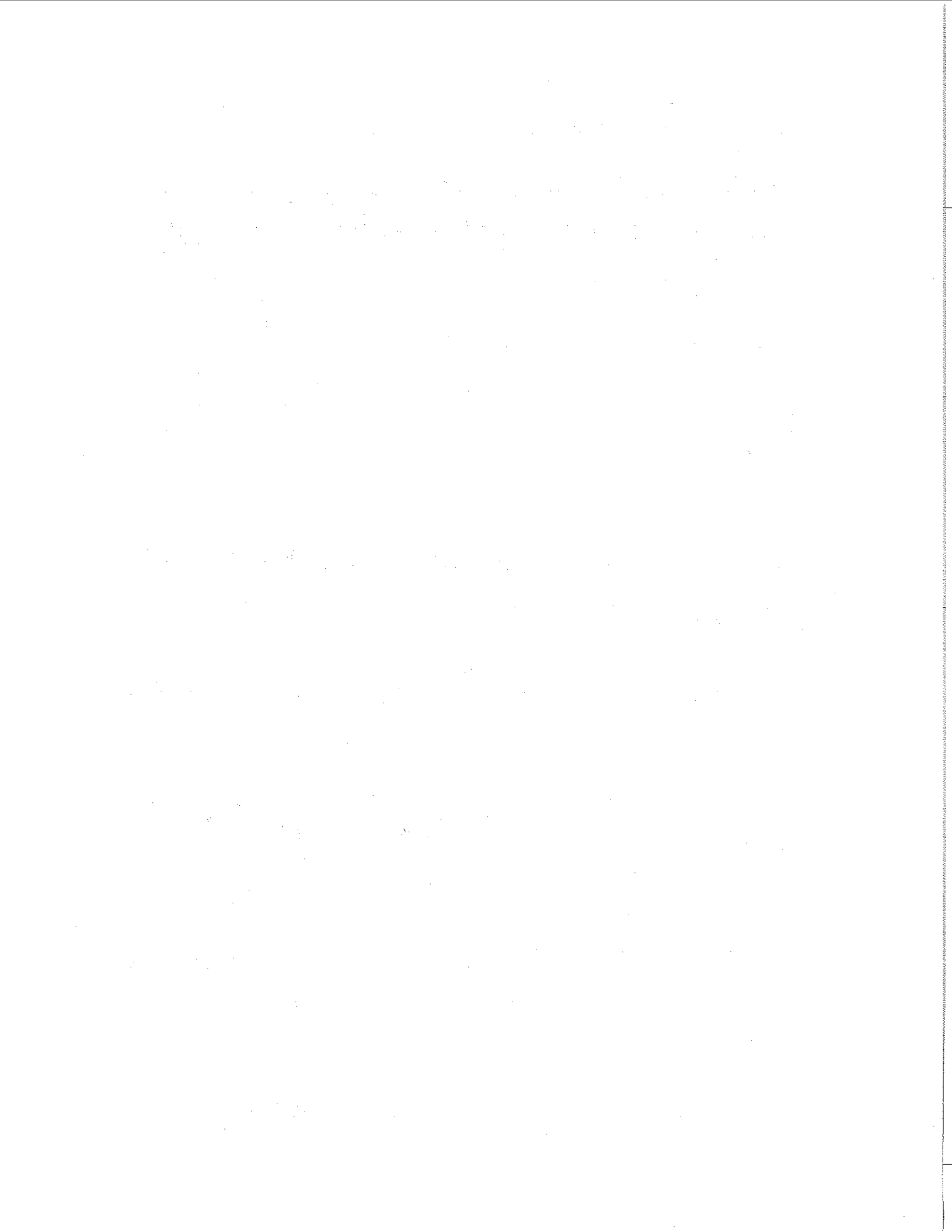


PLANNING COMMISSION AGENDA ITEM COVER SHEET

Meeting Date	Staff Contact
6/18/2009	MARILYN VOGEL
Subject:	
<p>Amendments to the Subdivision Ordinance related to the Infill Toolkit. The amendments are proposed in conjunction with amendments to water and sewer system regulations that will allow use of individual private service lines when infill housing sites are subdivided into lots, making it possible to retain compact infill housing site designs.</p> <p>The Subdivision Ordinance amendments would prohibit the City from accepting a security in place of required construction of private access and private sewer and water lines prior to final plat approval for infill housing lots (BMC Section 18.12.040 and 18.28.020) and update BMC Sections 18.28.100 and 18.28.110 regarding water and sewer systems for subdivisions to remove obsolete provisions and clarify.</p>	
Attachments:	
1. Staff Report	
2. A. Draft Findings of Fact, Conclusions and Recommendation	
3. B. Draft Ordinance	
4. C. Public Comment	
5. D. SEPA Determination of Nonsignificance	
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
Tim Stewart, Director	<i>TWS</i> 6-1-09
Alan Marriner, Legal	<i>AMM</i> 5/27/09
Tom Rosenberg, Public Works Director	<i>TR</i> 5/28/09
Marilyn Vogel, Senior Planner	<i>MV</i> 5/27/09
Previous Commission Meeting or Action:	
None on this item. The Planning Commission recommended approval of the related Infill Housing code amendments on May 14, 2009.	
Recommended Action:	
Staff recommends approval of the proposed code amendments.	



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CITY OF BELLINGHAM PLANNING STAFF REPORT

Agenda Topic:	Amendments to the Subdivision Ordinance regarding security for construction of private access, sewer lines and water lines for infill housing subdivisions and updating water and sewer provisions.
For:	June 18, 2009
Staff Contact:	Marilyn Vogel, Senior Planner

I. SUMMARY OF PROPOSAL

The proposal would amend the Subdivision Ordinance to prohibit the City from accepting a security in place of required construction of private access and private sewer and water service lines prior to final plat approval for infill housing lots created under BMC Chapter 20.28 Infill Housing. Although security is occasionally accepted to accommodate construction timing for public improvements, the Public Works Dept. would not typically accept securities for utilities and access that will be privately owned. Use of private utility lines rather than public utility mains to serve some infill housing lots is anticipated in order to facilitate compact infill housing site designs and private access lanes.

The amendments would also update sections regarding sewer and water systems for subdivisions to remove obsolete provisions and clarify the language.

Bellingham Municipal Code Subsection 18.12.040.C regarding short subdivisions is proposed to be amended as follows:

- C. Appropriate security to ensure completion may be accepted in lieu of actual installation of the required improvements, if acceptable to the Director of Public Works. This provision shall not apply to required private access and private water and sewer service lines for Infill Housing lots approved under Chapter BMC 20.28.

Bellingham Municipal Code Section 18.28.020 regarding final plats is proposed to be amended as follows:

18.28.020 - Installation Prior To Final Plat Approval

Prior to the submission of a final plat for approval, all streets, alleys, sidewalks, storm drainage, utilities, monumentation, street lights, street trees, and any other improvements specified hereunder shall be installed and completed by the subdivider to the satisfaction of the Public Works Director. Such improvements shall meet the standards specified in this ordinance; ~~provided that a~~

~~A~~ performance bond in the amount of 150% of the value of the incomplete required improvements may be posted in lieu of installation of improvements; ~~and further provided that if~~ such bond is recommended by the Public Works Director and approved by the City Council. The performance bond shall specify exactly what improvements are covered and a time schedule for completion; however, at no time should the bond be for

1 more than a one year period. A performance bond shall not be accepted in lieu of
2 installation of required private access and private water and sewer service lines for Infill
3 Housing lots approved under Chapter BMC 20.28.

4
5 Bellingham Municipal Code Section 18.28.100 regarding water systems for subdivisions is
6 proposed to be amended as follows:
7

8 **18.28.100 - Water System**

- 9
10 A. A complete water distribution system shall be installed. Such system shall be
11 adequate to serve the area being platted. ~~Each lot shall be connected to the~~
12 ~~water main by a service pipe extending at right angles from the main to the~~
13 ~~property line and including a stop cock placed on the street side 5' out from the~~
14 ~~property line.~~ The connection to each lot from the meter box to the main shall be
15 maintained by and kept within the exclusive control of the City. All water mains in
16 the subdivision shall be constructed in conformance with all appropriate codes
17 and standards.
18
19
20 B. All water lines and services shall be placed prior to improvement of the streets
21 and constructed in accordance with the appropriate codes and standards of the
22 City of Bellingham. ~~The developer shall pay the flat rate charge for water~~
23 ~~services at the time the completed services are installed.~~

24
25
26 Bellingham Municipal Code Section 18.28.110 regarding sewer service for subdivisions is
27 proposed to be mended as follows:
28

29 **18.28.110 - Sanitary Sewer**

30
31 A sanitary sewer system shall be installed in such a manner where each and every
32 building in which people live, congregate, or are employed shall have a separate
33 connection to the public sewer. ~~Each connection and each fixture emptying into and~~
34 ~~through the connection shall be installed in the manner prescribed in the Plumbing Code~~
35 ~~of the City of Bellingham.~~ All sewer mains in the subdivision shall be constructed in
36 conformance with all appropriate codes and standards.
37

38
39 **II. PLANNING COMMISSION ROLE**

40
41 The role of the Planning Commission is to make a recommendation on this proposal to the City
42 Council. The proposal is a legislative development code amendment requiring a Type VI
43 process. The Planning Commission must hold a public hearing and issue findings of fact and
44 conclusions along with a recommendation to the City Council. Draft findings and conclusions
45 are included in Attachment A. The Commission should adopt or modify the draft findings as
46 needed to support the Commission's recommendation.
47

1 **III. BACKGROUND**

2
3 The amendments are related to implementation of proposed BMC 20.28 Infill Housing,
4 recommended for approval by the Planning Commission in May, 2009. They were initiated at
5 the request of the Public Works Dept. and are associated with additional proposed amendments
6 to the general water and sewer codes (BMC Title 15) that would help accommodate alternative
7 utility service designs for infill housing lots. These additional amendments are included in the
8 draft ordinance (Attachment B) but do not require Planning Commission review.
9

10 **IV. ISSUES**

11
12 Under the proposed BMC 20.28, infill housing sites may be divided into a limited number of lots
13 that do not each abut a public street. Access may be provided by private lanes or shared courts
14 that are narrower than public street rights of way. Amendments to the water and sewer codes
15 would excuse some infill housing lots from public main abutment, and instead, allow space-
16 saving private utility lines to serve each lot. This helps facilitate the use of narrower private
17 lanes and a compact site design.
18

19 When construction is guaranteed by a security and the developer fails to complete the
20 construction, the City uses the security to finish construction. Although the City will use a
21 security to finish construction projects for facilities the City will own, the Public Works Dept. does
22 not want to be in the position of constructing facilities that will be turned over to private
23 ownership. The purpose of the proposed subdivision amendment is to assure that any private
24 facility construction required at subdivision stage will be completed before final plat approval
25 and sale of lots.
26

27 Other amendments to the general sewer and water system sections of the Subdivision
28 Ordinance are proposed in order to remove technical construction standards that are now
29 properly located in the City of Bellingham Development Guidelines and Improvement Standards
30 Manual, eliminate references to utility service rates that are regulated elsewhere in the BMC
31 and clarify other existing provisions.
32
33

34 **V. COMPREHENSIVE PLAN GOALS AND POLICIES**

35
36 Development regulations must be consistent with and carry out the goals and policies of the
37 Comprehensive Plan. The proposed amendment is related to the accommodation of infill
38 development as part of Bellingham's infill strategy:
39

40 **Infill Strategy 1** – Make more efficient use of the remaining City land supply; facilitate
41 development on existing lots of record; develop flexible code provisions that allow a range of
42 housing types; adopt minimum density requirements; other steps necessary to make better use
43 of the remaining land supply.
44

45 Comprehensive Plan Capital Facilities goals:

46
47 CFG-1 Provide and maintain adequate public facilities and services to meet the primary service
48 needs of the city in a manner which protects investments in existing facilities, maximizes the use
49 of existing facilities, and promote orderly compact urban growth.
50

1 CFG-4 Provide public utility service appropriate to the uses designated and allowed in various
2 parts of the city.

3
4 **VI. ANALYSIS**
5

6 The proposed amendments to the Subdivision Ordinance regarding security for private facilities
7 will make it clear that any required installation must be complete prior to final plat approval. The
8 Hearing Examiner may consider requests for variances from provisions of the Subdivision
9 Ordinance based on variance criteria in the case of an extraordinary situation related to a
10 specific property.

11
12 **VII. PUBLIC COMMENT**
13

14 Notice of the Planning Commission hearing was mailed to neighborhood representatives and
15 associations, the Washington State Dept. of Community, Trade and Economic Development
16 and other parties expressing an interest in this topic. The notice was also published in the
17 Bellingham Herald. Notices were issued at least 30 days prior to the hearing date.

18
19 Public comments received prior to issuance of this report are included in Attachment C.
20

21
22 **VIII. STATE ENVIRONMENTAL POLICY ACT (SEPA)**
23

24 The SEPA Determination of Nonsignificance is attached as Attachment D.
25
26

27 **IX. STAFF RECOMMENDATIONS - OPTIONS**
28

29
30 Staff recommends approval of the proposed amendments to the Bellingham Municipal Code.
31
32

33 **X. LIST OF ATTACHMENTS**
34

- 35 A. Draft Findings of Fact, Conclusions and Recommendations
 - 36 B. Draft Ordinance
 - 37 C. Public Comments
 - 38 D. SEPA Determination of Nonsignificance
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Attachment A

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

JUNE __, 2009

DRAFT FOR REVIEW

Note: the following Findings of Fact, Conclusions and Recommendations were prepared in draft form to support the staff recommendation. The findings can be adopted as written, or modified to support the final Planning Commission recommendation.

SUMMARY

Following the public hearing and deliberation on the proposed Subdivision Code amendments regarding security for construction of private access, sewer lines and water lines for infill housing subdivisions and updating water and sewer provisions, the Bellingham Planning Commission has determined that the proposed amendments comply with, and will implement, the goals and policies of the Bellingham Comprehensive Plan and should be adopted.

I. FINDINGS OF FACT

1. Project Description:

The proposal would amend the Subdivision Ordinance to prohibit the City from accepting a security in place of required construction of private access and private sewer and water service lines prior to final plat approval for infill housing lots created under BMC Chapter 20.28 Infill Housing. Although security is occasionally accepted to accommodate construction timing for public improvements, the Public Works Dept. would not typically accept securities for utilities and access that will be privately owned. Use of private utility lines rather than public utility mains to serve some infill housing lots is anticipated in order to facilitate compact infill housing site designs and private access lanes.

The amendments would also update sections regarding sewer and water systems for subdivisions to remove obsolete provisions and clarify the language.

2. Background Information/Procedural History:

The amendments are related to implementation of proposed BMC 20.28 Infill Housing, recommended for approval by the Planning Commission in May, 2009. They were initiated at the request of the Public Works Dept. and are associated with additional proposed amendments to the general water and sewer codes (BMC Title 15) that would help accommodate alternative utility service designs for infill housing lots. These additional amendments are included in the draft ordinance (Attachment B) but do not require Planning Commission review.

1
2 **3. Public Comment:**
3

4 Notice of the Planning Commission hearing was mailed to neighborhood representatives and
5 associations, the Washington State Dept. of Community, Trade and Economic Development
6 and other parties expressing an interest in this topic. The notice was also published in the
7 Bellingham Herald. Notices were issued at least 30 days prior to the hearing date.
8

9 *[Public comment to be inserted after hearing]*
10

11 **4. State Environmental Policy Act (SEPA) Determination:**
12

13 A Determination of Nonsignificance was issued for the proposed amendments and included in
14 the record.
15

16 **5. Consistency with the Bellingham Comprehensive Plan:**
17

18 Development regulations must be consistent with and carry out the goals and policies of the
19 Comprehensive Plan. The proposed amendment is related to the accommodation of infill
20 development as part of Bellingham's infill strategy:
21

22 **Infill Strategy 1** – Make more efficient use of the remaining City land supply; facilitate
23 development on existing lots of record; develop flexible code provisions that allow a range of
24 housing types; adopt minimum density requirements; other steps necessary to make better use
25 of the remaining land supply.
26

27 Comprehensive Plan Capital Facilities goals:
28

29 CFG-1 Provide and maintain adequate public facilities and services to meet the primary service
30 needs of the city in a manner which protects investments in existing facilities, maximizes the use
31 of existing facilities, and promote orderly compact urban growth.
32

33 CFG-4 Provide public utility service appropriate to the uses designated and allowed in various
34 parts of the city.
35
36

37 **II. CONCLUSIONS**
38

39 Based on the staff report and the information presented at the public hearing, the Planning
40 Commission concludes:
41

- 42 1. The proposal is appropriate in order to support and clarify water and sewer service
43 provisions for infill housing lots and update obsolete code language.
44
- 45 2. The proposed amendments are consistent with the goals and policies of the Bellingham
46 Comprehensive Plan.
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III. RECOMMENDATIONS

Based on the findings and conclusions, the Bellingham Planning Commission recommends that the City Council approve the proposed amendments to the Bellingham Municipal Code Subsection 18.12.040.C, Section 18.28.020, Section 18.28.100 and Section 18.28.110.

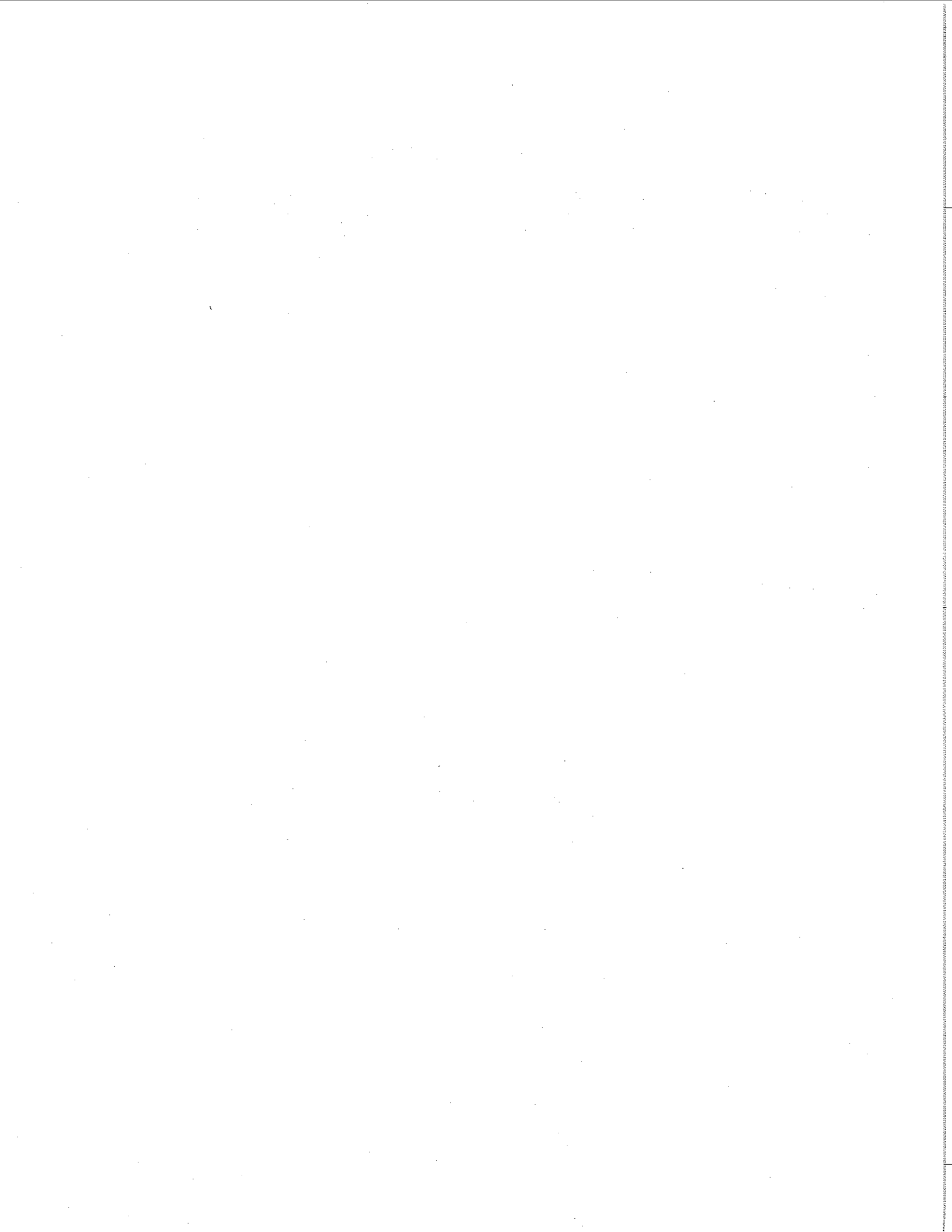
ADOPTED this _____ day of _____, 2009.

Planning Commission Chairperson

ATTEST: _____
Recording Secretary

APPROVED AS TO FORM:

City Attorney



ATTACHMENT B

ORDINANCE NO. _____

AN ORDINANCE AMENDING BELLINGHAM MUNICIPAL CODE SECTION 15.08.040 – WATER SERVICE CONNECTIONS, SECTION 15.12.040 SEWER SERVICE CONNECTIONS, SECTION 18.12.040 SHORT SUBDIVISIONS REQUIRED IMPROVEMENTS, SECTION 18.28.020 INSTALLATION PRIOR TO FINAL PLAT APPROVAL, SECTION 18.28.100 WATER SYSTEM AND 18.28.110 SANITARY SEWER TO ACCOMMODATE INFILL HOUSING FORMS AND UPDATE OBSOLETE PROVISIONS.

WHEREAS, the City of Bellingham has proposed new standards in BMC Chapter 20.28 for infill housing forms in accordance with Bellingham Comprehensive Plan goals and policies; and

WHEREAS, several of the infill housing forms allow division into individual lots fronting on private lanes or other configurations where lots may not abut a public street; and

WHEREAS, current regulations require all premises to abut a City water main and a City sewer main in order to obtain water and sewer service; and

WHEREAS, in order to facilitate design of the proposed infill housing forms, alternatives to water and sewer main abutment should be available for infill housing; and

WHEREAS, the proposed amendments will not have a negative impact on the City water and sewer system; and

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

WHEREAS, the City of Bellingham as lead agency under the procedures of the State Environmental Policy Act (SEPA), issued a Determination of Non-Significance; and

WHEREAS, after published notice the City Council held a public hearing on the proposed code amendment on _____; and

WHEREAS, the City Council has considered the staff report and public comment;

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

5-20-09 Draft

Section 1. A new Subsection G. is hereby added to Bellingham Municipal Code 15.08.040 as follows:

G. Infill housing sites developed under BMC 20.28 may be divided into lots that do not abut a water main provided:

1. The parent site meets the requirements of this Section 15.08.040;
2. A separate private water service line is installed to City standards from a main to each lot prior to final plat approval;
3. The Public Works Director determines that no main extension is necessary for the orderly extension or efficient looping of the public water system.

Section 2. A new Subsection F. is hereby added to Bellingham Municipal Code 15.12.040 as follows:

F. Infill housing sites developed under BMC 20.28 may be divided into lots that do not abut a sewer main provided:

1. The parent site meets the requirements of this Section 15.12.040;
2. A separate private sewer service line is installed to City standards from a main to each lot prior to final plat approval;
3. The Public Works Director determines that no main extension is necessary for the orderly extension of the public sewer system.

Section 3. Bellingham Municipal Code Subsection 18.12.040.C regarding short subdivisions is hereby amended as follows:

C. Appropriate security to ensure completion may be accepted in lieu of actual installation of the required improvements, if acceptable to the Director of Public Works. This provision shall not apply to required private access and private water and sewer service lines for Infill Housing lots approved under Chapter BMC 20.28.

Section 4. Bellingham Municipal Code Section 18.28.020 regarding final plats is hereby amended as follows:

18.28.020 - Installation Prior To Final Plat Approval

Prior to the submission of a final plat for approval, all streets, alleys, sidewalks, storm drainage, utilities, monumentation, street lights, street trees, and any other improvements

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

specified hereunder shall be installed and completed by the subdivider to the satisfaction of the Public Works Director. Such improvements shall meet the standards specified in this ordinance; ~~provided that a~~

~~A performance bond in the amount of 150% of the value of the incomplete required improvements may be posted in lieu of installation of improvements; and further provided that if such bond is recommended by the Public Works Director and approved by the City Council. The performance bond shall specify exactly what improvements are covered and a time schedule for completion; however, at no time should the bond be for more than a one year period. A performance bond shall not be accepted in lieu of installation of required private access and private water and sewer service lines for Infill Housing lots approved under Chapter BMC 20.28.~~

Section 5. Bellingham Municipal Code Section 18.28.100 regarding water systems for subdivisions is hereby amended as follows:

18.28.100 - Water System

- A. A complete water distribution system shall be installed. Such system shall be adequate to serve the area being platted. ~~Each lot shall be connected to the water main by a service pipe extending at right angles from the main to the property line and including a stop cock placed on the street side 5' out from the property line. The connection to each lot from the meter box to the main shall be maintained by and kept within the exclusive control of the City. All water mains in the subdivision shall be constructed in conformance with all appropriate codes and standards.~~

- B. All water lines and services shall be placed prior to improvement of the streets and constructed in accordance with the appropriate codes and standards of the City of Bellingham. ~~The developer shall pay the flat rate charge for water services at the time the completed services are installed.~~

Section 6. Bellingham Municipal Code Section 18.28.110 regarding sewer service for subdivisions is hereby amended as follows:

18.28.110 - Sanitary Sewer

A sanitary sewer system shall be installed in such a manner where each and every building in which people live, congregate, or are employed shall have a separate connection to the public sewer. ~~Each connection and each fixture emptying into and through the connection shall be installed in the manner prescribed in the Plumbing Code of the City of Bellingham. All sewer mains in the subdivision shall be constructed in conformance with all appropriate codes and standards.~~

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

5-20-09 Draft

PASSED by the Council this _____ day of _____, 2009.

Council President

APPROVED by me this _____ day of _____, 2009.

Mayor

ATTEST: _____
Finance Director

APPROVED AS TO FORM:

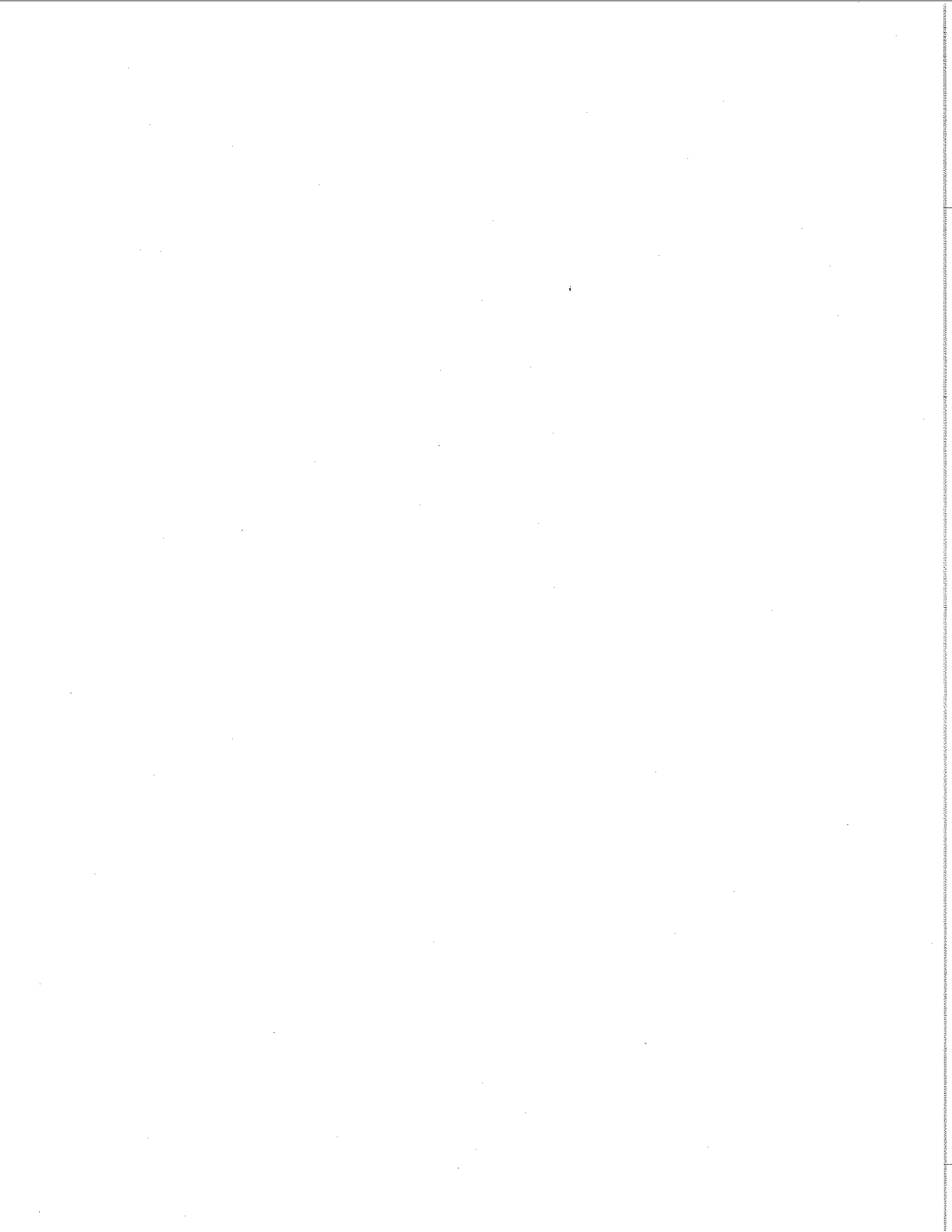
Office of the City Attorney

Published:

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

**ATTACHMENT C
PUBLIC COMMENT**

Comments received prior to the public hearing will be attached and transmitted to the Planning Commission.





PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

210 Lottie Street, Bellingham, WA 98225

Telephone: (360) 778-8300 Fax: (360) 778-8302

Determination of Non-Significance

Description of Proposal: File No. SEP2009-00025

Amendments to the Bellingham Municipal Code (BMC) regarding sewer, water and subdivision regulations to:

Exempt certain infill housing lots from water main abutment requirements provided individual private service lines are installed (BMC 15.08.040);

Exempt certain infill housing lots from sewer main abutment requirements provided individual private service lines are installed (BMC 15.12.040);

Prohibit the City from accepting a security in place of required construction of private access and private sewer and water lines for infill housing lots prior to final plat approval (BMC Sections 18.12.040 and 18.28.020); and

Update BMC Sections 18.28.100 and 18.28.110 regarding water and sewer systems for subdivisions to remove obsolete provisions and clarify.

Proponent: City of Bellingham

Location of Proposal: Proposed code amendments apply city-wide

Lead Agency: City of Bellingham

Environmental Information Considered: SEPA Checklist, May 26, 2009

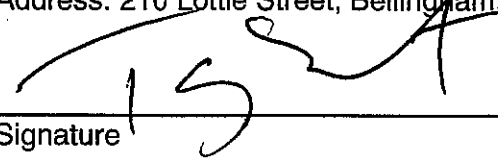
The lead agency for this proposal has determined that the project does not have a probable adverse impact on the environment. An environmental impact statement is not required under RCW 43.21.C.030(2) c. This decision was made after review of a completed environmental checklist on file with the lead agency. This information is available to the public on request.

(X) This DNS is issued under 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date of issuance.

() There is no comment period required for this proposal.

Comments must be submitted by: June 16, 2009

Responsible Official: Tim Stewart, AICP
Position: Director
Address: 210 Lottie Street, Bellingham, WA 98225


Signature _____ Date 6-1-09

Contact: Marilyn Vogel, Planning Department, 360-778-8361 or email: mvogel@cob.org.

Appeal Rights: This Determination of Nonsignificance may be appealed to the Western Washington Growth Management Hearings Board in accordance with RCW 36.70A.280.