ORDINANCE NO. 2015-06-024

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 AREA 9 OF THE SAMISH NEIGHBORHOOD FROM COMMERCIAL, PLANNED, NON-RETAIL TO COMMERCIAL, PLANNED.

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 BMC 20.20 and BMC 21.10.150; and

WHEREAS, the proposed amendments to the Samish Neighborhood Plan and BMC would rezone Area 9 of the Samish neighborhood from Commercial, Planned, non-retail, to Commercial, Planned; and

WHEREAS, 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; and

WHEREAS, the amendments would facilitate development of a long-standing undeveloped infill site along a secondary arterial and transit route; and

WHEREAS, on June 19, 2014, the Planning Commission held a public hearing regarding the 2014-2015 docket requests and recommended to the City Council that the Samish Neighborhood Plan, Area 9, and BMC 20.00.150 amendments be placed on the 2014-2015 docket; and

WHEREAS, on August 4, 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 August 25, 2014, regarding the proposed neighborhood plan and BMC amendments; and
WHEREAS, the responsible official reviewed the proposed amendments under the procedures of the State Environmental Policy Act, and a non-project Determination of Non-Significance was issued on October 29, 2014; 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 November 4, 2014; 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 amendments on November 20, 2014; 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 comments received and thereafter made Findings of Fact, Conclusions and Recommendations for adoption of the proposed amendments; 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 March 23, 2014; and

WHEREAS, the City Council considered the recommendation of the Planning Commission, the staff report, and the public comment 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, Area 9, 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, Area 9, is hereby amended as shown in EXHIBIT A.

Section 2. Bellingham Municipal Code 20.00.150, the Samish Neighborhood Table of Zoning Regulations, is hereby amended as shown in EXHIBIT B.

Section 3. The City Council adopts the Findings of Fact, Conclusions and Recommendations of the Planning Commission dated November 20, 2014, attached as EXHIBIT C.
PASSED by the Council this 15 day of June, 2015

Council President

APPROVED by me this 22nd day of June, 2015

Mayor

ATTEST: Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

Published: June 19, 2015
EXHIBIT A

SAMISH NEIGHBORHOOD PLAN

AREA 9
Area 9 is approximately 1.8 acres in size and bordered by Samish Way to the east and Interstate 5 to the west. This area is surrounded by residential zoning; however, adjacent properties to the north, south, and east have been developed with non-residential uses. Under the Commercial land use designation, a variety of uses may be permitted such as, but not limited to, retail, office, institutional, mixed, and residential uses that would serve the area, as well as provide opportunities to live and work in the neighborhood.

This area of the Samish neighborhood is located in the Connelly Creek watershed and flows west into Padden Creek. Deciduous and evergreen trees are located throughout Area 9 and the topography of the area slopes from east to west. Critical areas classified as steep slopes may be located in certain areas within Area 9, as well as within the adjacent Interstate 5 right-of-way to the west. Further site analysis may be necessary to determine the classification and location of these geologically hazardous areas prior to future development within Area 9. Critical areas and associated buffers should be protected and incorporated into the site design as development occurs.

Area 9 is primarily served by Samish Way, a classified secondary arterial street. Future development within this area should meet the minimum street standards as required by City code and vehicle access should be limited. Fire flow improvements to the water system in this area may also be necessary prior to future development.

This property because of its proximity to existing nonresidential uses and the noise emanating from Interstate 5 is classified as Planned Commercial — Non-retail. Subsequent development upon this property 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.

Possible uses shall be limited to offices; branch post offices, banks, financial institutions and libraries; consumer credit agencies; computer data services; public uses, parks, and utilities; churches; and recycling centers. "Access" should be limited from Samish Way to a minimum number of curb cuts; "street improvements" point to the need for curb, gutter and sidewalk and possible street widening on Samish Way adjacent to the property; "view" from upland property should be considered by limiting the height of the structures to 20 feet above the lowest point of the property line abutting Samish Way; "topography" shall reflect minimization of grading by use of multi level parking areas and structures consistent with slope constraints; "buffers" should be provided adjacent to Samish Way right-of-way by berming and landscaping of required yards.

Fire flow improvements to the water system in this area may be necessary prior to future development.

AREA 9 LAND USE DESIGNATION: COMMERCIAL
## Bellingham Municipal Code

**20.00.150 Samish Neighborhood 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>
</table>
| 9    | Commercial                 | Planned, nonretail (See Special Regulations for uses) | N/A     | Access, street improvements, view, topography, buffers. | Adequate fire flow.          | Uses are permitted as specified in BMC 20.38, except:
                                                                                                              |                                | 1) Residential uses are permitted outright.                                                                 |
                                                                                                              |                                | Uses limited to offices, branch post offices, banks, financial institutions and libraries, consumer credit agencies, computer data services, public uses, parks and utilities, churches, and recycling centers. |
SUMMARY
Following the public hearing and deliberation on the proposed Samish Neighborhood Plan and BMC amendments to rezone Area 9 of the Samish neighborhood from Commercial, Planned, non-retail to Commercial, Planned, the Bellingham Planning Commission has determined that the changes are consistent with and will implement the comprehensive plan amendment criteria in Bellingham Municipal Code (BMC) 20.20.040, the rezone criteria in BMC 20.19.030, and the goals and policies of the Bellingham Comprehensive Plan. The Commission further finds that the proposed amendments will facilitate development of a long-standing undeveloped infill site 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 Area 9 of the Samish neighborhood from Commercial, Planned, non-retail, to Commercial, Planned. The applicant has indicated that the amendments are intended to support a future multi-family project.

2. Background Information/Procedural History:

In 1980, Ordinance #9242 rezoned the property to Commercial, Planned with a non-retail restriction, limiting the site's uses to offices; branch post offices, banks, financial institutions and libraries; consumer credit agencies; computer data services; public uses, parks, and utilities; churches; and recycling centers.

It appears that by limiting the scope of development uses on the site, there has been little interest in developing the site with the specified permitted uses mentioned above for the last 34 years. The Comprehensive Plan identifies goals and policies relating to removing barriers to encourage development of vacant remaining lands, providing appropriate level of code flexibility, as well as promoting infill development.

June 19, 2014: The Planning Commission held a public hearing and recommended to the City Council that the proposal be placed on the 2014-2015 docket.

August 4, 2014: The City Council held a public hearing and approved the inclusion of the proposal on the 2014-2015 docket.

3. Public Comment:

Notice of the Planning Commission hearing was mailed to property owners within 500 feet of the subject area, 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 August 25, 2014. Several attendees expressed concerns regarding an expansion of the area's commercial uses to include retail uses, as well as traffic and height. Some attendees also expressed support for the project, stating that the proposal will have a minimal impact on its surroundings and will improve the condition of the undeveloped site.

Seven letters and emails were submitted prior to the public hearing, and three people provided testimony during the hearing. Concerns included the following:

- Traffic impacts.
- Adequate public facilities.
- Lack of sidewalks and bike lanes on Samish Way.
- Height of buildings.
- Crime and safety.
- Cumulative impacts of this proposal and the rezone/neighborhood plan amendment proposal for 801 Samish Way.

A discussion occurred regarding the requirement that residential uses are permitted only in conjunction with another Commercial, Planned permitted use. Due to the nearby multi-family and single-family residences and to provide more flexibility in development options for the site, the Planning Commission recommended that residential uses be permitted outright for Area 9.

4. State Environmental Policy Act (SEPA) Determination:

A non-project SEPA Determination of Non-Significance was issued by the City of Bellingham on October 29, 2014. Notice was 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:

B.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 State Growth Management Act (GMA). The
rezone would facilitate development of a long-standing undeveloped infill site along a transit route. 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;
- Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;
- Encourage the availability of affordable housing to all economic segments of the population and promote a variety of residential densities and housing types; and
- Encourage economic development throughout the state that is consistent with adopted comprehensive plans and promote economic opportunity for all citizens of this state.

The Planning Commission finds that this criterion has been met.

**B.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, the Washington State Growth Management Act and City-wide plans and policies supporting infill development have been adopted. Additionally, properties within the vicinity of Area 9 have been developed with institutional (i.e. churches and the Elks Lodge), multi-family and single-family uses, signaling its appropriateness for a multi-family project.

The Planning Commission finds that the proposal will help achieve the City's Legacies and Strategic Commitments calling for development served by existing infrastructure. The proposal is also consistent with the goals and policies of the City's comprehensive plan, including the following:

- **VB 2:** Bellingham's way of accommodating growth while retaining a compact form is to emphasize infill.
- **Infill Strategy 1:** Make more efficient use of the remaining City land supply: facilitate development on existing lots of record...other steps necessary to make better use of the remaining land supply.
- **LU-27:** ...Any efforts to increase the allowed density in existing neighborhoods will be focused on remaining undeveloped areas.
- **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-38:** Identify and remove barriers to redeveloping underutilized and/or vacant land and buildings.

The Planning Commission finds that this criterion has been met.

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

The proposed Comprehensive Plan amendment and rezone will result in long-term benefit to the community by allowing the possibility of developing an under-utilized site under a
zoning designation that allows for a variety of commercial and residential uses that would serve community.

The applicant intends to develop the property with a multi-family residential use, which will provide housing opportunities for the community in an area that is served by existing infrastructure and located along a transit route. This type of development supports several community goals, including infill and the provision of a variety of housing types. 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.

The Planning Commission finds that this criterion has been met.

**B.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. Regarding the transportation system, see the discussion below.

As noted earlier in this report, neighborhood plan amendments for 801 Samish Way, which is directly to the east of Area 9, were recently docketed. During the docket process and pre-application neighborhood meetings, residents expressed concern regarding the cumulative impacts of both proposals, especially those related to traffic. As such, public works staff reviewed existing traffic 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, public works 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. Site improvements, such as sidewalks and lighting, will be required with any future development proposal. Site design and compatibility issues will be addressed through the Planned Development permitting process, as well as the Design Review process, if applicable. For example, 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.
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 review criteria #3 and #4, the Planning Commission 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 vacant infill site is suitable for development under the proposed Commercial, Planned zoning designation. Due to the nearby residential uses and to provide development options, the addition of "residential uses are permitted outright" to the zoning table is appropriate.

The site includes mature trees and steep slopes in excess of 30% in some locations. Per the requirements of the Commercial, Planned designation, existing drainage courses of significance, topography, significant treed areas and other natural features should be protected to the greatest extent possible. A Planned Development proposal, which will include a site plan, environmental checklist, and Design Review (if applicable), among other requirements, will be developed that reflects the intended use of the site if the rezone and comprehensive plan amendment applications are approved.

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 area is served by existing public facilities and services, including a north-south sewer main that bisects the site. Per the neighborhood plan and BMC, fire flow improvements to the water system in this area may be necessary prior to future development. The project's public facilities' needs will be further reviewed and evaluated through the Planned Development permitting process.

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**

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.

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 review criterion #2. The proposed rezone will implement a number of comprehensive plan goals as outlined in comprehensive plan amendment review criterion #2.

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 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 development of an infill site along a 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. "Residential uses are permitted outright" should be added to the Special Regulations section of BMC 20.00.150, as this use is an appropriate stand-alone use due to the nearby residential uses and to provide development options for the site.

III. RECOMMENDATION

Based on the Findings and Conclusions, the Planning Commission recommends that the City Council approve the proposed rezone from Commercial, Planned, non-retail to Commercial, Planned and amendments to the Samish Neighborhood Plan, Area 9, as shown in EXHIBITS A and B in the ordinance.

ADOPTED this 20th day of November, 2014

Planning Commission Chairperson

ATTEST:  
Recording Secretary

APPROVED AS TO FORM:

City Attorney