

PLANNING COMMISSION AGENDA ITEM COVER SHEET

Meeting Date	Staff Contact	
6/24/2010	MOSHÉ QUINN	
Subject:		
<p>Work session to introduce possible changes to Bellingham's Land Use Development Code and provide an opportunity for staff to discuss the proposal with the Planning Commission.</p>		
Attachments:		
1. Memo		
2. BMC References Attachment A		
3.		
4.		
5.		
Meeting Type	Category	
<input type="checkbox"/> Public Hearing	<input type="checkbox"/> Legislative	
<input type="checkbox"/> Public Meeting	<input type="checkbox"/> Quasi-judicial	
<input checked="" type="checkbox"/> Work Session	<input checked="" type="checkbox"/> Information Only	
<input type="checkbox"/> Briefing		
Clearances	Initials	Date
Jeff Thomas, Interim Director	<i>JT</i>	6-14-10
Alan Marriner, Legal	<i>AM</i>	6/10/10
Kurt Nabbefeld, Senior Planner	<i>KN</i>	6-10-10
Moshé Quinn, Planner II	<i>MQ</i>	6/10/2010
Previous Commission Meeting or Action:		
N/A		
Recommended Action:		

City of Bellingham Planning Commission

Agenda Topic: Work Session concerning amendments to the Bellingham Municipal Code

Date: June 24, 2010

Staff Contacts: Jeff Thomas, Interim Planning Director
Kurt Nabbefeld, Senior Planner
Moshé Quinn, Planner II

The purpose of this work session is to introduce possible changes to Bellingham's Land Use Development Code and provide an opportunity for staff to discuss the proposal with the Planning Commission. Depending on the outcome of the work-session some or all of the proposed code changes will be considered through the legislative review process in 2010 or 2011.

SUMMARY OF PROPOSAL:

The Planning and Community Development Department has been developing a series of code amendments to improve the City's land use development code. The proposal includes the development of new provisions, minor amendments, and possible full updates to certain sections of the code. The proposed code changes are intended to improve the City's land use development code by providing clear and concise development standards that will benefit the general public and City staff.

Group B1- Yard (Setbacks)

1. Clarify and update the list of structures that may project into required yards by establishing limits for decks and stairs, accommodating minor encroachments for architectural features such as chimneys and bay windows and providing an exception for porches in a required yard. The proposed code sections to be amended include:

- ❖ BMC 20.10.080.C Yards;
- ❖ BMC 20.30.040.F.2. Residential Single Zone Standard Development Regulations, Minimum Yards;
- ❖ BMC 20.30.050.F.2. Residential Single Zone Optional Development Regulations, Minimum Yards;
- ❖ BMC 20.32.040.H.4. Residential Multi Zone, Standard Development Regulations, Minimum Yards, Exceptions;
- ❖ BMC 20.32.045.E.5. Residential Multi Zone, Duplex/Attached Single Family Duplex Regulations, Minimum Yards;
- ❖ BMC 20.32.050.D. Residential Multi Zone, Optional Development Regulations, Minimum Yards Options.

- 47 **Issues:**
48
49 • Decks are relatively un-regulated in the code and some existing regulations seem to
50 conflict, or their intent is not clear. Open decks are currently exempt from setbacks in all
51 residential zones (except Planned Residential) regardless of height above grade.
52 • Unroofed stairs are also exempt from setbacks, regardless of height. The stair and deck
53 exemption allow an upper floor entry deck on any side of a multifamily building with only
54 building code setbacks from side and rear property lines.
55 • Existing front setback rules discourage covered front porches and other minor
56 architectural features due to that these features are require to be setback the same
57 distance as the main dwelling unit.
58 • Bellingham's older single family neighborhoods were frequently built with architectural
59 features that extended beyond the building wall. Features like bay windows, and
60 fireplaces added a defining character to the home and the neighborhood. Small
61 variations to the building contribute to the uniqueness and appeal of these older
62 neighborhoods.
63

64 **Group B2 – Front Setback Averaging**

- 65
66 2. Amend BMC 20.10.080.B, 20.30.040.F.1.a.iii., 20.32.040.H.1.b. and 20.32.045.E.1 to
67 remove the 6 foot maximum variation rule from the front setback averaging option and
68 replace it with a minimum front yard setback under this provision. The amendment would
69 also eliminate front yard option for attached and detached garages and carports.
70

71 **Issues:**

- 72
73 • Bellingham's older neighborhoods, generally those with pre-WWII development were
74 frequently built with a lesser front setback than what the current code allows through the
75 front setback average option.
76 • Under the current setback option, if 40% of the entire block has been built to a front
77 setback less than currently required by code, the maximum reduction is only 6 feet even
78 if the other residential homes are built closer on the entire block face.
79 • The existing provision does not distinguish between garages and carport structures,
80 therefore making it possible to move structures closer to the street under this option.
81 • A vehicle parked in the driveway often encroaches into a sidewalk or street when an
82 attached/detached garage is built under the front setback yard option.
83

84 **Group B3 – Subdivision**

- 85
86 3. Amend 18.32.040 - Minimum Cluster Performance Criteria to require a garage or carport to
87 be setback 20' from the edge of a sidewalk/curb or property line, whichever is greater.
88 Additionally, the proposal would specify a side street setback as the existing code does not
89 address this setback. The proposed amendment would also include moving the cluster
90 performance criteria from Title 18 to 20.

91 **Issues:**

- 92
93 • Currently a 15' setback is required from the front property line for cluster lots, whereby a
94 vehicle parked in the driveway could encroach into the sidewalk or street.

- As a plat condition, staff has recommended a 20' garage setback from the back of a sidewalk or curb and a side street setback to the Hearing Examiner (HE). As this is a discretionary decision, the recommended condition could be eliminated by the HE.
- Minimum Cluster Performance Criteria in Title 18 should be in Title 20 as the code provisions relate to the development of the property.

Note: Other amendments to Title 18 may be included in this proposal, such as but not limited to: plat alteration and vacation procedures, short plat vesting, and development standards.

Group B4 – Planned Residential

4. Amend BMC 20.38, Planned Residential (PR) to change the setback requirements for the Residential Multi, Planned zone, which are relatively wide and uniform regardless of building height. The setbacks in this zone apply to multifamily residential development or other permitted uses but not to single family homes on individual lots. Current setbacks are 25' and 20' for residential structures abutting an arterial street. Proposal also includes changes to the parking lot setbacks and screening requirements.

Issues:

- The PR setbacks are more restrictive than the Residential Multi zone and are required regardless of housing form, lot size, and abutting zoning designation.
- The setback may be too large when applied to smaller multi-family forms and too small when applied to tall buildings. The setbacks for 2-story buildings would be much less in other multi-family residential zones. There is no pre-set height limit in Planned Residential Zones except when within 200' of a Residential Single Zones.
- Setbacks may be increased through the planned development permit but can only be reduced by a Hearing Examiner variance if specific criteria can be met.
- The current PR setbacks limit design options for building location, open space, and parking areas.

PR Parking setbacks and screening

The PR parking setback abutting zones that are not "Planned" requires a minimum 15' setback, a 6' high screen, and a 5' high berm or 20' with no berm.

- The wide parking buffer is intended to protect single family zones, and is not necessary abutting other zoning designations, such as Commercial and Residential Multi zones.
- A 5' high berm needs more than a 15' width for a stable slope that will maintain plant moisture and hold mulch.
- A 6' tall screen is required if the adjacent zone is not Planned, even if the zoning in non-residential or along a street.
- CPTED principles would encourage limiting street side screening to a height of 3'.

140 **Group B5 – Planned Industrial**

- 141
- 142 5. Amend Bellingham Municipal Code (BMC), 20.38.050.D.5 through .7 changing the setback
- 143 requirements for buildings, parking areas, and loading areas in Planned Industrial zones
- 144 based on development design, use, and abutting zone.

145

146 **Issues:**

- 147
- 148 • Building setbacks are 25' from all property lines regardless of street frontage or adjacent
 - 149 zone or use. This is not an efficient use of valuable industrial land.
 - 150 • The Industrial Planned setbacks are more restrictive than Industrial Light standards,
 - 151 which are zero unless the property abuts a residential, commercial, public or institutional
 - 152 zone.
 - 153 • A 25' setback is very restrictive for small narrow industrial lots, whereby the owner needs
 - 154 to apply for a variance because the required setbacks cannot be achieved.
 - 155 • A parking area requires a 15' property setback from all property lines regardless of use,
 - 156 which may not be necessary between commercial and industrial uses.
 - 157 • The mandatory 5' high berm on the perimeter of parking and loading areas needs more
 - 158 than a 15' width for a stable slope.
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160 **Group B6 – Floor Area**

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- 162 6. Amend BMC 20.08.020.F(2) Floor Area and Space

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164 Floor area is most commonly used to set the maximum building or use size and parking

165 requirements.

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167 20.08.020.F(2)(3)- Specific Definitions

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169 2. Floor Area or Space: The sum of the gross horizontal area of the floor or floors of the

170 building, measured from the exterior faces of the exterior walls, including elevator shafts and

171 stairwells on each floor and areas having a ceiling height of 7½' or more, but excluding all

172 parking and loading spaces, cellars, unroofed areas, roofed areas open on 2 or more sides,

173 areas having a ceiling height of less than 7½' and areas used exclusively for storage or

174 housing of mechanical or central heating equipment.

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176 **Issues:**

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- 178 • Ceilings are sometimes lowered or rooms labeled as storage to escape the regulation.
 - 179 The exclusion of space with a ceiling height of less than 7.5' and storage areas from the
 - 180 floor area definition results in functional space being excluded.
 - 181 • The City has issued 3 separate policies concerning the definition of floor Area
 - 182 • Reduction of the ceiling height to 6 feet and removing the word 'storage' from the floor
 - 183 area definition would correct this minor code inconvenience and remove three
 - 184 interpretations from the "Interpretation and Policy Book" used by staff.
 - 185 • These included determinations of what constitutes exempt storage area, excluding areas
 - 186 with low ceiling heights in stairwells and excluding basements with less than 7 ½' ceiling
 - 187 heights from the 5,500 square foot single family residence size limit.

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- The definition is also not coordinated with the FAR definition, which increases complexity and may cause confusion. Most codes coordinate these two definitions.
 - This definition is not consistent with building codes, which often results in property owners getting different interpretations by staff.

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Floor Area Ratio (FAR): The total gross floor area of the building(s) on a site divided by the site area. Site area includes right-of-way and public spaces when dedicated to the public or permanently established for public use concurrently with a proposed development. For the purposes of calculating FAR, the total gross floor area includes the total enclosed area of all floors of a building measured to the outside face of the structural members in exterior walls, including elevator shafts and stairwells on each floor and service and mechanical equipment rooms; but excluding exterior decks and balconies, all floor area with ceiling height not more than 3 feet above the adjacent finished ground level, and structured parking (including garbage facilities therein)

203 **Group B7-Bike Parking**

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- 205 7. Update the bike parking standards in BMC 20.12.010, which requires parking facilities with
- 206 50 or more parking stall to install bike storage facilities at a ratio of 10% of the total required
- 207 number of parking stalls.
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209 **Issues:**

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- Lack of bicycle storage facilities associated with new development.
 - The current code does not encourage alternative transportation modes.
 - Samish Way Urban Village currently requires bicycle parking spaces equivalent to 15% of the total required parking.

216 **Group B8 – Minor Code reference amendments**

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- 218 8. Amend BMC 20.16.020.S.2 Service Care (Conditional Use definition), BMC 20.42 Public
- 219 Development, BMC 21.10.260 Vesting, and BMC 20.32.045 – Duplex / Attached Single
- 220 Family Duplex Regulations.
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222 **Issue:**

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- The above mentioned code sections require minor changes in order to correct inconsistency in the code. Some code provisions and definitions appear in two different areas of the code and due to an oversight only one of the code sections was identified and amended in the past. The proposal would also include correcting or changing outdated code references.

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Group C1 – Site Development Permit

9. Establish and develop a site development permit to review both public and private facilities.

Issue:

- Although the City has development standards for site work such as private access, construction associated with storm water facilities and parks and trails, there is no comprehensive construction permit that consistently covers this work.

Group C2 – Demonstration Housing Chapter

10. Chapter 20.27 of the Bellingham Municipal Code is set to expire at the end of 2010 unless the City Council approves an extension of the ordinance.

The ordinance requires that the City Council conduct a public hearing and determine whether to:

- 1) Extend the time period;
- 2) Extend and make modification;
- 3) Permanently incorporate this chapter into the land use development code; or
- 4) Rescind this chapter.

Previous City Council action extended this provision in 2005 and 2008.

Group D1 – Nonconformity Chapter

11. Full update Bellingham Municipal Code 20.14 Nonconformity Chapter

Issues:

- The current nonconforming provisions are relatively unchanged from its original inception and changes are needed to help alleviate confusion and improve and simplify the nonconforming section of the development code.
- The existing nonconforming section is difficult to administer, especially as new progressive planning forms and standards are introduced and redevelopment occurs within the City.

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Bellingham Municipal Code References

(Proposed code section to be amended are highlighted)

Group B 1 Yards

BMC 20.10.080 - Yards

- A. No yard shall be reduced in size so as to make it smaller than the minimum dimension required.
- B. At the property owner's option, when 40% or more on a front foot basis, of all lots or parcels on one side of a street between two intersecting streets has been built up with buildings of less "depth" than that required by this ordinance, then the average depth of the front yard may be the required yard for that block face. However, for any one lot, variation of more than 6' from the otherwise required setback shall not be utilized in calculating the average depth of front yard.
- C. No portion of any building or structure shall project into any required yard except for landscaping structures, unroofed stairways and steps, roof eaves and overhangs or as may be provided in the regulatory options found within the Residential Single and Residential Multi development district.
- D. For corner lots, the front yard shall be that yard which abuts a designated arterial. If neither or both of the abutting streets are designated arterials, the builder/owner shall have the option of selecting the front yard. The remaining yard shall be the side yard on a flanking street.
- E. Whenever the right-of-way width is below minimum standards as specified in Ordinance No. 8027, the centerline for setback purposes shall be the farthest edge of the existing right-of-way which was dedicated by the subject property.

Residential Single Zone
BMC 20.30.040 - Standard Development Regulations

F. Minimum Yards

- 1. Unless more stringent setbacks have been delineated upon a plat as part of an approval requirement, the following setbacks shall be required for main buildings:
 - a. **Front Yard:**
 - i. For lots abutting a street other than a cul-de-sac, the front yard setback shall be 50' measured from the centerline of the street right of way to the foundation of the structure; provided however that if said street is a designated arterial then the front yard setback shall increase to 60'.
 - ii. For lots abutting a cul-de-sac the required front yard setback shall be 20' measured from the front lot line to the foundation of the structure.

320
321 iii. At the property owner's option, when 40% or more on a front foot
322 basis, of all lots or parcels on one side of a street between two
323 intersecting streets has been built up with buildings of less "depth" than
324 that required by this ordinance then the average depth of the front yard
325 may be the required yard for that block face. However for any one lot,
326 variation of more than 6' from the otherwise required setback shall not be
327 utilized in calculating the average depth of the front yard.

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329 **b. Side Yard on a Flanking Street:**

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331 i. For lots abutting a flanking street there shall be a side yard on a
332 flanking street setback of 40' measured from the centerline of the right of
333 way to the foundation line of the structure; provided however that if the
334 street is a designated arterial the setback shall increase to 50'.

335
336 ii. For lots abutting a flanking cul-de-sac there shall be required a 10'
337 setback measured from the property line to the foundation of the structure.

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339 **c. Interior Side Yard.** A 5' side yard setback shall be provided; measured
340 from the side property line to the foundation of the structure.

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342 **d. Rear Yard.** There shall be a 10' rear yard setback; measured from the
343 rear property line to the foundation of the structure.

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345 **2.** Landscaping structures and unroofed stairways or steps may protrude into a required
346 yard. A balcony and/or deck may also protrude into a required yard if it is unroofed, unwallled
347 and has a floor surface with spacing between members to allow the elements (sun, rain, snow,
348 etc.) to pass through to the ground.

350 **Residential Single Zone**
351 **BMC 20.30.050 - Optional Development Regulations**

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353 **F. Minimum Yards**

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355 1. Unless setbacks have been delineated upon a plat pursuant to final plat approval,
356 the following setbacks shall apply for main buildings:

357
358 **a. Front Yard:**

359
360 i. For all cluster lots abutting a street other than a cul-de-sac there
361 shall be a required front yard setback of 50' measured from the centerline
362 of the street right of way to the foundation of the structure, provided
363 however that if said street is a designated arterial, the front yard setback
364 shall increase to 60'.

365
366 ii. For all cluster lots abutting a cul-de-sac there shall be a required
367 front yard setback of 10' measured from the front lot line to the foundation
368 of the structure.

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b. Side Yard on a Flanking Street:

- i. For all cluster lots abutting a flanking street there shall be required a setback of 40' measured from the centerline of the right of way to the foundation of the structure; provided however that if said street is a designated arterial the setback shall increase to 50'.
- ii. For all cluster lots abutting a flanking cul-de-sac there shall be required a setback of 10' measured from the property line to the foundation of the structure.

c. Side Yard:

- i. For RS-Cluster designations, there shall be a 5' minimum setback from property line to foundation. If a side lot line abuts common open space of at least 20' in depth measured across the entire width of the affected lot line, the setback may be reduced to 0'.
- ii. For RS-Cluster Detached designations the interior side yard may be reduced from 5' to 0' to allow construction up to the lot line provided the unit(s) abutting the zero lot line are either "concurrently approved" or have had the zero lot line previously approved and identified as part of the final plat as recorded. No common wall construction shall be permitted. A 10' minimum distance must be kept between cluster detached homes. No interior side yard is required if the side lot line abuts common open space of at least 20' in width.
- iii. For RS-Cluster Attached designations, the interior side yard may be reduced from 5' to 0' to allow construction up to the lot line provided the unit(s) abutting the zero lot line are "concurrently approved." Common wall construction is permitted. No interior side yard is required when said lot line is abutting common open space of at least 20' in width.

d. Rear Yard: A 10' rear yard shall be required unless the rear lot line is abutting common open space at least 20' in depth measured across the entire width of said lot line, in which case no setback is required.

2. Landscaping structures, and unroofed stairways or steps may protrude into a required yard. A balcony and/or deck may also protrude into required yards if unroofed, unwalled and have a floor surface with spacing between its members which allows the elements (sun, rain, snow, etc.) to pass through to the ground.

**Residential Multi Zones
BMC 20.32.040 - Standard Development/Regulations**

H. Minimum Yards

- 1. Front and Side Yard on a Flanking Street.

- 421 a. A 40' setback measured from the centerline of the street right of way to
422 the foundation of the structure shall be provided. However, if said street is a
423 "designated arterial" then the setbacks shall increase to 50'.
424
- 425 b. At the property owner's option, when 40% or more on a front foot basis, of
426 all lots or parcels on one side of a street between two intersecting streets has
427 been built up with buildings of less depth than that required by this ordinance,
428 then the average depth of the front yards may be the required yard for that block
429 face. However, for any one lot, variation of more than 6' from the otherwise
430 required setback shall not be utilized in calculating the average depth of the front
431 yard.
432
- 433 2. **Interior Side Yard.** A 10' side yard setback shall be provided for the first story,
434 12.5' for the second story, 15' for the third story and 17.5' for the fourth story measured
435 from each side property line to the wall of the subject story. The applicable setback shall
436 be determined by the number of stories facing the subject property line.
437
- 438 3. **Rear Yard.** A 20' rear yard setback shall be provided for the first story, 25' for
439 the second story, 30' for the third story and 35' for the fourth story measured from the
440 rear property line to the wall of the subject story. The applicable setback shall be
441 determined by the number of stories facing the subject property line.
442
- 443 4. **Exceptions.** Landscaping structures and unroofed stairways or steps may
444 protrude into a required yard. Balconies and decks may also protrude into a required
445 yard if unroofed, unwalled and have a floor surface with spacing between members to
446 allow the elements (sun, rain, snow, etc.) to pass through to the ground.
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448 Residential Multi Zones

449 BMC 20.32.045 Duplex/Attached Single Family Duplex Regulations

450 E. Minimum Yards.

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- 453 1. **Front Yard.** The required front yard setback will be determined by averaging the
454 existing setbacks of the abutting structures on either side of the proposed development.
455 However, if an abutting structure has a variation of more than 6' from the standard multi-
456 family setback, the average shall be determined by using the next adjacent property. If
457 no development exists adjacent to the proposed site, standard multi-family front yard
458 setbacks shall apply (20.32.040 H (1)).
459
- 460 2. **Side Yard on a Flanking Street.** A 40' setback measured from the centerline of
461 the street right-of-way to the foundation of the structure shall be provided. However, if
462 said street is a "designated arterial" then the setback shall increase to 50'.
463
- 464 3. **Interior Side Yard.** A 5' side yard setback shall be provided on the side not
465 attached; measured from the side property line to the foundation of the structure.
466
- 467 4. **Rear Yard.** There shall be a 10' rear yard setback; measured from the rear
468 property line to the foundation of the structure.
469
- 470 5. **Exceptions.** Landscaping structures and unroofed stairways or steps may protrude into
471 a required yard. Balconies and decks may also protrude into a required yard if unroofed,

unwalled and have a floor surface with spacing between members to allow the elements (sun, rain, snow, etc.) to pass through to the ground.

Residential Multi Zones
BMC 20.32.050 Optional Development Regulations

D. Minimum Yards Option

1. Front Yard and Side Yard on a Flanking Street shall meet standard building regulations.

2. Interior Side Yard.

a. Walls without windows, eaves, and decks may extend into the standard interior side yard to 3.5' from the side property line if a one story building or to within 5' if a two story building provided:

i. The building height does not exceed two stories within the standard side yard.

ii. The lot abutting the reduced yard does not contain an existing building with a window facing and within 10' of the proposed building line.

iii. The subject property is not abutting or across an alley from property designated residential single (except when abutting Areas 3 and 9 of the Lettered Streets Neighborhood).

iv. The total length of the building wall within the standard interior side yard constitutes no more than 40% of the total side lot line length. (See Figure 19)

b. "Window" walls may extend into the standard interior side yard provided:

i. Such wall is not closer than 10' to the side property line or 7' if facing a screen or proposed screen at the subject lot line.

ii. The length of such way within the side yard setback does not constitute more than 40% of the total side lot line length.

c. Door sections may extend into interior side yards but not closer than 10' to the side property line.

3. Rear Yards

a. Door sections, walls without windows, eaves, and decks may extend into the standard rear yard setback to within 10' of the rear property line provided:

i. The subject property is not abutting or across an alley from property designated residential single (except when abutting Areas 3 and 9 of the Lettered Streets Neighborhood).

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ii. The total length of the building wall within the standard rear yard constitutes no more than 40% of the total rear lot line length.

iii. The building height does not exceed two stories within the standard rear yard. (See Figure 20)

b. Window walls may extend into the standard rear yard setback provided:

i. Such wall on the first story is not closer than 10' to the rear property line or 20' on the second story.

ii. The building height does not exceed two stories within the standard rear yard.

iii. The subject property is not abutting or across an alley from property designated residential single (except when abutting Areas 3 and 9 of the Lettered Streets Neighborhood).

iv. The length of such wall within the rear yard setback does not constitute more than 40% of the total rear lot line.

Group B 2 Front Setback Averaging

General Provisions

BMC 20.10.080 - Yards

A. [No change]

B. At the property owner's option, when 40% or more on a front foot basis, of all lots or parcels on one side of a street between two intersecting streets has been built up with buildings of less "depth" than that required by this ordinance, then the average depth of the front yard may be the required yard for that block face provided the setback shall not be less than 10 feet from the front property line. However, for any one lot, variation of more than 6' from the otherwise required setback shall not be utilized in calculating the average depth of front yard.

C.-D. [No change]

Residential Single

BMC 20.30.040 - Standard Development Regulations

F. Minimum Yards

1. Unless more stringent setbacks have been delineated upon a plat as part of an approval requirement, the following setbacks shall be required for main buildings:

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a. Front Yard:

i. For lots abutting a street other than a cul-de-sac, the front yard setback shall be 50' measured from the centerline of the street right of way to the foundation of the structure; provided however that if said street is a designated arterial then the front yard setback shall increase to 60'.

ii. For lots abutting a cul-de-sac the required front yard setback shall be 20' measured from the front lot line to the foundation of the structure.

iii. At the property owner's option, when 40% or more on a front foot basis, of all lots or parcels on one side of a street between two intersecting streets has been built up with buildings of less "depth" than that required by this ordinance then the average depth of the front yard may be the required yard for that block face. However for any one lot, variation of more than 6' from the otherwise required setback shall not be utilized in calculating the average depth of the front yard.

b.-d. [No change]

2. [No change]

**Residential Multi
BMC 20.32.040 - Standard Development/Regulations**

H. Minimum Yards

1. Front and Side Yard on a Flanking Street.

a. A 40' setback measured from the centerline of the street right of way to the foundation of the structure shall be provided. However, if said street is a "designated arterial" then the setbacks shall increase to 50'.

b. At the property owner's option, when 40% or more on a front foot basis, of all lots or parcels on one side of a street between two intersecting streets has been built up with buildings of less depth than that required by this ordinance, then the average depth of the front yards may be the required yard for that block face. However, for any one lot, variation of more than 6' from the otherwise required setback shall not be utilized in calculating the average depth of the front yard.

2.- 4. [No change]

20.32.045 - Duplex/Attached Single Family Duplex Regulations

E. Minimum Yards.

1. Front Yard. The required front yard setback will be determined by averaging the existing setbacks of the abutting structures on either side of the proposed development.

621 However, if an abutting structure has a variation of more than 6' from the standard multi-
622 family setback, the average shall be determined by using the next adjacent property. If
623 no development exists adjacent to the proposed site, standard multi-family front yard
624 setbacks shall apply (20.32.040 H (1)).
625

626 2.-4. [No change]
627

628 **Group B3 – Cluster Subdivision**

629 **BMC 18.32.040 - Minimum Cluster Performance Criteria**

630 A - D. [No change]

631 E. Minimum Design Criteria*

632 Minimum Lot Area: 4,000 sq. ft. total

633 Minimum Lot Width: 40' detached

634 30' attached

635 Minimum Lot Depth: 60'

636 Minimum Yards:

637 Front: 15'

638 Sides: 5' detached

639 0' attached (only on common property line)

640 Rear: 15'

641 *Lot area, width and depth requirements are for 100% usable area. Larger lot area may be
642 required if portions of the lot are unusable.

643 All lots shall contain the necessary area to provide required parking, buildable area with
644 appropriate setbacks, and private usable space. Setbacks shall be determined prior to final
645 approval of the plat.

646 F. – G. [No change]
647
648

649 **Group B4 – Planned Residential**

650 **BMC 20.38.050.B – Planned Development, Standards, Planned Residential**

651 [1 through 5 unchanged.]

652 6. Yards.

653 a. No structure shall be located within 25' of any property line.

654 b. No residential structure shall be located within 20' of any designated arterial.
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7. Parking.

a. Proposals for planned development shall satisfy all parking regulations for similar uses, contained in Chapter 20.12.

b. No parking area shall extend within 15' of any property line abutting property designated other than planned. The area between the parking and property line shall be bermed with earth at least 5' in height. Parking spaces more than 20' do not have to have the area in between bermed.

c. General "parking areas" shall be illustrated on the planned proposal site plan. Final detailed parking plans shall be submitted for approval at time of building permit application. If at such time the Planning Director determines that there is insufficient space within the area to meet parking requirements, contained in Chapter 20.12, areas designated as building areas may be used, the project may be reduced in size or density so that such parking requirements are met and/or the applicant may apply to the Planning Director for a modification of the site plan exhibit pursuant to procedure set out in Section 20.38.040.

8. Landscaping. Proposals for planned development shall satisfy all landscaping requirements for similar uses contained in Section 20.12.030 (See also (10) below on Environment).

[9 through 12 unchanged.]

Group B5 – Planned Industrial

BMC 20.38.050.D – Planned Development, Standards, Planned Industrial

[1. Through 4. Unchanged.]

5. Yards. No structure shall be located within 25' of any property line.

6. Parking.

a. Proposals for planned development shall satisfy all parking and loading area regulations for similar uses, contained within Chapter 20.12.

b. No parking area shall be within 15' of any property line and the area between the parking and property line shall be bermed with earth at least 5' in height.

c. General "parking areas" shall be illustrated on the planned proposal site plan. Final detailed parking plans shall be submitted for approval at the time of building permit application. If at such time the Planning Director determined that there is insufficient space within the area to meet parking requirements contained in Section 20.12.010, areas designated as building area may be used, the project may be reduced in size or density so that such parking requirements are met and/or the applicant may apply to the Planning Director for a modification of the site plan exhibit pursuant to the procedure set out in Section 20.38.040 of this handbook.

719 d. Loading areas shall not be closer than 20' to any residential designated
720 property. The area between the loading area and the property line shall be
721 bermed to a height of 5' and screened.
722

723 7. Landscaping. Proposals for planned development shall satisfy all landscaping requirements
724 for similar uses contained in Section 20.12.030.
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728 *[7. through 12. unchanged.]*
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730 **Group B6 – Floor Area**

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732 **BMC 20.08.020 - Specific Definitions**
733

734 F. 2. **Floor Area or Space:** The sum of the gross horizontal area of the floor or floors
735 of the building, measured from the exterior faces of the exterior walls, including elevator
736 shafts and stairwells on each floor and areas having a ceiling height of 7½' or more, but
737 excluding all parking and loading spaces, cellars, unroofed areas, roofed areas open on
738 2 or more sides, areas having a ceiling height of less than 7½' and areas used
739 exclusively for storage or housing of mechanical or central heating equipment.
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741 **Group B7-Bike Parking**

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743 **BMC 20.12.010 Parking**
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745
746 8. All parking facilities with more than 50 parking spaces shall provide a bicycle storage
747 area in which to temporarily store bicycles. Bicycle storage space shall consist of a conveniently
748 located and sturdy rack, hooks, bar or locker permitting locking or enclosure of the bicycle frame
749 and both wheels to prevent thefts. With the exception of hanging hooks, bicycle storage facilities
750 shall be designed so as not to support the full weight of the bicycle on one or both wheels. The
751 bicycle storage area shall have the capabilities to hold 10% of the number of required parking
752 spaces. This requirement may be waived by the Director if it can be demonstrated that the rack
753 would not be reasonably utilized due to the location of the facility.
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756 **Group B8 – Minor Code reference amendments**
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758 **BMC 20.08.020.S.5, Specific Definitions:**
759

760 **Service Care:** A group residence licensed by the State operated with full-time supervision for
761 housing resident persons who, by reasons of their mental or physical disability, addiction to
762 drugs or alcohol or family and social adjustment problems, require a transitional nonmedical
763 treatment program for rehabilitation and social readjustment. For the purposes of this
764 Ordinance, a nonmedical treatment program consists of counseling, vocational guidance,
765 training, group therapy and other similar rehabilitative services but does not include drug and/or
766 alcohol detoxification. Monitoring the taking of prescription medication shall be permitted. The
767 use of medication by any resident shall be incidental to that person's residence in the facility
768 and shall not be a criterion for residence in the facility. Programs providing alternatives to

769 imprisonment, including pre-release, work-release and probationary programs which are under
770 the supervision of a court, state or local agency are included in this definition. Residences
771 occupied by persons qualifying under the definition of "family" and "secure community transition
772 facilities" are excluded from this definition.

773
774 **BMC 20.16.020.S.2, Conditional Uses:**

775
776 **2. Service Care**

777 **a. Definition** - A group residence licensed by the State operated with full-time supervision
778 for housing resident persons who, by reasons of their mental or physical disability, addiction to
779 drugs or alcohol or family and social adjustment problems, require a transitional nonmedical
780 treatment program for rehabilitation and social readjustment. For the purposes of this
781 Ordinance, a nonmedical treatment program consists of counseling, vocational guidance,
782 training, group therapy and other similar rehabilitative services but does not include drug and/or
783 alcohol detoxification. Monitoring the taking of prescription medication shall be permitted. The
784 use of medication by any resident shall be incidental to that person's residence in the facility
785 and shall not be a criterion for residence in the facility. Programs providing alternatives to
786 imprisonment, including pre-release, work-release and probationary programs which are under
787 the supervision of a court, state or local agency are included in this definition. (Last sentence in
788 the above definition inserted here.)

789
790
791 **i. Foster Home:** A home which provides regular care other than with a
792 permanent live in supervisor for up to 4 developmentally disabled adults, or up to
793 4 adults in need of protection who are recipients of state or federal financial
794 assistance services, or up to 4 foster children under the age of 18, (or up to 6 on
795 an interim basis) or up to 3 expectant mothers in a residential structure of the
796 person or persons under whose direct care and supervision the people are
797 placed.

798
799 **ii. Group Home:** The care of more than 4 but not more than 10 people.

800
801 **iii. Child Care Facility:** The care of more than 10 children under the age of
802 18 years.

803
804 **b.** Conditional in the residential single, residential multi, and neighborhood
805 commercial designations.

806
807 **c. Special requirements.**

808
809 **i.** The facility must be licensed by the State of Washington.

810
811 **ii.** The Hearing Examiner shall determine the required number of off-street
812 parking spaces.

813
814 Associated amendments are proposed to remove "foster home" and "child care facility"
815 referenced from the Definitions Chapter as follows:

816
817 **BMC 20.08.020.C.3, Specific Definitions:**

818
819 **3. Child Care Facility:** See Service Care, Child Care Facility. [Repealed.]

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BMC 20.08.020.F.4, Specific Definitions:

4. ~~Foster Home. See "Service Care Foster Home." [Repealed]~~

BMC 20.42.050.E (4) Procedure to be consistent with BMC 2.36.050.D-Authority and Duties

~~E. 4. [User Information: Ordinance 8042 requires that any work of art, design of buildings, bridges, viaducts, elevated ways, gates, fences, lamp standards, signs or other structures erected on or to be erected upon land belonging to the City of Bellingham shall be presented to the Bellingham Municipal Arts Commission for their review and recommendations.]~~

BMC 2.36.050.D-Authority and Duties

D. The BAC shall have similar authority and duties to those stated in subsection A of this section with respect to the aesthetic of new buildings, bridges, viaducts, elevated ways, gates, fences, lamp standards, etc. erected on or over land belonging to the City or public right-of-way, with the following exceptions:

1. Structures described in Section D which are reviewed by the Parks and Recreation Advisory Board, Design Review Board, Historic Preservation Commission, or Museum Society;

20.32.045 - Duplex/Attached Single Family Duplex-Regulations

A. Applicability. The following regulations shall be applied to development upon lots created by subdivision for Single Family Attached Duplex units:

B. Minimum Site Area. Each lot shall contain a minimum site area not less than one-half of the area specified in the applicable neighborhood plan under "density".

C. Lot Coverage. No more than 40% of the total site area shall be covered by structures (eave to eave).

D. Open Space. A minimum of 40% of the total site area (each lot) shall be left as open space.

E. Minimum Yards.

1. **Front Yard.** The required front yard setback will be determined by averaging the existing setbacks of the abutting structures on either side of the proposed development. However, if an abutting structure has a variation of more than 6' from the standard multi-family setback, the average shall be determined by using the next adjacent property. If no development exists adjacent to the proposed site, standard multi-family front yard setbacks shall apply (20.32.040 H (1)).

869 2. **Side Yard on a Flanking Street.** A 40' setback measured from the centerline of
870 the street right-of-way to the foundation of the structure shall be provided. However, if
871 said street is a "designated arterial" then the setback shall increase to 50'.
872

873 3. **Interior Side Yard.** A 5' side yard setback shall be provided on the side not
874 attached; measured from the side property line to the foundation of the structure.
875

876 4. **Rear Yard.** There shall be a 10' rear yard setback; measured from the rear
877 property line to the foundation of the structure.
878

879 5. **Exceptions.** Landscaping structures and unroofed stairways of steps may
880 protrude into a required yard. Balconies and decks may also protrude into a required
881 yard if unroofed, unwallled and have a floor surface with spacing between members to
882 allow the elements (sun, rain, snow, etc.) to pass through to the ground.
883

884 F. **Uniform Building Code Requirements.** All **Uniform** Building Code requirements,
885 provided in Title 17 of the B.M.C., shall be met for attached housing/zero lot line development.
886

887 G. **Common Wall Agreement.** A common wall agreement must be submitted and
888 approved as to form only by the Planning Division and City Attorney's Office. This agreement
889 shall address the relative rights and responsibilities of the property owners of each unit
890 regarding the following:
891

892 1. Exterior and common wall structural maintenance, and

893 2. Painting and colors, and

894 3. **Reconstruction of a unit due to fire or natural hazard damage.** The common
895 wall agreement shall be recorded as a covenant running with the land and shall not be
896 revoked without approval of the City Attorney. The common wall agreement shall be
897 recorded at the Auditor's Office prior to the issuance of a building permit.
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901 H. **Height.** Height regulations shall be those specified for standard multi-family
902 development, 20.32.040 G.
903

904 I. **Parking.** Parking requirements shall comply with standard single family development for
905 each unit, 20.30.060.
906

907 J. **Attached Units Restriction.** Attached common wall structure shall be required or the
908 lots shall be bound by covenant. Detached single family shall not be allowed on lots created for
909 attached single family.
910

911 K. **Limitation on Number of Rooms in Attached Single Family Duplexes in Residential**
912 **Multi, Duplex Districts**
913

914 1. No attached single family duplex dwelling unit located in a Residential Multi,
915 Duplex district may contain more than 3 rooms in addition to the following:
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917 One kitchen

918 Bathrooms

919 One living room

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The dwelling may also contain other rooms that are less than 70 square feet in area.

The purpose of this provision is to limit the number of bedrooms to not more than 3 per dwelling. The Planning Director shall have the authority to determine whether a space constitutes a room. The provisions of this subsection do not apply in Residential Multi, Multiple districts.

Nothing contained in this subsection shall be construed so as to prevent the construction of, or the issuance of permits for the construction of, structures which reasonable accommodate the residential needs of disabled persons. This subsection shall be construed so as to be in compliance with the Fair Housing Act, the Americans with Disabilities Act and the Washington law Against Discrimination.

BMC 21.10.260 - Vesting

- A. Vesting of Land Use Applications. Unless provided otherwise by this section, an application for a land use permit or other project permit shall be considered under the development regulations in effect on the date of filing of that complete application as defined in ~~BMC 21.10.120A~~ 21.10.190.A. This section does not establish vesting rules for impact fees.

Correct citation:

BMC 21.10.190 - Application

- A. **Submittal requirements.** The Director shall specify in writing submittal requirements for applications and provide official application forms. The Director may waive specific submittal requirements determined to be unnecessary for review of an application. The Director may require additional material such as maps, studies or models when the Director determines such material is needed to adequately assess the proposed project. A complete application consists of an application form together with all required information listed in the submittal requirements and payment of the application fee as may be established by the City Council.

Incorrect citation:

BMC 21.10.120 - Type Iii A And Iii B Processes

- A. **Pre-Application Conference.** A pre-application conference is required for certain projects as provided in BMC 21.10.170.

Group C2 – Demonstration Housing Chapter

See BMC 20.27 Demonstration Program For Innovative Permanently Affordable Homeownership Projects.

Group D1 –Nonconformity Chapter

See BMC 20.14 Nonconformity