

# PLANNING COMMISSION AGENDA ITEM COVER SHEET

| Meeting Date   | Staff Contact                                   |         |
|--|---|---------|
| 10/22/2009   | BRIAN SMART                                     |         |
| Subject:   |   |         |
| <p>The purpose of the public hearing is to consider a site specific plan amendment to change the Land Use Designation of Area 21 of the CBD Neighborhood from Industrial, Marine to Residential, Multi, Mixed.</p> |   |         |
| Attachments:   |   |         |
| 1. Staff Report  |   |         |
| 2. Draft Findings of Fact, Conclusions and Recommendations   |   |         |
| 3. Neighborhood Plan application and proposal  |   |         |
| 4. Comprehensive Plan Goals & Policies   |   |         |
| 5. SEPA Determination of Non-Significance  |   |         |
| 6. Aerial Vicinity Maps  |   |         |
| 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  | TWS   | 10/6/09 |
| Greg Aucutt, Senior Planner  | GA  | 10/5/09 |
| Brian Smart, Planner II  | BJS   | 10/5/09 |
|  |   |         |
|  |   |         |
| Previous Commission Meeting or Action:   |   |         |
|  |   |         |
| Recommended Action:  |   |         |
| <p>Staff recommends not to approve the proposed rezone and text amendment for Area 21 the Central Business District Neighborhood Plan.</p>   |   |         |

1 **STAFF REPORT**  
 2 **FILE # ZON2009-00003**

3  
 4 **Agenda Topic:** Rezone and text amendments to Area 21 of the Central Business District  
 5 (CBD) Neighborhood Plan add new text information to the neighborhood  
 6 plan.  
 7

8 **For:** October 22, 2009 Planning Commission Public Hearing  
 9

10 **Staff Contact:** Brian Smart, Planner II  
 11

12 **I. SUMMARY OF PROPOSAL**  
 13

14 Susie Landsem has submitted an application on behalf of Rosemary Bandell for a site specific  
 15 plan amendment to change the Land Use Designation of Area 21 of the CBD Neighborhood  
 16 from Industrial, Marine to Residential, Multi, Mixed. This parcel (along with the rest of Area 1 of  
 17 the South Hill Neighborhood) was moved to the CBD Neighborhood in 2005 to become part of  
 18 the larger waterfront planning process. The City and Port are currently working on a Master  
 19 Development Plan (MDP) for the waterfront that includes all of Area 21.  
 20  
 21

**Existing Zoning – Area 21, CBD Neighborhood**

|     |   |   |     |                               |                               |   |
|-----|---|---|-----|-------------------------------|-------------------------------|---|
| 21* | Industrial/<br>Waterfront<br>Mixed<br>Use | Marine<br><br>See<br>Special<br>Regulations | N/A | See<br>Special<br>Regulations | See<br>Special<br>Regulations | Marine Industrial designation<br>in effect until a Master<br>Development Plan (MDP) is<br>adopted. Once MDP is<br>adopted, area zoning is<br>Waterfront Mixed Use. See<br>the MDP for permitted mixed<br>uses, infrastructure<br>requirements and phasing,<br>public access requirements,<br>and other zoning, design and<br>development standards. |
|-----|---|---|-----|-------------------------------|-------------------------------|---|

22 \*Area 21 was created in 2005 when Area 1 of the South Hill Neighborhood was moved to the  
 23 CBD Neighborhood Plan.  
 24

25 The changes proposed by the applicant are discussed in Attachment B.  
 26

27 **II. PLANNING COMMISSION ROLE**  
 28

29 The proposal before the Commission is a legislative neighborhood plan amendment requiring a  
 30 Type VI process. The Planning Commission must hold a public hearing and issue findings of  
 31 fact and conclusions along with a recommendation to the City Council. Draft findings and  
 32 conclusions are included in the staff report (Attachment A). The Commission should adopt or  
 33 modify the draft findings as needed to support the Commission's recommendation.  
 34

35 **III. BACKGROUND**  
 36

37 The Central Business District (CBD) Neighborhood Plan was adopted in 1980. While there have  
 38 been some minor amendments over the years, most recently in 2008, the plan has not been

1 fully updated. This parcel (along with the rest of Area 1 of the South Hill Neighborhood) was  
2 moved to the CBD Neighborhood as Area 21 in 2005 to become part of the larger waterfront  
3 planning process. Several subareas within the CBD are currently being reviewed by the  
4 Waterfront Future's Group (WFG) and incorporated into the WFG's Waterfront Vision and  
5 Framework Plan.

6  
7 The Planning Commission initiated the proposed CBD rezone/plan amendment and included  
8 the proposal on the City's 2009 docket.

9  
10 On June 29th, 2009, the applicants representative held a neighborhood meeting for the  
11 proposed rezone of the property from Industrial-Mixed to Residential-Multi, Mixed.

12  
13 On September 16, 2009, the notice of the Planning Commission meeting was mailed and  
14 emailed to the neighborhood representatives, and other parties with an interest in this topic.  
15 The notice was also published the Bellingham Herald.

#### 16 17 **IV. ISSUES**

18  
19 As stated earlier, this parcel (along with the rest of Area 1 of the South Hill Neighborhood) was  
20 moved to the CBD Neighborhood as Area 21 in 2005 to become part of the larger waterfront  
21 planning process. This change was done with the intent of incorporating the visions and guiding  
22 principles from the Waterfront Futures Group's (WFG) 2004 "Waterfront Vision and Framework  
23 Plan" into the neighborhood plans, and to make the land use and zoning provisions consistent  
24 with the Future's Group recommendations. City Council approved the recommendations in  
25 January of 2005.

26  
27 Ordinance No. 2005-12-106 adopted amendments to the Central Business District and South  
28 Hill Neighborhood Plans. Through that ordinance and an interlocal agreement, the City and the  
29 Port of Bellingham have committed to work together to develop a master plan for redevelopment  
30 of Bellingham's central waterfront area.

31  
32 The zoning text for Area 21 of the CBD Neighborhood Plan states that the "Marine Industrial  
33 designation in effect until a Master Development Plan (MDP) is adopted. Once MDP is adopted,  
34 area zoning is Waterfront Mixed Use. See the MDP for permitted mixed uses, infrastructure  
35 requirements and phasing, public access requirements, and other zoning, design and  
36 development standards." The City and Port are currently working on a Master Development  
37 Plan (MDP) for the waterfront that includes Area 21. The Mixed-use designation is intended to  
38 accommodate a compatible mix of residential, commercial, light industrial, public and  
39 institutional land uses. The ultimate mix of land uses, design and development standards to be  
40 established through the master planning process.

41  
42 The future of the waterfront redevelopment is dependent on the master plan for the area. This is  
43 important because we will have a better understanding of how the land uses will come together,  
44 along with height and view impacts. This is the basis for all the previous work in 2005 and the  
45 continued work between the City, the Port of Bellingham and the Waterfront Advisory Group in  
46 developing a master plan for this area. City staff believes that this rezone is premature as it is  
47 inconsistent with previous decisions, the interlocal agreement, and may conflict with the  
48 developing master plan and development regulations for the waterfront area.

1 During the docketing process, City staff recommended against initiation of the requested rezone  
2 and amendment citing significant planning issues raised by the subject request, which included  
3 the following:

- 4 • Any change in the Land Use Designation and Zoning would be premature. The MDP  
5 may or may not designate residential uses for the subject area.
- 6 • The property owner may develop under existing Area 21 zoning. NOTE: A Pre-  
7 application meeting was held on July 31, 2007 for an industrial office building.
- 8 • If the request is approved, the residential development would be surrounded on three  
9 sides by industrial and public land; setbacks would be affected; noise levels may be an  
10 issue; trail corridors and connections to Boulevard Park would have to be determined  
11 separate from the MDP; and railroad, fire access and other transportation issues would  
12 need to be addressed.

#### 13 14 **Traffic / Access**

15 The applicant has submitted a preliminary site design with the application indicating access from  
16 Boulevard. The proposal was reviewed in 2007 by City staff, and would require an easement  
17 from the City over the South Bay Trail. For any development proposal, the associated access  
18 easement and associated bridge construction and design (both physical and aesthetic) shall be  
19 reviewed and approved by both the Public Works and Parks Department.

#### 20 21 **V. COMPREHENSIVE PLAN GOALS AND POLICIES**

22  
23 Relevant Comprehensive Plan goals and policies are listed in Attachment C.

#### 24 25 **VI. ANALYSIS:**

26  
27 The following factors should be considered when reviewing comprehensive plan and  
28 neighborhood plan amendment proposals BMC 20.20.060.C:

- 29  
30 **1) Is the proposed amendment to the plan supported by or consistent with the**  
31 **existing goals and policies of the comprehensive plan and the State Growth**  
32 **Management Act?**

33  
34 The proposed amendment is neither supported by the comprehensive goals and  
35 policies, nor by WFG goals and policies. Specific policies include the following:  
36 **VB 4** – Because infill is a major growth strategy, Bellingham devotes considerable  
37 energy to determining how to accommodate growth in existing neighborhoods in a  
38 manner that complements neighborhood character and builds on the pattern of  
39 planned park and open space systems.

40 **VB 54** – Mixed-use development on the waterfront has allowed for a mix of water  
41 dependent uses and residential, recreational, professional, commercial and industrial  
42 uses. This marks a change from the previous pattern of primarily heavy industrial  
43 uses, though Bellingham Bay remains a working waterfront, both in Fairhaven and in  
44 the downtown area.

45 **LU - 50** Development regulations should be revised to encourage mixed-use infill  
46 development in urban villages. Design and site improvement standards should be  
47 established through the master plan process for urban village development.

48  
49 (Additional goals and policies are listed in Attachment C)  
50

1           **2) Have circumstances changed sufficiently since the adoption of the**  
2           **comprehensive plan and/or neighborhood plan to justify the proposed change?**  
3           **If so, the circumstances that have changed should be described in sufficient**  
4           **detail so that a finding of changed circumstances can be made and a decision**  
5           **as to appropriateness of the proposed neighborhood plan amendment can be**  
6           **reached based on information in the record.**

7  
8           Circumstances have not sufficiently changed since the 2005 amendment to the  
9           neighborhood plan to justify the proposed change. As mentioned earlier, this parcel  
10          (along with the rest of Area 1 of the South Hill Neighborhood) was moved to the CBD  
11          Neighborhood so that all the area being planned and developed under the MDP would  
12          be in one neighborhood and therefore reviewed comprehensively. This parcel should  
13          be rezoned to "Waterfront Mixed Use" at the time the MDP is adopted by the City and  
14          then developed in a fashion consistent with the rest of the area.

15  
16          This application is premature because we do not yet know what type of development  
17          will be approved for the properties in the vicinity of the subject site because the MDP is  
18          not yet finished. It is extremely important that the impacts from the entire development  
19          be analyzed and mitigated so the whole area develops in a cohesive and coordinated  
20          manner. The previous zoning designations were changed to implement the City  
21          Council's directive to incorporate the Waterfront Futures Group's (WFG) vision and  
22          recommendations. The new zoning was required to facilitate the type of mixed use  
23          redevelopment that is envisioned by the community through the WFG process.

24  
25          **3) Have the underlying assumptions found in the comprehensive plan and/or**  
26          **neighborhood plan upon which the land use designation, density or other**  
27          **provisions are based changed, or is new information available which was not**  
28          **considered at the time the plan was adopted? If so, the changed assumptions or**  
29          **new information should be described in sufficient detail to enable the Planning**  
30          **Commission and City Council to find that the land use designation or other**  
31          **sections of the plan should be changed. Examples of the underlying**  
32          **assumptions include expected population growth, utility or roadway capacities,**  
33          **available land supply, or demand for land with the existing or proposed land use**  
34          **designation.**

35  
36          The underlying assumptions found in the comprehensive and neighborhood plan have  
37          not changed. The long term vision for the redevelopment of the area is reflected in #1  
38          and #2 above and in the WFG's "Vision and Framework Plan" and summarized by the  
39          following points:

40  
41          **Waterfront Futures Group's City Center Character Area Vision:**

- 42           • Create a mixed use neighborhood, with a combination of commercial,  
43           institutional, educational, retail services and housing.
- 44           • Provide a place where people can live, work, study and spend their leisure time  
45           without relying on auto transportation.
- 46           • Convert the existing aeration stabilization basin into a new marina or marine  
47           habitat.
- 48           • Maintain deep water and transient moorage and marine related commerce in  
49           and along the Whatcom Creek Waterway.
- 50           • Significantly improve public access opportunities throughout the area.

- Locate WWU and/or other educational or institutional facilities in the area.
- Acquire the GP property to ensure community involvement in planning for redevelopment and to secure acquisition of land for parks, roads and public access.

4) **Does the proposed amendment promote a more desirable land use pattern for the community as stated in the goals and policies in the comprehensive plan? Are there environmental constraints (such as wetlands, steep slopes, significant stands of trees, etc.) present on the site to such a degree that development of the site is economically or physically unfeasible under the existing land use designation? If so, a description of the qualities of the proposed plan amendment that would make the land use pattern more desirable and/or would result in less environmental impact should be provided in sufficient detail to enable the Planning Commission and City Council to find that the proposed neighborhood plan amendment is in the community's long term best interest.**

The proposed amendment does not promote a more desirable land use pattern for the community. The proposed change to this individual parcel from Industrial-Marine to Residential-Multi, Mixed is premature based on the redevelopment plans being created by the Port, City and Waterfront Futures Group. Specifically, Chapter 8 Community Design - The Waterfront Futures Group, 2003-04 (See Attachment C)

5) **What impacts would the proposed amendment to the plan have on the current use of other properties in the vicinity? What measures should be taken to ensure compatibility with the uses of other property in the area?**

The impact of the proposed amendment would be a disjointed development plan when compared with the WFG's Waterfront Vision and Framework Plan for the general area. The current neighborhood plan zoning designations are needed to accommodate and encourage conversion of the central waterfront from its historic heavy industrial use to a modern mixed use neighborhood.

## **VII. CRITERIA**

The City may amend the comprehensive and/or neighborhood plan only if it finds that:

- (1) The proposed amendment bears a substantial relation to public health, safety, and welfare;**
- (2) The proposed amendment is consistent with the Growth Management Act;**
- (3) The proposed amendment is consistent with the countywide planning policies;**
- (4) The comprehensive plan will be internally consistent; and**
- (5) The proposed amendment will result in long-term benefits to the community as a whole and is in the best interest of the community.**

As stated above, the proposed amendment is neither supported by the Comprehensive Plan's goals and policies, nor by the Waterfront Futures Group's goals

1 and policies. Circumstances have not sufficiently changed since the 2005 amendment  
2 to the neighborhood plan to justify the proposed change.

3  
4 The proposed rezone is not internally consistent with the comprehensive plan. The  
5 proposal is contradictory to the 'Framework Goals and Policies' section and the  
6 Waterfront Futures Group "Character Area" description for South Hill and Boulevard.  
7 The Master Development Plan (MDP) for this area is already considering how the land  
8 use pattern should carefully accommodate planned levels of development that  
9 promotes efficient use of the land.

10  
11 The proposed rezone will not result in long-term benefits to the community. It is in the  
12 best interest of the community to allow the property to receive the Waterfront Mixed  
13 Use zoning once MDP is adopted. Permitted mixed uses, infrastructure requirements  
14 and phasing, public access requirements, and other zoning, design and development  
15 standards will be in place at the time of the MDP adoption.

16  
17 Relevant Comprehensive Plan Goals and Policies were included in the Planning  
18 Commission's deliberation of the proposal and reflected in the staff report (Attachment  
19 C).

## 20 21 **VIII. PUBLIC COMMENT**

22  
23 On June 29th, 2009, the applicants representative held a neighborhood meeting for the  
24 proposed rezone of the property from Industrial-Mixed to Residential-Multi, Mixed.

25  
26 Notice of the Planning Commission hearing was mailed to neighborhood representatives and  
27 associations and other parties with an interest in this topic. The notice was also published the  
28 Bellingham Herald. Notices were issued at least 30 days prior to the hearing date.

## 29 30 **IX. STATE ENVIRONMENTAL POLICY ACT (SEPA)**

31  
32 A non-project SEPA Determination of Non-Significance was issued by the City of Bellingham on  
33 October 5, 2009.

## 34 35 **X. STAFF RECOMMENDATION**

36  
37 The proposal is not consistent with the CBD Neighborhood Plan, the goals and policies of the  
38 City's Comprehensive Plan or the Waterfront Futures Group master plan. While a Residential-  
39 Multi, Mixed designation may in fact be the best use for the subject site, we won't know for sure  
40 until the MDP is completed and approved. Only then will we know what the surrounding land  
41 uses will be and what type of design and development regulations will be applicable to this area.

42  
43 City staff believes rezoning this property, prior to the adoption of the MDP is premature and may  
44 actually create additional complications for development. Therefore, City staff recommends that  
45 the Bellingham Planning Commission recommend that City Council not approve the proposed  
46 amendment to the Central Business District for Area 21.

47  
48 The Planning Commission will need to decide if it is appropriate to rezone and amend the  
49 neighborhood plan.

50

1  
2 **XI LIST OF ATTACHMENTS**

- 3  
4 Attachment A Draft Planning Commission Findings of Fact  
5 Attachment B Comp Plan and Rezone application and proposal  
6 Attachment C Comprehensive Plan Goals and Policies  
7 Attachment D SEPA Determination of Non-Significance  
8 Attachment E Site Aerial Photo

1 **DRAFT**  
2 **BELLINGHAM PLANNING COMMISSION FINDINGS OF FACT, CONCLUSIONS, AND**  
3 **RECOMMENDATIONS**

4  
5 **OCTOBER 22, 2009**  
6

7 **DRAFT FOR REVIEW**

8 Note: the following Findings of Fact, Conclusions and Recommendations were prepared in draft  
9 form to support the staff recommendation. The findings can be adopted as written, or modified  
10 to support the final Planning Commission recommendation.  
11

12 **SUMMARY**  
13

14 Following the public hearing and deliberation on the proposed Area 21, Central Business District  
15 (CBD) Neighborhood Plan amendments, the Bellingham Planning Commission has determined  
16 that the proposed amendments to the CBD do not comply with, and will not implement the goals  
17 and policies of the Bellingham Comprehensive Plan and should not be adopted.  
18

19 **I. FINDINGS OF FACT**  
20

21 **1. Proposal Description**  
22

23 A site specific plan amendment to change the Land Use Designation of Area 21 of the CBD  
24 Neighborhood from Industrial, Marine to Residential-Multi, Mixed.  
25

26 **2. Background Information/Procedural History**  
27

28 The Planning Commission initiated the proposed CBD rezone/plan amendment and included  
29 the proposal on the City's 2009 docket.  
30

31 On June 29th, 2009, the applicant's representative held a neighborhood meeting for the  
32 proposed rezone of the property from Industrial-Mixed to Residential-Multi, Multiple.  
33

34 On September 16, 2009, the notice of the Planning Commission hearing was mailed and  
35 emailed to the neighborhood representatives, and other parties with an interest in this topic.  
36 The notice was also published the Bellingham Herald.  
37

38 **3. Public Comment**  
39

40 [Summary of public comment will be inserted.]  
41

42 **4. State Environmental Policy Act (SEPA) Determination**  
43

44 A non-project SEPA determination of Non-Significance was issued by the City of Bellingham on  
45 October 5, 2009.  
46

47 **5. Consistency with the Bellingham Comprehensive Plan and Review Criteria**  
48

49 Bellingham's neighborhood plans must be consistent with and carry out the goals and policies of  
50 the comprehensive plan. In addition, neighborhood plan amendments must be consistent with  
51 the factors and review criteria in BMC 20.20.060. Specific criteria are as follows:



1 **III. RECOMMENDATION**

2  
3 Based on the findings and conclusion, the Bellingham Planning Commission recommends that  
4 the City Council not approve the proposed amendment to the Central Business District for Area  
5 21.

6  
7 **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

8  
9  
10 \_\_\_\_\_  
11 Planning Commission Chairperson

12  
13  
14  
15  
16 **ATTEST:** \_\_\_\_\_  
17 Recording Secretary

18  
19  
20  
21  
22 **APPROVED AS TO FORM:**

23  
24 \_\_\_\_\_  
25 *City Attorney*  
26  
27