

PLANNING COMMISSION AGENDA ITEM COVER SHEET

Meeting Date		Staff Contact	
4/28/2011		MOSHÉ QUINN	
Subject:			
<p>The purpose of this agenda item is to consider proposed changes to the Bellingham Municipal Code to establish provisions that allow certain structures to encroach into a required setback and modify the front yard setback option. The action is requested by the Planning and Community Development Department to encourage development designs that contribute to the over-all existing character of neighborhoods as well as provide flexibility for better site design and use of land.</p>			
Attachments:			
1. Staff Report			
2. Draft Findings of Fact, Conclusions and Recommendations			
3. Draft Ordinance			
4.			
5.			
Meeting Type		Category	
<input checked="" type="checkbox"/> Public Hearing		<input checked="" type="checkbox"/> Legislative	
<input type="checkbox"/> Public Meeting		<input type="checkbox"/> Quasi-judicial	
<input type="checkbox"/> Work Session		<input type="checkbox"/> Information Only	
<input type="checkbox"/> Briefing			
Clearances		Initials	Date
Jeff Thomas, Director		KOT	4/15/11
Alan Marriner, Legal		AM	4/15/11
Kurt Nabbefeld, Senior Planner		KOT	4/15/11
Moshé Quinn, Planner II		MQ	4-15-11
Previous Commission Meeting or Action:			
Recommended Action:			
Staff recommends approval of the proposed code amendments.			

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CITY OF BELLINGHAM PLANNING STAFF REPORT

Agenda Topic:	Amendments to Title 20 of the Bellingham Municipal Code (BMC) to allow certain structures to encroach into a required setback and modifying the front yard setback option.
For:	April 28, 2011 - Planning Commission Public Hearing
Staff Contact:	Moshé Quinn, Planner II

I. SUMMARY OF PROPOSAL:

The proposal includes amending Title 20 of the BMC to allow certain structures and architectural features to encroach into a required building setback. The proposal also includes amending the front yard setback option within the development standards for residential and residential-multi development.

The proposed code changes are intended to encourage development designs that contribute and conform to the over-all existing character of neighborhoods as well as provide flexibility for better site design and use of land.

The proposal includes:

- The creation of a table that lists certain structures that may project into a required yard (setback). Examples include decks, chimneys, bay windows, and porches in the front yard;
- Amending the Residential front yard setback option to allow an overall average front yard setback in cases where 40% of the buildings on a block have been built closer than the current code requires. Additionally, it is proposed that this provision not apply to garages and carports in order to minimize the presence of garages and carports within the standard front yard setback.
- In combination with the above mentioned code changes, Staff is proposing some non-substantive code format changes, which would re-format existing building/structure setback provisions into a table format within both the Residential Single and Residential Multi development standards.

Proposed amendments to the BMC are shown in the draft ordinance in **Attachment B** and a detailed analysis is provided in Section IV below.

II. PLANNING COMMISSION ROLE:

The role of the Planning Commission is to make a recommendation on this proposal to the City Council. This proposal is a legislative development code amendment requiring a Type VI process. The Planning Commission must hold a public hearing and issue findings of fact and conclusions along with a recommendation to the City Council. Draft findings and conclusions are included in the staff report, see **Attachment A**. The Commission should adopt or modify the draft findings as needed to support the Commission's recommendation.

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III. BACKGROUND:

The Planning and Community Development Department has been working on several code changes to improve the City's land use and development code. The changes are intended to provide clear and concise development standards that will improve usability for citizens, professionals, and staff.

In June 2010, staff held an informational session with the Planning Commission to discuss possible changes to the City's land use and development code, which included new provisions, minor amendments, and code corrections. Since that time, staff has evaluated a majority of the code changes presented to the Commission and grouped the amendments based on common subject matter into a series of consecutive reports for processing. This proposal is part of Wave II being processed this year.

On April 7, 2011, the City held a focus group meeting to provide an opportunity for feedback and discussion of the proposed amendments with people who frequently use the Land Use Development Code. In general, the participants at the meeting were in favor of the proposed amendments and believed the changes improved the City's land use and development regulations.

IV. RECOMMENDED CODE CHANGES:

- 1. Clarify and update the list of structures and architectural elements that may project into required yards (setbacks).

ISSUES:

Bellingham's older single family neighborhoods were frequently built with front porches and other architectural design elements that extended beyond the building wall such as front porches, chimneys, bay or greenhouse windows, and cornices. These features add a defining character to the home and to the neighborhood. Variations to the building contribute to the uniqueness and appeal of these older neighborhoods.

Homeowners and builders may be discouraged from including some of these structural features in their building design since they are not allowed to extend into the required setbacks. While a variance could be requested, the additional cost and time commitment can also be discouraging to a homeowner. Bay (greenhouse) windows, cornices and fireplace bump-outs are commonly allowed in other communities.

Open decks with flooring that allow rain to pass through (such as spaced-board decking) are currently exempt from setbacks in all residential zones (except Planned Residential) regardless of height above grade. This can result in upper floor decks and exterior entry decks filling up much of the yard, subject only to building code setbacks on interior property lines. Since they are prohibited from being covered with a roof, they are left expose to the elements and often become a maintenance issue in our climate.

It is unclear why only spaced-floor decking is exempt from setbacks. It was first adopted for residential zones with the 1982 zoning code. This distinction is not commonly found in codes from other cities. The impact on the light and privacy of adjacent properties would seem to be

1 related to the height and setback of the deck, not the type of flooring. Building code setbacks
 2 for private decks and exterior entry decks for multifamily buildings vary depending on several
 3 factors such as deck material.

4
 5 Although this type of deck is exempt from setbacks in the Residential Multi Duplex and Multiple
 6 zones, those zones also contain provisions that allow reduced setbacks for first and second
 7 floor decks in side and rear yards if certain criteria are met. These two rules when taken
 8 together are confusing. The policy has been that the reduced setback provisions apply only to
 9 roofed or solid-floor decks, while open and spaced-flooring decks remain exempt from setbacks.

10
 11 Unroofed stairs are also exempt from setbacks, regardless of height. The stair and deck
 12 exemptions allow upper floor entry decks on any side of a multifamily building with only the
 13 building code determining the final setbacks from side and rear property lines.

14
 15 **ANALYSIS:**

16
 17 **Front Porch**

18
 19 The proposed code change would allow 1-story covered porches that are open on 3 sides to
 20 encroach up to 6' into front and side street setbacks. This encroachment is optional; it is not a
 21 requirement.

22
 23 A depth of 6' provides adequate depth for a functional porch space that could contain a table
 24 and chairs. The proposal would allow the porch to extend across the full width of the house.
 25 The reduced setback is also allowed for side street porches which would allow wrap-around
 26 porches. A one-story limit is suggested to maintain a human scale adjacent to the street.

27
 28 A front yard setback is typically taken from the centerline of the street right-of-way. Street right-
 29 of-way widths are typically between 60' to 80' wide. Standard front yard setbacks for single
 30 family homes are 50' to 60' measured from street centerline. Thirty to forty feet of that setback is
 31 taken up by the corresponding right-of-way with the remainder of the 10' to 30' setback located
 32 on private property. Cluster subdivisions require a 15' front yard.

33
 34 **Existing Front and Side Street Setbacks from Property Line**

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	Local Streets		Arterial Streets	
	60' Right of Way or Cul-de-sac	80' Right of Way	60' Right of Way	80' Right of Way
Residential Single Zone Front Yard	20'	10'	30'	20'
Residential Single Zone Side Street Yard	10'	0'	20'	10'
Cluster Subdivision	15'	15'	15'	15'
Residential Multi Zone Front or Side Street Yard	10'	0'	20'	10'

36

1 There are two main options for reducing front yard and side street setbacks under the existing
2 code. In older neighborhoods where homes on the same block are set back less than the
3 current requirement, the front yard option could allow a reduction of the front setback by up to
4 6' based on the average of the adjacent properties on the block face. This can be applied to the
5 main building, porch addition, or both. The other option is to apply for a Hearing Examiner
6 variance which involves a fee and justification based on a hardship related to the nature of the
7 property. (Note the front yard setback option is proposed to be amended, see Section 2 below.)
8

9 **Architectural Elements**

10
11 The proposed code amendment would allow chimneys, bay or greenhouse windows, cornices
12 and similar architectural elements to encroach into required yards up to 2', but not less than 3
13 feet from a property line. This change would remove a disincentive for adding architectural
14 details. For single family development, these features would be prohibited within a side yard
15 with the exception of a limited bump-out for a gas fireplace.
16

17 18 **Decks**

19
20 The proposal would establish height and encroachment limits for decks, open porches and
21 stairs located within required setbacks. There are currently no setbacks for these features,
22 provided that they must be unroofed, un-walled and have spaced flooring to be exempt. This
23 regulation and the references to eaves and decks in Residential Multi zone optional setbacks
24 would be removed and referenced in the proposed Permitted Yard Encroachment Table in BMC
25 20.10.080 B., and as outlined below:
26

- 27 1. Uncovered porches and decks less than 30" above grade are permitted up to the
28 property line.
29

30 Comment: Currently residential zones (except Planned Residential) allow unroofed
31 decks with pervious flooring (such as spaced boards) of any height to extend to all
32 property lines. Decks up to 30" in height do not require railings, which may be why this
33 is a common height limit in required yards in other jurisdictions.
34

- 35 2. Uncovered porches and decks exceeding 30" above grade may project 6' into a front or
36 side street yard, 5' into a rear yard, and only 2' into a side yard for multi-family development
37 and prohibited within the side yard for residential single development.
38

39 Comment: Under this proposed amendment, upper story decks for multi-family
40 development are prohibited within 7' of a property line. A deck on the floor above will not
41 be considered to cover a deck below it.
42

- 43 3. Uncovered stairways and steps not exceeding 4' above grade may project into a front, a
44 side or side flanking setback, and a rear setback.
45

46 Comment: This would normally accommodate stairs to the elevated first floor entry
47 porch of a home with a tall foundation or even some daylight basements. If the stairs
48 lead to an entry porch or deck within a setback, the porch or deck height at the stair
49 landing is effectively limited to 4' above grade.
50

1 4. Uncovered stairways and steps exceeding 4' above grade may project into a front yard
2 and a flanking side yard setback, 2' in a side yard setback, and 5' into a rear yard setback..
3

4 Comment: Current codes have no setback restrictions on open stairs. The proposal
5 would allow stairs and steps within the front and flanking side yard setbacks to
6 accommodate an entry porch or deck and restrict the encroachments within a side and
7 rear yard setback to limit the impact on privacy of adjacent properties.
8

9
10 **2. Remove the 6 foot maximum variation rule from the front setback averaging option**
11 **and allow an overall averaged front yard setback.**

12
13 **ISSUES:**

14
15 Bellingham's older residential neighborhoods, those associated with pre-WWII development,
16 were frequently built with a lesser street setback than what the current code requires. The
17 current code allows the property owner the option to reduce the required front yard setback by
18 6' when 40% of the buildings on the same block are set back less than the required front yard
19 setback. Infill housing and additions within these older neighborhoods are often still setback
20 further than the existing residences on the block, due to the 6' limit. The effect of this action has
21 resulted in development proposals that were out of character with the rhythm of existing
22 buildings on the block that were built closer to the street. Additionally, the existing provision
23 does not distinguish between garage and carport structures, making it possible to bring garages
24 closer to the street by using front yard averaging option. This often results in additional
25 character conflicts as street front garages are largely absent in pre-WWII development which is
26 generally associated as pedestrian oriented with porches fronting the street and parking in the
27 rear off an alley. This can also result in vehicles blocking sidewalks and increasing automobile /
28 pedestrian conflicts.
29

30 **ANALYSIS:**

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32 The current code allows the property owner the option to reduce the required front yard setback
33 by 6' when 40% of the buildings on the same block are set back less than the required front
34 yard setback. However, the code also stipulates that for any one lot that has a variation of more
35 than 6' from the required setback, it shall not be utilized in calculating the average depth of the
36 front yard. A variation of more than 6' limits the front setback reduction to 14' from the property
37 line on local streets and 14' to 24' from property line on arterial streets for buildings in
38 Residential Single zones. Some streets in older neighborhoods commonly have smaller
39 setbacks than these.
40

41 Staff is proposing to remove the 6 foot maximum variation from the code and allowing an overall
42 average front yard setback in cases where 40% of the existing buildings on the block are
43 located closer to the front property line, with the exception that garages and carports meet the
44 standard front yard setback requirement. The impact of this change would allow a new home or
45 addition to 'fit in' with the existing character of the neighborhood block and minimize the
46 presence of garages and carports when utilizing this front yard setback option.
47

48 This proposed change is not a requirement of development since this decreased setback is an
49 option for the property owner, allowing them to choose how to develop their property.
50 Additionally, the code change will not affect newer subdivisions as there is no established

1 pattern of older homes that encroach into the setbacks. For these areas the setbacks will
2 remain, generally, at 20 feet from the front property line.

3 4 **VI. COMPREHENSIVE PLAN GOALS AND POLICIES:**

5
6 The City's Comprehensive Plan identifies guiding policies to preserve and protect the unique
7 character and qualities of existing neighborhoods and references that setbacks should be
8 flexible in older neighborhoods so that in-fill development can be consistent with other existing
9 residential units on the block.

10
11 The proposed code amendments will implement the City's 2006 Comprehensive Plan. Some of
12 the specific principles particularly applicable to the proposed amendments are as follows:

13 14 **Chapter 2 – Part 9 – Land Use Polices**

15 16 **Framework Land Use Policies**

17 **FLU-1** It is the City's overall goal to preserve and protect the unique character and qualities of
18 the existing neighborhoods. All policies, proposed development code and zoning changes
19 should be reviewed with this goal in mind.

20 **Section E. Residential Development Policies**

21 **LU - 26** Preserve and protect established residential areas where a definite density, housing
22 type and character prevail.

23 **LU - 39** Setback, parking and lot coverage requirements should be flexible in older
24 neighborhoods with established lots, so that in-fill single family housing can be sited and
25 constructed so as to be consistent with other homes along a block.

26 27 **Chapter 8 – Part 4 - Community Design**

28 29 **3.1 General Community Design Goals**

30
31 **CDG-1** Promote improvement in the quality of public, residential, commercial and industrial
32 development and maintain a high quality environment by ensuring that new construction and
33 site development meets high standards.

34 35 **Chapter 8 – Part 4 - Community Design Polices (CDP)**

36 37 **4.6 Residential Design Policies**

38
39 **CDP-48** Encourage more efficient use of the land through devices such as use of substandard
40 lots of record, flexible building setbacks and lot widths. Regulations should promote compatible
41 development in existing neighborhoods.

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43 **CDP-50** Setback, parking and lot coverage requirements should be flexible in older
44 neighborhoods with established lots, so that infill housing can conform to the existing
45 neighborhood structures. In established neighborhoods, for example, new buildings should be
46 the same distance from the street as neighboring buildings.

1 **CDP-53** All buildings should front on a public or private street. Building facades should relate to
2 the street and clear pedestrian entries should be provided from the street.

3
4 **CDP-57** Developments with “snout houses” that contain a series of garages that dominate the
5 streetscape shall be discouraged.

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7 **PART 8: TRANSPORTATION POLICIES (TP)**

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9 **General Transportation Policies**

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11 **TP-6** Encourage public and private development proposals to enhance the street side
12 environment to maximize comfort of the transit user and pedestrian.

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14 **VII. PUBLIC COMMENT:**

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16 Notice of the Planning Commission hearing was mailed to neighborhood representatives and
17 associations, Washington State Department of Community, Trade and Economic Development,
18 and other parties with an interest in this topic. The notice was also published in the Bellingham
19 Herald. A citizen focus group was held on April 7, 2011.

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21 **VIII. STATE ENVIRONMENTAL POLICY ACT (SEPA):**

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23 A Determination of Nonsignificance was issued on March 25, 2011.

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25 **IX. STAFF RECOMMENDATIONS:**

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27 The City's Comprehensive Plan identifies the guiding principles and goals for legislative and
28 administrative decisions regarding improvements to the City's Land Use and Development
29 Code. The proposed code amendments further improve this system and provide the authority
30 needed to provide setback flexibility with respect to the scale of existing neighborhoods,
31 encourage creativity in site planning and architecture, and encourage more efficient use of the
32 land within the City.

33
34 Staff recommends approval of the proposed amendments to the Bellingham Municipal Code.

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36 **X. LIST OF ATTACHMENTS:**

- 37
38 *A. Findings of Fact, Conclusions and Recommendations*
39 *B. Proposed Bellingham Municipal Code Amendments*
40