ORDINANCE NO. 2014-09-042

AN ORDINANCE OF THE CITY OF BELLINGHAM RELATING TO THE COMPREHENSIVE PLAN AND ZONING, AMENDING THE SOUTH NEIGHBORHOOD PLAN AND BELLINGHAM MUNICIPAL CODE TITLE 20, SOUTH NEIGHBORHOOD TABLE OF ZONING REGULATIONS.

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

WHEREAS, the City has a process to amend the Comprehensive Plan once per year in accordance with Bellingham Municipal Code (BMC) 21.10.150 and 20.20.030; and

WHEREAS, in April 2013 a comprehensive plan amendment and rezone application was submitted by the City's Parks and Recreation Department for 114-acres of City-owned property in the South Neighborhood; and

WHEREAS, the proposal included changing the comprehensive plan designation of the property from Multifamily Residential to Public and changing the zoning designation from Residential Multi, Planned, Medium to High Density to Public, Parks and Open Space; and

WHEREAS, the City Council docketed the proposal for review July, 2013; and

WHEREAS, in accordance with the Growth Management Act, the State Department of Commerce and other agencies were notified of the City's intent to adopt a comprehensive plan and rezone for the subject property; and

WHEREAS, the SEPA responsible official reviewed the non-project action to amend the comprehensive plan under the procedures of the State Environmental Policy Act, and issued a Determination of Nonsignificance on May 6, 2014; and

WHEREAS, after mailed and published notice as required by BMC 21.10.150 D., the Planning Commission held a public hearing to review the proposed amendment on May 15, 2014; and

WHEREAS, the Planning Commission considered the staff report, public comment, and thereafter approved findings, conclusions, and a recommendation to approve the proposed comprehensive plan amendment and rezone; and

WHEREAS, after mailed and published notice as required by BMC 21.10.150 G., the City Council held a public hearing on July 7, 2014; and

WHEREAS, the City Council considered the recommendations of staff, the Planning Commission, and comments from the public during the review process; and
WHEREAS, the City Council finds that the proposed amendment satisfies the decision criteria for comprehensive plan amendments in BMC 20.20.040 A; and

WHEREAS, the City Council finds that the proposed amendment satisfies the decision criteria for rezones in BMC 20.19.030.

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. The South Neighborhood Plan and Land Use Map are hereby amended to create a new subarea, Area 12, for the subject property with a Public land use designation as shown in Exhibit A and incorporated by reference.

Section 2. The South Neighborhood Table of Zoning Regulations and Neighborhood Zoning Map, BMC 20.00.190, are hereby amended to add a new subarea, Area 12, with a Public, Parks and Open Space zoning designation as shown in Exhibit B and incorporated by reference.

Section 3. The City Council agrees with and adopts the Findings of Fact, Conclusions and Recommendations of the Planning Commission attached as Exhibit C and incorporated by reference.

PASSED by the Council this 8th day of September 2014.

Cathy Lehman, Council President

APPROVED by me this 18th day of September, 2014.

M. Kelly Linville

ATTEST
Brian Henshaw, Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

Published: September 12, 2014
Area 12

Area 12 was established in 2014 as a result of City acquisition of the area for parks, trail and open space purposes.

Area 12 Land Use Designation: Public
## EXHIBIT B

South Neighborhood Table of Zoning Regulations
Text and Map Amendments

<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>12</td>
<td>Public</td>
<td>Open Space/ Parks</td>
<td>N/A</td>
<td>None</td>
<td>None</td>
<td>See the Chuckanut Community Forest Conservation Easement for permitted uses on an 82-acre portion of the property</td>
</tr>
</tbody>
</table>

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-6270
EXHIBIT C

BELLINGHAM PLANNING COMMISSION FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS

SOUTH NEIGHBORHOOD AREA 4
COMPREHENSIVE PLAN AMENDMENT AND REZONE

MAY 15, 2014

SUMMARY

The City of Bellingham Parks and Recreation Department has submitted a request for approval of a comprehensive plan amendment and rezone for approximately 114 acres in Area 4 of the South Neighborhood. The subject property is generally located east of Chuckanut Drive, south of Old Fairhaven Parkway. A portion of the property (approximately 87 acres) is commonly known as Chuckanut Ridge or the 100-acre wood. The subject properties were purchased by the City in 2001, 2002 and 2011.

If approved, the comprehensive plan land use designation would change from Multifamily Residential to Public and the zoning would change from Residential Multi, Planned to Public, Parks and Open Space.

Following the public hearing and deliberation on the proposal the Bellingham Planning Commission recommends that City Council approve the proposed amendments.

I. FINDINGS OF FACT

1. Proposal Description

The City of Bellingham Parks and Recreation Department proposes to change the neighborhood plan land use designation from Multifamily Residential medium to high density to a Public designation. The zoning designation would be changed from Residential Multi, Planned to Public, Parks and Open Space. The Public zoning designation is intended to apply to "major parcels of land within the city limits which are owned by public agencies and used for public purposes." (BMC 20.42.020 A.) The effect of the change would be that the property could only be used for the limited uses permitted under the Public, Parks and Open Space zoning designation. The permitted uses are further defined in the conservation easement. The ultimate use of the property will be determined in an upcoming parks master planning process. If the rezone is approved, the area would no longer be available for housing.

2. Background Information/Procedural History

The City purchased approximately 30 acres of land in the South Neighborhood in 2001 and 2002. Then in 2011, the City purchased the 82-acre "Chuckanut Ridge" property from Washington Federal. Both properties retain the previous Residential Multi zoning.

Early in 2013, voters in south Bellingham approved the creation of the Chuckanut Community Forest Park District. An interlocal agreement (see Attachment 1) between the City and the Park
District was approved in 2013 and a conservation easement (see Attachment 2) was established to ensure that the property is preserved in public ownership in perpetuity.

A docketing request for a comprehensive plan amendment and rezone was originally submitted in 2012. That proposal requested the rezone of only a portion of the property. Approximately 25 acres would have retained the current RM zoning. The City Council decided not to docket this proposal.

The current proposal was submitted by the Parks Department in April 2013. It was docketed for review in the 2013-14 cycle of comprehensive plan amendments by the City Council in July, 2013.

On April 15, 2014, Parks and Planning Department representatives held a neighborhood meeting at the Fairhaven Park Pavilion to discuss the proposal. Approximately 10 people attended the meeting. Issues discussed had to do with master planning for the site. No issues related to the proposed comprehensive plan amendment and rezone were raised.

A Notice of Planning Commission Public Hearing was mailed to all property owners within 500' of the subject property in addition to the neighborhood association and the Mayors Neighborhood Advisory Committee. This notice was also published in the Bellingham Herald 30 days prior to the hearing.

3. Public Comment

Eight people spoke at the May 15 public hearing, all in favor of the proposed comprehensive plan amendment and rezone. See attached 6/15/14 meeting minutes (Attachment 3).

4. State Environmental Policy Act (SEPA) Determination

A non-project SEPA determination of Non-Significance was issued by the City of Bellingham on May 6, 2014.

5. Consistency with the Comprehensive Plan Amendment Review Criteria

The following criteria was considered by the Planning Commission in reviewing the proposed comprehensive plan amendment proposals per BMC 20.20.040.

Comprehensive Plan Amendment (CPA) Review Criteria

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

Analysis: The Planning Commission finds the proposed comprehensive plan amendment consistent with the open space and recreation and environment goals of the State Growth Management Act. These goals require local jurisdictions to:

- retain open space
- provide and enhance parks and recreational facilities
- conserve fish and wildlife habitat and protect the natural environment
- increase access to natural resource lands
Changing the zoning and comprehensive plan designation to Public is also consistent with the commitments made by the City for the Chuckanut Ridge property as reflected in the 2013 Chuckanut Community Forest Park Interlocal Agreement and Chuckanut Community Forest Park Conservation Easement.

The proposed changes are also consistent with the City's past practice of using the Public comprehensive plan and zoning designations for properties owned by public agencies.

**CPA Review Criteria 2.** The proposed amendment addresses changing circumstances, changing community values, and is consistent with and will help achieve the comprehensive plan goals and policies.

**Analysis:** Circumstances changed in 2001, 2002 and 2011 when the City acquired these properties for park, trail and open space purposes and when the 2013 interlocal agreement and conservation easement were approved. The current Residential comprehensive plan designation and RM zoning are no longer appropriate for property intended to be used for park, trail and open space purposes in perpetuity.

The Planning Commission finds the proposed amendments consistent with the goals and policies of the City's comprehensive plan. The recently updated Parks, Recreation and Open Space (PRO plan) chapter includes goals that support the proposal. The PRO plan includes the property as part of the City's park, trail and open space system and directs staff to complete a master plan.

**PRO plan goals that support the proposed comprehensive plan amendment and rezone include:**

- **Goal 5.1.1 - Provide a high quality parks, recreation and open space system for a diversity of age and interest groups.**
- **Goal 5.2.1 - Provide an interconnected system of accessible multi-use trails and greenway corridors that offer diverse, healthy outdoor experiences within a rich variety of landscapes and habitats, with connections to public facilities, neighborhoods and business districts.**
- **Goal 5.3.2 - Design and develop facilities that are sustainable, accessible, safe and easy to maintain. Ensure that development is compatible with habitat protection and restoration goals and policies.**
- **Goal 5.4.2 - Provide a high quality, diversified open space system that protects and enhances significant and diverse environmental resources and features, including wildlife habitat, migration corridors, agricultural lands, natural meadows, urban forests, and water resources.**

Other sections of the comprehensive plan contain goals that support rezoning the property and its use as a park, trail and open space/greenway facility:

- **VB 3 - Bellingham continues to retain its natural, green setting by protecting unique natural features and public open spaces, creating greenbelts and preserving wooded hillsides in and around the city.**
- **VB 59 - Undisturbed natural areas allow habitat for fish and wildlife, provide connections within greenway corridors and protect steep slopes and sensitive areas.**
- **EVG-4A** - Preserve and protect significant environmental features including unique wetlands, woodlands, prairies, meadows, shorelines, waterfronts, wooded hillsides and other characteristics that support wildlife and reflect Bellingham's resource.

- **FLU-7** - The quality of the natural environment should be protected by taking into account the land's suitability for development and directing development away from important natural resources and environmentally sensitive areas.

- **FLU-10** - Maintain and extend the current system of parks, trails, open space, and indoor and outdoor recreational facilities that are designed to meet community needs.

- **LU-127** - Shorelines, wetlands, and steep hillsides should be protected or impacts mitigated in accordance with adopted standards.

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

**Analysis:** Recognition of the benefits to the community of preserving the property for parks, trails and open space was made with the decisions to acquire the properties in 2001, 2002 and 2011. This was reinforced in 2013 when the interlocal agreement and conservation easement for the Chuckanut Ridge property were approved. These actions were taken because preservation of this unique property will be a benefit to the community is in the community's overall best interests.

The Planning Commission finds that the proposal overwhelmingly meets this criteria.

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

**Analysis:** The Planning Commission finds no evidence to suggest that approval of the comprehensive plan amendment and rezone will adversely affect the public health, safety or general welfare.

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

**Analysis:** The proposal includes a rezone. See the criteria for reviewing rezones addressed below.

The following factors should be considered when reviewing rezone proposals per BMC 20.19.030. Note that some of these criteria are the same as those previously discussed for comprehensive plan amendment proposals:

**Rezone Criteria:**

**Rezone Review Criteria A.** The proposed rezone is consistent with the comprehensive plan or corresponds to a concurrent comprehensive plan amendment application.

**Analysis:** 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 review criteria #2.

The Planning Commission finds that this criteria is met.
Rezone Review Criteria B. The proposal will not adversely affect the public health, safety or general welfare.

Analysis: 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 long-term benefits to the community.

Rezone Review Criteria C. The proposal is in the best interests of the residents of Bellingham.

Analysis: See the analysis of comprehensive plan amendment review criteria #3.

The Planning Commission finds that the proposal meets this criteria.

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

Analysis: The subject property is suitable for development of park and trail facilities under the proposed public zoning. A master plan will be developed that reflects the intended use of the site for recreational purposes, retention of environmentally sensitive areas and protection of wildlife habitat areas.

The Planning Commission finds that the proposal meets this criteria.

Rezone Review Criteria E. Adequate public facilities and services are available to serve the development allowed by the proposed rezone.

Analysis: The master planning process will determine what public facilities are needed at the site. No service issues have been identified. The use of the property for park, trail and open space/greenway purposes will, in fact, require far fewer public facilities and services than would be necessary if the property were developed under the current RM zoning.

The Planning Commission finds that the proposal meets this criteria.

Rezone Review Criteria F. The rezone will not be materially detrimental to uses of property in the immediate vicinity.

Analysis: The rezone and development of the site as a park with trail connections will be a benefit to properties in the surrounding area, south side neighborhoods and all Bellingham residents.

The Planning Commission finds that the criteria is met.

Rezone Review Criteria G. The rezone 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 an error in zone classification or a zoning boundary; or

(3) The rezone will implement the policies of the comprehensive plan.
Analysis: Conditions have changed as noted in comprehensive plan review criteria #2. The proposed rezone will implement a number of comprehensive plan goals as explained in comprehensive plan amendment review criteria #2.

The Planning Commission finds that the criteria has been met.

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. The proposed amendments are consistent with, and satisfy the BMC review criteria for comprehensive plan amendments and rezones.

2. The proposal is consistent with the historic practice of using the Public zoning designation for land owned by a public agency.

3. The proposed changes are consistent with the City's intent and commitments for the future use of the property as reflected in the Chuckanut Community Forest Park District Interlocal Agreement and Chuckanut Community Forest Conservation Easement.

4. The proposed amendments are consistent with the goals and policies in the Parks, Recreation and Open Space chapter of the Bellingham Comprehensive Plan.

III. RECOMMENDATION

Based on the findings and conclusions, the Bellingham Planning Commission recommends that the City Council approve the proposed amendments to the South Neighborhood Plan Area 4 Land Use Designation and the BMC zoning designation as shown in the attached ordinance.

ADOPTED this 15th day of May, 2014.

Planning Commission Chairperson

Recording Secretary

APPROVED AS TO FORM:

City Attorney