ORDINANCE NO. 2015-06-025

AN ORDINANCE OF THE CITY OF BELLINGHAM RELATING TO BELLINGHAM'S COMPREHENSIVE PLAN, AMENDING THE SAMISH NEIGHBORHOOD PLAN AND SECTION 20.00.150 OF THE BELLINGHAM MUNICIPAL CODE TO REZONE 801 SAMISH WAY IN AREA 4 OF THE SAMISH NEIGHBORHOOD FROM RESIDENTIAL, SINGLE TO COMMERCIAL, PLANNED, OFFICES ONLY ALLOWED, AND CREATING A NEW AREA 10 IN THE SAMISH NEIGHBORHOOD.

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

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

WHEREAS, the proposed amendments to the Samish Neighborhood Plan and BMC would rezone the subject property from Residential, Single to Commercial, Planned, offices only allowed; and

WHEREAS, Area 9 located directly west of the subject property is going through a process to rezone their property from Commercial, Planned, non-retail to Commercial, Planned; and

WHEREAS, 801 Samish Way would become Area 10 of the Samish neighborhood; and

WHEREAS, the amendments would facilitate the relocation of a long-standing psychology practice to an existing building on a site along a secondary arterial and transit route; and

WHEREAS, on September 18, 2014, the Planning Commission held a public hearing regarding the 2014-2015 docket requests and recommended to the City Council that the proposed amendments be placed on the 2014-2015 docket; and

WHEREAS, on October 13, 2014, the City Council held a public hearing and placed the Samish Neighborhood Plan and BMC 20.00.150 amendments on the annual 2014-2015 list of comprehensive plan amendments; and

WHEREAS, the applicant held a pre-application neighborhood meeting on November 6, 2014, regarding the proposed neighborhood plan and BMC amendments; and

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270
WHEREAS, the responsible official reviewed the proposed amendments under the procedures of the State Environmental Policy Act and issued a non-project Determination of Non-Significance on January 14, 2015; and

WHEREAS, as required by RCW 36.70A.106, notice of the City's intent to adopt the proposed comprehensive plan and BMC amendments was sent to the Department of Commerce on January 26, 2015; and

WHEREAS, after mailed and published notice as required by BMC 21.10, the Planning Commission held a public hearing on the proposed neighborhood plan and BMC amendments on February 19, 2015; and

WHEREAS, the Planning Commission determined that the proposed amendments to the Samish Neighborhood Plan and BMC comply with and will implement the goals and policies of the Bellingham Comprehensive Plan; and

WHEREAS, the Planning Commission considered the staff report and public comments and thereafter made Findings, Conclusions and Recommendations for adoption of the proposed amendments with the provision that only office uses be permitted in the area; and

WHEREAS, after mailed and published notice as required by BMC 21.10, the City Council held a public hearing on the proposed Samish Neighborhood Plan and BMC amendments on April 6, 2015; and

WHEREAS, the City Council considered the recommendation of the Planning Commission, the staff report, and the public comments and hereby adopts the Findings of Fact, Conclusions and Recommendations of the Planning Commission; and

WHEREAS, the City Council finds that the proposed amendments to the Samish Neighborhood Plan and BMC meet the Comprehensive/Neighborhood Plan review criteria in BMC 20.20.040 and the rezone criteria in BMC 20.19.030.

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. The Samish Neighborhood Plan is hereby amended as shown in EXHIBIT A.

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

Section 3. Bellingham Municipal Code 20.00.150, the Samish Neighborhood Table of Zoning Regulations, is hereby amended as shown in EXHIBIT C.

Section 4. The Samish Neighborhood Zoning Map is hereby amended as shown in EXHIBIT D.
Section 5. The City Council adopts the Findings of Fact, Conclusions and Recommendations of the Planning Commission dated February 19, 2015, attached as EXHIBIT E.

PASSED by the Council this 15 day of June, 2015

[Signature]

Council President

APPROVED by me this 22nd day of June, 2015

[Signature]

Mayor

ATTEST: [Signature]
Finance Director

APPROVED AS TO FORM:

[Signature]
Office of the City Attorney

Published: June 19, 2015
AREA 10
Area 10, a Commercial, Planned area, is approximately 1.9 acres in size. It is surrounded by a mix of single-family, multi-family, and institutional uses. The purpose of this area's Commercial zoning designation is to accommodate certain commercial uses that are compatible with the neighborhood. The Planned use qualifier provides the procedural framework to address site-specific opportunities and concerns and lessen potential development impacts to adjacent areas and uses through site design. Because Area 10 is in proximity to existing residential uses in Areas 4 and 8, only office uses as defined in Title 20 of the Bellingham Municipal Code are currently permitted in this area. Subsequent development in this area should incorporate into the site plan mitigating measures to ease possible detrimental impacts which might accrue to nearby residential neighborhoods, while providing for an effective end to southerly expansion of commercial development.

This area of the Samish Neighborhood is located in the Connelly Creek watershed and includes existing mature vegetation. The topography of the area slopes from east to west. Steep slopes are located in certain areas within Area 10; therefore, development should reflect minimization of grading consistent with slope constraints. Views from upland properties should be considered when developing or redeveloping the site.

Area 10 is primarily served by Samish Way, a classified secondary arterial street. As such, vehicle access should be limited from Samish Way to a minimum number of curb cuts to be determined prior to future development. Fire flow improvements to the water system in this area may be necessary prior to future development.

AREA 10 LAND USE DESIGNATION: COMMERCIAL
<table>
<thead>
<tr>
<th>Area</th>
<th>Zoning</th>
<th>Use Qualifier</th>
<th>Density</th>
<th>Special Conditions</th>
<th>Prerequisite Considerations</th>
<th>Special Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>Commercial</td>
<td>Planned</td>
<td>N/A</td>
<td>Access, street improvements, view, topography, buffers.</td>
<td>Adequate fire flow.</td>
<td>Uses are limited to offices only (as defined in BMC 20.08.020)</td>
</tr>
</tbody>
</table>
SAMISH NEIGHBORHOOD ZONING

AREA ZONING DESIGNATION

1. Commercial, Auto
2. Commercial, Planned
2A. Res. Multi, Planned
3. Res. Multi, Planned
4. Res. Single
5. Res. Single
5A. Res. Single
6. Res. Single
7. Public, Open Space/Park/Recreation
8. Res. Multi, Planned
9. Commercial, Planned
10. Commercial, Planned

The map illustrates the zoning areas within the Samish Neighborhood, with specific designations and boundaries. The legend on the right side of the map provides a key for interpreting the colors and areas designated for different uses. The map does not contain any textual annotations or additional details that are not visible in the image.
SUMMARY
Following the public hearing and deliberation on the proposed Samish Neighborhood Plan and Bellingham Municipal Code (BMC) amendments to rezone 801 Samish Way in Area 4 of the Samish Neighborhood from Residential, Single to Commercial, Planned, offices only, the Bellingham Planning Commission has determined that the changes are consistent with and will implement the comprehensive plan amendment criteria in BMC 20.20.040, the rezone criteria in BMC 20.19.030, and the goals and policies of the comprehensive plan. The Commission further finds that the proposed amendments will facilitate the relocation of a long-standing psychology practice to an existing building along a secondary arterial and transit route.

I. FINDINGS OF FACT

1. Proposal Description:
Text amendments to the Samish Neighborhood Plan and BMC 20.00.150 to rezone 801 Samish Way of the Samish Neighborhood from Residential, Single to Commercial, Planned, offices only. The applicant has indicated that the amendments are intended to support the relocation of a psychology practice to the site’s existing building.

2. Background Information/Procedural History:
July 21, 2014: City Council received a request at the public hearing establishing the 2014-2015 docket from Pacific Harbor Holdings, LLC to include a request to rezone 801 Samish Way from Residential, Single to Commercial, Planned, non-retail.

August 4, 2014: City Council directed the applicants to follow the docketing procedures in the Bellingham Municipal Code prior to coming back to Council for a final decision.

August 8, 2014: The applicants submitted a docketing application.


October 13, 2014: Council docketed the proposal.

3. Public Comments:
Notice of the Planning Commission public hearing was mailed to property owners within 500 feet of the subject property, in addition to neighborhood representatives, neighborhood
associations, and other parties with an interest in this topic. Notice was also published in the Bellingham Herald 30 days prior to the hearing.

A pre-application neighborhood meeting was held on November 6, 2014. Several attendees expressed concerns regarding an expansion of Commercial zoning along Samish Way. Some attendees also expressed support for the project, stating that the proposal will have a minimal impact on its surroundings and provide a needed service for the community.

One public comment was submitted prior to the public hearing. Lynda Thompson stated that she had submitted a letter of support with the docket application, but is now in opposition to the rezone. See the February 19, 2015, Planning Commission meeting minutes for additional public comments from the public hearing.

4. State Environmental Policy Act (SEPA) Determination:

A non-project SEPA Determination of Non-Significance was issued by the City of Bellingham on January 14, 2015. Notice was mailed to the appropriate agencies and published in the Bellingham Herald and on the City's website.

5. Consistency with the Bellingham Comprehensive Plan and Review Criteria:

**Comprehensive/Neighborhood Amendment Criteria**

**BMC 20.20.040 - Decision Criteria**

Petitioners requesting amendments to the 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 City Council to evaluate amendment requests:

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

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 Planning Commission finds the proposed amendments are consistent with the infill and economic development goals of the Washington State Growth Management Act (GMA). The rezone would facilitate the relocation of a long-standing business to an existing building served by existing public facilities and services. Relevant GMA goals include the following:

- Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner;
- Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, and promote the retention and expansion of existing businesses; and
- Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.
The Planning Commission finds that this criterion has been met.

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 1980 Samish Neighborhood Plan was repealed and replaced with an updated version in 2007. Since the plan’s original adoption, properties within the vicinity of 801 Samish Way have been developed with institutional (i.e. churches and the Elks Lodge), multi-family and single-family uses. Area 9, which is across the street from the subject site, is going through a rezone process to facilitate residential development of a long-vacant site, furthering change along the Samish Way corridor. Commercial uses have continued north of the site along Samish Way and Lincoln Street.

Additionally, the GMA and City-wide plans and policies, including the comprehensive plan’s economic development chapter and infill strategies, were not in place when the original neighborhood plan was adopted. By repurposing an existing building served by existing public utilities and services, the psychology practice will support economic development while maintaining neighborhood character. Lastly, the psychology practice provides a necessary service to the community and fulfills several comprehensive plan goals. Specific goals and policies from the comprehensive plan that support the proposal include the following:

- VB-2: Bellingham’s way of accommodating growth while retaining a compact form is to emphasize infill...
- VB-42: Residents benefit from access to quality health and child care through programs supported by public and private resources and keyed to households’ economic resources.
- FPG-3: Economic vitality is essential in achieving other comprehensive plan goals. Promoting employment diversity and improving wage levels relative to state and national averages are among the highest priority City goals.
- FLU-1: It is the City’s overall goal to preserve and protect the unique character and qualities of the existing neighborhoods...
- LU-46: Commercial land use designation shall provide a well-distributed system of commercial uses that serve community residents.
- HP-20: Encourage infill development on land which remains vacant or underutilized, in otherwise built-up areas.
- Policy ED-19: Support the retention and growth of Bellingham’s small businesses.
- Policy ED-26: Ensure that there are suitable locations for these targeted employment sectors (includes health care).
- Policy ED-38: Identify and remove barriers to redeveloping underutilized and/or vacant land and buildings.

The Planning Commission finds that this criterion has been met.

3. The proposed amendment will result in long-term benefit to the community and is in the community’s overall best interests;
The applicant intends to occupy the existing church building at 801 Samish Way with a psychology practice, which will provide mental health care opportunities for the community in an area near the interstate and on a transit route. This type of project supports several community goals, including the use of a site served by existing infrastructure and the provision of health care options throughout the community.

It appears unlikely that the applicant’s proposal will need a planned development permit if the thresholds in BMC 20.38.030.C are not exceeded. However, if the thresholds are exceeded, any potential impacts associated with an individual development proposal will be evaluated through the planned development permitting process, which seeks to lessen development impacts to adjacent areas through site design and mitigating measures. Per BMC 20.38.020, the planned use qualifier is intended to provide a procedural framework that addresses site-specific opportunities and concerns and lessens development impacts to adjacent areas through site design and necessary mitigating measures. Additionally, the Commercial, Planned designation provides flexible design standards that ensure compatibility between the site and the development, as well as between the development and the surrounding area.

The Planning Commission finds that this criterion has been met.

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

The area is served by existing utilities such as sewer and water and public services such as police, fire, schools, transit and parks. Future development will be required to show that there is capacity in the City's water distribution and sewer and stormwater conveyance and treatment systems to handle the impacts from the proposed development. If facilities are not adequate, development cannot proceed until improvements are made. It has been identified and is noted in both the Samish Neighborhood Plan and BMC that fire flow improvements to the water system in this area may be necessary prior to future development. Per public works staff, as the applicants intend to utilize the existing building for their practice, it is unlikely the change in use will trigger the fire flow improvements. Regarding the transportation system, see the discussion below.

As was noted earlier in this report, the Planning Commission recommended approval of a change in zoning to facilitate a potential residential project for Area 9 in November. Throughout the docketing and rezoning process thus far, residents have expressed concerns regarding the cumulative impacts of the Area 9 and 801 Samish Way proposals, particularly those related to traffic. As such, public works staff reviewed existing transportation and collision data within the vicinity of the proposals. Samish Way is a secondary arterial with an average of 7,100 vehicles per day. According to staff, this figure is on the lower end of vehicles per day typical of secondary arterials in Bellingham. Regarding collision data in the area for the past six years, staff did not find a "significant" collision history. Any future development proposal will be reviewed to determine the project's transportation impact fees and the adequacy of the transportation network to accommodate the project (i.e. transportation concurrency).

The Planning Commission finds no evidence to suggest that approval of the neighborhood plan amendments and rezone will adversely affect the public health,
safety, or general welfare. The applicants intend to repurpose the site's existing building, conducting primarily interior renovations and retaining the look and feel of the site today. The proposed psychology practice is an office use that is expected to operate only during regular business hours (Monday - Friday) and will provide a needed service to the community (i.e. mental health services).

If, at any time in the future, the site were to redevelop, site design would be required to meet the minimum Commercial, Planned development standards reviewed through a planned development permitting process. Structures within a Commercial, Planned zone cannot be located within 20 feet of any residential general use type designation, nor can they exceed 35 feet in height when within 100 feet of the site plan boundary lying adjacent to a residential general use type area.

The Planning Commission finds that this criterion has been met.

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

This proposal includes a rezone. See the rezone criteria listed below.

The Planning Commission finds that this criterion has been met.

**Rezone Decision Criteria, BMC 20.19.030**

The city may approve or approve with modifications an application for a rezone of property if:

**A. It is consistent with the comprehensive plan or corresponds to a concurrent comprehensive plan amendment application;**

The proposal includes a comprehensive plan amendment request. The rezone proposal is consistent with a number of comprehensive plan goals as discussed under comprehensive plan amendment criterion #2.

The Planning Commission finds that this criterion has been met.

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

Based on the review of comprehensive plan amendment decision criteria #3 and #4, staff finds that the proposed rezone will not adversely affect health, safety and welfare and will result in a long-term benefit to the community.

The Planning Commission finds that this criterion has been met.

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

See the discussion under comprehensive plan amendment decision criterion #3.

The Planning Commission finds that this criterion has been met.

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

The subject site and existing building are suitable for a psychology practice under the proposed Commercial, Planned, offices only zoning designation. The applicants do not propose new development; thus, the existing building will receive interior modifications and some exterior improvements.

The property includes mature trees and steep slopes in excess of 30% in some locations. Per the requirements of the planned designation, existing drainage courses of significance, topography, significant treed areas and other natural features should be protected to the greatest extent possible with new development. A planned development proposal, which would include a site plan and environmental checklist, among other requirements, would be required with any new development proposal.

Because of the property's proximity to other non-retail uses (i.e. institutional, multi-family, and single-family uses), the uses on the site should be limited to those that are compatible and minimize the possible detrimental effects on surrounding developed properties. The purpose and intent of a Commercial, Planned zone is to accommodate retail and personal service uses under a land use designation that provides some level of flexibility in site development standards, which could not be provided through the standard Commercial regulations. Given the proximity of single-family residential uses to the site and the potential impacts of some of the uses listed in the Commercial, Planned zone, the site's uses should be limited to office uses.

Bellingham Municipal Code 20.08.020 defines an Office use as:

"Office" means a use within a building where services of a clerical, professional, or medical nature are rendered and where the retail sale of goods within said structure is nonexistent or incidental to the primary use. Uses shall include the following:

A. Banks and other financial institutions; except those which provide automotive drive up service.
B. Other financial establishments such as stock brokerages, security exchanges, investment companies, etc.
C. Insurance establishments, including carriers, agents and brokers.
D. Real estate offices.
E. Law offices.
F. Medical offices (all types related to human health care).
G. Advertising agencies.
H. Consumer credit reporting and collection agencies.
I. Computer and data processing service establishments.
J. Detective agencies.
K. Management, consultant and public relation service establishments.
L. Membership organizations, such as labor union, chamber of commerce.
M. Engineering, architectural, and surveying services.
N. Accounting and bookkeeping services.
O. Public offices.
P. Travel agencies.
Q. Uses similar to the above.

The Planning Commission finds that this criterion has been met.
E. Adequate public facilities and services are, or would be, available to serve the development allowed by the proposed zone;

The developed site is currently served by existing public facilities and services. Per the neighborhood plan and BMC, fire flow improvements to the water system in this area may be necessary prior to future development, although no new development is proposed by the applicants. The project's public facilities' needs will be further reviewed and evaluated through the permitting process for the new use.

Also see the discussion under comprehensive plan amendment decision criterion #4.

The Planning Commission finds that this criterion has been met.

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

The site borders multi-family and single-family residences, as well as vacant parcels. It is also buffered on three sides by vegetation, proposed for retention with the proposed office use. The applicants also state that the psychology practice will operate exclusively on weekdays and generate low traffic counts, as most appointments are one to three hours in length. Transportation issues are further discussed above in comprehensive plan amendment decision criterion #4.

Per BMC 20.38.020, the "planned" use qualifier is intended for areas that are adaptable to flexible development and/or where review of pending development proposals is necessary to ensure that adequate provisions are taken to minimize possible detrimental effects. The procedural framework seeks to preserve, to the greatest extent possible, the existing landscape features, addresses site-specific opportunities and concerns, and lessens development impacts to adjacent areas through site design and necessary mitigating measures. The Commercial, Planned zone is also intended to ensure compatibility between the development and the surrounding area; therefore, this zoning designation with the Special Regulation to only allow office uses is appropriate for the site given the nearby residential zones and uses.

The Planning Commission finds that this criterion has been met.

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
   2. The rezone will correct a zone classification or zone boundary that was inappropriate when established; or
   3. The rezone will implement the policies of the comprehensive plan.

   Conditions in the vicinity of the subject project have changed as noted in comprehensive plan amendment decision criterion #2.

   The proposed rezone will implement a number of comprehensive plan goals as outlined in comprehensive plan amendment decision criterion #2.
The Planning Commission finds this criterion has been met.

The Planning Commission finds that the proposal meets the comprehensive/neighborhood plan amendment criteria in BMC 20.20.040 and the rezone criteria outlined in BMC 20.19.030, is consistent with the Bellingham Comprehensive Plan, and helps achieve the comprehensive plan's goals and policies.

II. CONCLUSION

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

1. The proposed rezone and amendments to the Samish Neighborhood Plan for the property located at 801 Samish Way meet the comprehensive plan and neighborhood plan amendment criteria in BMC 20.20.040 and the rezone criteria in BMC 20.19.030.

2. The proposed rezone and amendments to the Samish Neighborhood Plan result in a public benefit by facilitating the relocation of a long-standing psychology practice to an existing building along a secondary arterial and transit route.

3. The proposed rezone and amendments to the Samish Neighborhood Plan are supported by staff. The proposal would not raise significant planning issues, create neighborhood-wide impacts, or adversely affect the public health, safety, and general welfare of the community.

4. The proposed rezone and amendments to the Samish Neighborhood Plan comply with, and will implement, the goals and policies of the Bellingham Comprehensive Plan.

5. Given the proximity of single-family residential uses to the site and the potential impacts of some of the uses listed in the Commercial, Planned zone, the site's uses should be limited to office uses.

III. RECOMMENDATION

Based on the Findings and Conclusions, the Planning Commission recommends that the City Council approve the proposed rezone from Residential, Single to Commercial, Planned, offices only and amendments to the Samish Neighborhood Plan to add a new subarea, Area 10, to the Samish Neighborhood as shown in EXHIBITS A - D in the ordinance.

ADOPTED this 19th day of February, 2015

Planning Commission Chairperson

ATTEST:
Recording Secretary

APPROVED AS TO FORM:

City Attorney