ORDINANCE NO. 2017-07-018

AN ORDINANCE OF THE CITY OF BELLINGHAM RELATING TO THE BELLINGHAM COMPREHENSIVE PLAN, AMENDING THE BARKLEY NEIGHBORHOOD PLAN AND REZONING A PORTION OF THE PROPERTY LOCATED AT 3001 E. SUNSET DRIVE IN AREA 1 OF THE BARKLEY NEIGHBORHOOD FROM RESIDENTIAL, SINGLE TO COMMERCIAL, PLANNED, AND AMENDING THE NEIGHBORHOOD PLAN LAND USE MAP AND ZONING MAP.

WHEREAS, the City of Bellingham has adopted 25 neighborhood plans as a component of the Bellingham Comprehensive Plan, including the Barkley Neighborhood Plan; and

WHEREAS, the City has a process to amend the comprehensive plan and the neighborhood plans once per year in accordance with Bellingham Municipal Code (BMC) 20.20 and BMC 21.10.150; and

WHEREAS, on February 22, 2016, the Planning and Community Development Department received a docketing application from the property owner requesting a comprehensive plan amendment to rezone a portion of his property located in Area 1 of the Barkley Neighborhood Plan; and

WHEREAS, the applicant owns approximately 1.7 acres of land that is located adjacent to Sunset Drive to the north and Trickle Creek BLVD to the west, located at 3001 E. Sunset Drive; and

WHEREAS, the proposed request includes amending the Barkley Neighborhood Plan and rezoning approximately 0.25 acres (0.5 acres including rights-of-way) of the 1.7 acres that is located in Area 1 of the Barkley Neighborhood from Residential, Single (RS) to Commercial, Planned (CP); and

WHEREAS, the applicant's property in the Barkley Neighborhood contains two zoning designations and neighborhood sub-areas, the southwest corner of the property (0.25 acres) is zoned RS within Area 1 and the main portion of the property is zoned CP within Area 27; and

WHEREAS, the southwest corner of the applicant's property (.25 acres) has been in the City since the early 1900s and the main potion of the property was annexed into the City in February 2016, thus creating two land use designations and sub-areas on the property; and

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WHEREAS, the proposed comprehensive plan amendment and rezone would place the entire property into a single land use designation (CP) and neighborhood sub-area (Area 27); and

WHEREAS, on September 19, 2016, the Planning Commission held a public hearing regarding the 2016-2017 docket requests and recommended to the City Council that the proposed comprehensive amendments to Area 1 of the Barkley Neighborhood Plan be placed on the annual 2016-2017 docket; and

WHEREAS, the City Council held a public hearing on November 7, 2016, and placed the proposed comprehensive amendments to Area 1 of the Barkley Neighborhood Plan on the annual 2016-2017 list of comprehensive plan amendments; and

WHEREAS, on January 1, 2017, the applicant submitted applications for a comprehensive amendment, rezone, and State Environmental Policy Act (SEPA) review; and

WHEREAS, the responsible official reviewed the proposed comprehensive amendments under the procedures of the SEPA, and a non-project Determination of Nonsignificance was issued on March 3, 2017; and

WHEREAS, as required by RCW 36.70A.106 notice of the City's intent to adopt the proposed comprehensive plan amendments was sent to the Department of Commerce on March 13, 2017; and

WHEREAS, after notice was posted on site, mailed, and published as required by BMC Chapter 21.10, the Planning Commission held a public hearing on the proposed comprehensive plan amendments on April 20, 2017; and

WHEREAS, the Planning Commission considered the staff report and comments received and thereafter made Findings, Conclusions and Recommendations for approval of the proposed comprehensive plan amendments to the Barkley Neighborhood Plan; and

WHEREAS, the Planning Commission finds that the proposed comprehensive plan amendments to the Barkley Neighborhood Plan meets all the Comprehensive/Neighborhood Plan review criteria in BMC 20.20.040 and the rezone decision criteria in BMC 20.19.030; and

WHEREAS, after notice was posted on site, mailed, and published as required by BMC 21.10, the City Council held a public hearing on the proposed comprehensive plan amendments on June 5, 2017; and
WHEREAS, the City Council considered the recommendation of the Planning Commission, the staff report, and the public comment and hereby adopt the Findings, Conclusions and Recommendations of the Planning Commission; and

WHEREAS, the City Council finds that the proposed comprehensive plan amendments to the Barkley Neighborhood Plan meets all the Comprehensive/Neighborhood Plan review criteria in BMC 20.20.040 and the rezone decision criteria in BMC 20.19.030.

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. The Barkley Neighborhood Plan description for Area 27 is hereby amended as shown in EXHIBIT A.

Section 2. The Barkley Neighborhood Comprehensive Plan Land Use Map is hereby amended as shown in EXHIBIT B.

Section 3. The City of Bellingham zoning map for the Barkley Neighborhood is hereby amended as shown in EXHIBIT C.

Section 4. The City Council adopts the Planning Commission's Findings, Conclusions, and Recommendations, attached as EXHIBIT D.

PASSED by the Council this 24th day of July, 2017

[Signature]
Council President

APPROVED by me this 1st day of August, 2017

[Signature]
Mayor

ATTEST: [Signature]
Finance Director

APPROVED AS TO FORM:

[Signature]
Office of the City Attorney

PUBLISHED: July 28, 2017
Barkley Neighborhood Plan

**Area 27**

This area is approximately 2 3.5-acres in size including rights-of-ways and located adjacent to E. Sunset Dr. (State Route 542) and Trickle Creek Boulevard. The Commercial land use designation for this area is intended to:

- Allow small scale commercial businesses that provide convenient goods and services to the immediate area;
- Provide opportunities to obtain consumer goods and services that are within walking and biking distance;
- Reduce vehicle trips and travel time on roadways to obtain consumer goods and services for nearby residences and uses; and
- Provide employment opportunities and possible housing choices if developed.

To improve the over-all streetscape of the development with Area 27, floor area and uses should be limited and buildings should contain architectural details that avoid blank walls. Buildings should also be located near and oriented toward street(s) and sidewalk(s) to offer easy and safe access. Limitations on site design elements concerning signs, parking, lighting, landscaping, and screening should be required to reduce possible development impacts to the surrounding area.

When development occurs, streets that would serve the area should meet the minimum street standards per Bellingham Municipal Code. Vehicle access points on E. Sunset Drive should be limited and shared access is encouraged.

Area 27 lies within the Squalicum Creek watershed and is within the Lower Squalicum Creek sub-basin. According to the City's GIS data, critical areas consisting of wetlands may be located near the area. Further analysis may be necessary to confirm the classification and buffer widths of these environmental features.

The Olympic Pipe Line Company has a transmission pipeline that runs north and south along the west side of Area 27. Prior to any excavation, the developer is required to notify pipeline owner(s) of excavation activity by calling Locator Service and when planning construction or excavation near a transmission pipeline as required by RCW 19.122 or adopted City codes.

Due to the presence of possible critical areas and the above mentioned transmission pipeline within the area, special attention should be given to these features early in the development concept phase.

**AREA 27 LAND USE DESIGNATION: COMMERCIAL**
BELLINGHAM PLANNING COMMISSION FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS

APRIL 20, 2017

SUMMARY

Following the public hearing and deliberation on the proposed Comprehensive Plan amendment (REZ2016-0001) to rezone a portion of property located at 3001 E. Sunset Drive within Area 1 of the Barkley Neighborhood from Residential, Single to Commercial, Planned, the Bellingham Planning Commission has determined by a vote (7-0) that the proposed comprehensive plan amendment and rezone comply with, and will implement the goals and policies of the Bellingham Comprehensive Plan and should be adopted.

I. FINDINGS OF FACT

1. Project or Proposal Description

Jeff Kvamme, on behalf of Kvamme Family LP, submitted a request for a comprehensive plan amendment to rezone approximately .25 acres of land (.5 acres including right-of-way) from Residential, Single (RS), to Commercial, Planned (CP), within Area 1 of the Barkley Neighborhood Plan. If approved, the rezoned area would be combined with Area 27, which is currently zoned CP and also owned by the applicant.

2. Background Information/Procedural History

- On February 1, 2016, the main portion of the applicant's property was annexed to the City of Bellingham as part of the E. Bakerview Road / Mt. Baker Highway Annexation proposal.

- On February 22, 2016, the Planning and Community Development Department received a docketing request from Jeff Kvamme for a comprehensive plan amendment to rezone a portion of his property from Residential, Single to Commercial, Planned.

- The applicant currently owns approximately 1.7 acres of land adjacent to E. Sunset Drive to the north and Trickle Creek Boulevard to the west. The main portion of the applicant's property is located in Area 27 of the Barkley Neighborhood and zoned CP. The southwest corner of the property (.25 acres) is located in Area 1 of the Barkley Neighborhood and zoned RS.

- On September 19, 2016, the Planning Commission held a public hearing regarding the 2016-2017 docket requests and recommended to the City Council that the proposed comprehensive amendments to Area 1 of the Barkley Neighborhood Plan be placed on the annual 2016-2017 docket.

- The City Council held a public hearing on November 7, 2016, and placed the proposed comprehensive amendments to Area 1 of the Barkley Neighborhood Plan on the annual 2016-2017 docket of comprehensive plan amendments (Resolution 2016-26).
• On January 10, 2017, the applicant held neighborhood meeting located at the North Whatcom Fire and Rescue Station #4, 4142 Britton Loop Road. The purpose of the meetings was to introduce the proposed comprehensive plan amendment to the public and address any public comment related to the proposal. No members of the public attended the neighborhood meeting.

• On January 31, 2017, the applicant submitted the required applications forms for a comprehensive plan amendment, a rezone, and a non-project environmental determination (SEPA checklist) to officially start the amendment review process.

3. Comprehensive Plan Goals and Policies

The City’s Comprehensive Plan identifies the goals and policies that are used as a guide for legislative and administrative decisions regarding changes to the comprehensive plan and development codes. Relevant comprehensive plan goals and policies are listed below:

GOAL LU-5 Support the Growth Management Act’s goal to encourage growth in urban areas.

Policy LU-9 Promote small-scale commercial uses (e.g. corner stores) within neighborhoods, particularly where these uses historically existed, to encourage walkability and provide opportunities for employment and placemaking.

Policy LU-62 Evaluate all rezone proposals for potential impacts on the available supply of residential, commercial and industrial zoned land.

GOAL ED-3 Maintain an adequate supply of developable employment lands and supporting infrastructure to accommodate forecasted growth and accomplish the City’s economic development goals.

Policy ED-26 Review land use regulations, development standards and design guidelines to ensure that the existing developed and remaining vacant or underutilized employment lands are used as efficiently as possible.

Policy ED-27 Evaluate rezone proposals and changes to development regulations for potential impacts on the supply of land zoned for employment activities.

Policy ED-40 Identify and remove barriers to redeveloping underutilized and/or vacant land and buildings.

4. Public Comment

A pre-applicant neighborhood meeting for the Proposal was held on January 10, 2017, located at 4142 Britton Loop Road. No public members attended the meeting and no written comment was submitted.

On March 13, 2017, City staff notified the Washington State Department of Commerce of the proposed comprehensive plan amendments.
On March 20, 2017, notice of the Planning Commission hearing was mailed to neighborhood representatives and associations, as well as property owners within 500' of the site. The notice was also published in the Bellingham Herald.

At the public hearing on April 20, 2017, Rob Bartell, expressed his support for the proposed rezone request. He indicated that it makes sense and he would like to see development there. He commented that he is looking forward to a more pedestrian-friendly center with less emphasis on the automobile. Mr. Bartell owns the nearby properties located at 3208-, 3212-, and 3220- E Sunset Dr. (Connections Speech / Language Pathology).

5. State Environmental Policy Act (SEPA) Determination if applicable

A non-project Determination of Non-Significance was issued on March 3, 2017.

6. Consistency with the Comprehensive Plan, and/or Review Criteria

Bellingham Municipal Code 20.20.040 and BMC 20.19.030, notes the Planning Commission and the City Council shall use the following criteria to evaluate comprehensive plan amendments and rezone requests:

**Comprehensive and Neighborhood Plan Decision Criteria**
**BMC 20.20.040**

Petitioners requesting amendments to the Bellingham Comprehensive Plan and/or a Neighborhood Plan shall be prepared to offer justification for the request using the following criteria. These criteria will be used by the Planning Commission and the City Council to evaluate amendment requests:

**A. There exists an error, omission or inconsistency in the pertinent Comprehensive Plan or neighborhood plan provision; OR**

The Commission finds that the applicant's property is located in two neighborhood sub-areas and has two different zoning designations associated with the property. Being governed under two different land use designations creates zoning inconsistencies as each sub-area is governed by specific development standards and uses. Rezoning the SW .25 acres to a CP land use designation would place the entire property into a single land use designation and neighborhood sub-area, improve development options, and correct an inconsistent zoning boundary.

The Commission finds that the proposed request meets this criterion.

**B. All of the following criteria have been met:**

1. The proposed amendment is consistent with the Growth Management Act and other applicable laws;

The Commission finds that the Bellingham Comprehensive Plan, developed in accordance with the GMA contains several policies that speak to evaluating the land use development code to identify and remove barriers to ensure that vacant and underutilized land is used as
The proposed amendment implements the comprehensive plan and provides a zone that:

- enables the property owner to develop the property under a single zoning classification;
- simplifies the development regulations governing the property;
- allows the opportunity for the property owner to design a development proposal that meets the design standards called out for Area 27, specifically relating to building orientation and placement along the street frontage; and
- promotes the efficient use of land by eliminating certain setbacks and a height restriction that are stipulated under BMC 20.38.050 C. 4.-6. between a RS general use type designation and CP zoning district as follows:

**BMC 20.38.050 C.**

4. Building Height.

   a. No structure shall exceed 35 feet under BMC 20.08.020, height definition No. 1 when within 100 feet of the site plan boundary lying adjacent to a residential general use type area.

5. Yards. No structure shall be located within 20 feet of any residential general use type designation.


   b. No parking area shall be within 10 feet of any property line adjacent to a residential general use type and the area between the parking and property line shall be bermed with earth at least three feet in height.

The Commission finds that the proposed request meets this criterion.

2. The proposed amendment addresses changing circumstances, changing community values, and is consistent with and will help achieve the Comprehensive Plan goals and policies.

The Commission finds that the rezone proposal addresses changing circumstances associated with the subject property that occurred as a result of the property being annexed at different times. As previously mentioned, the SW corner of the property has been in the City since the early 1900s and the main portion of the property was annexed in February 2016. Since the SW corner of the property was already zoned RS, the only method to change this designation to match the recently annexed portion of the property requires a comprehensive plan amendment and rezone.

The Commission finds that the rezone proposal is consistent with and implements the Bellingham Comprehensive Plan as stated in Section V of the Planning Commission report. Placing the entire property into a single zoning classification creates consistency in the neighborhood plan, zoning map, will correct a zoning boundary, and allows the property owner to develop their property in a unified and efficient manner.
The Commission finds that the proposed request meets this criterion.

3. **The proposed amendment will result in long term benefit to the community and is in the community's overall best interests.**

   The Commission finds that rezoning the subject area and adding this area to Area 27 will result in a long-term benefit to the community and is in the community's best interest to have a cohesive CP development that is not bisected by a RS zoning boundary.

   The Commission finds that the proposed request meets this criterion.

4. **The amendment will not adversely affect the public health, safety or general welfare.**

   The Commission finds that the proposed rezone will not adversely affect the public health, safety or general welfare. With the rezone, the property owner has the flexibility to plan and develop their entire property in a unified manner under a single land use designation. As the main portion of the applicant's property is already zoned CP in Area 27, rezoning and incorporating the SW portion of property (.25 acres) to a CP designation provides development opportunities to make better use of land. Special regulations are already included in the zoning table for Area 27 of the Barkley Neighborhood that supplement the standard zoning regulations to encourage a pedestrian oriented development aimed at minimizing potential impacts on nearby uses. The current RS designation on the property will likely preclude the property owner from meeting some of the design standards called out for Area 27.

   Specifically relating to:

   **Area 27 – Design Standards**
   Development in Area 27 shall comply with BMC 20.38.050(C), except for as modified below:

   1. Buildings shall be oriented toward street frontages and located adjacent to the rights-of-way as close as allowed by BMC 20.38.050(C).

   The Commission finds that the proposed request meets this criterion.

5. **If a concurrent rezone is requested, the proposal must also meet the criteria for rezones in BMC 20.19.030.**

   See below.

**REZONE REVIEW CRITERIA**

**BMC 20.19.030**

In evaluating proposed rezones, the Planning Commission and City Council should consider the following criteria:

A. **It is consistent with the Comprehensive Plan or corresponds to a concurrent Comprehensive Plan amendment application.**
See the discussion under comprehensive plan amendment criteria B. 1. and B. 2.

B. **It will not adversely affect the public health, safety or general welfare.**

See the discussion under comprehensive plan amendment criterion B. 4.

C. **It is in the best interests of the residents of Bellingham.**

See the discussion under comprehensive Plan amendment criterion B. 3.

D. **The subject property is suitable for development in general conformance with zoning standards under the proposed zoning district.**

The Commission finds that the proposed rezone provides the property owner with the opportunity to develop their entire property in a unified manner under a single zoning designation. As a majority of the property is already zoned CP, the rezoned area provides additional development options to design a project for the entire property that meets the design standards called out for Area 27 of the Barkley Neighborhood. Additionally, under the current RS zoning, it appears that the SW portion of the property may only provide a small building footprint, given the property size (.25 acres or 11,100 sq. ft.), the 50 foot pipeline easement, arterial building setback (60' from centerline of street right-of-way), and the triangular shape of the area. Adjacent environmental features will also likely limit developable area on this portion of the property; however, if the subject area was rezoned to CP and combined with the main portion of the property, additional development options become available.

The Commission finds that the proposed request meets this criterion.

E. **Adequate public facilities and services are, or would be, available to serve the development allowed by the proposed zone.**

The Commission finds that the subject site can be adequately served by City facilities and existing life safety services.

The Commission finds that the proposed request meets this criterion.

F. **It will not be materially detrimental to uses or property in the immediate vicinity of the subject property.**

The Commission finds that the non-project rezone proposal will not be materially detrimental to the uses or properties in the immediate vicinity. Undeveloped lots are located to the west and to the east and single family residential uses are located to the south, southwest, and to the north. The residential uses to the southwest and to the north are separated by right-of-ways or an easement.
G. It is appropriate because either:

1. Conditions in the immediate vicinity have changed sufficiently since the property was classified under the current zoning that a rezone is in the public interest; or

   See the discussion under comprehensive plan amendment criterion B. 2.

2. The rezone will correct a zone classification or zone boundary that was inappropriate when established; or

   See the discussion under comprehensive plan amendment criterion A. and B. 2.

3. The rezone will implement the policies of the Comprehensive Plan.

   See the discussion under comprehensive plan amendment criteria B. 1. and B. 2.

II. CONCLUSIONS

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

1. Rezoning the SW .25 acres to a CP land use designation would place the entire property into a single land use designation and neighborhood sub-area, improve development options, and will correct an inconsistent zoning boundary.

2. The proposed comprehensive plan amendment and rezone meets all of the Comprehensive Plan and Neighborhood Plan amendment criteria in BMC 20.20.040 B. and all the rezone criteria in BMC 20.19.030.

III. RECOMMENDATIONS

Based on the findings and conclusions, the Bellingham Planning Commission recommends that the City Council approve the proposed comprehensive plan amendment and rezone request.

ADOPTED this 20th day of April, 2017.

[Signature]
Planning Commission Chairperson

ATTEST: [Signature]
Recording Secretary

APPROVED AS TO FORM:

[Signature]
City Attorney

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