

BELLINGHAM PLANNING COMMISSION FINDINGS OF FACT,  
CONCLUSIONS, AND RECOMMENDATIONS

APRIL 11, 2024

SUMMARY

Following the public hearing and deliberation on the proposed amendments to the Silver Beach Neighborhood Plan, zoning table and to BMC 16.80 (Lake Whatcom Reservoir Regulatory Chapter) the Bellingham Planning Commission has determined that the proposed amendments address multifamily development in the Silver Beach Neighborhood such that comprehensive plan goals and policies regarding providing housing and protection of the water quality in Lake Whatcom can be achieved.

I. FINDINGS OF FACT

1. Proposal Description:

The proposed amendments address new multi-family development and redevelopment of existing multi-family sites in the Silver Beach Neighborhood. The overall proposal includes two elements that:

- ✓ Reduces the density range from high to medium in areas 8, 9 and 13. This retains opportunities for additional multi-family units in order to meet current housing needs.
- ✓ Requires that the development of new impervious surfaces in multi-family zones be held to the same level of protection of water quality in Lake Whatcom as it is for impervious surfaces in single family zones. This element also includes requirements for redevelopment on multi-family sites to bring an entire site into compliance (retro-actively) with the proposed water quality protection standards.

2. Background Information/Procedural History:

Background

There are four (4) Residential Multi (RM) neighborhood zones in the Silver Beach Neighborhood. Areas 8, 9, and 13 are zoned high-density, and Area 18 is zoned medium density. These areas, generally, have been developed at different times, under different zoning/land use requirements, beginning in the 1970s.

When the City initiated, and completed, the "Multi-family Zoning: Achieving Intended Densities" Project in 2021, all RM zones in the City were simplified and assigned values of high, medium, or low. All RM zones require that a minimum number of units be developed on the subject site, and high-density areas have an unlimited density amount, provided that parking, stormwater, height, shoreline and critical area regulations are met.

High-density zones require a minimum of one residential unit per 3,599 square feet of gross land area. Medium-density zones require a minimum of one unit per 7,200 square feet, up to a maximum of one unit per 3,599 square feet. Low Density zones require a minimum of one unit per 7,201 square feet, up to a maximum of one per 3,600 square feet.

1  
2 Examples of the minimum and maximum density based on a one-acre (43,560 SF) lot have  
3 been provided below for clarity:

- 4  
5 > High Density: 43,560 SF / 3,599 SF = 12 units minimum – unlimited maximum  
6  
7 > Medium Density: 43,560 SF / 7,200 SF = 6 units minimum – 12 units maximum  
8  
9 > Low Density: 43,560 SF / 7,201 SF = 6 units required minimum and maximum  
10

11 The result of the RM update to the BMC resulted in each RM Area in the Silver Beach  
12 Neighborhood being rezoned into the zoning densities specified above.  
13

14 In approximately April of 2022, the present owner’s representative approached the City  
15 regarding the development potential of the Old Mill Village property. Existing development  
16 contracts and ordinances from approximately 1970 specified that a total of 709 units were  
17 possible in a variety of housing forms on the Old Mill Village site. However, if there was ever a  
18 5-year period during which no building permits were issued for new units the contract would  
19 expire and any future development would revert to the underlying zoning. It was at this time that  
20 City staff recognized that the “high” density designations for the multi-family zones in the Silver  
21 Beach Neighborhood may conflict with previously established goals, policies and regulations  
22 aimed at protection of water quality in Lake Whatcom.  
23

#### 24 Chronology 25

26 On July 11, 2022, the City Council adopted Ordinance #2022-07-019 enacting a 12-month  
27 emergency moratorium on the acceptance of processing applications to redevelop existing, or  
28 develop new, multi-family residential (RM) housing within the four RM Zones in the Silver Beach  
29 neighborhood. The moratorium was adopted by Council to allow City staff to determine if the  
30 existing multi-family densities in the Silver Beach neighborhood are consistent with existing City  
31 policies for protection of water quality in the Lake Whatcom watershed or if amendments are  
32 necessary.  
33

34 On June 5, 2023, the City Council adopted Ordinance #2023-06-017 which extended the  
35 moratorium for an additional six months until January 10, 2024.  
36

37 The City Council performed third and final reading of Ordinance #2023-12-037 on December 4,  
38 2023, which extended the moratorium an additional six months until July 10, 2024. Council also  
39 directed City staff to initiate and complete a Type VI process that considers the medium-density  
40 and low-density options in each of the multi-family zones in the Silver Beach Neighborhood prior  
41 to the expiration of the moratorium in July 2024. Council further found that the docketing request  
42 met the criteria in the BMC 20.20.030 and, accordingly, added the proposal to the annual  
43 docket.  
44

45 Per BMC 21.10.040, comprehensive plan and neighborhood plan amendments, development  
46 regulation amendments, and legislative rezones are Type VI decisions, which are made by the  
47 City Council after review and recommendation by the Planning Commission.  
48

49 On February 19, 2024, the notice of public hearing was published in the Bellingham Herald.  
50 On February 20, 2024, the PCDD issued a notice of public hearing before the Planning  
51 Commission to property owners within the four multi-family sub-areas in the Silver Beach

1 Neighborhood and 12 public hearing notice signs were posted throughout the four multi-family  
2 zones.

3  
4 On February 23, 2024, the PCDD issued a non-project SEPA determination of non-significance  
5 on the proposed amendments.

6  
7 On February 23, 2024, the PCDD posted public hearing notice on the City website and issued  
8 the notice of public hearing before the Planning Commission to all neighborhood association  
9 representatives and MNAC members.

10  
11 On February 23, 2024, the PCDD made the following materials available for the Planning  
12 Commissioners and the general public; the non-project SEPA determination of non-significance  
13 and checklist including part D, Planning Commission cover sheet, staff report, a draft ordinance  
14 and draft Planning Commission findings of fact, conclusions and recommendation.

15  
16 On approximately February 26, 2024, the PCDD issued a notice of intent to adopt the proposed  
17 amendments to the Washington State Department of Commerce.

18  
19 On March 12, 2024, City staff attended a meeting with the Silver Beach Neighborhood  
20 Association and members of the general public. City staff were invited to discuss transportation  
21 issues and concerns within the neighborhood and the proposed amendments specified herein.

22  
23 On March 21, 2024, the Planning Commission held the public hearing and took testimony on the  
24 proposed comprehensive plan amendment, rezone for the four multi-family zones in the Silver  
25 Beach Neighborhood and proposed revisions to BMC 16.80 (Lake Whatcom Reservoir  
26 Regulatory Chapter).

27  
28 On March 27, 2024, the Lake Whatcom Joint Council meeting was held in the City Council  
29 chambers at 7PM. Representatives from the City and County and Lake Whatcom Water and  
30 Sewer District presented information regarding ongoing efforts of each agency to protect and  
31 improve the water quality in Lake Whatcom. Planning Commissioners were invited to attend.

32  
33 On April 11, 2024, the Planning Commission held a work session on the proposed amendments  
34 and provided recommendations on said amendments. These recommendations are provided in  
35 Section III.

### 36 37 **3. Public Comment:**

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39 Staff mailed the notice of the Planning Commission public hearing to neighborhood  
40 representatives, neighborhood associations, property owners within the four Silver Beach  
41 Neighborhood multi-family zones and other parties with an interest in this topic. The notice was  
42 also published in the Bellingham Herald 30 days prior to the hearing; Monday February 19,  
43 2024.

44  
45 After proper notice was provided on February 23, 2024, public comments were provided to City  
46 staff and the Planning Commissioners leading up to the March 21, 2024 public hearing.  
47 Additional public comments were provided leading up to the April 11, 2024 work session.

### 48 49 **4. State Environmental Policy Act (SEPA) Determination:**

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51 The responsible official issued a non-project SEPA Determination of Non-Significance (DNS) on  
52 February 23, 2024. A notice of the Determination of Non-Significance was mailed to the

1 appropriate agencies, parties of record and published in the Bellingham Herald and on the City's  
2 website. The City did not receive public comments in response to the publication of this DNS.  
3

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

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6 Regulations intended to implement zoning and development regulations should be reviewed  
7 and amended periodically to address changing circumstances and to implement the goals and  
8 policies of the comprehensive plan.  
9

10 **II. CONCLUSIONS**

11  
12 1. The Planning Commission finds that the proposed amendments to BMC 16.80 regarding  
13 new development and redevelopment on multi-family properties as they pertain to  
14 impervious surface limits and stormwater management requirements reflect greater  
15 protection and retro-active compliance should be approved because:

- 16  
17 ✓ Redevelopment of existing or development of new units in any of the multi-family  
18 zones would allow the City to apply the proposed revisions in BMC 16.80 which  
19 could significantly reduce existing and ongoing point source phosphorous loading to  
20 Lake Whatcom from multi-family areas;  
21  
22 ✓ Reductions in phosphorous loading that is addressed via development or  
23 redevelopment could allow the City to continue to direct its resources and efforts to  
24 other protection and treatment mechanisms that would continue to get closer to  
25 achieving the phosphorus reduction targets set in the TMDL for Lake Whatcom;  
26

27 **III. RECOMMENDATIONS**

- 28  
29 1. After careful consideration of all public comments, the staff report, the draft ordinance, all  
30 other meeting materials for the public hearing and the work session, as well as these  
31 Findings of Fact, and Conclusions, the Planning Commission recommends, by a vote of  
32 6-0, for the City Council to approve the proposed amendments to Bellingham Municipal  
33 Code 16.80 as shown in the ordinance provided at Attachment 4.  
34 2. After careful consideration of all public comments, the staff report, the draft ordinance, all  
35 other meeting materials for the public hearing and the work session, as well as these  
36 Findings of Fact, and Conclusions, a motion was made and seconded to adopt the  
37 Staff's recommendation for rezoning multi-family areas 8, 9 and 13 from high density  
38 down to medium density. That motion failed by a vote of 3-3, one member absent.  
39 3. An alternative motion was made and seconded for reducing the density in multi-family  
40 zones 8, 9 and 13 from high density down to low density. That motion failed by a vote of  
41 3-3, one member absent.  
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44  
45 **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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47 *See next page*

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49 \_\_\_\_\_  
50 *Planning Commission Chairperson*  
51  
52

## II. CONCLUSIONS

1. The Planning Commission finds that the proposed amendments to BMC 16.80 regarding new development and redevelopment on multi-family properties as they pertain to impervious surface limits and stormwater management requirements reflect greater protection and retro-active compliance should be approved because:
  - ✓ Redevelopment of existing or development of new units in any of the multi-family zones would allow the City to apply the proposed revisions in BMC 16.80 which could significantly reduce existing and ongoing point source phosphorous loading to Lake Whatcom from multi-family areas;
  - ✓ Reductions in phosphorous loading that is addressed via development or redevelopment could allow the City to continue to direct its resources and efforts to other protection and treatment mechanisms that would continue to get closer to achieving the phosphorus reduction targets set in the TMDL for Lake Whatcom;

## III. RECOMMENDATIONS

1. After careful consideration of all public comments, the staff report, the draft ordinance, all other meeting materials for the public hearing and the work session, as well as these Findings of Fact, and Conclusions, the Planning Commission recommends, by a vote of 6-0, for the City Council to approve the proposed amendments to Bellingham Municipal Code 16.80 as shown in the ordinance provided at Attachment 4.
2. After careful consideration of all public comments, the staff report, the draft ordinance, all other meeting materials for the public hearing and the work session, as well as these Findings of Fact, and Conclusions, a motion was made and seconded to adopt the Staff's recommendation for rezoning multi-family areas 8, 9 and 13 from high density down to medium density. That motion failed by a vote of 3-3, one member absent.
3. An alternative motion was made and seconded for reducing the density in multi-family zones 8, 9 and 13 from high density down to low density. That motion failed by a vote of 3-3, one member absent.

ADOPTED this 11th day of April, 2024.

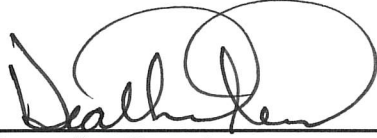
*Mike Gots*  
Planning Commission Chairperson

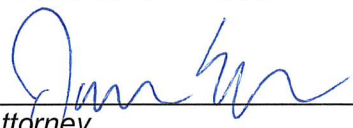
ATTEST: \_\_\_\_\_  
Recording Secretary

APPROVED AS TO FORM:

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**ATTEST:**   
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*Recording Secretary*

**APPROVED AS TO FORM:**  
  
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*City Attorney*