



PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

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**FAIRHAVEN DESIGN REVIEW
DECISION AND PERMIT
DRC2007-00021**

**800 Harris
The Fairhaven Harbor Building**

I. SUMMARY OF DECISION

- Proposal:** Construction of a mixed use residential and commercial building with underground parking in the Fairhaven Design Review District, on the block bound by Harris, 9th, McKenzie, and 8th.
- Applicant:** Ted Mischaikov, 909 Harris, Bellingham WA 98225, 734-7755 for 8th and Harris Holding Company LLC.
- Decision:** Approval of the Design Permit, with Conditions.
- Date of Decision:** December 10, 2007

I. APPLICABLE COMPREHENSIVE PLAN GOALS AND POLICIES

VB 2 - Bellingham's way of accommodating growth while retaining a compact form is to emphasize infill. Private and public development decisions continue to reinforce a clear distinction and separation between urban and rural areas. Bellingham retains and strengthens its well-defined compact form and allows sufficient sites to accommodate projected growth, including some growth to the north.

VB 5 - A large number of historic structures remain, providing a sense of place and history for existing and future citizens. Incentives assist in retaining and restoring historic structures and encouraging new development, which is complementary in terms of architectural style and scale. These incentives may include property tax breaks, zoning and building code flexibility for adaptive uses, and density or other bonuses that encourage good design.

VB 4 - Because infill is a major growth strategy, Bellingham devotes considerable energy to determining how to accommodate growth in existing neighborhoods in a manner that complements neighborhood character and builds on the pattern of planned park and open space systems.

TP-2 - Reinforce the link between land use and public transportation by encouraging transit-oriented development along and within 1/4 mile of WTA Primary Transit Network corridors and near urban villages, town centers, and neighborhood centers.

CDG-10 - Retain the compact form, neighborhood service and pedestrian orientation, and other unique qualities and architectural character of Fairhaven.

CDP-39 - Enhance the sense of community character in Fairhaven by coordinating site orientation, building scale, and streetscape elements of new development to complement the unique historic district.

HP-23 - Promote new high density residential development within or near Urban Villages.

Flu-2 - Bellingham's land use pattern should accommodate carefully planned levels of development that promotes efficient use of land, reduces sprawl, encourages alternative modes of transportation, safeguards the environment, promotes healthy neighborhoods, protects existing neighborhood character, and maintains Bellingham's sense of community.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. This proposal is in the Fairhaven Design Review District.
2. This site is in Area 5 of the Fairhaven Neighborhood. The zoning is Planned Commercial.
3. The Director of Planning and Community Development, under Bellingham Municipal Code Bellingham Municipal Code 20.38.050 C. 4, determines height.
4. The height of these buildings ranges from 33 feet to 85 feet above mean sidewalk elevation adjacent to the building, also calculated as 55' to 116' above sea level, city datum. A 9-foot tall elevator tower caps the tallest segment.
5. Previous actions:
 - a. In December 2004, applicant submitted for permits to construct a new mixed use development on this site.
 - b. At the same time, the applicant submitted a State Environmental Policy Act Checklist, Exhibit A, for the proposed project. This exhibit is available at the Planning and Community Development (PCDD) offices.

- c. A Determination of Non-Significance (DNS), Exhibit B, was issued in April 2005 for the proposal pursuant to the State Environmental Policy Act. This exhibit is available at PCDD offices.
 - d. A Planned Contract, PDC2004-00034, Exhibit C, was issued in November 2005 for the proposal. This exhibit is available at PCDD offices.
 - e. A Shoreline Conditional Use Permit (CUP), Exhibit D, was issued in May 2005 to allow a portion of this development to extend within 100 feet of the ordinary high water mark of the shoreline. This permit was approved by the Washington State Department of Ecology. This exhibit is available at PCDD offices.
 - f. The Shoreline Conditional Use Permit was appealed to the State Shorelines Hearings Board. The appeal was settled in February 2006, allowing the CUP to stand, subject to the Settlement Agreement, Exhibit E. This exhibit is available at PCDD offices.
 - g. A Shoreline Substantial Development Permit, Exhibit F, was approved in October 2005. This exhibit is available at PCDD offices.
 - h. In March 2006, Design Review Permit, DRC2004-00033, was issued.
 - i. Appeals of this Design Review Permit were filed. In August 2006, the City's Hearing Examiner denied the appeals and upheld the City's original Design Review Permit.
 - j. In November 2006, the applicant filed to amend the original Design Review Permit, DRC 2004-00033. The amended permit number is DRC2004-00033A. The new application proposed smaller buildings on the eastern side of the property. However, one building was ten stories and approximately 102 feet above mean sidewalk elevation.
 - k. On February 7, 2007, an amended Design Review Permit, DRC2004-00033A, was issued.
 - l. On February 16, 2007, the applicant withdrew their request for Design Review Permit DRC2004-00033A.
6. On October 3, 2007, the applicant filed for a new Design Review Permit, DRC2007-00021.
 7. On November 2, 2007, the City of Bellingham issued a Notice of Complete Application and request for comments.
 8. The City of Bellingham received a number of comments from the public, Exhibit G. This exhibit is available at the PCDD offices.
 9. The applicant submitted a site plan and building elevations, Exhibit H, attached.
 10. This application is an Administrative Approval.
 11. The Planning Director is authorized to approve the Planned Permit and the project design under BMC 20.38 and BMC 20.26, subject to standards that

include: Height and bulk, site orientation, materials, architectural elements, parking, signage, lighting, and landscaping.

12. This proposal satisfies the Fairhaven Design Review District's standards:
 - a. This design review decision, addresses development aspects necessary to further the purpose, intent and standards of the design review district.
 - b. The design standards herein apply to the extent feasible.
 - c. This permit allows flexibility to accommodate the proposed design.

13. This proposal promotes the economic health of the area by:
 - a. Encouraging appropriate uses on this property.
 - b. Allowing additional sidewalk-level retail businesses.
 - c. Expanding the commercial corridor toward the Ferry Terminal.
 - d. Creating an aesthetic design by coordinating site development with the nearby Fairhaven Historic District.
 - e. The proposed development will increase the number of residents of the design review district. Residents provide a source of customers for the district's businesses, increase sidewalk level activity in the area, and contribute to the economic vitality of the district.

14. This proposal reduces adverse aesthetic impacts which arise from uncoordinated site development by:
 - a. Building with materials, scale, and fenestration compatible with nearby historic buildings.
 - b. Requiring 8th Street to be configured as a pedestrian corridor with plants that enhance the Padden Creek area.
 - c. Placing the tallest building away from both the main commercial street (Harris Avenue) and Padden Creek.

15. This proposal is in the 'Influence' area of Fairhaven, where specific height and bulk standards are 'Not Applicable' according to the Fairhaven Design Review District code.

16. The architectural character of the area is the character of all buildings in the Fairhaven Design Review District. Infill and historic buildings vary between 15' and 67' tall.

17. This development plan results in architectural style consistent with the existing architectural and historic character of the area. Development achieves compatibility with the architectural features of existing buildings of significance in regard to:
 - a. Roof shape and pitch: This building is flat-roofed, the same as the majority of Fairhaven historic buildings.
 - b. Window treatment: Upper floor windows are taller than they are wide.
 - c. Commercial storefront windows will be similar to existing historic storefronts.

- d. Entry treatment: Building entries will be similar to existing historic building entries in material, scale, and layout. Buildings are set at the property line with main entries at the sidewalk.
 - e. Cornices: A cornice caps each building.
 - f. Buildings have distinctive bottoms, middles, and tops.
 - g. Coordinated street tree planting and period landscaping: This proposal includes more street trees than required by City Code. Landscaping will be provided as shown on the attached site plan.
 - h. Signs, lighting, and mechanical equipment will be reviewed based on the criteria below.
18. Many of this project's design details and concepts mimic the architectural features of existing buildings of significance.
19. The historic character of the area is the character of all historically listed buildings in the Fairhaven Design Review District: The characteristics of these buildings include:
- a. The average historic building height is 37'.
 - b. Six of the 17 historic buildings are 45' or taller.
 - c. Fairhaven Historic buildings are approximately 20' to 56' tall
 - d. Taller and shorter historic buildings are often adjacent.
 - e. The Fairhaven Hotel, demolished in the early 1950's, was the largest Fairhaven historic building. It was five stories (approximately 70 to 80 feet) tall, with a tower and extended façade adding 30 to 40 feet.
 - f. Two of the existing tall historic buildings are uphill from this site. The tops of these buildings are approximate 144 feet above sea level, approximately 28' above the top of this proposal.
20. Harmony of scale is the arrangement of parts in pleasing relation and proper proportion to each other and to the whole of the area. This measure does not require that each building within the district be limited to the height of the existing buildings. It requires that the arrangement and proportion of the proposed structure relate appropriately to the existing architectural and historical surroundings.
21. The relative scale of this complex of buildings is consistent with the existing architectural and historical character of the area by:
- a. Minimizing height by a stepped building design near the Padden Lagoon, Padden Creek and the major pedestrian street (Harris).
 - b. Placing the bulk of this development in one corner, thereby minimizing bulk and height impacts along other corners and edges of this site.
 - c. Having multiple heights and widths, similar to the historic character of the area.
 - d. Covering less than one fifth of the site with Building A.
 - e. Simulating the adjacent small and large buildings, as is common throughout Fairhaven.

- f. Separation of the buildings with the courtyard, variation in height and articulation of the structures.
22. Building A is not disproportionate to the remainder of the development. Building A might overshadow a historic building if adjacent, but it is blocks away, lower in elevation, and beyond new buildings that are as tall as historic buildings.
23. The Design Review chapter was not intended to supplant the regulations in the zoning code for such elements as maximum height and bulk. The standards of the Design Review chapter are primarily intended to regulate elements not covered by the zoning code, such as:
- a. Minimum height
 - b. Site layout
 - c. Parking location
 - d. Building materials, and
 - e. Architectural design.
24. If the City had intended to impose a height limit or view condition on development within Area 5, these limits would have been in the zoning code.
25. Sidewalk level use is consistent with the existing architectural and historical character of the area.
- a. Commercial uses will be provided along the main commercial street abutting this property (Harris Avenue). The commercial facades are consistent with the existing architectural and historical character of the area.
 - b. Commercial uses will extend south from Harris along 9th Street.
 - c. No retail services exist across Harris. Therefore, the public plaza will make up for the lack of retail draw in this area by creating a strong magnet for a better connection between Fairhaven's historic core and waterfront.
26. Materials are consistent with the existing architectural and historic character of the area and compatible with the material used in the existing buildings of primary significance in the "Core".
- a. The historic buildings in the district used materials such as brick, masonry, Chuckanut sandstone, concrete foundations, wood siding, glass, and metal.
 - b. Materials and architectural features need not be identical to those in the existing historic buildings. But, they should be compatible, or exist together with the historic buildings without creating discord.
 - c. The proposed development uses a variety of these materials and other materials that are compatible. Compatible materials are those that may be used with those on the existing buildings without discord or disharmony.
27. Structures are oriented appropriately on the lot.

- a. Commercial uses are oriented to the main commercial street (Harris). (Commercial shops along Harris will help link the Fairhaven core with uses further west, such as the Ferry Terminal.)
 - b. Ground level residential uses are oriented away from the Harris arterial, toward the west (Padden Creek).
 - c. Building heights are lower on Harris Avenue and higher to the southeast. This scale maintains the alignment of the lower building faces along this east-west pedestrian and view street.
 - d. Lower buildings along Harris Avenue also help preserve sunlight into the Harris Avenue corridor.
 - e. This site steps up from 8th Avenue. This creates lower buildings next to Padden Creek, a critical area of the City of Bellingham.
28. On-site parking is beneath the proposal, not between the street and building.
29. This proposal protects the adjacent Shoreline by enhancing shoreline function and features.
30. Pedestrians on Harris Avenue and 9th Street would most likely perceive only the first three to four stories of the structure.
31. This proposal conforms with the Comprehensive Plan:
- a. This development accommodates growth while retaining a compact form by emphasizing infill. It creates a clear distinction and separation between urban and rural areas. It retains and strengthens Bellingham's compact form.
 - b. This development encourages historic preservation by helping to preserve the Fairhaven Design Review District. It will draw more people into Fairhaven, making businesses in historic buildings more viable. It will also create more permanent Fairhaven residents, who will act as crime-preventive 'eyes on the street' and as proponents of Fairhaven. Therefore, this proposal encourages the restoration and reuse of Fairhaven landmark buildings.
 - c. The character of Fairhaven is enhanced by the design of this development: The Fairhaven Design Review process ensures complementary new development in terms of architectural style and scale.
 - d. This development complements neighborhood character. It creates buildings that are compatible with and reflect Fairhaven historic buildings. It encourages commercial uses on lower floors while adding residential uses.
 - e. This development builds on, and improves, the pattern of planned park and open space systems.
 - f. This development links land use and public transportation by encouraging development along a WTA Primary Transit Network corridor and in an urban village.

- g. This mixed use development will successfully integrate with this urban center. It will provide new and existing residents with retail services and employment within walking distance.
- h. This development retains the compact form, neighborhood service, pedestrian orientation, and unique character of Fairhaven.
- i. This development enhances the sense of community character in Fairhaven by coordinating site orientation, building scale, and streetscape elements to complement this unique historic district.
- j. This development is a new high density residential development within the Fairhaven Urban Village.
- k. This development accommodates a level of development that promotes efficient use of land, reduces sprawl, encourages alternative modes of transportation, safeguards the environment, promotes healthy neighborhoods, protects existing neighborhood character, and maintains Bellingham's sense of community.

32. Any Finding of Fact that should be denominated a Conclusion of Law shall be deemed a Conclusion of Law. Any Conclusion of Law that should be denominated a Finding of Fact shall be deemed a Finding of Fact.

III. DECISION

Based upon these Findings of Fact and Conclusions of Law, the Director of Planning and Community Development approves Design Permit DRC 2007-00021, for the plans attached in Exhibit H, subject to the following conditions:

A. Modifications to the proposed plans:

1. Building Materials and Architectural Features:

- a. Window frames and glass shall be indented at least 3" from the surface of the building face. (This effect will simulate a window frame being placed behind brick, in keeping with historic Fairhaven's indented windows.)
- b. Flat panels, such as concrete, will be patterned or contain simple emblems.
- c. Mirrored or heavily tinted glass is not allowed.
- d. The storage area in the southeast corner of Building A shall not create large expanses of tinted or blank windows. Business display cases, exhibit spaces, artwork, or similar features shall be supplied adjacent to the sidewalk.
- e. Commercial entry doors shall include 15" or higher bottom rails (kickplates) with transom windows above.
- f. 15" or higher kickplates, with transom windows above, shall be supplied on Harris, 9th, and McKenzie commercial frontages.

- g. Use brick as an essential aspect of major building ornamentation. It shall be a three-dimensional part of the building, used to construct and accent lintels, sills, arches, column bases and tops, porticoes, and similar features.
- h. Differentiate buildings A, B, and C. Buildings A and D may appear similar.

2. Mechanical Equipment and Lighting

- a. Meters shall be set back from the street and painted to match the building.
- b. Mechanical equipment shall be:
 - i. Not visible from street level within one block, or
 - ii. Boxed. The box shall be painted to match surrounding colors, or
 - iii. If small, a vent may be painted to match the building without being boxed.
- c. Grates may be allowed in the sidewalk, if approved by the Public Works Department. Such grates do not need to be painted.
- d. Lighting:
 - i. "Up-lighting" is not allowed.
 - ii. Lighting visible from outside the building, including deck, garage, decorative, and safety lighting, shall be shielded such that any bare bulb is not visible from offsite.
 - iii. Any exit stairways may be lit, but shall be shielded by frosted glass or a similar treatment.

3. Unit configurations may be amended if the final parking count does not exceed parking as shown on plans.

B. Prior to, or concurrent with, application for a Building Permit, the applicant shall submit for review and approval of the Director:

- 1. A revised site and building plan illustrating compliance with the each of the aforementioned conditions.
- 2. Plans and specifications for lighting and landscaping.
- 3. Plans and specifications for improvements to the abutting streets.
- 4. A clear indication of the Design Review Permit under which they are proceeding.

C. Prior to, or concurrent with, submittal of a request for Certificate of Occupancy, the applicant shall provide a unified sign package for approval by the Director. This package shall include locations, sizes, types, conceptual illustrations and lighting of all signs.

IV. AMENDMENTS

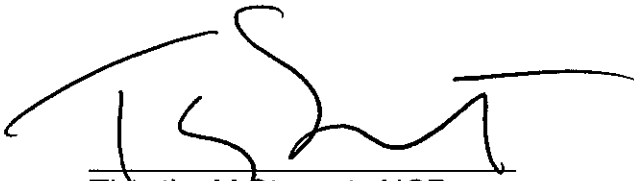
Amendments to this Permit may be requested by the owner and approved by the Director in writing, provided such amendments do not substantially change or alter major elements of the project.

V. EXPIRATION

This Design Review permit shall expire two years from the date of issuance unless a completed building permit application, with the other required concurrent submittals, is submitted and determined to be complete, before that date.

VI. APPEAL

Any party aggrieved by this permit decision may file an appeal within 14 days of the notice of decision in accordance with BMC 21.10.250.



Timothy M. Stewart, AICP
Director of Planning and Community Development (PCDD)

NOTE:

The exhibits referenced in the permit above, are available as follows:

<u>Exhibit</u>	<u>Name/Permit #</u>	<u>Location/ File Number</u>
A:	SEPA/SEP2004-00103	PCDD File # DRC2007-00021
B:	DNS/SEP2004-00103	PCDD File # DRC2007-00021
C:	Planned Contract/PDC2004-00034	PCDD File # DRC2007-00021
D:	Shoreline CUP/SHR2004-00008	PCDD File # DRC2007-00021
E:	Settlement Agree./SHB No.05-016	PCDD File # DRC2007-00021
F:	Shore Subst. Devel. Pmt./2005-NN-00017	PCDD File # DRC2007-00021
G:	Comments/DRC2007-00021	PCDD File # DRC2007-00021
H:	Site Plans & Elevations	Attached to this Permit
I:	Plans & Elev. Clarifications	Attached to this Permit

Exhibit I: Plans and Elevation Clarifications

Elevation Page A 3.01

1. Building A's east elevation shows sliding glass doors on the 2nd floor. This is an error. There will be a vertically divided window in this space.
2. The spaces next to Building D's stairways off 9th will be glazed.
3. The commercial door into Building A from McKenzie Avenue will not include a step.

Elevation Page A 3.02

4. The substance under Building D's archways will be stucco or hardi-plank.
5. Building D's symbol 19 should have pointed at the brick, not the manufactured concrete sandstone blocks.
6. The brick on Buildings C and D should not be labeled as the same color.
7. Symbol (18) should have been applied to the same window band as shown on both Buildings C and D.

General Comments

8. Commercial entry doors' bases and adjacent bottom rails (kickplates) will be glazed.
9. Doors swinging onto the right of way will be inset.