ORDINANCE NO. 2013-04-026

AN ORDINANCE OF THE CITY OF BELLINGHAM RELATING TO BELLINGHAM MUNICIPAL CODE 20.00.095, KING MOUNTAIN NEIGHBORHOOD TABLE OF ZONING REGULATIONS, FOR AREA 14A AMENDING THE USE QUALIFIER, DENSITY, SPECIAL CONDITIONS PREREQUISITE CONSIDERATIONS, AND SPECIAL REGULATIONS.

WHEREAS, on March 29, 2012, the Planning and Community Development Department received a docketing application from Jack Swanson, on behalf of the property owners Edgewater Park, LLC, Sunrise Park Holdings, LLC, and Ahi Ohana, LLC, requesting amendments to the King Mountain and Iron Gate Neighborhoods and rezoning Area 14A of the King Mountain Neighborhood; and

WHEREAS, the City Council conducted a public hearing on July 23, 2012 and placed the King Mountain proposal on the annual 2012-2013 comprehensive plan amendment review; and

WHEREAS, the Director of Planning and Community Development received an application for the initiated rezone to 1) repeal the site plan associated with the existing zoning, 2) increase the residential density from 5,000 to 3,600 square feet per unit, 3) allow medical office and related medical uses within a specific portion of the subarea, and 4) remove James Street as a Prerequisite Consideration within Area 14A of the King Mountain Neighborhood; and

WHEREAS, the property owners did not pursue the docketed Comprehensive Plan Amendment for the King Mountain and Iron Gate Neighborhoods; and

WHEREAS, on November 20, 2012, the City of Bellingham as lead agency under the procedures of the State Environmental Policy Act (SEPA), issued a non-project Determination of Nonsignificance for the requested rezone; and

WHEREAS, on November 26, 2012, the required Notice for 60-day Review of Rezone was sent to the Washington State Department of Commerce; and

WHEREAS, the Bellingham Planning Commission held a public hearing on December 6, 2012, and reviewed the proposal for compliance with the rezone criteria as established in Bellingham Municipal Code 20.19.030, and thereafter adopted Findings of Fact, Conclusions, and Recommendation dated February 7, 2013 that

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-7900
recommends approval of the rezone request as submitted by the applicant with additional conditions that included the construction and dedication of Orchard Drive as a prerequisite consideration and imposed provisions related to the medical uses; and

WHEREAS, the proposed rezone request is consistent with the City’s Comprehensive Plan by addressing infill and sprawl reduction goals and policies, allowing medical related uses that are compatible with surrounding uses, promoting, economic strategies, and addressing the appropriate improvements to the area’s transportation and trail network; and

WHEREAS, the Bellingham City Council held a public hearing on February 25, 2013 to consider the proposed rezone request; and

WHEREAS, the City Council agrees with the Findings of Fact, Conclusions and Recommendation of the Planning Commission.

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. The City Council adopts the December 6, 2013 Bellingham Planning Commission Findings of Fact, Conclusions, and Recommendation, attached as Exhibit A.

Section 2. The Bellingham Municipal Code 20.00.095, King Mountain Neighborhood Zoning Table for Area 14A, is amended to 1) repeal the site plan attached as Exhibit A of the previous zoning, 2) establish a density of 3,600 square feet per unit, 3) include provisions to allow medical offices and medical related uses within a specific portion of the subarea, 4) add a provision for trail connections, and 5) amend the use qualifier, special conditions, and prerequisite considerations, as shown on Exhibit B.

PASSED by the Council this 22nd day of April, 2013.

[Signature]
Council President

APPROVED by me this 26th day of April, 2013.

[Signature]
Mayor

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-7900
BELLINGHAM PLANNING COMMISSION FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS

DECEMBER 6, 2012

SUMMARY
Following the public hearing and deliberation on the proposed rezone of Area 14A, King Mountain Neighborhood, the Planning Commission has determined that the proposed zoning changes comply with the rezone criteria BMC 20.19.030 A. The Planning Commission further finds that the proposal is consistent with, and will implement, the goals and policies of the Bellingham Comprehensive Plan.

I. FINDINGS OF FACT

1. Project or Proposal Description

On October 1, 2012, Jack Swanson, on behalf of Edgewater Park, LLC, Sunrise Park Holdings, LLC, and Ahi Ohana, LLC, submitted a rezone application for Area 14A of the King Mountain Neighborhood. The request does not include a comprehensive plan amendment. The rezone is a legislative action that includes the following requests:

1. Repeal the site plan associated with the existing zoning;
2. Increase the residential density from 5,000 to 3,600 square feet per unit;
3. Allow medical office and related medical uses within a specific portion of the subarea, and
4. Remove the Prerequisite Consideration requiring James Street improvements.

Area 14A is approximately 42 acres and located at the northwest corner of James Street and Orchard Drive (unimproved). The owners listed above have sole ownership of those parcels within Area 14A. The request would apply to all of Area 14A.

2. Background Information/Procedural History

December 2005 – Hearing Examiner approved the Meadow Ridge preliminary plat consisting of 36 single-family lots in the northern portion of the site.

December 2006 – City approved the current comprehensive plan and zoning designations by Ordinance No. 200-12-123.

September 2007 – Applicant submitted a planned permit and design review applications to develop 50 multifamily units in the northeast corner of the site. These applications have expired.

June 2012 – James Street and Orchard Drive are listed in the 2013-2018 Transportation Improvement Program.
October 1, 2012 - City received the rezone application.

November 19, 2012 - Applicant submits a revised rezone request to remove the Prerequisite Consideration for the James Street improvements and eliminating the request to establish a density for medical care facilities.

December 6, 2012 - The Planning Commission held a public hearing on the proposal.

3. Public Comment -

August 28, 2012 – A pre-applicant conference with City staff is held for the rezone.

September 5, 2012 - Applicant holds a neighborhood meeting for the rezone at the Building Industry Association of Whatcom County.

November 5, 2012 - A public hearing notice was mailed to property owners, neighborhood representatives and associations, and other interested parties. Notice was also published in the Bellingham Herald. Public comment received for this proposal raised issues regarding possible impacts to James Street corridor.

4. State Environmental Policy Act (SEPA) Determination –

A non-project SEPA determination of Non-Significance was issued by the City of Bellingham on November 20, 2012.

5. Consistency with the BMC Rezone Review Criteria -

In order to be approved, the proposal must be found to be consistent with the rezone criteria in Bellingham Municipal Code 20.19.030 A. as follows:

1. The proposal is consistent with the comprehensive plan or corresponds to a concurrent comprehensive plan amendment application.

The Planning Commission finds the proposed rezone is generally consistent with the comprehensive plan. The proposal will address a number of the comprehensive goals and policies:

- The proposed zoning addresses the comprehensive plan's infill and sprawl reduction goals and policies by providing for an increase in density in an area close to services, recreational amenities, and other employment centers. The proposed increase to 12 units/acre would allow a level of development that is in the range needed to support transit services.
- The new zoning includes the allowance for medical uses that are compatible with the surrounding area. This will promote the economic strategies identified in the comprehensive by providing the potential for jobs opportunities for skilled workers in close proximity to residential areas and the hospital. The health care sector of Bellingham's economy is a significant source of employment. Mixing
land uses on a single site is one of the primary components of successful infill development projects.

- The new zoning addresses the impacts of the proposed development by requiring appropriate improvements to the area's transportation and trail network.
- The new zoning would not be encumbered by an outdated site plan. The staff indicated that adopting a very specific site plan into the zoning as was done in 2006 is very speculative, in that it does not provide the flexibility that is needed to respond to changing circumstances and changes in the market. The staff stated that this was a lesson learned from the 2006 rezone, and as a result, they don't recommend adopting specific development plans into the zoning as was done on this property. Having to come back and revisit zoning such as is being done with this current process is not an efficient use of staff resources, nor is it good for property owners trying to respond to changes in circumstances.

2. The proposed rezone will not adversely affect the public health, safety and general welfare.

The Planning Commission finds the proposal will not adversely impact the public health, safety or general welfare. Impacts from the development will be addressed by the City's development and environmental regulations. Future development proposals will be required to:
- meet the City's environmental protection standards;
- meet transportation concurrency requirements or provide the improvements necessary to meet concurrency;
- pay transportation impact fees;
- meet the City's multifamily design requirements for multifamily development;
- dedicate and construct a north/south trail through the site to connect to the Bay to Baker Trail;
- pay park impact fees;
- pay school impact fees;
- provide buffering from Interstate 5 and from adjacent single-family development.

The Commission also noted the other multifamily developments and densities that are near the subject property. It is clear from the record that development of a mix of land uses on the subject property and at the proposed density is appropriate and will not adversely affect the public health, safety and welfare.

3. The proposed rezone is in the best interests of the residents of Bellingham.

The proposal addresses many of the comprehensive plan goals and policies as explained in rezone criteria #1. Having zoning that will result in development that furthers the comprehensive plan's goals is in the community's best interests.

In addition, the transportation improvements, trail corridors, construction employment, sales tax revenue, and increased property values that will occur as a result of development of the site will provide benefits to the City. Revenues generated from development and increased property values help the City fund and maintain the public
safety and emergency medical services, and the parks, schools, and cultural facilities that the community desires and expects.

The rezone will contribute to the Orchard Street extension project, which is a multimodal facility that will eventually provide access to the St Joseph Hospital campus from the north central portion of the city.

Health care is an important sector of Bellingham's economy. St. Joseph's Hospital is Whatcom County's largest employer. There is clearly a demand for additional property zoned for medical offices and support uses near the hospital's main campus. The proposal also provides the opportunity for medical offices and supporting uses to residents in the surrounding area. The location of these medical uses is a logical extension of the institutional campus that includes the hospital and those medical uses along Birchwood Avenue.

For these reasons and the reasons cited under rezone criteria #2, the Planning Commission finds that the rezone will provide a public benefit and is in the best interests of the residents of Bellingham.

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

As stated under the previous rezone criteria, the current zoning of the subject property does not work. During the City's review of the 2006 comprehensive plan and rezone proposal, it was determined that the property was suitable for development under the proposed zoning standards at that time. However, due to changes in the economy, the original zoning standards do not provide the opportunity or flexibility to change with market conditions, especially with housing units identified on the approved site plan. Under the proposed zoning, the property owner would have the ability to develop the property consistent with changing market conditions. The added zoning standards for the Orchard Street extension project, required infrastructure improvements in the James Street corridor, and the proximity to the hospital make this an ideal location to allow medical uses.

The proposed "planned" zoning designation will require the master planning of the site, enable the City to obtain the necessary mitigation for impacts created by the development, and fulfill the identified goals and policies of the comprehensive plan. Therefore, the Planning Commission finds the subject property suitable for development in conformance with the proposed zoning.

5. Adequate public facilities and services are, or would be, available to serve the development allowed by the proposed rezone.

The Planning Commission finds that adequate public facilities and services are in place or will be extended with development. A traffic study will be required when a specific development proposal is submitted. Improvements identified in the study necessary to mitigate potential impacts from the increased density and medical uses will be required. Any necessary improvements to sewer, water and stormwater facilities needed as a result of the development would be the responsibility of the property owners.
6. It will not be materially detrimental to uses or property in the immediate vicinity of the subject property.

The residential component of the proposal is consistent with the adjacent residential uses in the surrounding area. The proposed residential density of 3,600 square foot per unit is an appropriate zoning for properties centrally located within the City with access to services, employment and recreational facilities. Also, the proposed density is consistent with the majority of the multi-family residentially zoned properties in the King Mountain Neighborhood. The identified transportation improvements will address impacts from the proposal. The mixed-use component will also benefit the immediate vicinity by creating additional medical related uses and an alternative transportation route to the hospital.

Application of the City’s development regulations, environmental standards, and design guidelines will ensure that the proposal is not detrimental to adjacent areas. As a result, the Planning Commission finds that this criteria has been met.

7. The proposal is appropriate because either:
   a. 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
   b. The rezone will correct a zone classification or zone boundary that was inappropriate when established; or
   c. The rezone will implement the policies of the comprehensive plan.

The Planning Commission finds that conditions have changed since the current zoning was established in 2006 for Area 14A of the King Mountain. The applicant has provided justification that the 2006 approved site plan is no longer feasible under the current economy.

With the annexations that have occurred since 2006, this property is now centrally located and provides an excellent opportunity for residential infill with some mix of housing types and land uses.

Adding the Orchard Street extension to the 2013-2018 Transportation Improvement Program is a change that warrants the opportunity to allow medical uses on the east side of the freeway.

The Commission finds that the proposal will implement the policies of the comprehensive plan as explained in review criteria #1.
II. Conclusions

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

1. Properly conditioned, the proposed rezone satisfies the rezone review criteria in BMC 20.19.030 A (1-7).

2. Adopting a specific site plan into the zoning for a site is not appropriate.

3. The City's development regulations will address the appropriate improvements to James Street as development occurs. Therefore, the James Street improvement prerequisite can be removed from the zoning.

4. The proposal provides an opportunity to increase the available land zoned to allow additional support services to St. Joseph's Hospital main campus and the existing medical offices uses along Birchwood Avenue.

5. The required improvements to Orchard Drive and the north/south pedestrian trail will provide benefits to the area around the subject site and to the rest of the city.

6. Approval of the rezone does not constitute approval of a project-level development proposal. Subsequent review of land use permit applications in accordance with BMC 16, 18, 20, and 21 will be required to obtain approval of permits authorizing development of the site.

III. Recommendations

Based on the findings and conclusions, the Bellingham Planning Commission recommends that the City Council approve the rezone request, including the following components:

1. Repeal the site plan associated with the existing zoning. Development of the site under the proposed zoning will be done in a coordinated fashion through the planned permit and design review processes.

2. Increase the residential density from 5,000 to 3,600 square feet per unit.

3. Allow medical office and related medical uses within a specific portion of the subarea.

4. Removing the Prerequisite Consideration requiring James Street improvements from the zoning. Improvements to James Street are required by the City's development regulations. Frontage improvement under current code requires construction of James Street to ½ secondary, arterial standards. This standard includes travel lanes, bike lanes, and pedestrian facilities.

5. Include a "Prerequisite Consideration" in the zoning table of Area 14A for the Orchard Street extension project. The dedication and construction of Orchard Drive
west of James Street beneath the Interstate-5 freeway bridge to Birchwood Avenue is identified in the comprehensive plan and is an approved project in the 6-year TIP. The anticipated location of the street aligns with the eastern half of the vacated Orchard Drive. Development within Area 14A should contribute to this connector by dedicating right-of-way and constructing the portion of the Orchard Street extension abutting the subarea to ¾ secondary arterial standards.

6. The Planning Commission recommends the City Council amend the zoning table for Area 14A as shown below:

**Proposed Bellingham Municipal Code 20.00.095**

**King Mountain Table of Zoning Regulations**

<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>14A</td>
<td>Residential, Multi</td>
<td>Planned, Mixed, Neighborhood Commercial Uses Allowed, Retail and personal services not to exceed 10,000 sq. ft. of total floor area within Area 14A</td>
<td>Shall be limited to the equivalent of 1 residential unit per 5,000 sq. ft. of gross site area within Area 14A prior to any dedication of land for public purposes.</td>
<td>Buffering/screening of l-5 and from adjacent single family designations, Primary access at the Orchard Drive/James Street intersection.</td>
<td>Construction of Orchard Drive in a plan approved by the City. Dedication and construction of a north/south public trail through the site along the western portion of Area 14A with a connection to the Bay to Baker Trail in a location approved by the Parks and Recreation Department.</td>
<td>No minimum lot size, no public street frontage required for individual lots, reduced yard setbacks permitted, no maximum lot coverage requirement, street standards may be reduced. Actual standards shall be established through the planned development process. Development of the subarea should be generally consistent with the site-plan and design elements depicted in Exhibit “A”. Medical offices and medical related uses are exempt from the density limitations provided Orchard Street Extension is constructed as a through road, the medical uses comprise no more than 12 acres of the site fronting Orchard Drive, and the medical uses are planned as a campus.</td>
</tr>
</tbody>
</table>
ADOPTED this ___ day of February, 2013.

[Signature]

Planning Commission Chairperson

ATTEST: 

[Signature]

Recording Secretary

APPROVED AS TO FORM:

[Signature]

City Attorney
<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>14A</td>
<td>Residential</td>
<td>Planned, Mixed, Neighborhood</td>
<td>Shall be limited to the equivalent of 1 residential unit per 5,000 sq. ft.</td>
<td>Buffering/screening of I-5 and from adjacent single family designations required. Primary access at the Orchard Drive/James Street intersection.</td>
<td>Construction of James Street from Woodstock Way-to-and across-the-full frontage of the site as a 3/4 secondary arterial-standard with bike lanes, curb-setback, sidewalk, street trees and arterial-street lighting.</td>
<td>No minimum lot size, no public street frontage required for individual lots, reduced yard setbacks permitted, no maximum lot coverage requirement, street standards may be reduced. Actual standards shall be established through the planned development process.</td>
</tr>
<tr>
<td></td>
<td>Multi</td>
<td>Commercial</td>
<td></td>
<td></td>
<td>Dedication and construction of Orchard Drive in a plan approved by the City.</td>
<td>Development of the subarea should be generally consistent with the site plan and design elements depicted in Exhibit &quot;A&quot;.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Commercial</td>
<td></td>
<td></td>
<td>Dedication and construction of a north-south public trail through the site along the western portion of Area 14A with a connection to the Bay to Baker Trail in a location approved by the Parks and Recreation Department.</td>
<td>Medical offices and medical related uses are exempt from the commercial density limitations provided Orchard Street Extension is dedicated and constructed to arterial standards as a public right-of-way.</td>
</tr>
</tbody>
</table>

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-7900