notice of Planning Commission public hearing was issued.

March 30, 2023: A non-project SEPA Determination of Nonsignificance was issued.

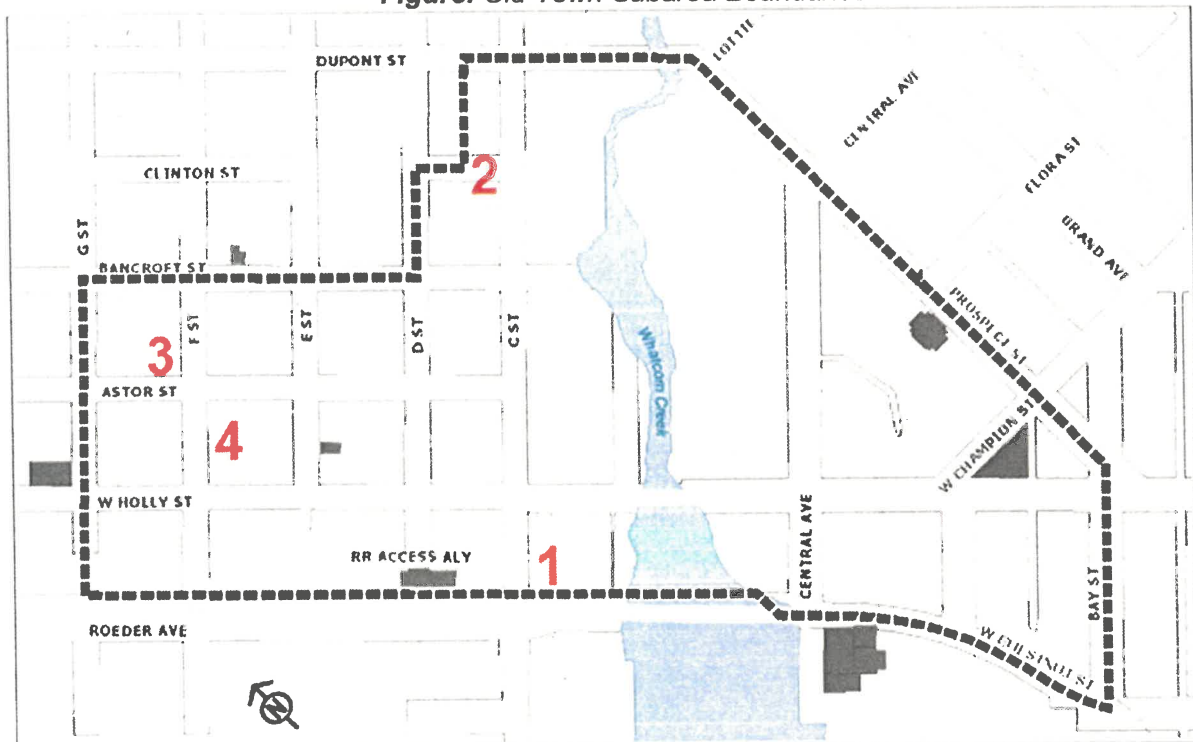
April 20, 2023: Planning Commission public hearing.

The City adopted the Old Town Subarea Plan and supporting development regulations in early 2008. Redevelopment opportunities for Old Town have been the subject of several community planning efforts including the American Institute of Architects Regional Urban Design Assistance Team (R/UDAT), Whatcom Creek Waterfront Action Program, the City Center Master Plan, and the Community Forum on Growth Management.

The Old Town Plan is oriented toward encouraging and guiding thoughtful redevelopment consistent with the vision for Old Town by way of the following guiding principles:

- Provide a policy framework unique to Old Town,
- Encourage a healthy mix of diverse and eclectic residential and commercial uses,
- Guide development to encourage a safe, convenient and attractive pedestrian experience,
- Ensure new development responds to view corridors and landmark buildings,
- Provide a level of predictability for stakeholders within and outside Old Town, and
- Encourage redevelopment to occur in Old Town.

Figure: Old Town Subarea Boundaries



Old Town (boundaries shown above) has seen very limited private development since the 2008 adoption of the Subarea Plan other than remodeling existing buildings and changes in use. Notable new developments include the following with locations shown on the figure above:

1. **1200 C Street:** (2011) Rebuild of West Coast Marine with a 2-story building after fire destroyed the original building.
2. **1600 C Street:** (2012) Replacement of the old hatchery building and associated storage building within Maritime Heritage Park with a new 2-story Environmental Fisheries Building. The building is owned by Bellingham Technical College and the land is leased by BTC from the City.
3. **1000 Astor Street:** (2018) Redevelopment of the former Hempler's site with 30 multifamily dwelling units in a new mixed-use, 4-story building with surface and structured parking.

- 1 **4. 910 W. Holly Street:** (2023 – Building permits currently under review) Construction of a
2 new interim housing facility for the Lighthouse Mission consisting of a 5-story building
3 with three entrepreneur commercial spaces fronting W Holly St, seven basement parking
4 stalls, and agreement for lease of nearby off-site parking.

5
6 A Development Agreement between the City and Parberry's, a significant property owner and
7 former operator of Northwest Recycling, dated February 10, 2019 was amended and restated in
8 2020 (2020 Development Agreement) which outlined specific capital investments the City would
9 undertake adjacent to Parberry-owned property. Parberry discontinued its operation known as
10 Northwest Recycling located in the Old Town Subarea, a non-conforming use pursuant to the
11 City's Comprehensive Plan, and is in the process of selling the property on which it was
12 located. The Parberry's have met every milestone outlined in the 2020 Development
13 Agreement, which includes the discontinuation and/or relocation of non-conforming uses and
14 renovation of 700 W Holly.

15
16 Developers, referred to as the Old Town Village LLC, have purchased parcels from Parberry
17 and are considering the purchase of additional parcels within the Old Town Subarea, which is
18 envisioned by the City to be an urban village with a range of residential and commercial uses,
19 and have become successors of the 2020 Development Agreement.

20
21 It is recognized that development in Old Town is challenging and has increased risk for many
22 reasons, including, but not limited to the following: 1) its location in a historically contaminated
23 landfill area known as the Holly Street Landfill Site which restricts property use and construction
24 methods; 2) the adjacency of a soon to be built 300-bed homeless shelter; 3) the scale of the
25 envisioned development, which necessitates a long time horizon with attendant unknown future
26 risks; 4) the proximity of passive railroad crossings and the attendant loud noise from train
27 horns; 5) the location a portion of the Property on former tidelands and landfill material which
28 adds to development expense; 6) the complete transformation of an industrial use area to a
29 commercial and residential one; and 7) the high cost of financing due to increasing interest
30 rates.

31
32 Given the risk associated with redevelopment in Old Town, Old Town Village LLC, is seeking
33 greater flexibility provided by the proposed code amendments outlined in the staff report. Old
34 Town Village LLC and the City administration are negotiating a new Development Agreement,
35 which will be considered by the City Council at the same time as these code amendments. Old
36 Town Village LLC and the City jointly signed a Letter of Intent (Letter of Intent) in 2023 which is
37 a preliminary non-binding agreement regarding the parties' interests in executing a development
38 agreement which will help to promote implementation of the Old Town Subarea Plan by setting
39 the stage for redevelopment of Parberry-owned and other adjacent properties. The Letter of
40 Intent includes terms and conditions contemplated to be included in the development
41 agreement, include a range of proposed code amendments. Though the proposed amendments
42 are being requested by Old Town Village LLC, the amendments would generally be eligible for
43 use throughout the Old Town subarea.

44
45 The proposed text amendments to the Land Use Development Ordinance, Title 20 BMC, are
46 being processed consistent with the applicable amendment procedures in Chapter [20.22](#) BMC.
47 They were initiated by the City at the request of Old Town Village LLC pursuant to the 2023
48 Letter of Intent, consistent with BMC 20.22.010. BMC 20.22.030 specifies: "After holding a
49 public hearing to consider the findings and recommendations of the planning commission, the
50 city council shall have the authority to confirm, alter, or modify any of the planning commission's
51 recommendations." The Washington State Growth Management Act ([RCW 36.70A.040](#))

requires development regulations to be "consistent with and implement the comprehensive plan."

Given the risk associated with redevelopment in Old Town, Old Town Village LLC is seeking greater flexibility provided by the proposed code amendments which include the following:

- 1. Allow additional interim light industrial uses limited to boat sales and storage** (technically, boat sales is a commercial use). Currently boat sales and storage are allowed in Old Town but limited to properties southwest of Holly Street. The proposal would allow these uses elsewhere in Old Town "as an interim use for a period of time specified in a Development Agreement with the City." See Section 1 of the draft ordinance. Allowing boat sales and storage as an interim use is reasonable given the close proximity to the waterfront, they will serve to offset holding costs as individual lots are built out at greater intensity, and will reduce the number of empty lots which have the potential to create pocket areas for crime, blighted conditions, and/or other counterproductive experiences.
- 2. Adjust floor area bonuses and transfers between development sites.** See Section 2 of the draft ordinance. Floor area bonuses and transfers between development sites are currently allowed in Old Town but the proposed amendments would provide more flexibility in how they occur as follows:
 - Currently, floor area transfers between development sites are allowed on the condition that 1) the designs for the sending and receiving properties are reviewed at the same time, and 2) covenants documenting the transfer are recorded on the sending and receiving properties. The proposed amendment would allow City Council the discretion to approve an alternative process for commemorating floor area transfers. The proposal is reasonable given that developers often do not have the resources or foresight to design two projects at the same time.
 - Currently, floor area bonuses are allowed for developer's provision of various facilities and amenities outlined in the table below. The maximum floor area ratio (FAR) for all sites in the Old Town Overlay District is 3.5, or 5.0 with use of floor area transfers and bonuses. The maximum FAR increase that may be earned through the bonus options is 1.5 for a maximum FAR on site of 5.0. Currently, only the public plaza and open space option allows the full 1.5 FAR bonus; all others are limited to 0.5 FAR. The proposal would increase the bonus for affordable housing to the full 1.5 FAR bonus.

The intent of limiting bonuses was to encourage new development to utilize multiple bonuses with multiple benefits provided. The proposal is reasonable given the current affordable housing shortage and high priority on increasing its supply.

Table 1: Floor Area Ratio (FAR) Bonuses

Amenity or Facility	Maximum Allowed FAR Bonus	
	Existing	Proposed
Public Plazas and Open Spaces	1.5	1.5
Affordable Housing	0.5	1.5
Leadership Through Energy and Environmental Design™ (LEED)	0.5	0.5
Financial contribution to Lake Whatcom Watershed Property Acquisition Program	0.5	0.5

3. **Aligning parking standards with those of the Downtown District Urban Village.** See Section 3(B)(1 and 2) of the draft ordinance. The proposed amendments would generally decrease parking requirements for residential development as shown in Tables 2 below with the decrease varying depending on the unit size. The decrease would be greatest at 50% for studio units while there would be no change for 2-bedroom units and units with more than 3 bedrooms.

Table 2: Residential Parking			
Residential Unit Type	Required Minimum Parking Stalls		% Change
	Existing	Proposed	
Studio	1.0	0.5	- 50%
1-Bedroom	1.0	0.75	- 25%
2-Bedroom	1.0	1.0	0%
3-Bedroom	1.5	1.0	- 33%
Additional for each bedroom over 3	0.5	0.5	0%

Creating parity in residential parking standards between adjacent urban villages makes sense, especially given the walkability of Old Town's existing grided street network and proximity to transit, job, service, and recreational opportunities. Consistency in code also decreases confusion for property owners and developers, and eases administration by city staff.

The proposal should result in negligible parking impacts to adjacent uses outside of Old Town. The majority of Old Town abuts the Downtown District and Waterfront District Urban Villages which have parking requirements that essentially mirror those being proposed for Old Town. The northwest extent of Old Town interfaces with five blocks in the Lettered Streets which are zoned Residential Multi, Multiple, High Density. This interface is characterized by a walkable grided street network that is well served by high frequency transit service on Dupont Street and additional transit routes on Holly and Girard Streets.

4. **Allow new development to use parking garages or shared parking facilities located within 1,000 feet of its location to counted toward on-site parking requirements.** See Section 3(B)(6) of the draft ordinance. This is added as a shared parking proposal consistent with (2)(A)(d) in the 2023 Letter of Intent. It is copied from the Waterfront District in BMC 20.37.450(B)(7). It is more specific than other shared parking provisions in the code in that it allows parking to be provided in a common location that may be used by multiple users. The proposal will be beneficial to the Old Town Subarea in that a common shared facility(s) will allow for more efficient use of parking.
5. **Waive parking requirements for commercial uses when part of a residential/commercial mixed-use building.** See Section 3(C)(3) of the draft ordinance in. This proposal will largely be limited to small scale commercial uses typical of what's been developed in residential/commercial mixed-use buildings in the city's urban villages in recent years. The ground floor commercial is generally intended to serve the residents of the building and immediate area with customers from further afar utilizing available street parking. Waiving parking requirements for small scale

commercial uses when part of residential/commercial mixed-use buildings will simplify permit application and project review, and reduce project cost. This change is intended to incentivize implementation of livelier pedestrian oriented streetscapes that are walkable destinations for local residents and employees. The prescribed streetscape designs adopted in the Old Town Subarea Plan maximize creation of curbside public street parking which essentially is a pool of shared parking for streetside uses. Accordingly, the potential for increased street parking congestion as a result of this proposal is negligible and would be offset by the creation of walkable small scale commercial and service destinations for local residents. The proposal is consistent with Comprehensive policies encouraging land uses and project designs that are more pedestrian friendly and transit supportive.

Additional Planning Commission Recommendations

During the Planning Commission's review and deliberations, the Commission made the following additional amendment recommendations:

1. **FAR Bonus:** The Planning Commission recommended (7-0) to strike the current FAR bonus for Public Plazas and Open Space in BMC 20.35.070(D)(4)(c)(i) and replace it with a provision allowing the Planning Director discretion to allot up to the maximum allowed 1.5 FAR for developer generated proposals that would provide public benefit. The Commission's rational for the amendment was that Old Town already has an abundance of public spaces such that the bonus should be used for other currently unforeseen needs that may be seen as critical for the betterment of the City and neighborhood. The Commission directed staff to draft language that would implement the intent of its recommendation.
2. **Parking:** The Planning Commission recommended (4-3) to eliminate parking requirements in Old Town in lieu of the proposed amendments to reduce parking in #s 3-5 above. The Commission rationalized that with the exempt parking district in the abutting Downtown District Urban Village Commercial Core, Old Town would be a logical extension of the exempt parking district. And in the event parking congestion becomes an issue in the adjacent residential zoned areas, the City could expand its already established Residential Parking Zone program to those areas to help address the issue.

It is recognized that development in Old Town is challenging and has increased risk for many reasons as detailed in **Section III** of the staff report. Given the risk associated with redevelopment in Old Town, Old Town Village LLC, is seeking greater flexibility provided by the proposed code amendments outlined in the staff report. With Parberry's discontinuation of Northwest Recycling in Old Town, and the City's commitment to certain public infrastructure improvements as detailed in the 2020 Development Agreement, the proposed code amendments, as amended by the Planning Commission, are intended to serve as a catalyst to kickstart a more robust and sustainable redevelopment cycle for Old Town.

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.

Public comments were submitted prior to the public hearing and public testimony was taken at the Planning Commission hearing and the Commissioners duly considered it.

4. State Environmental Policy Act (SEPA) Determination:

A non-project SEPA Determination of Non-Significance (DNS) was issued on March 30, 2023. Notice was mailed to the appropriate agencies, parties of record and published in the Bellingham Herald and on the City's website. The SEPA review process evaluated the potential impacts from the preliminary recommended changes to current Old Town regulations. No public comment was submitted on the DNS prior to publication of the meeting packet.

5. Consistency with the Bellingham Comprehensive Plan:

Zoning and development regulations should be reviewed and amended periodically to address changing circumstances and to implement the goals and policies of the comprehensive plan. The Old Town development regulations in the BMC were originally adopted in 2008, prior to the approval of the 2016 version of the Bellingham Comprehensive Plan. The proposed amendments, and those additional amendments proposed by the Planning Commission, are intended to address the comprehensive plan goals and policies that encourage utilizing existing developable land more efficiently, implementing a system of urban villages, incentivizing creation of affordable housing, linking land use and transportation planning, and reducing dependence on single-occupancy vehicles as established in the following goals and policies.

GOAL H-1 Ensure that Bellingham has a sufficient quantity and variety of housing types and densities to accommodate projected growth and promote other community goals.

Policy H-1 Support high-density and mixed commercial/residential development in the City's urban villages, high-capacity transit corridors connecting the villages and other appropriate areas that allow people to work, shop and recreate near where they live.

Policy H-14 Actively coordinate with public and private partners in efforts to meet regional housing needs.

GOAL H-2 Foster housing that is safe, healthy, livable, and affordable for all income levels in all neighborhoods.

Policy H-19 Continue providing incentives to support housing affordability (e.g. density bonuses, expedited permitting, multi-family tax exemption program and fee reductions) and consider including workforce housing as part of certain incentives programs.

Policy H-24 Continue streamlining the regulatory review and building permit process and reviewing the cost of infrastructure improvements and their impact on housing costs.

GOAL LU-1 Support sense of place in neighborhoods.

Policy LU-4 Protect the unique character and qualities of existing neighborhoods, while identifying opportunities for improved livability, safety, and housing affordability and diversity.

The Comprehensive Plan includes as a key infill growth strategy a system of urban villages and transit corridors that would accommodate a significant share of the City's future growth, while preserving established, stable neighborhoods. This approach promotes the development of mixed-use activity centers along key transportation corridors, with sufficient densities and amenities to support transit and other alternative modes of transportation. Since the adoption of the 2006 Comprehensive Plan, urban village plans have been approved for the following six areas - the Downtown, Fairhaven, Waterfront, **Old Town**, Samish, and Fountain Districts (2016 Bellingham Comprehensive Plan, Introduction, P.10)

GOAL LU-2 Foster vibrant urban villages.

Policy LU-12 The Urban Village designation encourages the creation of intensely developed mixed-use areas where infrastructure, transit, and other public facilities and services are available or can easily be provided. Urban villages should provide significant job opportunities and a substantial amount of new housing, allowing people to work, shop and recreate near where they live. The ultimate mix of land uses, densities, infrastructure requirements and other typical zoning, design, and development standards should be established in a master plan.

Policy LU-13 Promote and facilitate continued development of the City's seven existing urban villages - Downtown, Waterfront, Fairhaven, Fountain, Samish Way, **Old Town** and Barkley. These areas are expected to accommodate significant residential and mixed-use development over the 20-year planning period (see urban village master plans, design standards, and regulations).

Policy LU-14 Ensure that Bellingham's City Center (i.e. Downtown, Waterfront and **Old Town** Districts) retains its role as the dominant cultural, civic, financial and service center for the community and region. This area should be unique, attractive, and reflect Bellingham's history and natural setting (see Downtown Bellingham Plan, Waterfront Master Plan, **Old Town Subarea Plan**, City Center Neighborhood Plan and City Center Implementation Strategy).

Policy LU-15 Continue effective incentives and develop new incentives where needed for the planned urban villages. These incentives should be targeted to areas where they have proven to be successful and/or where the greatest need has been identified. Incentives should be flexible to respond to opportunities and changing markets.

Policy LU-17 In instances where a proponent controls multiple properties within an existing urban village and seeks to address the coordinated provision of infrastructure, cooperatively develop plans, approaches and agreements, including development agreements.

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:

- Land uses and adaptive performance-based development standards to encourage compatible new development and greater flexibility in design, particularly when the development context is well defined;
- An appropriate mix of commercial, office and residential uses;
- Parking requirements, including the potential for parking maximums and/or reduced parking requirements, and design standards that support multi-modal transportation options; and
- 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.

GOAL LU-5 Support the Growth Management Act's goal to encourage growth in urban areas.

Policy LU-44 Focus higher-intensity land uses in mixed-use urban villages and transit corridors, thereby maximizing use of existing infrastructure and services (See GOAL LU-2).

Policy LU-60 Encourage the assembly and redevelopment of key under-developed parcels through incentives and public/private partnerships.

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.

Policy CD-2 Ensure that land use, fire, and street standards are coordinated to provide greater pedestrian comfort and safety and more attractive alternative modes of transportation. Implementation strategies include:

....

- Orient new development to streets, and effectively frame in the streetscape.
- Encourage commercial activities such as sidewalk retail and outdoor dining.

....

- Consider allowing on-street parking to count toward off-street requirements in selected mixed-use areas to encourage compact, pedestrian-oriented development and to lessen the size and impacts of large parking lots.

....

- Prioritize implementation of the above in designated urban villages as outlined in the Land Use Chapter.

GOAL CD-2 Express the City's distinct community identity and sense of place through improvements to the appearance of new development, commercial centers, urban villages, transit corridors and streetscapes.

Policy CD-12 Periodically review and update the City's zoning regulations, design standards and design review process to ensure they promote quality development and result in projects that consider and complement existing neighborhoods. Specific recommendations include:

....

- Review auto parking standards to reduce the impacts of parking on urban form, adjacent uses, housing affordability, pedestrian mobility, and the natural environment. Continue to pursue parking management best practices.

...

Policy CD-14 Provide builders, developers and architects with a set of clear objectives and performance goals which promote the highest attainable standard of quality consistent with economic feasibility for new development.

GOAL T-1 Limit urban sprawl by linking land use and transportation planning.

Policy T-1 Continue to develop and implement plans, programs, and regulations that incentivize infill and emphasize multimodal transportation in urban villages.

Policy T-16 Employ Transportation Demand Management (TDM) and Transportation System Management (TSM) strategies, including, but not limited to, those listed below to increase the safety, efficiency, and long-term sustainability of the Citywide multimodal transportation system. TDM Actions:

....

- Implement urban village plans and Multifamily Design Review Guidelines to encourage development to be transit supportive, pedestrian oriented, and bicycle friendly;
- Encourage compact land use patterns that reduce vehicle trips and vehicle miles traveled;

....

- Review parking standards to reduce the impacts of parking lots on urban form, pedestrian mobility, and the natural environment. Continue to pursue parking management best practices.

OLD TOWN SUBAREA PLAN POLICIES

Urban village plans have been approved for the Downtown, Fairhaven, Waterfront, **Old Town**, Samish, and Fountain Districts and are incorporated by reference into the Comprehensive Plan.

The proposed amendments are consistent with the following policies from the Old Town Subarea Plan.

2.1. Framework Policies

- Encourage a healthy mix of diverse and eclectic residential and commercial uses,
- Guide development to engage the pedestrian by providing active streetscape uses, and a safe, convenient, and interesting network of walkable streets,
- Ensure new development responds to view corridors, landmark buildings, and the natural environment,
- Provide a level of predictability for stakeholders within and outside Old Town, and
- Encourage redevelopment to occur in Old Town.

3.1.1 Land Use Policies

1. Allow a mix of residential and commercial uses in Old Town to make the district a desirable place to live, work and play.

3.2. Development Character Implementation Strategies

1. Develop a Floor Area Ratio (FAR) system with maximum height limits.
2. Incorporate a FAR bonus system to allow increases in FAR in exchange for the creation or preservation of public amenities such as affordable housing, and construction of LEEDTM/Built Green certified buildings.
-
6. Adopt development regulations and design standards that are consistent with and implement the policy recommendations of this sub-area plan.

4. Circulation, Streetscape and Parking

The existing street grid layout with small blocks and multi-modal connections provides excellent networks for access and circulation. Old Town's proximity to downtown, waterfront and Lettered Streets and Columbia Neighborhoods, as well as public transportation service along Holly, Champion and Dupont streets, keeps Old Town well connected to other parts of the City.

....

As Old Town becomes more walkable, adequate parking needs to be provided in a manner that does not detract from the desire to create a pedestrian-oriented streetscape. A high priority should be placed on creating shared parking facilities since they have a greater capacity than single use reserved parking. Striking a balance between wider sidewalks for the pedestrian and on street parking is critical.

4.1.3 Parking Policies

1. Reduce existing parking requirements to a standard that is appropriate for an urban village.
2. Create on-street parking for visitors and customers, and discourage on-site surface parking lots.
3. Consider establishing a Residential Parking Zone in adjacent neighborhoods if the spillover from Old Town to nearby residential areas becomes problematic.

4. When feasible, use shared parking facilities to promote and encourage the development of commercial/office uses.
5. Consider public/private partnership opportunities for shared parking structures.

The proposed code amendments, as amended by the Planning Commission, are consistent with the Housing, Land Use, Community Design, Transportation, and Old Town Subarea Plan goals and policies referenced.

II. CONCLUSIONS

Based on the staff report and the information presented at the public hearing, the Bellingham Planning Commission concludes that the proposed BMC amendments, as amended by the Planning Commission, will:

1. Increase flexibility and feasibility for redevelopment in an area of the city that has numerous development challenges.
2. Increase opportunities to provide affordable housing.
3. Increase options in how parking requirements may be satisfied and be provided more efficiently.
4. Incentivize creation of streetscapes that enhance the economic vitality and overall visual quality of Old Town.
5. Help achieve many of the land use, housing, transportation, and community design related goals and policies in the Comprehensive Plan and the Old Town Subarea 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 4-3 vote, that the City Council approve the proposed amendments to the Bellingham Municipal Code as summarized in the series of recommended amendments below:

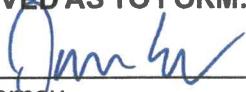
1. Allow additional interim light industrial uses limited to boat sales and storage as shown in Section 1 of the draft ordinance.
2. Adjust floor area bonuses and transfers between development sites as shown in Section 2 of the draft ordinance.
3. Strike the current FAR bonus for Public Plazas and Open Space in BMC 20.35.070(D)(4)(c)(i) and replace it with a provision allowing the Planning Director discretion to allot up to the maximum allowed 1.5 FAR bonus for developer generated proposals that would provide public benefit, with specific language to be determined by staff.
4. Eliminate parking requirements in Old Town in lieu of the original proposed amendments to reduce parking.

1 **ADOPTED** this 20th day of April, 2023.

2
3 
4 _____
5 *Planning Commission Chairperson*

6
7 
8 **ATTEST:** _____
9 *Recording Secretary*

10
11
12
13
14 **APPROVED AS TO FORM:**

15 
16 _____
17 *City Attorney*