

**ORDINANCE NO. 2024-02-002**

**AN ORDINANCE AMENDING MULTIPLE SECTIONS OF THE BELLINGHAM MUNICIPAL CODE (BMC) IN TITLE 20, LAND USE DEVELOPMENT CHAPTER FOR CLARITY AND TO CORRECT INCONSISTENCIES; AMENDING BMC 20.08.020, 20.10.080, BMC 20.12.010, BMC 20.12.030, BMC 20.12.080, BMC 20.14.010, BMC 20.30.040, BMC 20.32.040, BMC 20.33.040, BMC 20.33.050, BMC 20.37.330, AND BMC 20.37.340.**

**WHEREAS**, the City Council adopted the 2016 Bellingham Comprehensive Plan to guide Bellingham's growth and development for the next 20-years; and

**WHEREAS**, Title 20 – Land Use Development of the BMC was adopted to fully implement the Comprehensive Plan; and

**WHEREAS**, The Planning and Community Development Department has been developing a series of minor code amendments to improve the City's land use and development code; and

**WHEREAS**, the proposed minor code amendments to Title 20 – Land Use Development chapter of the BMC are intended to improve the City's land use and development code, correct code inconsistencies, and provide code clarity; and

**WHEREAS**, minor, editorial code changes to the BMC should be made for clarity; and

**WHEREAS**, the proposed minor amendments improve the application of the development code and benefit the general public and staff's administration of the BMC; and

**WHEREAS**, the proposed minor amendments comply with and implement the goals and policies of the Comprehensive Plan; and

**WHEREAS**, the responsible official reviewed the proposed amendments under the procedures of the State Environmental Policy Act and issued a Determination of Non-Significance (SEP2023-0031) on November 2, 2023; and

**WHEREAS**, staff sent notice of the City's intent to adopt the proposed land use development regulations to the State of Washington Department of Commerce on November 3, 2023, as required by RCW 36.70A.106; and

**WHEREAS**, the Planning Commission held a properly noticed public hearing on November 16, 2023, to consider the proposed amendments; and

**WHEREAS**, the Planning Commission considered the established record, including public comments, and thereafter made Findings of Fact, Conclusions and Recommendations for approval of the proposed amendments by a 6-0 vote; and

**WHEREAS**, the City Council held a properly noticed public hearing on the proposed amendments on January 29, 2024; and

**WHEREAS**, the City Council has considered the recommendation of the Planning Commission, the established record including public comments, and hereby adopts the Findings of Fact, Conclusions and Recommendations of the Planning Commission;

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

**Section 1.** BMC 20.08.020 regarding Specific Definitions is hereby amended as follows:

“Lot line” means the outermost edge or boundary of a lot. (See Figure 8 of this section)

A. *Front.*

1. For an interior lot, the front lot line shall be that lot line which abuts the street right-of-way ~~or, when a lot does not abut a street, the front lot line shall be that lot line or portion therefor that abuts the designated access easement.~~
2. For a corner lot, the front lot line shall be that lot line(s) which abuts a designated arterial. If neither or both street is a designated arterial, the builder/owner shall have the option of selecting which lot line shall be the front lot line; the other lot line abutting the intersecting street shall become a flanking street side lot line. ~~(See Figure 8 of this section.)~~
3. For a through lot, both lot lines which abut a street right-of-way shall be considered the front lot line.
4. For an interior lot without street frontage, the lot line which abuts the access easement shall be considered the front lot line.

B. *Rear.* All lot lines which do not qualify as either front or side lot lines, except as allowed for pipestem lots.

C. *Side.* Any lot line which intersects a front lot line except a pipestem lot is permitted to have a side lot line that intersects one or more side lot lines.

“Lot, Pipestem” means a lot with a parallel extension (pipestem), straight or compound, created for sole purposes of providing such lot with frontage on a public street. Sometimes called a “flag” or “panhandle” lot.

**Section 2.** BMC 20.10.080 regarding mechanical equipment encroachments is hereby amended as follows:

A-B. [No Change].

**Table 20.10.080 – Permitted Yard Encroachments**

Encroachments	Front Yard Setback	Side Yard Setback on a Flanking Street	P = Permitted		N = Not permitted
			Side Yard Setback	Rear Yard Setback	Front Yard Setback Option (1)
Uncovered accessibility ramp	P	P	P	P	P
Accessory building RS per BMC <a href="#">20.30.100</a> RM per BMC <a href="#">20.32.110</a>	N	N	P	P	N
Landscape arbor or trellis	P	P	P	P	P
Awning/canopy for a window, porch or door	P 2' maximum	P 2' maximum	P 2' maximum	P 2' maximum	P 2' maximum
Cantilevered bay window	P 2' maximum	P 2' maximum	P 2' maximum (5) (6) (7)	P 2' maximum	N
Green house window (manufactured window unit)	P 2' maximum	P 2' maximum	P 2' maximum (7) (8)	P 2' maximum	N
Dormer(s)	P 2'¼' maximum (9)	P 2'¼' maximum (9)	P 2' maximum (5) (6) (7)	P 2' maximum	N
Chimney/fireplace	P 2' maximum	P 2' maximum	N	P 2' maximum	P 2' maximum
Fireplace with direct venting	P 2' maximum	P 2' maximum	P 2' maximum (10)	P 2' maximum	P 2' maximum
Covered porch (2) Single story main entry open on 3 sides	P 6' maximum	P 6' maximum	N	N	N
Roof; cornice, eave or overhang less than 4' in depth (4)	P	P	P	P	P
Uncovered deck less than 30" above grade (3)	P	P	P	P	P
Uncovered deck or balcony, exceeding 30" above grade (3)	P 6' maximum	P 6' maximum	P 2' maximum (6) (7)	P 5' maximum	N
Uncovered stairwell, stairway	P	P	P	P	P

**Table 20.10.080 – Permitted Yard Encroachments**

Encroachments	Front Yard Setback	Side Yard Setback on a Flanking Street	P = Permitted		N = Not permitted
			Side Yard Setback	Rear Yard Setback	Front Yard Setback Option (1)
or steps not exceeding 4' above grade (2)					
Uncovered stairways, stairwells exceeding 4' above grade	N	P 2' maximum	P 2' maximum	P 5' maximum	N
Fences and walls, per BMC <a href="#">20.12.050</a>	P	P	P	P	P
Hot tub Swimming pool Sport court	N	N	N	P 4' maximum	N
Mechanical equipment, such as: air condition unit, heat pump unit	<del>P</del> N 6' maximum (11)	<del>P</del> N 6' maximum (11)	<del>P</del> N (12)	P 4' maximum (12)	N 2' maximum (11)

**Notes:**

- 1 Yard encroachments may be permitted per BMC [20.10.080\(B\)](#).
- 2 Uncovered steps leading into a porch or deck which are not exceeding four feet above grade are not counted towards the six feet front yard encroachment.
- 3 Lower decks or balconies with decks or balconies above them are not considered roofed.
- 4 Shall not be closer than three feet to a property line.
- 5 Shall not exceed 12 feet in width and separated from like features by at least four feet.
- 6 Prohibited within the side yard for residential single development.
- 7 Prohibited within seven feet of a side property line for residential multi development.
- 8 A manufactured green house window unit within the side yard is allowed as follows:
  - i Limited to the first floor;
  - ii Maximum width four feet; and
  - iii Maximum height four feet.
- 9 A dormer may encroach a maximum of two feet when located above a corresponding bay window, or four feet when located above a corresponding front porch.
- 10 A wall bump-out for a gas fireplace with direct venting is allowed as follows:
  - i Limited to the first floor;
  - ii Maximum width six feet; and
  - iii Maximum height six feet measured from finished floor.
11. Mechanical equipment shall be screened with landscaping, fencing, or similar, when visible from the public street.
12. Mechanical equipment is prohibited within three feet of a common property line with another lot. The maximum permissible noise level for mechanical equipment located within five feet of a common property line is 55 decibels (dBA).

**Section 3.** BMC 20.12.010 regarding Parking is hereby amended as follows:

A-B. [No Change].

C. *General Provisions.*

1. Whenever off-street parking facilities are constructed, whether required or not, the facility shall meet the standards and requirements within this section.
2. All required parking shall be located off street and on the subject property in areas which meet the minimum requirements of this section. Parking on the public right-of-way shall not be considered as off-street parking unless approved pursuant to subsections [\(A\)\(3\)](#) and [\(4\)](#) of this section. Shared parking may be allowed pursuant to regulations found in subsection [\(A\)\(6\)](#) of this section.
3. The provisions of off-street parking and loading in the manner and extent required herein shall be a continuing obligation to the owner of a given use so long as the use is in existence. It shall be unlawful to discontinue, change, or dispense with parking and/or loading facilities unless alternative facilities are established which meet the requirements of this section.
4. Scaled parking plans shall be required which indicate ingress, egress, grade, base and surface material, as well as parking lot dimensions.
5. Off-street parking for single-family and duplex dwellings shall be a minimum of nine feet in width by 18 feet in length with 22 feet of maneuvering aisle depth behind each space. Off-street parking dimensions for other uses shall not be less than shown on BMC [20.08.020](#), Figures 10, 11 and 12.
6. Unapproved revision to any approved parking facility which would affect the design, or failure to maintain the facility in accordance with good practice, shall be deemed a violation of the land use development ordinance, subject to the penalties as established. Failure to keep the parking lot surface reasonably clean of debris, failure to replace dead plant material or to remove noxious weeds shall be specifically included in the phrase "failure to maintain the facility in accordance with good practice."

D. *Design Provisions.*

1. The parking facility shall be located totally within property lines except for egress, ingress and maneuvering areas as permitted below.
2.
  - a. Alley rights-of-way may be utilized toward meeting the maneuvering area required herein.

b. Where required by special regulation in Chapter [20.00](#) BMC, Zoning Tables, or BMC Title [23](#) when access is available from a city alley, no vehicular access shall be taken from the street frontage except when the planning director determines that alley access is impractical or environmentally constrained.

3. No portion of any parking area shall be permitted within any required front yard, side yard on a flanking street, vision clearance triangle, or other front yard setback established on the recorded plat (e.g., a lot frontage such as a pipestem that does not meet minimum lot width and is not buildable), with the exception that parking is outright permitted in the front yard of those lots created through a cluster subdivision. Driveway crossings and tandem parking within a driveway, when allowed by other city codes, are not prohibited by this provision. Single-family homes and duplexes that are required to provide on-site maneuvering due to driveway access onto an arterial street or location near an intersection under subsection [\(D\)\(7\)](#) of this section are not prohibited from providing a single backup area within the front yard or side yard on a flanking street.

4.

a. For single-family dwelling units, open parking spaces may be located within required interior side yard and rear yards.

b. For all other uses, no portion of any open parking facility except an ingress/egress lane shall be located within five feet of any property line except when an alley is used for direct maneuvering. In industrial designations the five-foot setback requirement shall apply only when open parking areas are adjacent the front and side-flanking property lines.

c. In the residential multi and commercial general use type designation and urban village residential and commercial land use areas, the five-foot parking space setback and landscaping requirement may be waived by the director when:

i. An alleyway is used for direct access; and

ii. The landscaping is replaced with a fence which screens from view the parking area; and

iii. The elimination of the five-foot parking setback will result in the provision of additional parking spaces beyond that required in the land use development code.

5.
  - a. For uses permitted within the residential multi general use type and urban village residential land use areas, an area of at least five feet in width and 10 feet in length must be provided to separate every 20 adjacent open parking spaces.
  - b. For uses permitted within the commercial general use type and urban village commercial land use areas, an area of at least five feet in width and 10 feet in length must be provided to separate every 30 adjacent open parking spaces.
6.
  - a. All required parking spaces shall be designed such that any vehicle parking in any space may enter and exit without interference or blocking any other vehicle parking in any other required space, except as allowed in subsections [\(D\)\(6\)\(b\)](#) and [\(D\)\(6\)\(c\)](#) of this section.
  - b. Tandem parking (two cars maximum) as allowed when enclosed within a structure.
    - i. Tandem parking garages shall be set back a minimum of four feet from the front face of a building.
  - c. Tandem parking not enclosed within a structure on lots created through the cluster subdivision pursuant to BMC Title [23](#).
7. Single-family homes and duplexes may utilize city rights-of-way and private driveways established through the land division process for maneuvering unless the right-of-way is a designated arterial, or when the driveway would be within 50 feet of a tangent of an intersection; provided, that if there is no curb, the distance shall be 80 feet measured from the edge of pavement of the intersecting street; in which case the maneuvering area shall be provided on site. The city engineer may approve an administrative variance from on-site maneuvering room requirement if it is determined that there will be no detrimental impact to public safety resulting from on-street maneuvering.

E. [No Change]

**Section 4.** BMC 20.12.030 regarding Landscaping is hereby amended as follows:

A. *Applicability.* This section is intended to provide the minimum landscaping requirements for all uses. Additional requirements and provisions may be required for certain uses and within urban village areas.

B. *General Provisions.*

1. The provisions of this section shall apply to all new construction and to the remodeling of same when the cost of remodeling exceeds 50 percent of the assessed valuation of the structure to the extent that there is space available for the landscaping. (Single-family homes and individual manufactured homes are exempt from any landscaping requirements.)

2. Prior to issuance of a building permit, a scaled landscape site plan shall be submitted and approved by the planning department consistent with the provisions herein. Said plan shall specify species name, size and location.

3. Landscaping pursuant to the approved site plan shall either be installed or bonded for (in an amount no less than 150 percent of cost of material and installation) prior to issuance of a certificate of occupancy or if no certificate is required prior to final inspection approval.

4. Existing trees which will be saved and which meet the minimum specification herein specified shall count toward meeting the requirements herein, provided they are an acceptable species as to their location.

5. At the discretion of the Planning Director, or designee, a financial surety in the amount of 150% of the full cost to install the required landscaping may be required as a condition of a land use decision and/or occupancy approval for a time period not to exceed two full growing seasons to ensure survivability and maintenance of said landscaping.

C. *Requirements.*

1. *Street Trees (For Residential ~~Multi~~, Commercial, Industrial, Urban Village, and Planned General Use Types).*

a. One street tree shall be required for every 50 feet of street frontage abutting the property. Said trees shall be installed adjacent to the right-of-way within the property lines or within the right-of-way subject to the approval of the public works and parks department.

2. *Yards and Open Spaces.*



- a. Only required 25-foot yards for uses permitted in the industrial general use type and urban village industrial land use areas shall be installed with a wall of trees.
  - b. All yards required (except the vision triangle) for all uses permitted in the commercial general use type and urban village commercial land use areas shall be screened.
  - c. For all uses permitted in the residential multi general use type and urban village residential land use areas a minimum of 25 percent of the required open space area shall be landscaped.
  - d. Landscape-based LID facilities are permitted within landscaped open space and passive recreation areas.
3. *Garbage Receptacle Areas.* Garbage receptacle areas for multifamily dwelling units shall be screened on at least two sides.
4. *Parking.*
- a. For every 10 open parking spaces, one tree shall be installed around the facility perimeter. These trees may be grouped or spread lineally. This provision shall not apply to industrial use type areas and urban village industrial land use areas.
  - b. Separation areas as required in BMC [20.12.010\(D\)\(5\)](#) shall be landscaped. This provision shall not apply to industrial general use type areas and urban village industrial land use areas.
  - c. Areas between the parking facility and adjacent property as required in BMC [20.12.010\(D\)\(4\)\(b\)](#) shall be landscaped if the adjacent property is of the same general use type. If the adjacent property is of a different general use type, said area shall be screened.
  - d. *Parking Facility Interior Landscaping for All Uses Permitted in the Commercial General Use Type and Urban Village Commercial Land Use Areas.*
    - i. Surface parking lots with 15 or more parking spaces shall provide internal landscaping at the rate of 20 square feet of landscaped area per parking stall.
    - ii. The landscaping must be dispersed throughout the parking area.
    - iii. Landscaping around the facility perimeter may not substitute for interior landscaping. However, interior landscaping may join perimeter landscaping as

long as it extends at least four feet into the parking area from the perimeter landscape line.

e. When adjacent to landscaping, a portion of a standard parking space may be landscaped instead of paved, as follows:

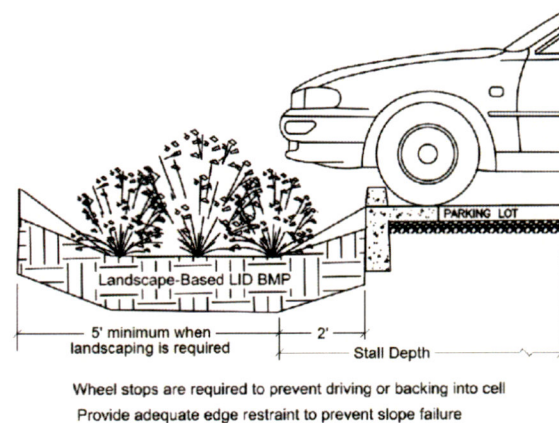
i. The landscaped area may be up to two feet of the front of the space as measured from a line parallel to the direction of the bumper of a vehicle using the space, as shown in Figure 20.12.030(A). Any vehicle overhang must be free from interference from sidewalks, landscaping, or other required elements.

ii. Landscaping within the parking overhang area must be ground cover plants.

iii. The landscaped area counts toward parking lot landscaping requirements and toward any overall open space requirements.

iv. Where landscape-based LID BMP is utilized, the impervious area shall be sized as prescribed by the BMP. Where landscaping is required by BMC [20.12.010\(D\)\(4\)\(b\)](#) or [\(D\)\(5\)](#), a minimum seven-foot width of landscaping shall be provided, including parking overhang area, regardless of whether landscape-based LID BMP is utilized.

Figure 20.12.030(A)



f. Unless infeasible, landscape-based LID BMPs shall be used within parking lot landscaping to meet drainage requirements. This requirement does not apply to parking provided within structures.

5. Freeway Trees (For Residential Multi, Industrial and Planned General Use Types and Urban Village Land Use Areas).

- a. One tree shall be required for every 25 feet of freeway frontage abutting the property and shall be installed along that frontage.

D-E. [No Change].

**Section 5.** BMC 20.12.080 regarding Adult Entertainment is hereby amended as follows:

A. Adult entertainment uses shall be prohibited in all use districts unless they are located in the adult entertainment overlay district as shown in Figure 20.12.080(A) with individual properties delineated in more detail in Figures 20.12.080(B), (C), and (D). ~~The adult entertainment overlay district shall consist of the following planned industrial districts: Area 1 of the Puget neighborhood plan, Area 2 and 5 of the Mt. Baker neighborhood plan and Area 18 of the Guide Meridian neighborhood plan, all as shown on Figures 20.12.080(A), (B) and (C).~~ Adult entertainment uses within an overlay district may only be permitted in these planned industrial ~~zones~~ districts if specifically approved through the planned development process pursuant to Chapter 20.38 BMC ~~a planned development contract or contract amendment~~. Planned development contracts, resolutions or ordinances which specify that all uses listed in the planned industrial district are permitted, but do not specifically list adult entertainment, shall not be construed to allow adult entertainment uses.

B-D. [No Change].

Figure 20.12.080 (A)

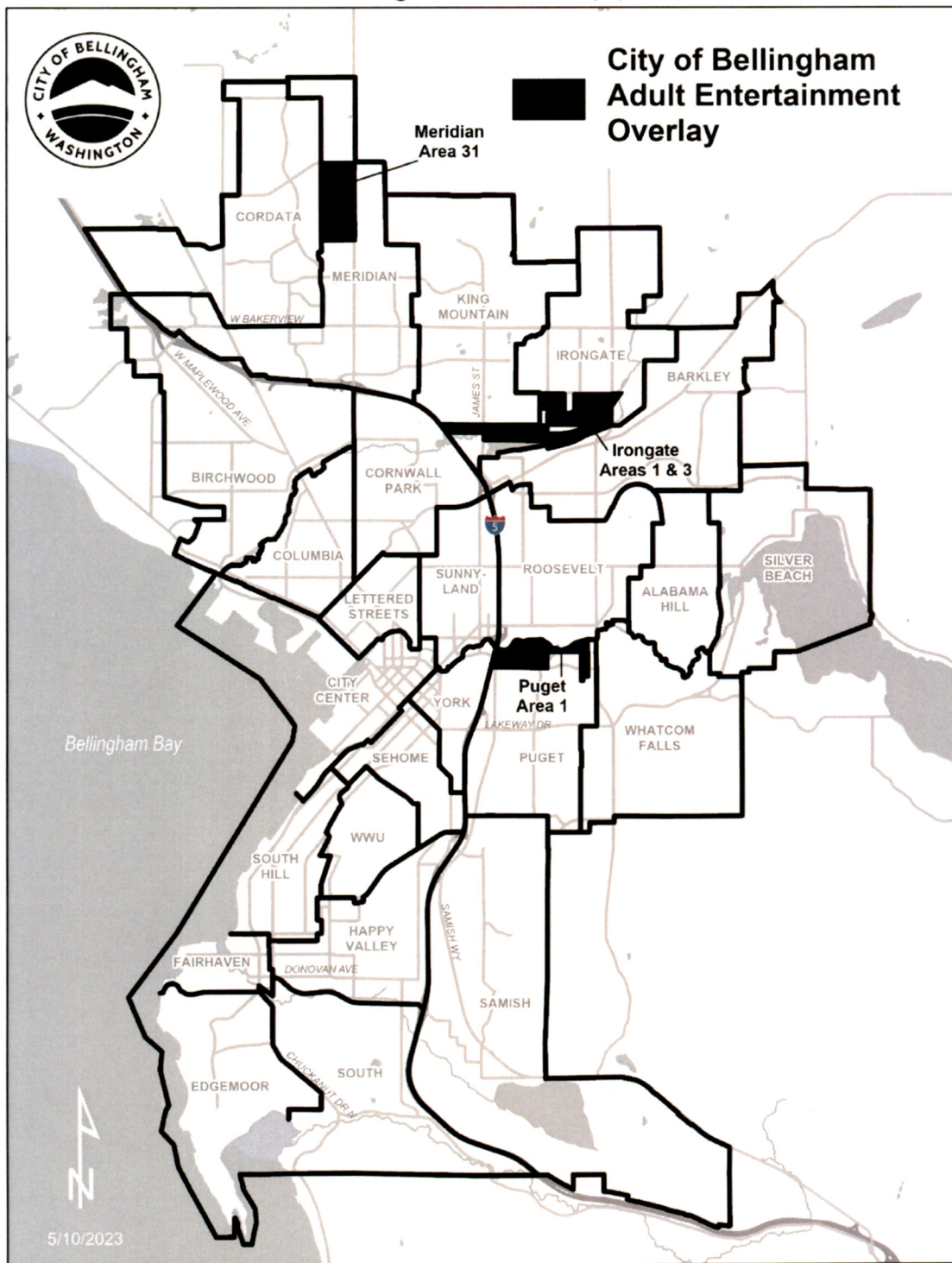


Figure 20.12.080 (B)

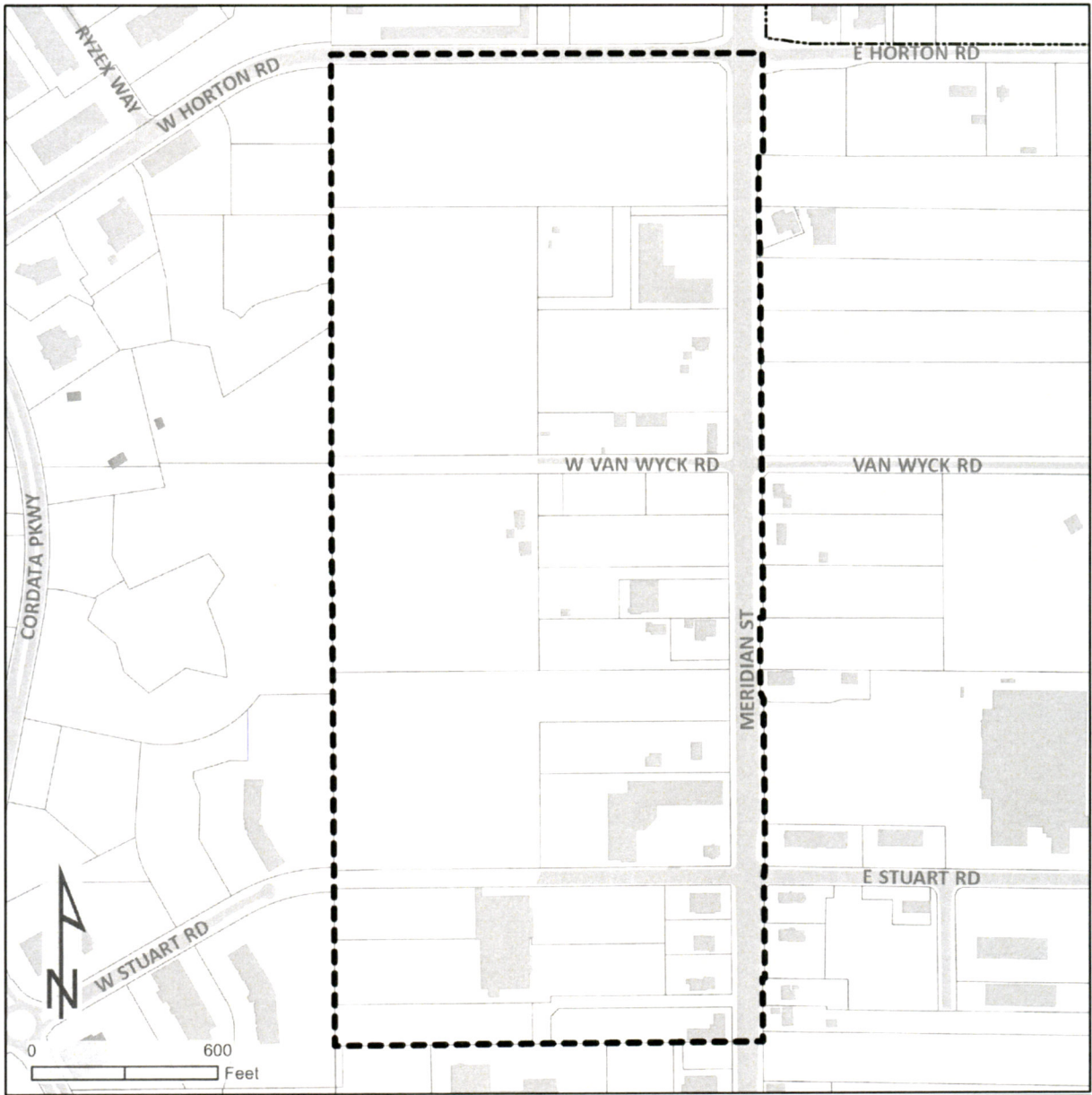


Figure 20.12.080 (C)

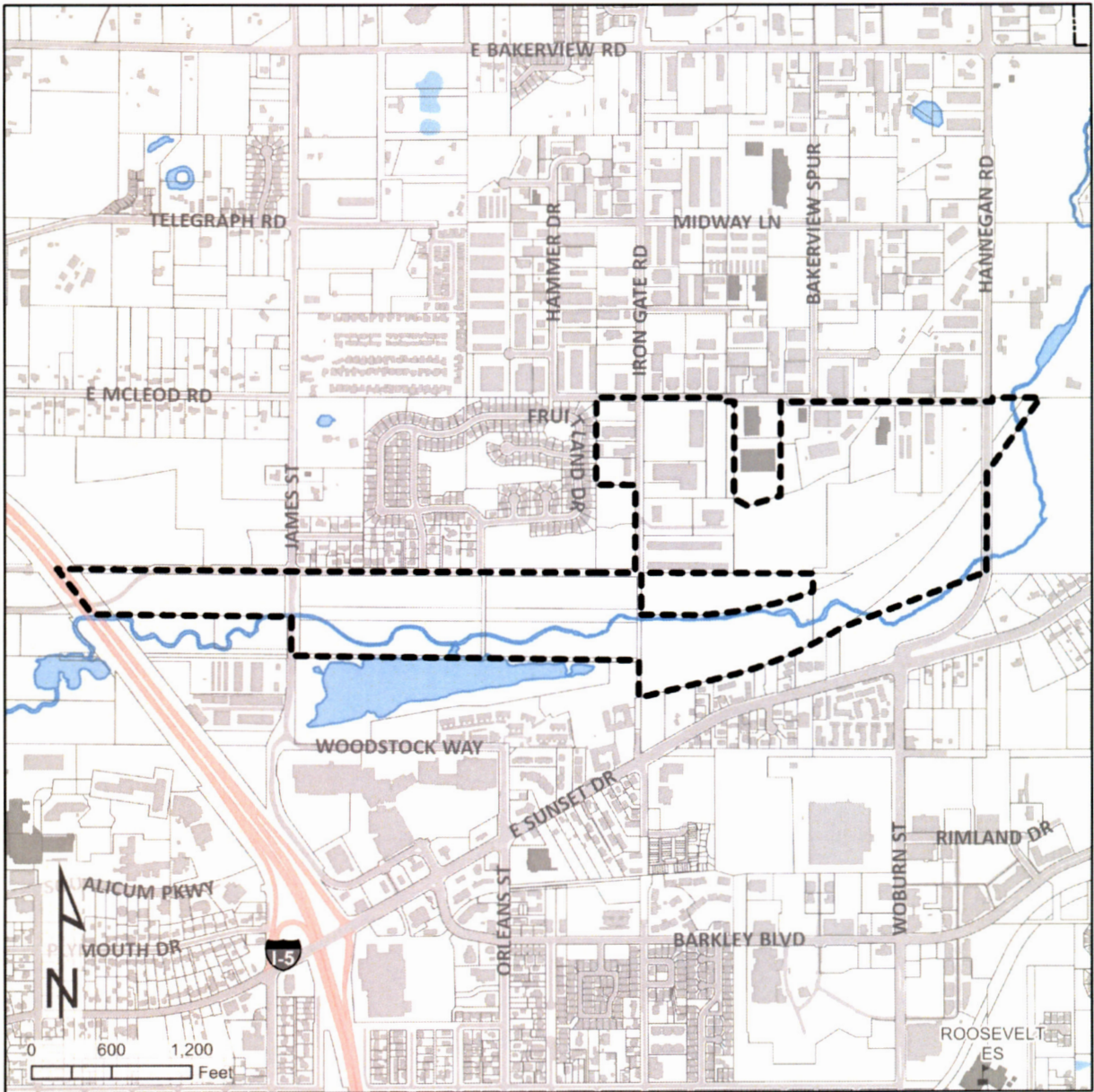


Figure 20.12.080 (D)

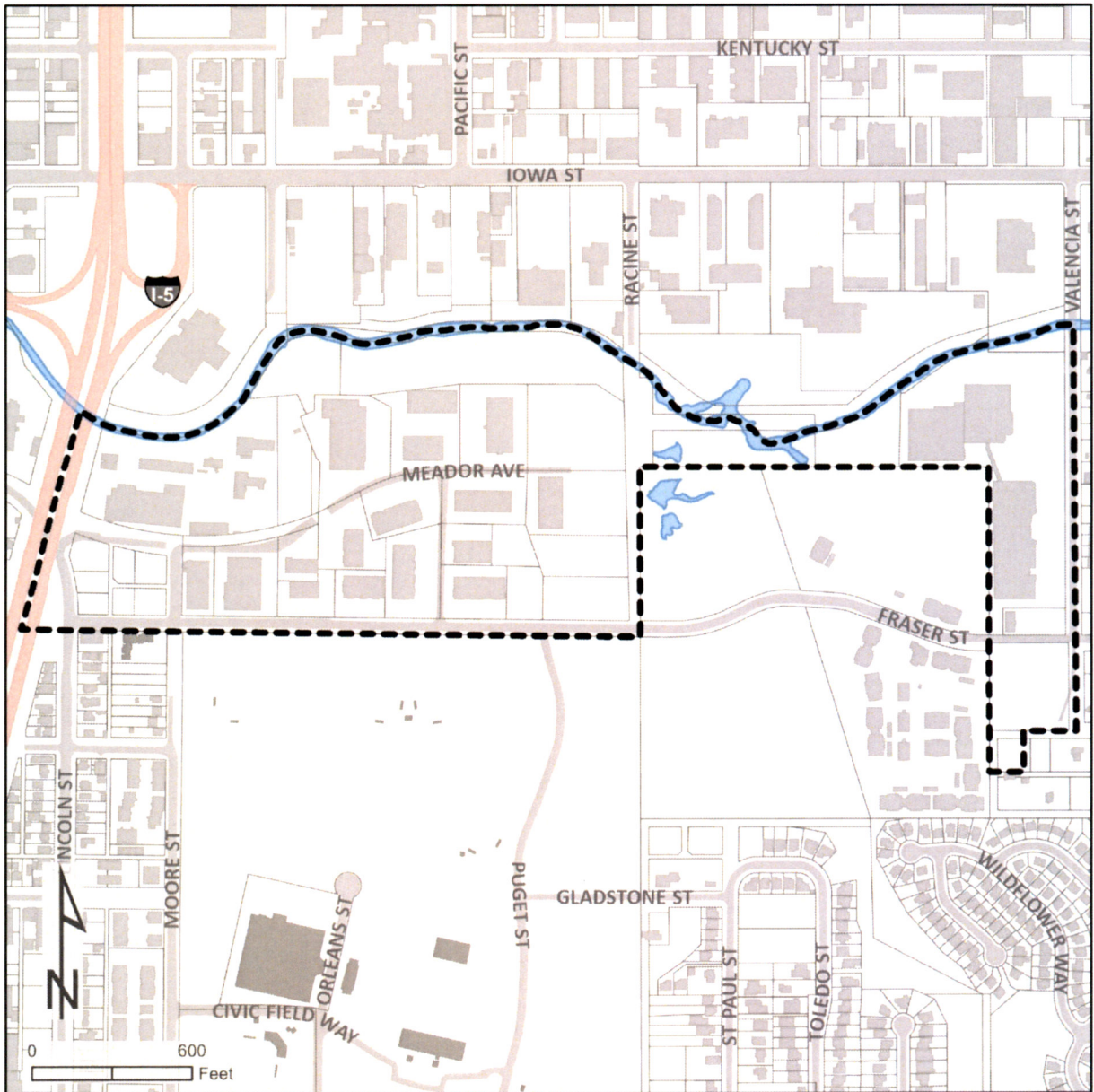


Figure 20.12.080(A)

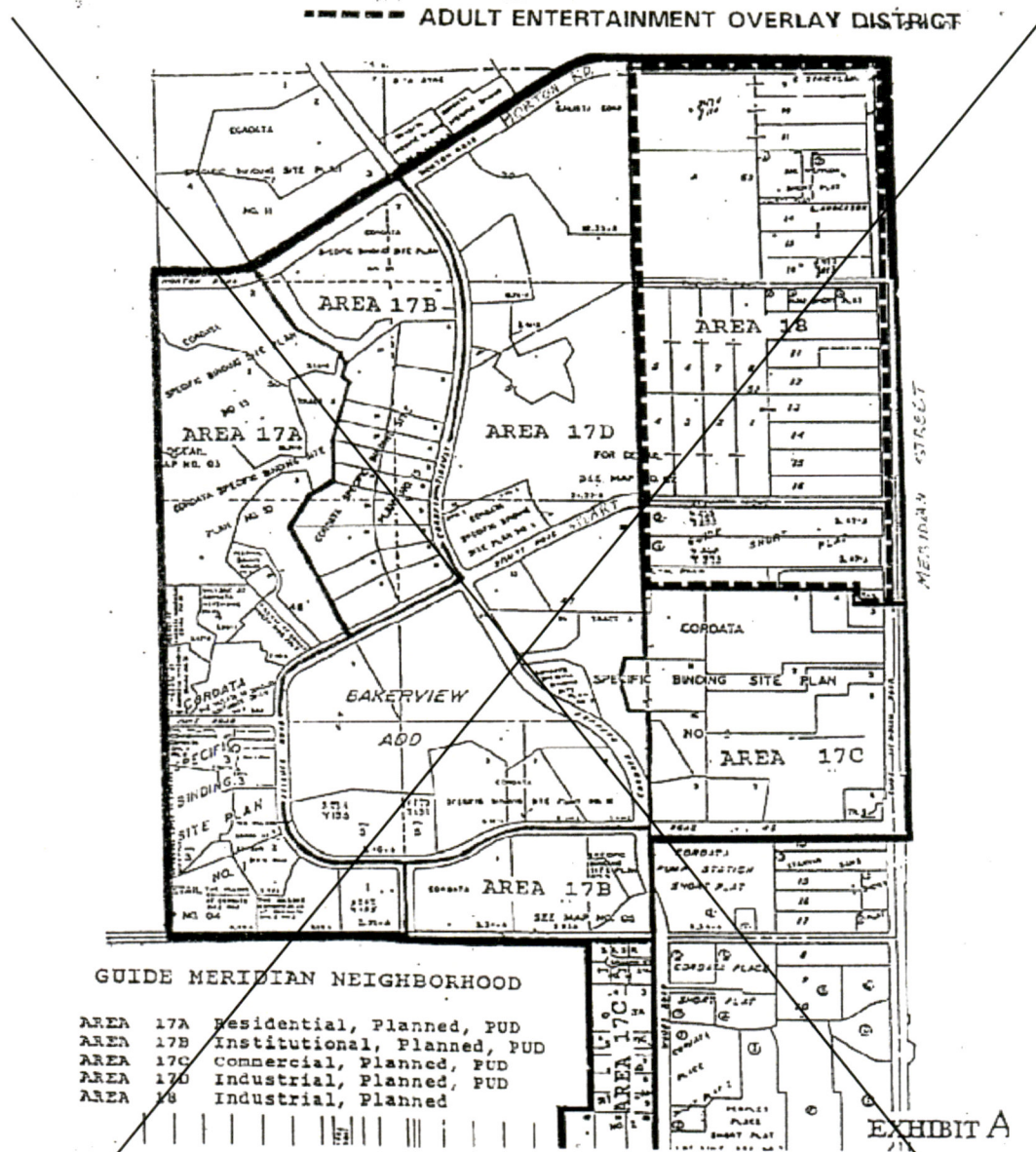
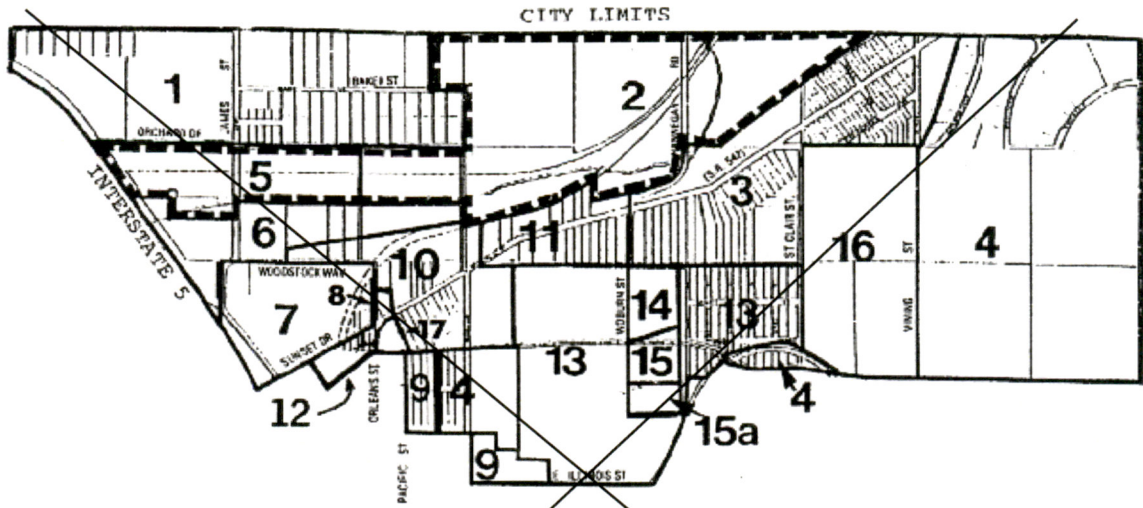




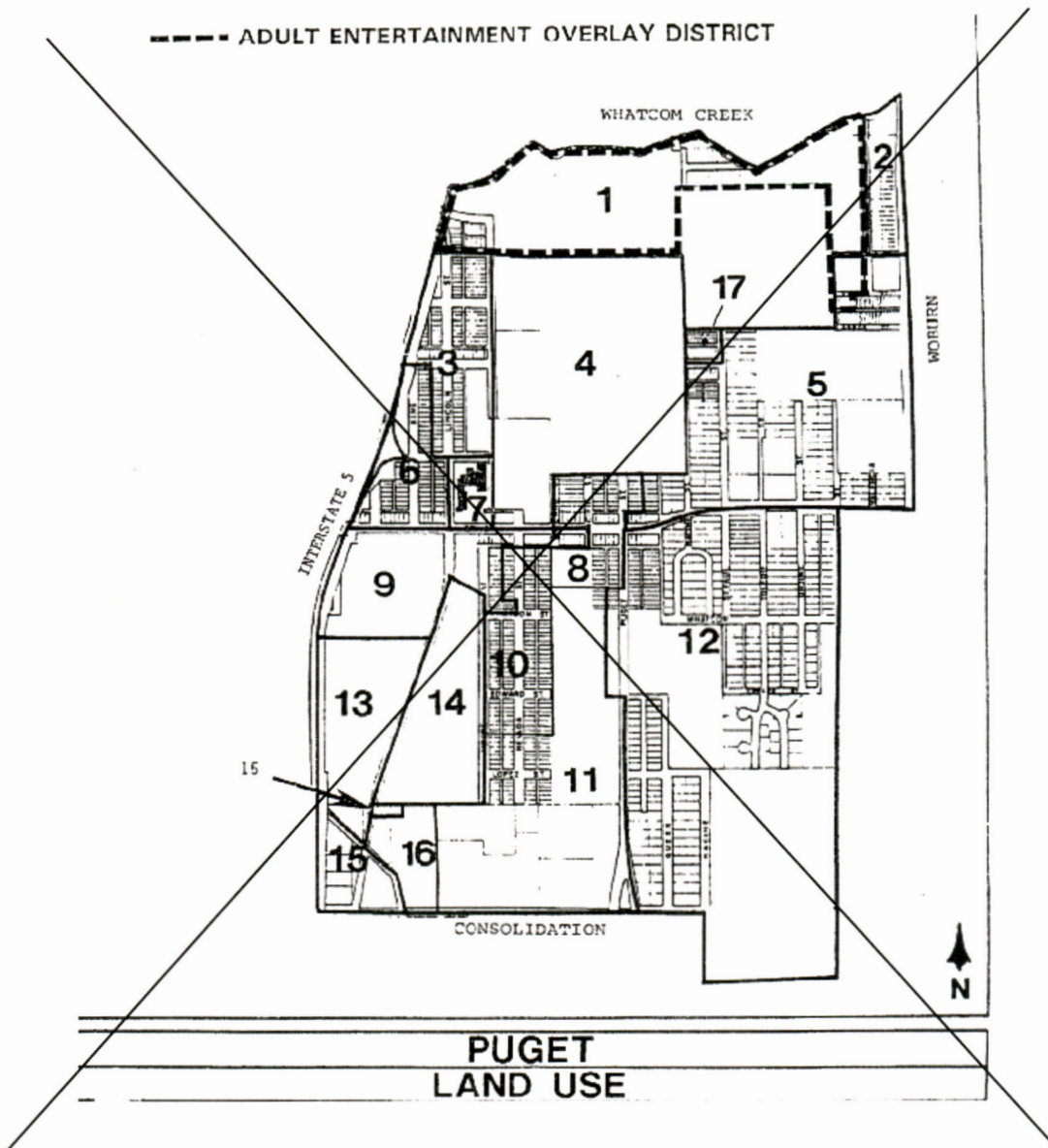
Figure 20.12.080(B)



NOTE: The boundary between Area 8 and Area 9 is located along the ownership line which begins 165.5 feet north of the northerly edge of the railroad right-of-way and extends easterly as shown.

----- ADULT ENTERTAINMENT OVERLAY DISTRICT

Figure 20.12.080(C)



**Section 6.** BMC 20.14.010 regarding Buildings and Structures is hereby amended as follows:

A.-C. [No Change]

D. *Buildings and Structures Nonconforming to Design Standards.*

1. [No Change].

2. ~~Multifamily development~~ Development regulated under BMC [20.25.020\(B\)](#) that does not conform to the design standards and is damaged or destroyed by sudden accidental cause may be reconstructed. The reconstructed improvement may not be more nonconforming than it was immediately prior to the damage. An application for a building permit to rebuild or repair the nonconforming improvement must be made within 12 months or the nonconformance shall be considered to be terminated and shall not be resumed. Development that does not conform to other provisions of this title shall continue to be regulated under the provisions of this chapter.

3 -4. [No Change].

**Section 7.** BMC 20.30.040 regarding Standard development regulations is hereby amended as follows:

A-E. [No Change].

F. *Minimum Yards.*

1. Unless more stringent setbacks have been delineated upon a plat as part of an approval requirement, the following setbacks as shown on Table 20.30.040 – Residential Single Minimum Yards shall be required for main buildings:

**Table 20.30.040 Residential Single Minimum Yards**

Yards	Setbacks	Measurements
Front Yard Setback	50 feet CL (1)	Setback measured from the centerline (CL) of the street right-of-way.
	60 feet CL if designed street arterial (1)	
	20 feet PL if abutting a cul-de-sac	Setback measured from the front property line (PL).
	10 feet from an access easement (3)	Setback measured from the <u>closest boundary of an access easement associated with the private driveway.</u>

Yards	Setbacks	Measurements
Side Yard on a Flanking Street	40 feet CL	Setback measured from the centerline (CL) of the street right-of-way.
	50 feet CL if designed street arterial	
	10 feet PL if abutting a cul-de-sac	Setback measured from the property line (PL) abutting the side flanking street.
Side Yard Setback	Five feet PL	Setback measured from each side property line (PL).
Rear Yard Setback	10 feet PL	Setback measured from the rear property line (PL).

Note:

1 At the property owner's option, when 40 percent or more of all lots or parcels on one side of a block between two intersecting streets have been built up with buildings of less depth than that required by this chapter, then the average depth of the front yards may be the required yard for that side of the block. For the purpose of calculating the average depth, buildings that exceed the front yard setback shall be calculated to the standard minimum front yard setback. This front yard setback option is not applicable to garages and carports, which shall comply with the standard front yard setback requirement. Yard encroachments may be permitted per BMC [20.10.080\(B\)](#).

2 Exception: Permitted yard encroachments identified in BMC [20.10.080\(B\)](#) may extend into a standard required yard; provided, that the encroachments meet the adopted building codes and minimum vision clearance triangle on a corner lot.

3. Applicable only to lots that lack street abutment and are served by a private access easement. The maneuvering area between the back of parking (or a garage/carport entry) and a private driveway shall not be between 10 feet and 18 feet in length to prevent parked cars from overhanging into a driveway.

G. *Minimum Yards – Cluster Subdivisions.*

1. Unless more stringent setbacks have been delineated upon a cluster plat as part of an approval requirement, the following setbacks as shown on Table 20.30.045 – Cluster Residential Single Minimum Yards shall be required for main buildings on lots created through the subdivision process:

**Table 20.30.045 Cluster Residential Single Minimum Yards**

Table 20.30.045 –		
Yards	Setbacks	Measurements
Front Yard Setback	15 feet PL	Setback measure from the front property line (PL).

**Table 20.30.045 –**

Yards	Setbacks	Measurements
	<u>10 feet from an access easement (2)</u>	<u>Setback measured from the closest boundary of an access easement associated with the private driveway.</u>
Side Yard on a Flanking Street	10 feet PL	Setback measured from the property line (PL) abutting the side flanking street.
Side Yard Setback	Five feet PL	Setback measured from each side property line (PL).
Side/ <u>Rear</u> Yard Setback (attached)	0 feet PL	Setback measured from the side/ <u>rear</u> property line (PL). <u>(3)</u>
Rear Yard Setback	10 feet PL	Setback measured from the rear property line (PL).

**Note:**

1. Exception: Permitted yard encroachments identified in BMC [20.10.080\(B\)](#) may extend into a standard required yard; provided, that the encroachments meet the adopted building codes and minimum vision clearance triangle on a corner lot.
2. Applicable only to lots that lack street abutment and are served by a private access easement. The maneuvering area between the back of parking (or a garage/carport entry) and a private driveway shall not be between 10 feet and 18 feet in length to prevent parked cars from overhanging into a driveway.
3. Applies to the portion of the building(s) where the attachment occurs.

H. Street Trees. One street tree shall be required for every 50 feet of street frontage abutting the property. Said trees shall be installed adjacent to the right-of-way within the property lines or within the right-of-way subject to the approval of the public works and parks department. Said trees are required for all new and redeveloped properties unless already installed as part of a land division process.

**Section 8.** BMC 20.32.040 regarding Standard development – Regulations is hereby amended as follows:

A. – C. [No Change].

D. 1-5. [No Change].

D. 6. A parking area shall not extend within 15 feet of any property line abutting a residential single zone.

D. 7-8. [No Change].

E. *Minimum Yards.*

1. Residential multi proposals with a transition, ~~or multiple,~~ or planned use qualifier shall meet the following building setbacks as shown in Table 20.32.040(C) – Residential Multi Transition and Multiple Minimum Yards:

**Table 20.32.040(C) Residential Multi Transition and Multiple Minimum Yards**

Yards	Setbacks	Measurements
Front and Side Yard Setbacks on a Flanking Street	40 feet CL (1) 50 feet CL if designed street arterial (1)	Setback measured from the centerline (CL) of the street right-of-way.
Side Yard Setback	10 feet PL— first story 12.5 feet PL— second story 15 feet PL— third story 17.5 feet PL— fourth story	Setbacks measured from each side property line (PL) to the wall of the subject story. (2)
Rear Yard Setback	20 feet PL— first story 25 feet PL— second story 30 feet PL— third story 35 feet PL— fourth story	Setbacks measured from the rear property line (PL) to the wall of the subject story. (2)

**Notes:**

1 At the property owner's option, when 40 percent or more of all lots or parcels on one side of a block between two intersecting streets have been built up with buildings of less depth than that required by this chapter, then the average depth of the front yards may be the required yard for that side of the block. For the purpose of calculating the average depth, buildings that exceed the front yard setback shall be calculated to the standard minimum front yard setback. This front yard setback option is not applicable to garages and carports, which shall comply with the standard front yard setback requirement. Yard encroachments may be permitted per BMC [20.10.080\(B\)](#).

2 Applicable setbacks shall be determined by the number of stories facing subject property line.

2. Planned development proposals shall meet the following building setbacks as shown in Table 20.32.040(D) Residential Planned Minimum Yards:

**Table 20.32.040(D) Residential Planned Minimum Yards**

Yards	Setbacks	Measurements
Front and Side Yard Setback on a Flanking Street <del>(1)</del>	40 feet CL  50 feet CL – if a designated street arterial  20 feet PL—Property line <del>(e)</del> abutting a residential single zone	Setback measured from the centerline (CL) of the street right-of-way.  Setback measured from the property line (PL).
Side and Rear Yard Setback	10 feet PL, plus five feet for every 10 feet or fraction thereof over 35 feet in height <del>(2)(1)</del>  25 feet PL—Property line <del>(e)</del> abutting a residential single zone	Setback measured from the property line (PL).

**1 Note:** At the property owner's option, when 40 percent or more of all lots or parcels on one side of a block between two intersecting streets have been built up with buildings of less depth than that required by this chapter, then the average depth of the front yards may be the required yard for that side of the block. For the purpose of calculating the average depth, buildings that exceed the front yard setback shall be calculated to the standard minimum front yard setback. This front yard setback option is not applicable to garages and carports, which shall comply with the standard front yard setback requirement. Yard encroachments may be permitted per BMC [20.10.080\(B\)](#).

**1 Note: 2 Note.** Only those portions of the building that exceed a height of 35 feet must meet the additional setback measured from the property line to the subject building wall.

23. *Exception.* Permitted yard encroachments identified in BMC [20.10.080\(B\)](#) may extend into a standard required yard; provided, that the encroachments meet the adopted building codes and minimum vision clearance triangle on a corner lot.

**Section 9.** BMC 20.33.040 regarding Development Standards is hereby amended as follows:

20.33.040 Development standards.

A. *Applicability.* The regulations of this section shall apply to the development of any principal and/or accessory commercial use within any area in the commercial or commercial

planned zones. ~~Development of residential uses shall comply with applicable residential chapters of the BMC.~~

B. In Table 20.33.040, land use classifications are listed on the horizontal axis and development standards are listed on the vertical axis.

1. If a number appears in the box at the intersection of the column and the row, the development standards in the use area are subject to the limitation indicated in the corresponding note.

**Table 20.33.040 Development Standards<sup>(1)</sup>**

Development Standards	Area			
	Planned Commercial	Neighborhood Commercial	Auto	Waterfront
Minimum Lot Size	None	None	None	None
Maximum Density	Retail buildings shall comply with floor area restrictions contained in the applicable neighborhood zoning table under "Density." (2)	Retail buildings shall comply with floor area restrictions contained within the applicable neighborhood zoning table under "Density." (2)  Apartments shall not exceed one unit for every 500 square feet of total site area.  Offices shall be limited to 2,000 square feet of total gross floor area unless otherwise stated in the neighborhood plan.	Retail buildings shall comply with floor area restrictions contained within the applicable neighborhood zoning table under "Density." (2)	Retail buildings shall comply with floor area restrictions contained within the applicable neighborhood zoning table under "Density." (2)



Development Standards	Area			
	Minimum Yards/Setbacks from Property Lines	None (3)	None (3)	None (3)
Maximum Height	Three stories, not exceeding 40' under BMC <a href="#">20.08.020</a> , Height Definition No. 1, when within 100 feet of a residential single zone boundary line. (4)	Three stories, not exceeding 40' under BMC <a href="#">20.08.020</a> Height Definition No. 1	Three stories, not exceeding 40' under BMC <a href="#">20.08.020</a> Height Definition No. 1	Three stories, not exceeding 40' under BMC <a href="#">20.08.020</a> Height Definition No. 1
<u>Usable Space</u> (5)	<u>100 square feet per residential unit</u>	<u>100 spare feet per residential unit</u>	<u>N/A</u>	<u>N/A</u>
Parking	All parking and loading requirements for similar uses contained within Chapter <a href="#">20.12</a> BMC			
Landscaping	All landscaping requirements for similar uses contained within Chapter <a href="#">20.12</a> BMC			
Design Review	All design review requirements for commercial uses contained within Chapter <a href="#">20.25</a> BMC			

Notes:

1 A proposal may be changed, altered, or conditioned as reasonably necessary to ensure compatibility with city goals, policies, standards, the surrounding areas or to mitigate direct impacts of the proposal.

2 Where no maximum building size exists, an individual retail establishment, including but not limited to membership warehouse clubs, discount stores, specialized product stores and department stores, shall not exceed 90,000 square feet of gross floor area unless the proposal meets conditions outlined in BMC [20.10.025](#), Retail establishments – Maximum size.

3 There shall be no minimum yards except in the following instances:

a Within the vision clearance triangle in neighborhood commercial areas. (See BMC [20.12.060](#), Vision clearance triangle.)

b When land within a commercial general use area shares a property line with land within an area having a residential single-use type designation, a minimum 20-foot yard shall be provided from the shared property line.

c The minimum yard required in this section may be reduced, provided adequate screening (e.g., walls, fences, hedges) is established to minimize impacts on residential single designated property.

4 Except for the height limitation above, there shall be no expressed general height standard. Final height standards shall be determined by the planning director.

5 Required usable space shall be designed to comply with the provisions of BMC 20.32.040(D)(4) and may be eligible to use the bonus provisions. Required usable space may be reduced or waived when the site is located within ¼ mile of an improved public park and has direct access to the public park via a continuous network of public sidewalks, bike lanes or constructed public trails.

**Section 10.** BMC 20.33.050 regarding Additional Code Requirements is hereby amended as follows:

A. [No Change].

B. *Project and Site Specific Standards.* Depending on district and site constraints, commercial developments may need to comply with additional code requirements. Compliance is not limited to those code sections listed herein.

1. Streets, Utilities, Access and Dedications. No building permit for new construction or for the maintenance or renovation of 50 percent or more of an existing structure should be issued until demonstrated compliant with the following standards:

a. Streets and utilities should be designed to fulfill reasonably anticipated future need and be located to enable the continued orderly and reasonable use of adjacent property. Streets and utilities should be extended to the property line unless it is clearly demonstrated that the extension will not be needed for development of adjacent property.

b. Dedicated width of rights-of-way shall comply with minimum city requirements.

c. Streets should be improved to the standard required by Title 13 BMC unless a standard is specified in the circulation plan of the comprehensive plan; provided, that the planning director may approve streets which are consistent with neighborhood standards.

d. Pedestrian Circulation. Unless waived for reasons of infeasibility or impracticality by the technical review committee and the planned contract, the following shall be required:

e. A sidewalk shall be constructed within all abutting city street rights-of-way. A local improvement district (LID) commitment may be required in lieu of construction if the city determines immediate construction is not warranted.

f. Walkways shall be required linking building entrances to parking areas, sidewalks and other building entrances in the complex and, where appropriate, to open space/recreation areas. If no sidewalk is constructed or exists, the connecting walkway shall extend to the proposed location of a sidewalk or to the edge of the pavement located in the right-of-way.

~~Street Improvements. Building permits for new construction or for the maintenance or renovation of 50 percent or more of an existing structure shall not be issued where the premises to be improved abuts on a street or sidewalk, the improvement of which is substandard to the type of development contemplated. See BMC Title 13, Streets and Sidewalks, for the specific improvement requirements.~~

2-5. [No Change].

**Section 11.** BMC 20.37.330 regarding Fairhaven Urban Village – Development Standards is hereby amended as follows:

A. *Applicability.* The regulations of this section shall apply to the development of any principal and/or accessory use within any area in the Fairhaven urban village except as follows:

1. *Residential Transition Areas 1, 2 and 4.* Development in RT-1, 2 and 4 shall comply with Chapter [20.28](#) BMC, Infill Housing, Chapter [20.30](#) BMC, Residential Single Development, or Chapter [20.32](#) BMC, Residential Multi Development, unless specified otherwise herein.

2. *Residential Transition Area 3.* Development in RT-3 shall comply with Chapter [20.30](#) BMC, Residential Single Development, unless specified otherwise herein. ~~It shall additionally comply with Chapter [20.28](#) BMC for the following infill housing forms:~~

a. ~~BMC [20.28.090](#), Carriage house.~~

b. ~~BMC [20.28.100](#), Detached accessory dwelling unit.~~

3. *Industrial Areas.* Development in any industrial zoned area shall comply with Chapter [20.36](#) BMC, Industrial Development, unless specified otherwise herein.

4. *Public Areas.* Development in any public zoned area shall comply with Chapter [20.42](#) BMC, Public Development, unless specified otherwise herein.

**Table 20.37.330 Standard Development Regulations**

<b><u>Development Regulations</u></b>	<b><u>Area</u></b>							
	<b><u>Commercial</u></b>	<b><u>Residential</u></b>					<b><u>Industrial</u></b>	<b><u>Public</u></b>
	<b><u>CC</u></b>	<b><u>RT-1, 2 and 4</u></b>			<b><u>RT-3</u></b>		<b><u>I-1, 2 and 3</u></b>	<b><u>P-1, 2 and 3</u></b>
<b><u>Applicable Development Regulations</u></b>	BMC <a href="#">20.37.300</a> through <a href="#">20.37.370</a>	Chapter <a href="#">20.28</a> BMC, Infill Housing	Chapter <a href="#">20.30</a> BMC, Residential Single Development	Chapter <a href="#">20.32</a> BMC, Residential Multi Development	Chapter <a href="#">20.28</a> BMC, Infill Housing	Chapter <a href="#">20.30</a> BMC, Residential Single Development	Chapter <a href="#">20.36</a> BMC, Industrial Development	Chapter <a href="#">20.42</a> BMC, Public Development
<b><u>Minimum Lot Size</u></b>	None	(1)	5,000 sq. ft.	5,000 sq. ft.	(1)	5,000 sq. ft.	None	None
<b><u>Maximum Density</u></b>	None	2,000 sq. ft./unit for RT-1 and 2. 1,500 sq. ft./unit for RT-4. (1)	5,000 sq. ft./unit	2,000 sq. ft./unit for RT-1 and 2. 1,500 sq. ft./unit for RT-4.	5,000 sq. ft./unit	5,000 sq. ft./unit	None	N/A
<b><u>Setbacks from</u></b>	None	(1)	(2)	(3)	(1)	(2)	25 ft. from any property	20 ft. from any property

<u>Development Regulations</u>	<u>Area</u>							
	<u>Commercial</u>	<u>Residential</u>					<u>Industrial</u>	<u>Public</u>
	<u>CC</u>	<u>RT-1, 2 and 4</u>			<u>RT-3</u>		<u>I-1, 2 and 3</u>	<u>P-1, 2 and 3</u>
<u>Property Lines</u>							line abutting or across a right-of-way from land zoned residential or public (4).  10 ft. from front and side-flanking street (4).	line abutting land zoned residential :
<u>Maximum Height</u>	Height limits are as shown on Figure 20.37.330(A). (5)(6)(8)	(1)	(2)	35' for RT-4.(3)	(1)	(2)	I-1 and I-2: None for industrial uses.  66 ft. for all other uses (5)(6)(8).  I-3: 5 stories and 56 ft. (5)(6)(7)(8).	None (8)

<b>Developm ent Regulatio ns</b>	<b>Area</b>				
	<b>Commerci al</b>	<b>Residential</b>		<b>Industrial</b>	<b>Public</b>
	<b>CC</b>	<b>RT-1, 2 and 4</b>	<b>RT-3</b>	<b>I-1, 2 and 3</b>	<b>P-1, 2 and 3</b>

Notes:

(1) Subject to Chapter [20.28](#) BMC, Infill Housing.

(2) Subject to Chapter [20.30](#) BMC, Residential Single Development.

(3) Subject to Chapter [20.32](#) BMC, Residential Multi Development.

(4) See subsection [\(C\)\(2\)](#) of this section for optional setbacks regulations.

(5) Height is measured per height definition No. 1. A building may be divided into modules and stepped with height measured on a per module basis to respond to topography on sloped property.

(6) See subsection [\(C\)\(1\)](#) of this section and Figure 20.37.330(C) for additional height restrictions.

(7) Height limits do not apply to temporary construction equipment or permanent fabrication equipment used in the normal course of business for industrial uses.

(8) Additional height restrictions may apply as specified in the Shoreline Management Program.

B. *Repealed by Ord. 2023-01-001.*

C – D. [No Change]

**Section 12.** BMC 20.37.340 regarding Fairhaven Urban Village – Street Improvements is hereby amended as follows:

A. [No Change].

B. *Requirements.*

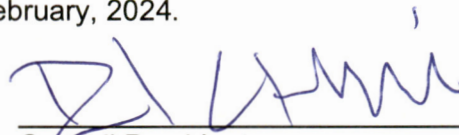
1. Abutting streets shall be improved to three-quarters standard except 4<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup> and 10<sup>th</sup> Streets and Donovan, Wilson and Cowgill Avenues within the RT-2 and RT-3 land use areas

shall only be improved as necessary to provide emergency access. Projects abutting Harris Avenue shall also improve the abutting sidewalk to accommodate the proposed street designs in the Fairhaven neighborhood and urban village plan.


2-3. [No Change].

**Section 13.** The Council agrees with, and hereby adopts the Findings of Fact, Conclusions and Recommendations of the Planning Commission, attached as **Exhibit A**.


**PASSED** by the Council this 12th day of February, 2024.

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

**APPROVED** by me this 16<sup>th</sup> day of February, 2024.

  
\_\_\_\_\_  
Mayor

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

**APPROVED AS TO FORM:**  
  
\_\_\_\_\_  
Office of the City Attorney

**Published:**  
February 16, 2024

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

**NOVEMBER 16, 2023**

## **SUMMARY**

Following the public hearing and deliberation on the proposed amendments to various provisions in BMC Title 20 – Land Use Development, the Bellingham Planning Commission has determined that the proposed code changes provide additional clarification, correct inconsistencies and grammar, and include minor code provisions that will further implement the Comprehensive Plan.

## **I. FINDINGS OF FACT**

### **1. Proposal Description:**

The proposed amendments represent a culmination of Planning and Community Development Department staff's 'running list' of code changes. These are broad based amendments intended to correct grammatical errors, standardize development regulations amongst similar land uses, address omissions inadvertently removed with recently adopted development codes, improve clarity of development regulations, and provide consistency with comprehensive plan.

### **2. Background Information/Procedural History:**

1980 - Present: The City adopted Title 20 – Land Use Development, including subsequent amendments.

October 11, 2023: Staff issued notice of a public hearing before the Planning Commission.

November 2, 2023: The responsible official issued a non-project SEPA Determination of Nonsignificance.

November 3, 2023: Staff submitted a notice of Intent to Adopt to the Washington State Department of Commerce.

November 16, 2023: The Planning Commission held a public hearing.

### **3. Public Comment:**

Staff mailed notice of the Planning Commission public hearing to neighborhood representatives, neighborhood associations, and other parties with an interest in this topic. The notice was also published in the Bellingham Herald 30 days prior to the hearing.

### **4. State Environmental Policy Act (SEPA) Determination:**



The responsible official issued a non-project SEPA Determination of Non-Significance (DNS) on November 2, 2023. A notice of the threshold decision was mailed to the appropriate agencies, parties of record and published in the Bellingham Herald and on the City's website. The City did not receive public comments in response to the publication of this DNS.

**5. Consistency with the Bellingham Comprehensive Plan:**

Regulations intended to implement 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.

**II. CONCLUSIONS**

The Planning Commission finds that proposed amendments will:

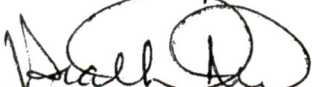
1. Correct minor grammatical errors.
2. Standardize development regulations amongst similar land uses.
3. Provide omissions that were inadvertently removed with recently adopted development codes.
4. Improve clarity of development regulations.
5. Further the implementation of the goals and policies of the Bellingham 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 amendments to the Bellingham Municipal Code as shown in the draft ordinance.

ADOPTED this 16th day of November, 2023.

  
\_\_\_\_\_  
Planning Commission Chairperson

ATTEST:   
\_\_\_\_\_  
Recording Secretary

**APPROVED AS TO FORM:**

*Jim Ed*

\_\_\_\_\_  
**City Attorney**