

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON ESTABLISHING A NEW CHAPTER IN BELLINGHAM MUNICIPAL CODE TITLE 16 – ENVIRONMENT AND CREATING THE WATERFRONT DISTRICT PLANNED ACTION PURSUANT TO THE STATE ENVIRONMENTAL POLICY ACT

WHEREAS, the State Environmental Policy Act (SEPA) and its implementing regulations provide for the integration of environmental review with land use planning and project review through designation of “planned actions” by jurisdictions planning under the Growth Management Act (GMA), such as the City of Bellingham (City); and,

WHEREAS, RCW 43.21C.031, WAC 197-11-164 through WAC 197-11-172, and BMC 16.20.170 allow and govern the adoption and application of a planned action designation under SEPA; and,

WHEREAS, the State Department of Commerce has studied planned actions in various communities throughout Washington and found that predefined mitigation as allowed under a planned action ordinance has resulted in increased certainty and predictability, time and cost savings for project proponents and cities, and increased revenues for cities when used with other economic development tools; and,

WHEREAS, designation of a planned action expedites the permitting process for projects whose impacts have been previously addressed in an environmental impact statement;

WHEREAS, after extensive public participation and coordination with the City, the Port, as SEPA lead agency, issued the Waterfront District Redevelopment Project Final Environmental Impact Statement (FEIS) for the Waterfront District Sub-Area Plan dated July 6, 2010, that identifies the impacts and mitigation measures associated with planned development in the planned action area, as depicted on the map attached hereto as Exhibit A and incorporated herein by this reference (the “Planned Action Area”). The FEIS includes by incorporation the Draft EIS (DEIS) issued on January 9, 2008, the Supplemental Draft EIS (SDEIS) issued on October 15, 2008, and the Addendum to the SDEIS (Addendum) issued on February 8, 2010 and the 2012 Addendum issued on December 14, 2012 (collectively referred to herein as the “EIS”); and

WHEREAS, the City has adopted a Waterfront District Sub-Area Plan complying with the GMA and RCW 53.20, through ordinance number 2013-12-XXX as part of the City's Comprehensive Plan (Sub-Area Plan), an Interlocal Agreement for Facilities within the Waterfront District (“Facilities Agreement”) dated [REDACTED], and a Development Agreement between Port of Bellingham and City of Bellingham (“Development Agreement”), dated [REDACTED], for the re-development of the former Georgia Pacific site and related properties

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known collectively as the "Waterfront District"; and,

WHEREAS, the Sub-Area Plan and the Development Agreement contemplate a planned action designation under SEPA for the Planned Action Area; and,

WHEREAS, adopting a SEPA planned action for the Planned Action Area with appropriate standards and procedures will help achieve efficient permit processing and promote environmental quality protection; and,

WHEREAS, the City has adopted development regulations to implement the Sub-Area Plan for the Waterfront District in effect as of the effective date of this Ordinance, which are codified at BMC 20.37.400 (the "***Development Regulations***") and at BMC 20.25.080 (*the "Design Standards"*); and

WHEREAS, the City Council finds that adopting this Ordinance is in the public interest and will advance the public health, safety, and welfare;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BELLINGHAM, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Bellingham Municipal Code Title 16 – Environment is hereby amended to create a new section 16.30 Planned Actions as follows:

Bellingham Municipal Code Chapter 16.30 – Planned Actions

Article I. General Provisions

16.30.010 – Applicability.

The provisions of this chapter shall apply to all lands, all uses of those lands, and development activities of those lands within areas that have been designated Planned Action Areas.

16.30.020 – Purpose and Intent.

- A. The purpose and intent of this chapter is to designate certain Planned Actions in accordance with the State Environmental Policy Act (SEPA), RCW 43.21C.301, WAC 197-11-164 through WAC 197-11-172, and BMC 16.20.170.
- B. A "Planned Action" means one or more types of project action that:
 - 1. Are designated planned actions by an ordinance or resolution adopted by the

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- City;
2. Have had the significant impacts adequately addressed in an environmental impact statement prepared in conjunction with:
 - a. A comprehensive plan or subarea plan adopted under Chapter 36.70A RCW, or
 - b. A fully contained community, a master planned resort, a master planned development or a phased project;
 3. Are subsequent or implementing projects for the proposals listed in paragraph B.2. of this subsection;
 4. Are located within an urban growth area, as defined in RCW 36.70A.030;
 5. Are not essential public facilities, as defined in RCW 36.70A.200; and
 6. Are consistent with the city's comprehensive plan adopted under Chapter 36.70A RCW.
- C. Limitations on Planned Actions. The city shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the city, and may limit a planned action to a time period identified in the environmental impact statement or this Chapter.

Article II. Waterfront District Planned Action

16.30.100 – Waterfront District Planned Action Area Designation.

The boundaries of the Waterfront District Planned Action area and development of such area, is hereby designated as shown on Figure 16.30.100

16.30.110 - Waterfront District Planned Action - Purpose. The purpose of the Waterfront District Planned Action is to:

- A. Combine upfront environmental analysis with land use planning;
- B. Set forth a procedure for designation of certain projects within the Waterfront District as “planned actions” consistent with RCW 43.21C.031;
- C. Provide clear definition as to what constitutes a planned action, the criteria for planned action approval, and how development applications which qualify as planned actions will be processed by the City;
- D. Apply applicable regulations within the mitigation framework contained in this Sections 16.30.100 through .180 for the purpose of processing planned action development applications and incorporating the applicable mitigation measures into project permit conditions; and
- E. Improve the land use permit review process by relying on completed and existing environmental analysis for the Waterfront District.

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16.30.120 - Waterfront District Planned Action - Findings. Based upon the foregoing, and after thorough review and consideration, the City Council makes the following findings:

- A. The Recitals as adopted in Ordinance 2013-12-XXX are adopted herein as Findings of the City Council.
- B. The City is subject to the requirements of the GMA, and is located within an Urban Growth Area.
- C. The City has adopted its Comprehensive Plan and the Waterfront District Sub-Area Plan in compliance with the GMA.
- D. The designated Waterfront District Planned Action Area is located entirely within the boundaries of the City of Bellingham.
- E. The City has adopted Development Regulations applicable to the proposed development in the Waterfront District.
- F. The EIS, prepared in conjunction with the Sub-Area Plan, adequately addresses the probable significant environmental impacts associated with the type and amount of development planned to occur in the designated Planned Action Area.
- G. The mitigation measures identified in the EIS are contained in Exhibit A – Waterfront District Planned Action Mitigation Measures at the end of this Article. These mitigation measures, together with the Development Regulations, are adequate to mitigate the significant adverse impacts from development within the designated Waterfront District Planned Action Area.
- H. The EIS, the Sub-Area Plan, and Sections 16.30.100 through .180 identify the location, type and amount of development that is contemplated by the Planned Action.
- I. Future projects that are consistent with the Waterfront District Planned Action will protect the environment, benefit the public, and enhance economic development.
- J. The Waterfront District Planned Action as designated herein does not include any essential public facilities, as defined in RCW 36.70A.200 and BMC 20.17.
- K. The City provided numerous opportunities for meaningful public involvement and review in the Sub-Area Plan and EIS processes.

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- L. The City has provided public notice and an opportunity for public comment on this Section.

16.30.130 - Waterfront District Planned Action - Procedures and Criteria for Evaluating and Determining Projects as Planned Actions.

- A. **Planned Action Area.** The Planned Action designation shall apply to the approximately 220-acre area depicted on Figure 16.30.100. Additionally, the Planned Action designation shall apply to any off-site improvements necessitated by proposed development in the Planned Action Area, where the off-site improvements have been analyzed in the EIS.
- B. **Environmental Document.** A Planned Action determination for a site-specific implementing project application shall be based on the environmental analysis contained in the EIS. The mitigation measures contained in Exhibit A – Waterfront District Planned Action - Mitigation Measures at the end of this Article are based upon the findings of the EIS and shall, along with adopted City regulations, provide the framework that the City will use to require appropriate conditions on qualifying Planned Action projects.
- C. **Planned Action Designated.** Land uses and activities described in the Preferred Alternative (as defined in the EIS, the "Preferred Alternative") in the EIS, subject to the thresholds described in subsection D of this Section and the mitigation measures contained in Exhibit A – Waterfront District Planned Action Mitigation Measures at the end of this Article, are designated Planned Actions pursuant to RCW 43.21C.031. A development application for a site-specific Planned Action project located within the Planned Action Area shall be designated a Planned Action if it meets the criteria set forth in BMC 16.30.140 and applicable laws, codes, development regulations and standards of the City.
- D. **Planned Action Thresholds.** The following thresholds shall be used to determine if a site-specific development project proposed within the Waterfront District Planned Action Area is contemplated as a Planned Action and has had its environmental impacts evaluated in the EIS.

1. Land Uses.

- a. **Primary Land Uses by Area.** The following primary land uses described in the Preferred Alternative of the EIS, together with the customary accessory uses and amenities described in the Preferred Alternative of the EIS, can qualify as Planned Actions:

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Area	Primary Land Uses
Marine Trades Area	Industrial Office Commercial Services Commercial Retail Marina
Downtown Waterfront Area	Residential Office Institutional Commercial Services Commercial Retail
Log Pond Area	Industrial Office Commercial Services Commercial Retail
Shipping Terminal Area	Industrial Office Institutional Commercial Services Transportation
Cornwall Beach Area	Residential Office Commercial Services Commercial Retail

2. Development Thresholds.

- a. Building Development by Area. The Preferred Alternative of the EIS analyzed the impacts of development of five million three hundred thousand square feet of new building space in the Planned Action Area. The following table identifies the development, including existing development, analyzed in the Preferred Alternative of the EIS for each area within the Planned Action Area:

Area	Building Development
Marine Trades Area	1,500,000 sq. ft.
Downtown Waterfront Area	2,833,000 sq. ft.
Log Pond Area	300,000 sq. ft.
Shipping Terminal Area	300,000 sq. ft.
Cornwall Beach Area	367,000 sq. ft.
Total	5,300,000 sq. ft.

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- b. Effect of Development Thresholds. If future development proposals exceed the maximum development thresholds reviewed in the Preferred Alternative for the area north of Whatcom Waterway or South of Whatcom Waterway, as summarized and contained in Exhibit B – Waterfront District Planned Action Transportation Infrastructure Phasing Plan at the end of this Article, or for the Planned Action Area as a whole, further environmental review may be required under SEPA, as provided in WAC 197-11-172. Maximum development thresholds, which were developed based on the estimated number of vehicle trips produced, may be altered as a result of the Biennial Transportation Monitoring Report, defined below in BMC 16.30.170. B. For example, if the monitoring report indicates the development is producing a greater number of vehicle trips than assumed in the EIS, the maximum development threshold may be reduced. Conversely, if the development is achieving a reduced number of vehicle trips than estimated in the EIS, a greater amount of development may be allowed. The development thresholds are ultimately defined by both the infrastructure available and the number of vehicle trips that are being produced. If proposed development would alter the assumptions and analysis in the EIS, further environmental review may be required.

3. Phased Development Thresholds.

- a. Plans for Phased Development. Full development of the Planned Action Area is anticipated to occur in five phases, as summarized and contained in Exhibit B – Waterfront District Planned Action Transportation Infrastructure Phasing Plan at the end of this Article. Development thresholds by phase, as analyzed in the EIS, are directly related to the sequence in the Transportation Infrastructure Phasing Plan. If funding and/or circumstances change, the sequence in the Transportation Infrastructure Phasing Plan could change at the discretion of the Public Works Director, pursuant to the process outlined in the Facilities Agreement, as it may be amended from time to time. Any changes in sequencing would be evaluated as part of the biennial monitoring pursuant to BMC 16.30.170 and Phased Development Thresholds would be adjusted accordingly.
- b. Effect of Phased Development Thresholds. If future development proposals would alter the assumptions and analysis in the Preferred Alternative of the EIS regarding the phases of development, further environmental review may be required by the

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SEPA lead agency. For example, if an applicant seeks qualification as a Planned Action for a project in Phase 3 according to the Transportation Infrastructure Phasing Plan, and the infrastructure improvements required to support the Phase 3 project have not yet been triggered under the Transportation Infrastructure Phasing Plan, this may result in issuance of a Determination of Inconsistency pursuant to BMC 16.30.160. D.

4. **Building Heights, Bulk, and Scale.** Building heights, bulk, and scale shall not exceed the maximums reviewed in the Preferred Alternative of the EIS.

5. **Transportation.**

- a. Trip Threshold. The maximum net new PM peak hour weekday vehicle trips analyzed in the Preferred Alternative of the EIS was 2620. A proposed project that would exceed the maximum trip levels would not qualify as a Planned Action, and would require additional SEPA review.
- b. Public Works Discretion. The City Public Works Director shall determine incremental and total trip generation, consistent with the Institute of Traffic Engineers (ITE) Trip General Manual (latest edition) or an alternative method accepted at the City Public Works Director's sole discretion, for each Planned Action project permit application proposed under this Planned Action. It is understood that development of the Planned Action will occur in phases over a period of years. The City shall require that off-site mitigation and transportation improvements identified in the EIS and contained in Exhibit B – Waterfront District Planned Action Transportation Infrastructure Phasing Plan at the end of this Article, be implemented in conjunction with development, as it occurs or if financial commitments have been secured and improvements will be constructed within a three (3) year period, to maintain adopted levels of service standards and public safety at intersections.
- c. Transportation Improvements and Mitigation.
 - i. *On-Site and Off-Site Improvements.* The Planned Action may require on-site and off-site transportation improvements to mitigate significant adverse impacts as development occurs. These transportation improvements are identified and contained in Exhibit B – Waterfront

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District Planned Action Transportation Infrastructure Phasing Plan at the end of this Article, and have been analyzed in the EIS. The City Public Works Director shall have the discretion to adjust the allocation of responsibility for required improvements between individual planned action projects based on their identified impacts.

- ii. *Transportation Impact Fees.* In addition to the on-site and off-site improvements described above, proposed projects seeking qualification as a Planned Action shall also be subject to payment of transportation impact fees, with adjustments made for any applicable credits.

6. **Elements of the Environment and Degree of Impacts.** A proposed project that would result in a significant change in the type or degree of impacts to any of the elements of the environment analyzed in the Preferred Alternative of the EIS would not qualify as a Planned Action.

16.30.140 - Waterfront District Planned Action - Review Criteria.

- A. The Planned Action Ordinance Responsible Official for the Waterfront District Planned Action Area defined herein (the "PAO Responsible Official") shall be the City's Planning Director, or the Planning Director's authorized representative.
- B. The PAO Responsible Official is authorized to designate as a Planned Action, pursuant to RCW 43.21C.031, a project application that meets all of the following conditions:
 1. The project is located within the Planned Action Area identified in Figure 16.30.100, or is an off-site improvement directly related to a proposed development within the Planned Action Area.
 2. The project is consistent with the City of Bellingham Comprehensive Plan, and with the Waterfront District Sub-Area Plan.
 3. The project's probable significant adverse environmental impacts have been adequately addressed in the EIS.
 4. The proposed uses and activities are consistent with those described in the Preferred Alternative of the EIS and Section III(D) of this Ordinance.

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5. The project is within the Planned Action thresholds and other criteria described in BMC 16.30.130. D.
6. The project's significant impacts have been mitigated by application of the mitigation measures contained in Exhibit A – Waterfront District Planned Action Mitigation Measures at the end of this Article.
7. Adequate infrastructure improvements are in place, or will be in place at completion of the project, to support development of the project.
8. The proposed project shall comply with all applicable local, state and federal regulations.
9. The proposed project is not an essential public facility as defined in RCW 36.70A.200 and BMC 20.17.

16.30.150 - Waterfront District Planned Action - Effect of Planned Action.

- A. Being designated as a Waterfront District Planned Action means that a proposed project has been reviewed in accordance with BMC 16.30.100 through .180, and found to be consistent with the development parameters and environmental analysis contained in the Preferred Alternative of the EIS.
- B. Upon designation by the City's PAO Responsible Official that a project qualifies as a Planned Action, the project shall not require a SEPA threshold determination, preparation of an EIS, or be subject to further procedural review under SEPA. Additionally, projects will be subject to applicable City, state, and federal regulatory requirements. The Planned Action designation shall not excuse a project from meeting the City's code and ordinance requirements apart from the SEPA process.

16.30.160 - Waterfront District Planned Action - Permit Process. Project applications for planned actions shall be reviewed according to the following process.

- A. **Application Requirements.** Project applications shall meet the applicable requirements of Bellingham Municipal Code. Project applications submitted for qualification as a Planned Action shall include a SEPA Checklist or such modified form as approved by the PAO Responsible Official and adopted consistent with WAC 197-11-315.
- B. **Consistency Review.** The PAO Responsible Official shall review the project application to determine whether it qualifies as a Planned Action. The PAO Responsible Official shall determine if the project application is consistent with and meets all of the criteria for qualification as a Planned Action, as set forth in

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BMC 16.30.100 through .180.

- C. **Determination of Consistency.** If the PAO Responsible Official determines that the proposed project qualifies as a Planned Action, the PAO Responsible Official shall issue a "Determination of Consistency." Upon issuance of the Determination of Consistency, the project shall proceed in accordance with the applicable permit review procedure, except that no SEPA threshold determination, EIS, or additional SEPA review shall be required. The Determination of Consistency shall remain valid and in effect as long as the project application approval is also in effect.
- D. **Determination of Inconsistency.** If the PAO Responsible Official determines that the proposed project does not qualify as a Planned Action, the PAO Responsible Official shall memorialize this determination by issuing a "Determination of Inconsistency," which shall describe the elements of the project application that result in failure to qualify as a Planned Action; provided, however, that after submission of the project application, and prior to the PAO Responsible Official's determination, an applicant may ask the PAO Responsible Official to indicate whether it is considering a Determination of Inconsistency. If the PAO Responsible Official indicates a Determination of Inconsistency is likely, the applicant may clarify or change features of the proposal which led the PAO Responsible Official to consider a Determination of Inconsistency likely. The applicant shall revise the SEPA checklist, or the modified application form per BMC 16.30.160 A., as may be necessary to describe the clarifications or changes. The PAO Responsible Official shall make its determination based upon the changed or clarified proposal. If a proposal still does not qualify as a Planned Action, the PAO Responsible Official shall issue the Determination of Inconsistency.
- E. **Additional SEPA Review.** In the event a project application does not qualify as a Planned Action, a SEPA project threshold determination and compliance with SEPA shall be required, unless the project applicant modifies the project application in order to qualify as a Planned Action. Projects that fail to qualify as Planned Actions may incorporate or otherwise use relevant elements of the EIS, as well as other relevant SEPA documents, to assist in meeting SEPA requirements. The PAO Responsible Official may limit the scope of SEPA review for the non-qualifying project to those issues and environmental impacts not previously addressed in the EIS. Unless otherwise specified by the Development Agreement, the City will be the SEPA lead agency for any additional SEPA review.
- F. **Public Notice and Appeals.** The PAO Responsible Official shall mail and post notice of Determinations of Consistency and Determinations of Inconsistency as follows:

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1. The Planning and Community Development Department, or applicant if authorized under this section, shall mail notice of a Determination of Consistency or a Determination of Inconsistency to:
 - a. The applicant;
 - b. The owner of the property as listed on the application;
 - c. Owners of property within 500 feet of the site boundary of the subject property as listed by the Whatcom County Assessor records;
 - d. The Mayor's Neighborhood Advisory Commission representative and any neighborhood association registered with the Planning and Community Development Department for the neighborhood in which the project is proposed, and for any neighborhood within 500' of the project site boundary; and
 - e. Any person or organization that has filed a written request for notice with the Planning and Community Development Department.
2. The applicant is responsible for obtaining the list of property owners within 500 feet of the site boundary from the Whatcom County Assessor's records. The PAO Responsible Official may establish procedures under which the applicant and City may agree that the City will provide this mailing list and/or that the applicant will conduct the mailing. A U.S. Postal Service Certificate of Mailing shall be provided to the PAO Responsible Official if the applicant conducts the mailing.
3. The PAO Responsible Official may increase the mailing notification radius or notification method for any specific application. The validity of the notice procedure shall not be affected by whether the PAO Responsible Official uses this option.
4. The applicant shall post one or more signs on the site or in a location immediately adjacent to the site that provides visibility from adjacent streets. The PAO Responsible Official shall establish standards for size, color, layout, materials, placement and timing of installation and removal of the signs.
5. No proceeding shall be invalid due to minor deficiencies in the mailed or posted notice as required in this section as long as there was a

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good faith attempt to comply with the mailed and posted notice requirements.

- G. **Appeals.** A Determination of Consistency or a Determination of Inconsistency may be appealed to the Hearing Examiner. An appeal shall be decided by the Hearing Examiner after an open record appeal hearing following the procedures in BMC 21.10.250. The hearing on an appeal of a Determination of Consistency shall be consolidated with any pre-decision or appeal hearing on the associated project application.

16.30.170 - Waterfront District Planned Action - Monitoring and Review.

- A. **Biennial Reporting.** Every two years from January 1, 2014, the PAO Responsible Official shall report to the City Council the amount and type of development in the Planned Action Area, the amount and type of development projects that have qualified as Planned Actions, and the implementation of mitigation measures.
- B. **Biennial Transportation Monitoring and Report.** Every two years from January 1, 2014, a review of current transportation conditions shall be conducted in the Planned Action Area. The biennial transportation monitoring report shall be prepared as described and contained in Exhibit C - Waterfront District Planned Action – Scope of Biennial Transportation Report at the end of this Article. Results of the biennial transportation review shall be reported to the City Council.
- B. **Periodic Coordinated Review.** In addition to the annual and biennial monitoring and reporting required under BMC 16.30.170 A and B, the Waterfront District Planned Action shall also be reviewed by the City ten years from January 1, 2014, with reviews every five years thereafter. This periodic review shall include, among other items, the continuing validity and effectiveness of the Waterfront District Planned Action with respect to the environmental conditions of the Planned Action Area, the impacts of development, the adequacy of the mitigations required hereunder, and whether any modifications should be adopted. The results of this periodic review shall be reported to the City Council. Based upon this review, the Waterfront District Planned Action may be amended as needed. Nothing herein limits the City from more frequent review of the Waterfront District Planned Action.

16.30.180 - Waterfront District Planned Action - General Provisions.

- A. **Severability.** If any section, subsection, clause or phrase of the Waterfront District Planned Action is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

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- B. **Construction.** Nothing in the Waterfront District Planned Action shall constitute, or be construed as, a commitment by the City to construct particular infrastructure improvements in the Waterfront District.
- C. **Normal Local Project Review Process.** Pursuant to WAC 197-11-172, nothing limits the City from using applicable law to place conditions on a project in order to mitigate non-significant impacts through the normal local project review and permitting process.

PASSED by Council this ____ day of _____, 201____.

Council President

APPROVED by me this __ day of _____, 201____.

Kelli Linville
Mayor

ATTEST:

APPROVED AS TO FORM:

Finance Director

Office of the City Attorney

Published:

Figure 16.30.100

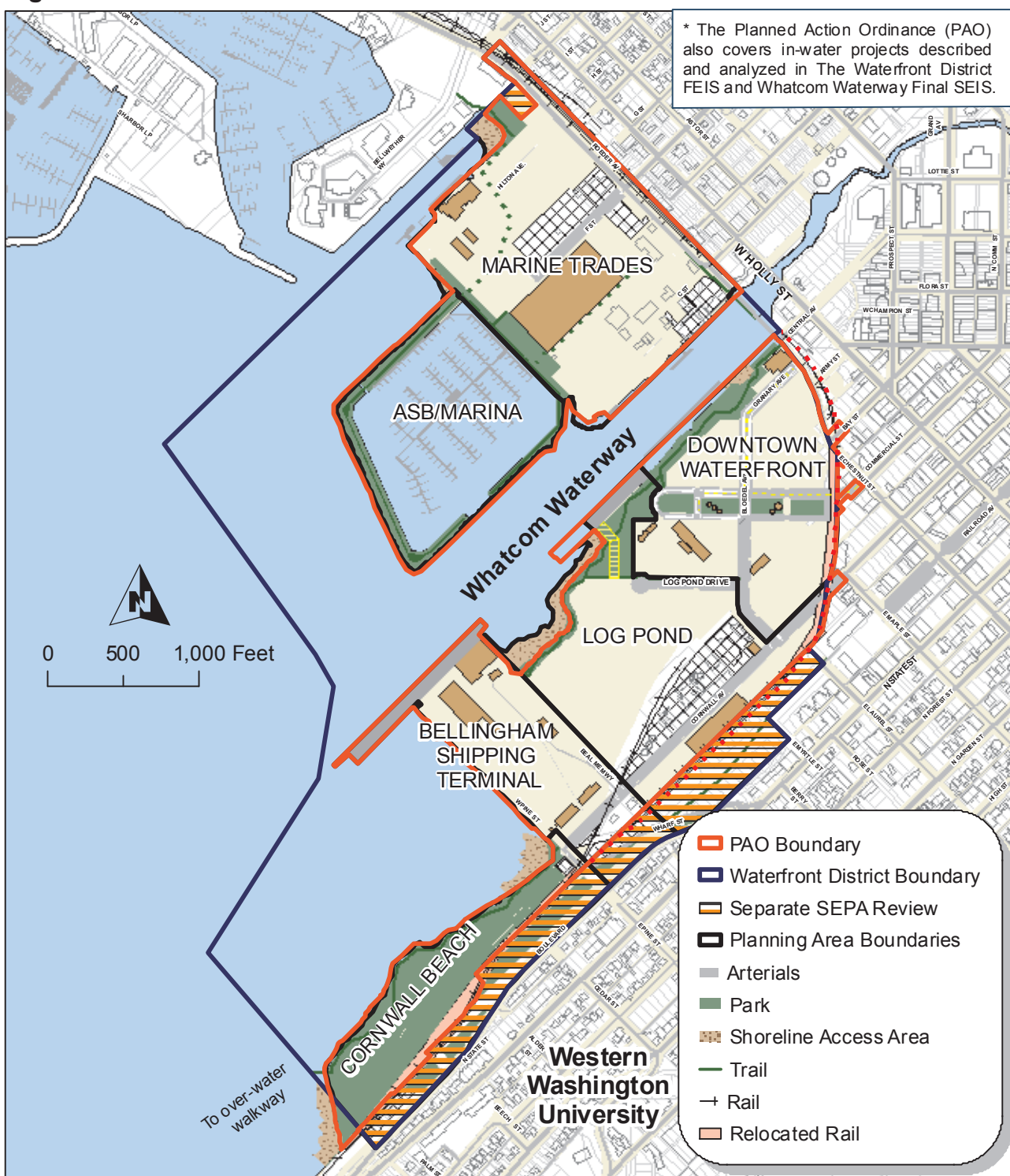


EXHIBIT A WATERFRONT DISTRICT PLANNED ACTION MITIGATION MEASURES

This document is intended to be used by Waterfront District property owners and developers to identify the mitigating measures that a project must meet in order to be found consistent with the Waterfront District Planned Action Ordinance ("PAO"). City of Bellingham ("CITY") staff will use the document to determine if a proposed project is consistent with the PAO. This review process is called a "consistency determination."

The mitigating measures apply to projects identified as a "planned action" in the PAO, whether the work is conducted by the Port of Bellingham, other property owner(s) or private developers, except that environmental remediation and related actions are subject to and completed under the Washington State Model Toxics Control Act ("MTCA"). For projects that are found to be consistent with the PAO, no additional environmental review will be required. Conversely, additional environmental review will be required for projects that are determined to be inconsistent with the PAO.

The mitigating measures contained herein are those required to obtain a consistency determination. Pursuant to WAC 197-11-172, there may be conditions placed on a project to mitigate non-significant impacts through the normal local project review and permitting process.

Section I identifies and incorporates the mitigating measures required by the Planned Action EIS ("EIS") (as defined in the PAO as including the DEIS, SEIS and addenda) which are found in City, Washington State and U.S. federal code provisions, enforceable by the agency with jurisdiction. Section II lists additional mitigating measures that were identified in the EIS. A project that is a planned action as defined in the PAO shall incorporate the applicable mitigating measures in Section I and II. A project's compliance with Sections I and II below are sufficient to mitigate a project's potentially significant impacts on the environment.

I. MITIGATION REQUIRED BY EXISTING REGULATIONS

A. City of Bellingham Regulations containing mitigation measures include, but are not necessarily limited to, the following:

1. BMC Title 11, Vehicles and Traffic
2. BMC 12.08 Bellingham Harbor
3. BMC Title 13, Streets and Sidewalks
4. BMC Title 15, Water and Sewer
5. BMC 16.20 Environmental Procedures - If there are any inconsistencies between BMC 16.20 and the Waterfront District Planned Action as defined in BMC 16.30.100 through .180, the Waterfront District Planned Action controls.

6. BMC 16.55 Critical Areas Ordinance
7. BMC 16.60 Land Clearing
8. BMC 16.70 Grading
9. BMC 17.10 Building Code
10. BMC 17.20 Fire Code
11. BMC 17.76 Construction in Floodplains
12. BMC 17.90 Historic Preservation Ordinance
13. BMC Title 18 Subdivision Ordinance - As modified by BMC 20.37.400
14. BMC Title 19, Impact Fees
15. BMC Title 20 Land Use and Development Ordinance
16. BMC 20.25.080, Waterfront District Design Standards
17. BMC 20.37.400, Waterfront District Urban Village Development Regulations
18. BMC Title 21 Administration of Development Regulations
19. BMC Title 22 Shoreline Master Program
20. City of Bellingham Public Works Development Guidelines and Improvement Standards

B. State and Federal Regulations and Authorizations

The Waterfront District contains several contaminated sites that have been, are, or will be remediated pursuant to the Model Toxic Control Act - RCW 70.105D (MTCA). All development in the Waterfront District must comply with Washington State Department of Ecology Agreed Orders and/or, Consent Decrees, including any and all restrictive covenants or other institutional controls. It is the developer's responsibility to consult with the Washington State Department of Ecology and review any orders and/or decrees prior to any and all phases of development.

All development must comply with the conditions imposed by state and federal agencies with regulatory jurisdiction over specific project permits or authorizations enforceable by the agency with jurisdiction, which may include, but are not necessarily limited to, the following:

1. Washington State Department of Fish and Wildlife Hydraulic Project Approval (HPA).
2. Washington State Department of Ecology 401 Water Quality Certification.
3. Washington State Department of Ecology National Pollution Discharge Elimination System (NPDES).
4. Washington State Department of Ecology Shoreline Management Act (RCW 90.58)
8. U.S. Army Corp of Engineers Section 10 and 404 permits.
9. Federal, State and Local Air Quality Regulations and Permits.

II. ADDITIONAL MITIGATING MEASURES REQUIRED

In addition to the local, state and federal code provisions and authorizations listed in the previous section, a proposed development must address the following specific mitigation measures in order to be found consistent with the PAO and to ensure that potentially significant environmental impacts are mitigated. The additional provisions are organized by element of the environment:

1. Earth

A. Prior to Issuance of a Demolition, Grading, or Building Permit

1-1. A site-specific engineering analysis shall be prepared and certified by a licensed professional engineer and/or a geo-technical engineer for all bridge approach fills. All permits for bridge approach fills shall be consistent with the engineering analysis and shall include the recommendations of the analysis to reduce settlement, retain and limit the width of the approach fills, the stabilization of fills, relocation of utilities, and shall incorporate ground improvement measures to protect settlement-sensitive structures.

1-2. A site-specific engineering analysis shall be prepared and certified by a licensed professional engineer and/or a geo-technical engineer for preload and surcharge fills. All fill permits shall include the measures recommended in the analysis to limit the lateral extent and influence of the fill.

1-3. For construction projects requiring pile driving, a Vibration Monitoring Plan (VMP) shall be submitted prior to construction that provides for vibration monitoring during installation of test piles and selected production piles to determine the extent of potential vibration impacts due to pile driving, and shall incorporate and use pile and pile hammer types applicable to the subsurface conditions to obtain optimal pile-driving operations with minimal vibration impacts. The VMP shall include pre and post construction inspections, elevation surveys and photographic surveys within 100 feet of the pile driving operation. All VMPs shall consider and incorporate the survey analysis conducted in prior vibration surveys within the Waterfront District.

1-4. Building permits for placement of structural fill within 50 feet of an existing adjacent structure shall include a condition that the adjacent structures/surfaces shall be monitored during construction to verify that no adverse settlement occurs on the adjacent site(s).

B. During Construction

1-5. Spoils generated during drilled shaft installation shall be disposed in accordance with all applicable local, state and federal requirements.

1-6. Any excavated soils reused on site as fill material shall be handled and moisture conditioned consistent with applicable engineering standards and best management practices prior to placement and compaction.

1-7. As part of construction of onsite infrastructure, site grades shall be raised to accommodate potential long-term sea level rise and tsunami conditions, appropriate to the design lifetime of the project, as determined using the higher end of the range predicted using best available science. Industrial buildings, warehouses and structured parking are not required to be elevated, but shall comply with City flood plain regulations in place at the time of project permit application. Residential, commercial or institutional buildings with a longer term building life time shall be designed and constructed to protect against long-term sea level rise.

1-8. In the Marine Trades and Cornwall Beach areas within one thousand (1000) feet of the landfill boundary, as depicted on applicable Ecology site maps, site specific monitoring and evaluation shall be required within the PAO boundary, in conjunction with any excavation or earth disturbance to determine if methane is present in these areas. If methane is detected at five percent (5%) of the Lower Explosive Limit (LEL), a methane monitoring plan shall be established and complied with as a condition of any development permit. Site specific occupational health and safety plans must be in compliance with all applicable, local, state and federal worker safety, construction and building design requirements for potentially hazardous methane gas levels.

2. Air Quality

A. Prior to Issuance of a Demolition, Grading, or Building Permit

2-1. Prior to the commencement of construction, a plan for minimizing construction related dust and odors shall be submitted to the City of Bellingham Public Works Department.

3. Water Resources

A. Prior to Issuance of a Demolition, Grading, or Building Permit

3-1. In areas south of the Whatcom Waterway, new stormwater outfalls shall be designed and constructed to protect against long-term sea level rise appropriate to the lifetime of the project.

3-2. Projects in or near aquatic habitat that involve a risk of a spill of hazardous materials shall include as part of its permit package a Spill Prevention Response and Hazardous Material Control Plan that includes the following at a minimum:

- a. A spill containment kit, including oil-absorbent materials, on site to be used in the event of a spill or if any oil product is observed in the water.
- b. In the event of a spill, work related to or in the vicinity of the spill shall be stopped immediately, steps shall be taken to contain the material, and appropriate agency notifications shall be made.
- c. Spills and/or conditions resulting in distressed or dying fish shall be reported immediately to Ecology's Northwest Regional Spill Response Office. If fish are observed in distress or a fish kill occurs, work related to or in the vicinity of the spill shall be stopped immediately. The Washington State Departments of Fish and Wildlife and Ecology, and other applicable agencies shall be contacted and work shall not resume until further approval is given by the agency with jurisdiction.

B. During Construction

3-3. Storage and/or maintenance of construction equipment and vehicles on site shall be conducted in a manner designed to prevent spill or leakage of fuels, coolants or lubricants into water and soil. During construction, a staging area must be specified for all vehicle maintenance activities. The staging area must be located well away from all drainage courses. Where possible, all stormwater from related maintenance areas must be directed to the sanitary sewer, rather than the stormwater system.

3-4. In the event of a spill during construction activities in or near aquatic habitat, work in the vicinity of the spill shall be stopped immediately, steps shall be taken to contain the material, and appropriate notification of applicable agencies shall be made. All spills of fuel and hazardous materials must be contained and removed in such a manner as to prevent their entering the waters and soils of the State.

C. For the Life of the Project

3-5. For marina development, Marina Source Control and Operational BMPS shall be employed to reduce potential water quality impacts to Bellingham Bay per Ecology's Resource Manual for Pollution Prevention in Marinas and the Port of Bellingham Harbor Rules and Regulations.

5. Environmental Health

A. Prior to Issuance of a Demolition, Grading, or Building Permit

5-1. All developments shall comply with regional, state and federal air quality and worker safety regulations, including pre-demolition surveys and applicable asbestos and/or lead abatement activities.

B. During Construction

5-2. All developments shall maintain adequate containment of soils which are contaminated at levels exceeding applicable MTCA standards, or implement and comply with stormwater treatment and monitoring during construction activities that could disturb contaminated soils, consistent with requirements under MTCA.

5-3. Development of utilities and utility corridors are subject to construction worker safety protocols identified as part of the site clean-up institutional control plans, under MTCA.

C. For the Life of the Project

5-4. All developments are subject to any and all requirements of MTCA related documents, including agreed orders, agreed orders on consent, consent decrees and restrictive covenants.

5-5. All developments are subject to state and/or federal environmental regulations, such as MTCA, requiring reporting, investigation and applicable cleanup.

5-6. All development shall comply with local regulations relating to the use, storage and processing of hazardous materials. On sites containing hazardous materials, procedures to use in case of spills must be posted.

5-7. All development is subject to state and federal regulations relating to the use, storage and processing of hazardous materials. On sites containing hazardous materials, procedures to use in case of spills must be posted.

6. Noise

A. Prior to Issuance of a Demolition, Grading, or Building Permit

6-1. The contractor shall be responsible for the preparation of and implementation of a noise control plan, which shall be submitted with permit applications. The plan shall include the following measures:

- a. All development shall comply with applicable construction industry best management practices to reduce noise impacts.
- b. The engines of construction equipment shall have adequate mufflers, intake silencers or engine enclosures that reduce their noise.
- c. Construction equipment shall be turned off when not in use.
- d. Contractors are required to maintain equipment and train operators to reduce noise levels.
- e. Locate stationary equipment away from receiving properties to decrease noise when feasible.

6-2. For construction of residential uses, the developer shall comply with either the Acoustical Site Planning Design Standards codified at BMC 20.25.080 D.1. or the Residential Building Requirements for Noise Reduction codified at BMC 25.37.430 I.

B. During Construction

6-3. All activities on the site shall comply with applicable local noise regulations.

6-4 All activities on the site are subject to applicable state and federal noise regulations.

6-5 Construction industry best management practices related to noise mitigation shall be incorporated into construction plans. All activities on the site shall comply with applicable local, state and federal noise regulations as well as the noise control plan.

7. Land and Shoreline Use

A. Prior to Issuance of a Demolition, Grading, or Building Permit or Shoreline Permit

7-1. Pursuant to the Facilities Agreement, as it may be amended from time to time, the Port and City shall provide for shoreline restoration and public access.

8. Historic, Cultural and Archaeological Resources

A. Prior to Issuance of a Demolition, Grading, or Building Permit

8-1. All development shall occur consistent with this section and the Cultural Resource Management Plan(Attachment 1).

8-2. Prior to the submittal of an application for a demolition permit for the Granary Building, the Boardmill Building or the east portion of the Alcohol Plant, the applicant shall submit an analysis of the feasibility of possible retention / reuse of these buildings. The intent of the analysis is to evaluate the retention / reuse of the buildings with consideration of structural, economic, market and land use factors. The analysis shall address the following considerations:

- The economic feasibility of retention / reuse based on a study of the market conditions at the time of application; or
- Information demonstrating that it is not economically viable to renovate the building based on responses to a Request for Proposals, or equivalent process, which did not generate any viable proposals for adaptive reuse of the building in a time frame consistent with the development of the surrounding properties; and
- Site planning constraints created when a competing development proposal requires the land where the building is located, but does not need the building; and
- The financial consideration and obligations of the owner at the time of redevelopment and environmental cleanup occurring in the vicinity of these structures; and
- Whether retaining the building for an additional time period would impact the phased implementation of the Waterfront District Sub-area Plan as defined in the Waterfront District Development Agreement and the Inter-local Agreement for Facilities between the City and the Port; and
- How demolition may impede adaptive reuse; and
- How the retention or adaptive reuse of the building might contribute towards heritage tourism.

A report summarizing these factors shall be submitted by the applicant for PAO Official review. The PAO Official may request additional information needed for clarification of the analysis. None of the above shall preclude a determination by the City Building Official that the building poses an imminent threat to public health and safety.

8-3. Prior to issuance of demolition or building permit for the Chip Bins, Digester Tanks or High Density Tanks, these structures will be evaluated by the applicant for possible retention/reuse as industrial icons, based on their historic significance, engineering

feasibility and financial considerations of the owner at the time of redevelopment occurring in the vicinity of those structures.

8-4. All demolition plans for buildings or structures identified in the EIS as potentially eligible for listing on local, state or national registers shall include a Historic American Building Survey and Historic American Engineering Record documentation and a building material salvage or reuse plan for the structure proposed for demolition.

8-5. For construction below grade located in or adjacent to areas of high probability of Native American archeological material), the applicant shall establish procedures and appropriate responses for addressing potential effects to archaeological resources that may be located in such areas. These procedures and responses shall include: (1) consideration of level of contractor awareness and training; (2) consideration of specific areas where onsite archaeological monitoring should be conducted; (3) development of a list of onsite chains of authorities and contacts for decision-making regarding inadvertent archaeological discoveries during construction activities; (4) a description of prescriptive actions that would result in minimal additional disturbances to potentially significant resources if any are discovered, including discoveries during construction activities including specific treatment plans for inadvertent discovery of human remains; and (5) identification of expectations of participating groups involved in addressing the site's potential for discovery of archaeological resources.

B. During Construction

8-6. Construction in the immediate vicinity of any National Register for Historic Places, Washington Historic Register and/or Bellingham Local Historic Register listed buildings and structures shall be monitored so that such listed resources will not be adversely affected by ground settlement, vibration or other geotechnical factors.

8-7. If any archaeological resources or human remains are found during construction, all work on that project shall stop immediately and the project proponent and/or general contractor shall contact the Lummi Nation, Nooksack Tribe, City of Bellingham Planning and Community Development Department and the State Office of Archaeology and Historic Preservation. No work shall restart without further approvals by the applicable state or federal agency with jurisdiction.

9. Transportation

A. Prior to Issuance of a Demolition, Grading, or Building Permit

9-1. All new development proposals shall occur consistent with the Waterfront District Transportation Infrastructure Phasing Plan, as contained in BMC 16.30 Article II.

9-2. The development of on-site and off-site roadways and other transportation infrastructure associated with the Waterfront District site shall occur consistent with the

Waterfront District Transportation Infrastructure Phasing Plan, as contained in BMC 16.30 Article II.

9-3. Provisions for transit service and facilities shall be coordinated with the local transit provider to achieve consistency with the Waterfront District Transportation Infrastructure Phasing Plan.

B. During Construction

Section intentionally left blank.

C. For the Life of the Project

9-4. All new development in the Waterfront District shall be reviewed as part of the Biennial Monitoring Program identified in BMC 16.30.170 B. to track on-site vehicle trips generated.

- a. Provisions to survey mode share achievements associated with development at the Waterfront District shall occur consistent with the Waterfront District – Scope of Biennial Transportation Report, as contained in BMC 16.30 Article II.
- b. The ability to meet or exceed mode share targets may reduce the level of infrastructure improvements identified in the Waterfront District Transportation Infrastructure Phasing Plan.

10. Utilities

A. Prior to Issuance of a Demolition, Grading, or Building Permit

10-1. Design and development of electrical and gas utilities shall occur in coordination with the applicable provider and consistent with the Transportation Infrastructure Phasing Plan.

11. Parks and Recreation

A. Prior to Issuance of a Land Use Permit or other Land Use Enablement

11-1. Pursuant to the Development Agreement and the Facilities Agreement, as it may be amended from time to time, the Port and City shall provide for parks, trails, and open space by phase.

12. Affordable Housing

A. For the Life of the Project

12-1. Pursuant to the Development Regulations and the Development Agreement, the Port shall work with the City, developers, non-profit and other private and public organizations to provide affordable housing opportunities in the Waterfront District.

EXHIBIT B
WATERFRONT DISTRICT PLANNED ACTION -
TRANSPORTATION INFRASTRUCTURE PHASING PLAN

Exhibit C-1. Phasing of Transportation Infrastructure Improvements and Associated Development Potential¹ – North of Waterway

			PM Peak Hour Outbound Vehicles				Development in Millions of sf			
Project Sequence	On-Site Improvements	Off-Site Mitigation ²	Existing Development to Remain	2012 Proposal New Development	Proposed Infrastructure Threshold ³	Remaining Trip Capacity	Existing Development to Remain	2012 Proposal New Development	Approximate Infrastructure Capacity ^{4,5}	Remaining Infrastructure Capacity
Existing Street Network (with continued Industrial Usage) ⁶			240	-	400	160	0.35	-	0.6	0.25
Phase 1: Activate Downtown Waterfront Area (See Table 2)			240	30	400	130	0.35	0.1	0.6	0.15
Phase 2: Activate Cornwall Beach (See Table 2)			240	65	400	95	0.35	0.2	0.6	0.05
Phase 3: Infill in Downtown Area (See Table 2)			240	95	400	65	0.35	0.15	0.6	0.1
Phase 4 : Activate Marine Trades Area and Marina										
4.1	Upgrade F Street (including signal at Roeder Avenue) to new Maple Street	Designated Truck Routes Plan								
4.2	Construct Maple Street and Chestnut Street within Marine Trades	Develop plan for Holly Street Striping, Access, Channelization, and Parking. Coordinate with Old Town Planning.	240	275	550	35	0.35	0.35	0.7	0.00
Phase 5: Rail Relocation and Full Build-out of Downtown Area										
5.1	Upgrade C Street at Roeder Avenue including signalize and turn lanes along C Street	Signalize C Street intersection with Holly Street and provide turn lanes along C Street.			750		0.35		1.1	
5.2	Upgrade Hilton Avenue at Roeder Avenue including traffic signal and turn lanes along Hilton Avenue	Upgrade Roeder Avenue between Hilton Avenue and C Street with additional drop/turn lanes at major intersections.			1,000		0.35		1.4	
		Improve Holly Street from F Street to Champion Street to provide turn lanes or restrict movements at intersections and enhanced pedestrian facilities (Based on Holly Street Striping, Access, Channelization, and Parking Plan).	240	890	1,150	20	0.35	1.15	1.6	0.1

Source: Transpo Group (October 2012)

1. The infrastructure phasing addresses the Marine Trades Area separate from the Downtown Waterfront, Log Pong, Shipping Terminal, and Cornwall Beach Areas.
2. The off-site mitigation represents those improvements needed to support the redevelopment.
3. Outbound vehicle trips represent peak direction of travel during the PM peak hour. This threshold represents the number of weekday PM peak hour trips that could be accommodated without additional infrastructure.
4. Approximate square-footage is provided for reference and is based on the average outbound vehicle trip rate of 720 trips per 1.0 msf related. This is based on an average rate as seen from the alternatives analyzed and assumes mode splits consistent with the City of Bellingham Comprehensive Plan goals. Depending on the land use mix, the actual square-footage of the development that can be accommodated could be higher or lower than shown. The PM peak hour outbound vehicle trip threshold should be used to evaluate infrastructure needs and not the development square-footage.
5. The capacity assumes that infrastructure is constructed or planned such that 1) the City has completed design of infrastructure; 2) the City has secured financial commitments; and 3) the infrastructure will be constructed within a three (3) year period and/or transit service is actively available to new development within the Waterfront District.
6. The existing street network has 0.5 million square feet of development capacity assuming areas of the site are utilized for industrial development.

Exhibit C-2. Phasing of Transportation Infrastructure Improvements and Associated Development Potential¹ – South of Waterway

			PM Peak Hour Outbound Vehicles				Development in Millions of sf			
Project Sequence	On-Site Improvements	Off-Site Mitigation ²	Existing Development to Remain	2012 Proposal New Development	Threshold ³	Remaining Trip Capacity	Existing Development to Remain	2012 Proposal New Development	Approximate Infrastructure Capacity ^{4,5}	Remaining Infrastructure Capacity
Existing Street Network (with continued Industrial Usage) ⁶			-		975 ⁵		0.22	-	1.7 ⁵	1.48
Phase 1: Activate Downtown Waterfront Area										
1.1	Rebuild temporary Central Avenue	Wharf Street Roundabout is constructed by 2013								
1.2	Build Granary Avenue and Bloedel Avenue to Commercial Street	Signalize intersection at Granary Avenue and Roeder Avenue								
1.3	Build Interim Bloedel Avenue extension from Commercial Street to Interim Laurel Street									
1.4	Upgrade Interim Laurel Street from Bloedel Avenue to Cornwall Avenue, including at-grade crossing along Laurel Street and Cornwall Avenue									
1.5	Build lower portion of Commercial Green to interim Laurel Street		140	235	750	375	0.22	0.5	1.3	0.58
Phase 2: Activate Cornwall Beach										
	Cornwall Avenue extension to Cornwall Beach (park project)	Transit Strategy and Facilities Plan								
		Temporary traffic signal at Laurel Street/Cornwall Avenue	140	480	975	355	0.22	1.0	1.6	0.38
Phase 3: Infill in Downtown Area										
3.1	Build Commercial Bridge connecting to Chestnut Street									
3.2	Complete Commercial Green return lane from Loop to Tile Tanks		140	760	1,600	860	0.22	1.6	2.7 ⁷	0.88
Phase 4: Activate Marine Trades Area and Marina (see Table 1)			140	1,050	1,600	410	0.22	2.2	2.7 ⁷	0.28
Phase 5: Rail Relocation and Full Build-out of Downtown Area										
5.0	Bay Street Parking Garage	Signalize Bay Street/Chestnut Street	140	1,730	2,000	130 ⁸	0.22	3.58	3.4	-0.4
5.1	Cornwall Bridge closed to relocate BNSF railroad	Provide a northbound left-turn lane and shared through/right-turn lane, and upgrade traffic signal at Cornwall Avenue/Chestnut Street.	140	1,730	1,600	-270	0.22	3.58	2.7	-1.1
5.2	Rebuild Cornwall Bridge with three lanes	Right turn drop lane along Cornwall Avenue at Maple Street. Signalize Maple Street/Cornwall Avenue, Maple Street/State Street, Maple Street/Forest Street and upgrade Maple Street with shared lanes and enhanced pedestrian facilities.	140	1,730	2,550	680	0.22	3.58	4.4	0.6
5.3	Complete Bloedel Avenue from Commercial Green		140	1,730	2,550	680	0.22	3.58	4.4	0.6
5.4	Construct final leg of Commercial Bridge		140	1,730	2,550	680	0.22	3.58	4.4	0.6
5.5	Potential at-grade crossing closure at Wharf Street (After Completion of Cornwall Bridge)		140	1,730	2,200	330	0.22	3.58	3.8	0
5.6	Construct Log Pond Drive cul-de-sac along edge of institutional area		140	1,730	2,200	330	0.22	3.58	3.8	0

Source: Transpo Group (October 2012)

1. The infrastructure phasing addresses the Marine Trades Area separate from the Downtown Waterfront, Log Pong, Shipping Terminal, and Cornwall Beach Areas.

2. The off-site mitigation represents those improvements needed to support the redevelopment.

3. Outbound vehicle trips represent peak direction of travel during the PM peak hour. This threshold represents the number of weekday PM peak hour trips that could be accommodated without additional infrastructure.

4. Approximate square-footage is provided for reference and is based on the average outbound vehicle trip rate of 580 trips per 1.0 msf related. This is based on an average rate as seen from the alternatives analyzed and assumes mode splits consistent with the City of Bellingham Comprehensive Plan goals. Depending on the land use mix, the actual square-footage of the development that can be accommodated could be higher or lower than shown. The PM peak hour outbound vehicle trip threshold should be used to evaluate infrastructure needs and not the development square-footage.

5. The capacity assumes that infrastructure is constructed or planned such that 1) the City has completed design of infrastructure; 2) the City has secured financial commitments; and 3) the infrastructure will be constructed within a three (3) year period and/or transit service is actively available to new development within the Waterfront District.

6. The existing street network has 1.7 million square feet of development capacity assuming the southwestern areas of the site are utilized for industrial development, using available capacity on both Cornwall Avenue and Wharf Street.

7. If Bay Street Parking Garage, other alternative access, and/or increases in non-auto mode splits do not occur prior to Cornwall Bridge closure, the total on-site capacity would be capped at 1,200 outbound PM peak hour vehicles (approximately 2.1 million square-feet) to accommodate anticipated traffic generation within the adopted LOS standards during construction. Alternatively, the City Council could take action and invoke Comprehensive Plan TP-12 allowing arterials serving the site to experience higher levels of vehicle traffic congestion. Adoption of such action should take into consideration traffic safety and impacts on all modes to and from the site and could be evaluated through the biennial monitoring.

8. The proposed land use mix results in some remaining vehicle capacity see footnote 4.

EXHIBIT C
WATERFRONT DISTRICT PLANNED ACTION -

SCOPE OF BIENNIAL TRANSPORTATION REPORT

The EIS identified a biennial traffic monitoring program, "traffic monitoring program", as a mitigation strategy to monitor the traffic being generated and the mode share being achieved by development on-site. The following describes the purpose of the traffic monitoring program, the data to be collected, and how the information will be used.

Purpose

The current transportation infrastructure phasing as outlined in the Waterfront District Transportation Infrastructure Phasing Plan, as contained in BMC 16.30 Article II, for the Waterfront District is based on the anticipated outbound PM peak hour trips generated by development on-site. Achieving greater non-auto mode splits, or reduced trip generation, may allow for changes to the Development Phasing Plan as the site develops over time, such as delaying or eliminating the need for certain improvements. Conversely, the inability to meet mode share targets may require a reduction in the overall level of development accommodated on-site, additional transportation demand management strategies, or other improvements that are necessary to accommodate development. The traffic monitoring program for the Waterfront District is intended to monitor the actual number of trips (vehicle, transit, bike, and pedestrian) being produced, the mode share being achieved, and reconfirm the timing of the infrastructure improvements and off-site mitigation.

The outcome of the traffic monitoring program will be recommendations related to the transportation infrastructure phasing as well as adjustments to the Waterfront Concurrency Service Area (CSA) to account for infrastructure improvements and mode splits. Conducting the monitoring on a biennial basis will allow parties to plan and budget appropriately for the various transportation infrastructure and mitigation needs outlined in the EIS.

Scope

The traffic monitoring program will be initiated every two years to report on the development activity that has taken place, the infrastructure that has been constructed, the amount of trips being produced by the development, and the mode share being achieved. Separate monitoring will be conducted for both the Marine Trades area and the areas south of the Whatcom Waterway due to differing on-site and off-site infrastructure needs identified for each respective development area.

The data collection will include vehicle, pedestrian, bicycle, and transit counts at each access point to the site. The data will be used to determine the current mode splits being achieved for the Waterfront District as well as updated baseline vehicle forecasts for the weekday PM peak hour outbound traffic at each access point. The updated forecasts for the Waterfront District will be compared to the transportation infrastructure phasing plan to identify if any modifications should be considered. Modifications could be in the form of delaying the timing of specific improvements or recommending modifications to the scope of the improvements. Based upon the modifications identified, the Port and the City could choose to adjust the transportation

infrastructure phasing plan based on the information provided as part of the traffic monitoring program.

Data collection required

The traffic monitoring program shall collect a variety of transportation data. Table 1 outlines the type, location, and timing of data to be collected by the program. Figure 1 illustrates the specific locations for the data collection.

Table 1. Data Required for Collection				
Type	Method¹	Locations²	Time Period	Date³
Intersection Vehicle Turning Movements	Manual and video data collection of intersection turning movements.	Site Access and Key Off-Site Intersections	Weekday PM Peak Hour (4:00 to 6:00 p.m.)	April/May or October
Daily Traffic Volumes & Vehicle Classification	Tube counts that would identify total traffic volumes as well as vehicle classifications including trucks, autos, and transit.	Site Access Locations	A minimum of three 24-hour periods during a weekday (Tues, Wed, Thur).	April/May or October
Pedestrian and Bicycle Volumes	Conduct manual or video data collection along the access roadways for the site.	Site Access Locations	Weekday PM Peak Hour (4:00 to 6:00 p.m.)	April/May or October
Ridership Data	Obtain average daily ridership data from Whatcom Transportation Authority (WTA).	On-Site Bus Stops and Downtown Transit Center	Weekday PM Peak Hour (4:00 to 6:00 p.m.)	April/May or October

1. The monitoring program may use data collected by the City or other sources, if available, rather than collecting new data.
2. See Figure 1 for specific data collection locations.
3. Data should be collected when public schools and Western Washington University are in session.

Traffic monitoring report

The traffic monitoring program shall include the publication of a report that will be similar to a report card such as the City's Transportation Report on Annual Concurrency (TRAC). The report will contain four main chapters as summarized in Table 2. The report will be the overall outcome of the traffic monitoring report and provide the basis for modifying the infrastructure phasing plan or the planned development capacity on-site.

Table 2. Biennial Traffic Monitoring Report Outline

Chapter	Required Contents
CHAPTER 1 Introduction/Purpose	• Provide context and summarize the intent of the monitoring report.
CHAPTER 2 Summary of Assumptions	• Land Use: Describe the existing land use within the Waterfront District as well as specific on-site developments that are anticipated to occur in the next few years. • Pipeline Development: Identify known development proposals in the vicinity of the Waterfront District (i.e., along Roeder Avenue/Chestnut Street/Holly Street between Hilton Avenue and State Street and along State Street between Chestnut Street and Wharf Street). • Transportation Infrastructure: Identify the Waterfront District transportation infrastructure that has been constructed for general vehicles, trucks, pedestrians, bicyclists, and transit. Also summarize the improvements currently funded within the next 6 years for the site and surrounding the site.
CHAPTER 3 Summary and Comparison of Data	• Data. Summarize the data that was collected. • Current Conditions. Determine the current conditions for the site including mode splits and outbound PM peak hour traffic volumes at each access point. • Future Development Trip Generation. Determine trip generation for the planned developments on-site that were described in Chapter 2. Include pipeline development off-site. Consider the updated mode splits in the calculation of the future on-site trips. • Future Trip Distribution and Assignment. Distribute and assign trips to the existing infrastructure network based on the current travel patterns, as well as the location of the planned development. • Future with Project Conditions. Calculate the future traffic volumes anticipated at each site access. • Transportation Infrastructure Phasing Plan. Compare the total site trip generation (i.e., current plus future traffic) to the infrastructure phasing table.
CHAPTER 4 Recommendations	• Transportation Infrastructure Phasing Plan. Based on the current and projected traffic data, identify needed modifications to the phasing plan or on-site development capacity, if any.

Attachment 1

Cultural Resource Management Plan

1.0 Plan and Procedures for the Unanticipated Discovery of Cultural Resources during Redevelopment of the Waterfront District

As part of the Waterfront District redevelopment project, an Archaeological Resources Assessment was prepared in December 2007 by Northwest Archaeological Associates, Inc. (Draft EIS, Appendix M) to evaluate the potential impacts of redevelopment on cultural resources in accordance with the Washington State Environmental Protection Act. This study was based on a review of previous ethnographic, historic, and archaeological investigations in local areas including background literature and maps. In addition, Lummi and Nooksack Tribes cultural resources staff were notified of the Waterfront District redevelopment project details and provided the opportunity to comment on the potential impacts of the project. There is a high probability for encountering intact Native American archaeological materials along the historic bluff and bluff edges with the probability increasing with proximity to the mouth of Whatcom Creek.

A cultural resource discovery could be prehistoric or historic. Examples include:

- An accumulation of shell, burned rocks, or other food related materials
- Bones or small pieces of bone,
- An area of charcoal or very dark stained soil with artifacts,
- Stone tools or waste flakes (i.e. an arrowhead, or stone chips),
- Clusters of tin cans or bottles, logging or agricultural equipment that appears to be older than 50 years,
- Buried railroad tracks, decking, or other industrial materials.

When in doubt, it should be assumed the material is a cultural resource.

2.0 Prior to Issuance of any permit to disturb ground, such as a Grading or Building Permit

For proposals requiring excavation, proponents shall review the Northwest Archaeological Associates, Inc. Archaeological Resources Assessment (2008 Waterfront District Redevelopment Draft Environmental Impact Statement, Appendix M) to determine if the proposed boundaries are located within 25 feet of a high probability area for encountering intact Native American archaeological materials.

2.1 *If the proposed boundaries **are not** located within 25 feet of a High Probability Area for encountering intact Native American archaeological materials:*

The High Probability Area for encountering intact Native American archaeological materials shall be shown on the site plan, noting that the project is not within 25 feet of this area.

- Also note on the site plan:
 - Project proponents must follow local, state and federal laws and regulations that address cultural resources. In the event that any activity results in the discovery of cultural resources, work shall halt in the immediate area, and contact made with the City of Bellingham Planning Division, the Department of Archaeology and Historic Preservation (DAHP), and representatives of the Nooksack Tribe and the Lummi Nation.
 - *"If ground disturbing activities encounter human skeletal remains during the course of construction, then all activity **will** cease that may cause further disturbance to those remains. The area of the find will be secured and protected from further disturbance. The finding of human skeletal remains **will** be reported to the county medical examiner/coroner **and** local law enforcement in the most expeditious manner possible. The remains will not be touched, moved, or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains."*

2.2 *If the proposed project boundaries are located within 25 feet of a High Probability Area for encountering intact Native American archaeological materials:*

- The High Probability Area for encountering intact Native American archaeological materials shall be shown on the site plan, noting that the project is within 25 feet of this area.
- Provide a copy of the "Unanticipated Discovery Plan for Cultural Resources" for this site.
- The Unanticipated Discovery Plan for Cultural Resources shall, at a minimum, include the following protocols:
 - For projects involving significant ground disturbing activities (ie: excavations to pre-contact contours), a copy of the professional archaeologist's review of project plans, including a determination if archaeological testing or site

monitoring by a professional archaeologist is required to protect against potential impacts to intact Native American archaeological materials.

- A training program will be provided during pre-project meeting(s) so that the job site supervisor, project manager, and excavation contractor; and any subcontractors, are aware of the procedures for the dealing with the unanticipated discovery of cultural resources or human remains.
- If there is an unanticipated discovery of human remains or Native American archaeological material, all work adjacent to the discovery shall cease. At a minimum, the immediate area will be secured and marked with flagging to a distance of thirty feet from the discovery. Vehicles, equipment and unauthorized personnel will not be permitted to traverse the discovery site.
- *The remains will not be touched, moved, or further disturbed.*
- A professional archaeologist or project manager will **immediately** call the Whatcom County Sheriff's Office (911) and the Whatcom County Medical Examiner (360-738-4557). The Whatcom County Medical Examiner will *assume jurisdiction over the human skeletal remains and* determine if the remains are forensic or non-forensic (related to a criminal investigation or not).
- If the human skeletal remains are determined to be non-forensic, the Whatcom County Medical Examiner will notify the Washington State Department of Archaeology and Historic Preservation(DAHP). DAHP will take jurisdiction over the remains. The State Physical Anthropologist will determine whether the remains are Native American or Non-Native American. DAHP will handle all consultation with the Nooksack Tribe and Lummi Tribe as to the treatment of the remains.
- If cultural material is uncovered and determined to be significant by a professional archaeologist, the consulting archaeologist will immediately contact DAHP and Tribal representatives to seek consultation regarding appropriate documentation and/or response actions.
- The professional archaeologist shall provide a copy of their report on any discoveries to DAHP, effected tribes, and the City of Bellingham's Planning Department within 30 days of discovery.

CONTACT INFORMATION

Department of Archaeology and Historic Preservation
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360-586-3066

Lummi Nation
Lena Tso
Lummi Tribal Historic Preservation Office
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360-384-2259 ext.2662

Nooksack Tribe
George Swanaset Jr.
Director/Tribal Historic Preservation Officer
THPO, Cultural Resources
5016 Deming Road
PO Box 157
360-306-5759

Whatcom County Sheriff's Office
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Bellingham, WA 98225
360-676-6650

Whatcom County Medical Examiner
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