

AN ORDINANCE RELATING TO LAND USE PLANNING AND ZONING, SPECIFICALLY REZONING APPROXIMATELY 2.4 ACRES AND CREATING A NEW SUBAREA (17A) IN THE CORDATA NEIGHBORHOOD ZONING TABLE AND ZONING MAP. THE CREATION OF THE NEW SUBAREA REMOVES THE REQUIREMENT FOR A MINIMUM PLANNED CONTRACT SITE PLAN – RESIDENTIAL 4 ACRES, COMMERCIAL 8 ACRES.

WHEREAS, the Director of Planning and Community Development received an application for a rezone for approximately 2.4 acres within Area 17 of the Cordata Neighborhood; and

WHEREAS, on April 4, 2013 the City of Bellingham as lead agency under the procedures of the State Environmental Policy Act (SEPA), issued a Determination of Non-Significance; and

WHEREAS, the Bellingham Planning Commission conducted a public hearing on April 25, 2013 and reviewed the proposal for compliance with the rezone criteria as established in Bellingham Municipal Code (BMC) 20.19.030, and thereafter made Findings, Conclusions and a Recommendation on the proposal; and

WHEREAS, on June 17, 2013, the City Council conducted a closed record hearing on the proposal; and

WHEREAS, the City Council finds that the rezone satisfies the requirements of BMC 20.19.030, and is consistent with the State Growth Management Act, the Bellingham Comprehensive Plan, and the Cordata Neighborhood Plan, and

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. The City Council adopts the Findings and Conclusions of the Planning Commission as attached as Exhibit A and incorporated by reference.

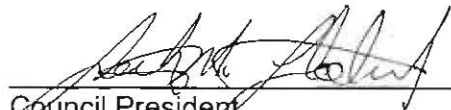
Section 2. The Cordata Neighborhood zoning map is hereby amended as shown on Exhibit B.

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

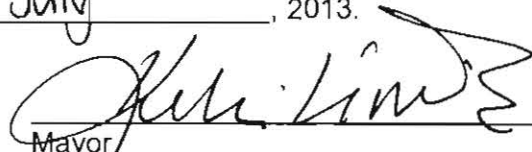
Section 3. The Cordata Neighborhood Zoning Table (BMC 20.00.045) is hereby amended to add a new Area 17A as follows:

Area	Zoning	Use Qualifier	Density	Special Conditions	Prerequisite Considerations	Special Regulations
17A	Commercial	Planned, residential units allowed; small scale office, 2,500 sq.ft. or less per building	Establish residential density through planned review process; density greater than RM 2,500 will require underground parking or an alternative approved through the planned process.	Buffers; internal and pedestrian circulation; dedication of 10' right-of-way along Cordata Parkway;	Land or fee contribution to combined park/trail system for W. Bakerview area between Cordata Parkway and Northwest (see 1993 Tate Plan).	None

PASSED by the Council this 1st day of July, 2013.


 Council President

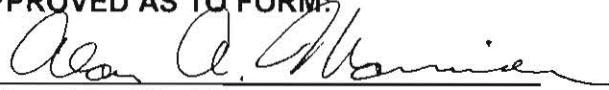
APPROVED by me this 3rd day of July, 2013.


 Mayor

ATTEST 
 Finance Director

City of Bellingham
 City Attorney
 210 Lottie Street
 Bellingham, Washington 98225
 360-778-8270

APPROVED AS TO FORM:



Office of the City Attorney

Published:

July 5, 2013



PLANNING COMMISSION
210 Lottie Street, Bellingham, WA 98225
Telephone: (360) 778-8300 Fax: (360) 778-8302 TTY: (360) 778-8382

**FINDINGS OF FACT, CONCLUSIONS,
AND RECOMMENDATIONS**

APRIL 25, 2013

SUMMARY

Following the public hearing and deliberation on the proposed quasi-judicial rezone to eliminate the 4-acre residential or 8-acre commercial minimum lot size for 348 West Bakerview Road, the Planning Commission has determined that the proposed changes comply with and implement the goals and policies of the Bellingham Comprehensive Plan.

I. FINDINGS OF FACT

I. Proposal Description

Consideration of a quasi-judicial site specific amendment to Bellingham Municipal Code (BMC) 20.00.045, Cordata Neighborhood Table of Zoning Regulations, to remove the 4-acre residential/ 8-acre commercial minimum lot size requirement for a 2.4 acre single lot. The lot is 348 West Bakerview, immediately west of 346 West Bakerview and east of 414 West Bakerview; Assessor's Parcel # 380212 341038; Cordata Neighborhood Area 17 (Commercial, Planned, Residential Units Allowed zoning). This lot is bordered by development to the west, north, and east; and West Bakerview Road to the south (**ATTACHMENT A**).

The Area 17 zoning text states: "Minimum planned contract site plan – residential 4 acres, commercial 8 acres", making it not possible to realistically develop this 2.4 acre lot. This proposed minor change to the Cordata Neighborhood section of the Bellingham Municipal Code is based on the existing Cordata Neighborhood Area **17**, creating a new Area **17A** for only the 2.4 acre lot. This proposed new area is shown in legislative format (additions are underlined and deletions are ~~struck-out~~):

20.00.045 - CORDATA NEIGHBORHOOD TABLE OF ZONING REGULATIONS

Area	Zoning	Use Qualifier	Density	Special Conditions	Prerequisite Considerations	Special Regulations
17A	Commercial	Planned, residential units allowed; small scale office, 2,500 sq.ft. or less per building	Minimum planned contract site plan – residential 4 acres, commercial 8 acres. Establish residential density through planned review process; density greater than RM 2,500 will require underground parking or an alternative approved through the planned process.	Buffers; internal and pedestrian circulation; dedication of 10' right-of-way along Cordata Parkway;	Land or fee contribution to combined park/trail system for W. Bakerview area between Cordata Parkway and Northwest (see 1993 Tate Plan).	None

2. Background Information/Procedural History

In 1982, the Meridian Neighborhood plan was adopted. Page ten of this plan discusses lot size:

Criteria: MINIMUM SITE AREA 8.5 acre minimum suggested, *(for retail uses)*, 6.0 acre minimum suggested *(for office/service Wholesale/Warehouse)*, 4.0 acre minimum suggested *(for Planned Residential)*.

"This minimum relates to the site plan, not ownership - property need not be in single ownership to have a site plan for future development approved. Exceptions could be granted by the City Planning Commission for properties which are defined [SIC] separate tract (i.e., surrounded by streets or major topographic or land use barriers) or the inability to consolidate enough property to obtain cooperation of adjacent owners for a PCD minimum area has been demonstrated."

This lot size limit has been carried forward in various zoning texts, including the text of Area 17, as discussed above.

In 1984 this lot was annexed into Bellingham, made a part of Area 13 of the Guide Meridian Neighborhood, and zoned Single-Family Residential.

In 1993 the City Council adopted Ordinance 10490, changing the zoning of (then) Area 13 of the Guide Meridian Neighborhood to Planned Commercial with residential allowed. The 4-acre residential and 8-acre commercial minimum lot sizes were included in the Density section of Area 13's zoning text. (When this lot was transferred into the Cordata Neighborhood and placed in Area 17, these minimum lot sizes were maintained.)

In 1998, the City of Bellingham approved Ordinance 1998-03-008, an "Ordinance Relating to Access Management and Driveway Spacing on Bakerview Road between Interstate-5 and Deemer Road". It required that all permanent driveways in this area to conform with locational requirements. For this lot, 348 W. Bakerview, the driveway was required to be shared with a driveway immediately west (Bakerview Square, 414 West Bakerview).

In 2012, the owner of 348 W. Bakerview requested the Planning and Community Development Department provide a determination of the developability of this lot. On July 25, 2012, the Planning Director issued a Director's Interpretation for this lot -

ATTACHMENT B. The existing zone could allow:

- a. "A commercial development permit which includes the involvement of the lot to the west, creating a consolidated lot area of eight or more acres, or
- b. A multi-family residential development permit which includes the involvement of the lot to the west, creating a consolidated lot area of four or more acres, or
- c. Construction of one single-family home.

Alternatively, the land owner may apply for a quasi-judicial rezone to remove the minimum planned contract area(s)."

On August 6, 2012, the applicants appealed this administrative decision. After discussing this appeal with staff, the applicant decided to put this appeal on hold and request a rezone for this lot.

On January 23, 2013, the land owner requested a quasi-judicial rezone of this lot:

ATTACHMENT C.

On March 12, 2013, the City of Bellingham's Technical Review Committee met and made the following comments:

1. This proposal is subject to Ordinance 1993-03-008, the West Bakerview Access Ordinance (cited above).
2. The Public Works Department anticipates construction that may affect this lot, including:
 - a. Eliza Avenue (west of this property) to Bellis Fair Mall in the spring/summer of 2013,
 - b. The West Bakerview Overpass in the summer of 2013, and
 - c. Washington State Department of Transportation construction of the SR 539 (Guide Meridian) safety improvements, also in the summer of 2013.
3. There are wetlands onsite and adjacent to the site. Also, this property has Spring Creek in a deep pipe that runs under the property. The City of Bellingham required Bakerview Square to mitigate for wetland impacts and for not daylighting Spring Creek. It is possible that similar mitigation may also be allowed for development of this lot.
4. The Prerequisite Consideration of the underlying zoning, Area 17 of the Cordata Neighborhood Plan, is: "Land or fee contribution to combined park/trail system for W. Bakerview area between Cordata Parkway and Northwest (see 1993 Tate Plan)." The Parks and Recreation Department (PRD) will require Park Impact Fees for any residential development. PRD will require land or fee contribution for commercial development.

3. Public Comment - A Public Hearing Notice was mailed to property owners, neighborhood representatives and Associations, and other interested parties. Notice also published in the Bellingham Herald. Comments were only received from the applicant. (**ATTACHMENT D**)

4. State Environmental Policy Act (SEPA) Determination: A non-project determination of non-significance was issued on April 24, 2013. It was also published in the Bellingham Herald.

5. Consistency with the Bellingham Comprehensive Plan and Decision Criteria

Bellingham's Development Regulations must implement the Comprehensive and Neighborhood Plans and be consistent with the goals and policies of the comprehensive plan. In addition, development regulation amendments must be consistent with the factors and review criteria in BMC 20.20.060 **ATTACHMENT E**.

Decision Criteria

BMC 20.19.030 A. provides criteria for approving or approving with modifications an application for a rezone of property:

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

Comment: The proposed minor change in zoning text is consistent with the Comprehensive Plan. See the Comprehensive Plan Goals and Policies, **ATTACHMENT F**, for more information.

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

Comment: This proposal will improve the public health, safety, and general welfare by encouraging efficient infill development. Utilities are in place and the right of way is sized for this development, therefore public costs for developing this lot will be minimal. The joint curb cut, required under the West Bakerview Access Ordinance, will help safeguard public safety.

3. It is in the best interests of the residents of Bellingham;

Comment: This proposal will have minimal cost to the residents of Bellingham while infilling residential and/or commercial development into this area.

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

Comment: Under the current zoning text, this subject property can only be developed with a single-family residence. The proposed zoning text, eliminating the minimum lot sizes, will allow suitable development. Planned permit review processes will ensure future development is consistent with adjacent uses and zoning regulations.

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

Staff Comment: As addressed above, adequate public facilities and services are available to serve the development.

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

Comment: This proposal will allow the same uses to be developed nearby and will be advantageous to uses and property in the immediate vicinity. Impacts on the wetland and/or stream corridor will be mitigated to create the same or better water quality and habitat as exists today.

7. It 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

Comment: Conditions in the immediate vicinity have changed significantly between 1984 and today, as development of the lots immediately adjacent to this lot created a zoning-restricted lot with no access to realistic development rights. All lots surrounding have been consolidated and developed.

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

Comment: The zone boundary and classification were appropriate in 1984 when they were established. This quasi-judicial rezone will allow a very minor change to the zoning text in response to development since 1984.

c. The rezone will implement the policies of the comprehensive plan.

Comment: This rezone will clearly implement the policies of the comprehensive plan, as discussed in **ATTACHMENT F**.

In summary, the proposed removal of the four-acre minimum residential and 8-acre minimum commercial lot size for this lot will be advantageous for not only the lot owners, but for lots in the vicinity, and for the eventual residents/customers/business owners of this lot. This change will be completely in conformance with the City's Comprehensive Plan, and will allow development of an infill lot that will reduce growth pressure on the fringes of Bellingham.

II. CONCLUSIONS

1. Site development will comply with all stream, wetland, stormwater, and design statutory requirements and be reviewed under the Planned Development permitting requirements.
2. This zoning text alteration will allow a more efficient development pattern, reduce sprawl, and increase residential and employment opportunities.
3. Utilities are in place and the right of way is sized for this development. Therefore, development will have a relatively low cost to the public.
4. This proposal will improve the public health, safety, and general welfare by encouraging efficient infill development, combining curb cuts.
5. The joint curb cut required under the West Bakerview Access Ordinance will help safeguard the public.
6. This proposal will not be materially detrimental. It will be advantageous to users of property in the immediate vicinity of the subject property.

7. Conditions in the immediate vicinity have changed significantly since 1984, when most of this area was undeveloped.
8. The original 1984 zoning is no longer applicable to this remnant lot.
9. The proposed change in zoning text is clearly consistent with the Comprehensive Plan.
10. This proposal is in the best interests of the residents of Bellingham.
11. The proposal meets the criteria in BMC 20.19.030 A. for approving a site-specific rezone.

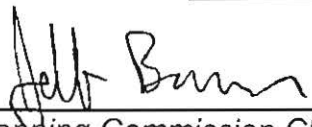
III. RECOMMENDATION

Based on the findings and conclusions, the Planning Commission recommends approval of the rezone and removal of the 4-acre residential and 8-acre commercial minimum lot sizes for this lot by creation of a new Area 17A of the Cordata Neighborhood zoning table:


BMC 20.00.045 - CORDATA NEIGHBORHOOD TABLE OF ZONING REGULATIONS

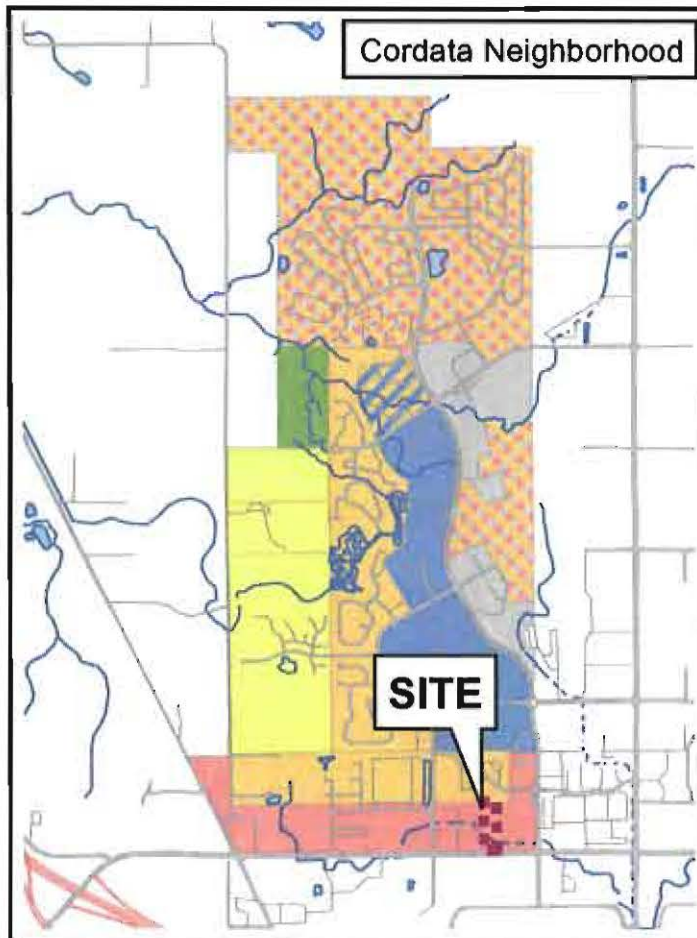
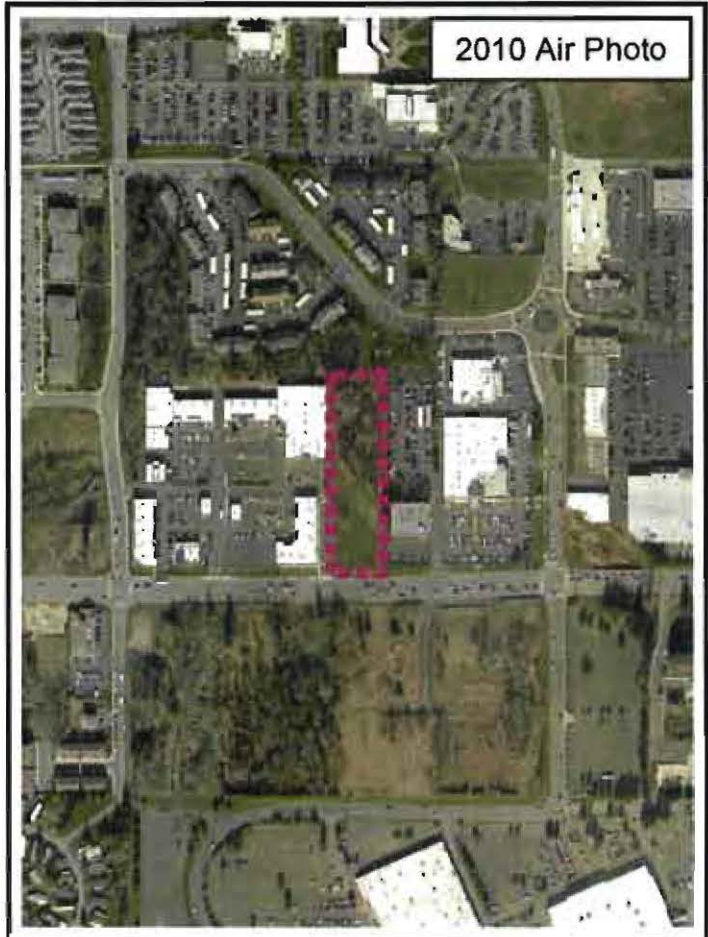
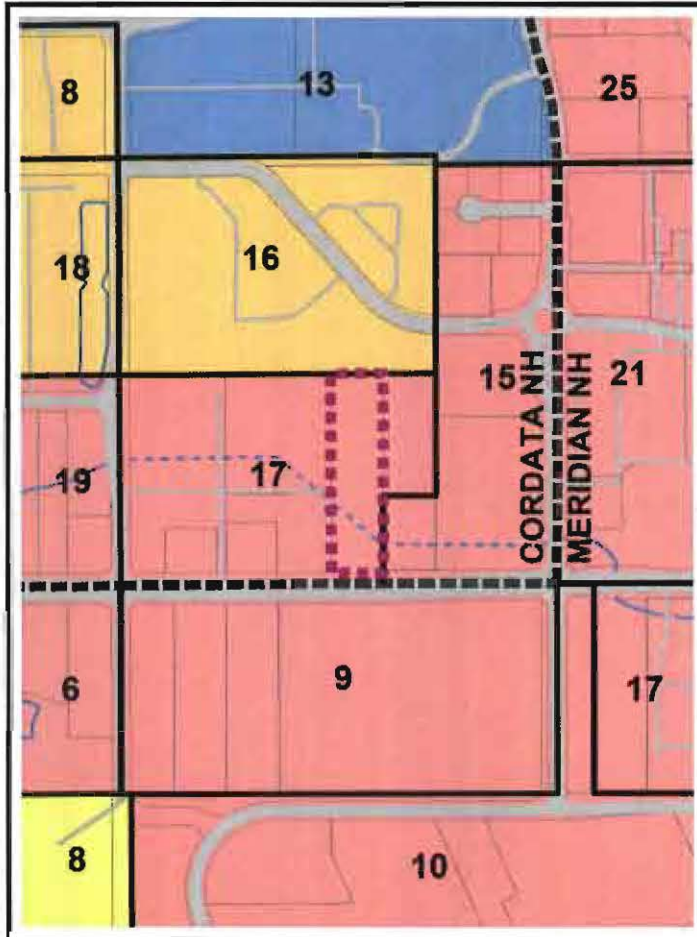
Area	Zoning	Use Qualifier	Density	Special Conditions	Prerequisite Considerations	Special Regulations
17A	Commercial	Planned, residential units allowed; small scale office, 2,500 sq.ft. or less per building	Minimum-planned contract site plan — residential 4 acres, commercial 8 acres. Establish residential density through planned review process; density greater than RM 2,500 will require underground parking or an alternative approved through the planned process.	Buffers; internal and pedestrian circulation; dedication of 10' right-of-way along Cordata Parkway;	Land or fee contribution to combined park/trail system for W. Bakerview area between Cordata Parkway and Northwest (see 1993 Tate Plan).	None

ADOPTED this 25TH day of April, 2013.


 Planning Commission Chair (Acting Chair)

ATTEST: 
 Recording Secretary

APPROVED AS TO FORM:

 City Attorney



	Proposed Rezone		Industrial
	Residential Single		Indust./Res. Multi
	Residential Multi		Indust./Waterfront Mixed-Use
	Res. Single/Res. Multi		Institutional
	Commercial		Institutional/Res. Multi
	Commercial/Industrial		Public
	Comm./Indust./Res Multi		Public/Institutional
			Public/Waterfront Mixed-Use

Cordata Neighborhood, Area 17

Remove 4-acre minimum lot size requirement for Lot 4 of Seeger's Baker View Tracts.
Change Zoning Subarea to 17A.

2013 Rezone Process



City of Bellingham
Planning & Community Development
2013

ATTACHMENT B: Director's Interpretation



PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

210 Lottie Street, Bellingham, WA 98225
Telephone: (360) 778-8300 Fax: (360) 778-8302 TTY: (360) 778-8382

Director's Interpretation Findings of Fact, Conclusions, and Decision MIS2012-00026 – West of 346 W. Bakerview

Request: Request to interpret a clause in Cordata Neighborhood Plan, Area 17 that requires minimum lot sizes for commercial or multi-family development.

Applicant: John Sande, 913 Lakeway Drive, Bellingham WA, 98229

Property Owner: Marion Larkin, 19737 Trophy Lane, Mt. Vernon, WA 98274

Location: Assessor's Parcel # 380212341038, legally described as Seeger's Baker View Tracts - Tract 4; Cordata Neighborhood, Area 17, Commercial, Planned zone.

Date of Decision: July 25, 2012

I. FINDINGS OF FACT

1. Bellingham Municipal Code (BMC) 20.38.020 states:
 - "Generally. A. The "Planned" use qualifier is intended for areas which 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 "Planned" use qualifier is intended to provide a procedural framework which:
 1. Permits diversity in the location of types of structures;
 2. Promotes the efficient use of land by facilitating a more economic arrangement of buildings, circulation systems, land use and utilities;
 3. Preserves to the greatest extent possible the existing landscape features and amenities and utilizes such features in a harmonious fashion;
 4. Addresses site specific opportunities and concerns;
 5. Lessens development impacts to adjacent areas through site design and necessary mitigating measures. ...
 - C. Commercial. In addition to the above-stated general purpose, the planned commercial designation (PC) is intended to accommodate retail and personal service establishments of a city-wide nature or regional nature and to provide flexible design standards which will insure compatibility between the site and the development, as well as between the development and the surrounding area.

2. In December of 1984, the City of Bellingham annexed Assessor's Parcel # 380212341038. At that time, the zoning was single-family residential.
3. In December of 1993, the City of Bellingham rezoned this site to Commercial, Planned. The zoning "Density" special condition required "Minimum Planned Contract Site Plan - 4 acres for residential and 8 acres for commercial. Establish residential density through planned contract review process; Density greater than RM2500 will require underground parking or an alternative approved by the Planning Commission."
4. The current zoning of this subject property is:

Area	Zoning	Use Qualifier	Density	Special Conditions	Prerequisite Considerations	Special Regulations
17	Commercial	Planned, residential units allowed; small scale office, 2,500 sq.ft. or less per building	Minimum planned contract site plan – residential 4 acres, commercial 8 acres. Establish residential density through planned review process; density greater than RM 2,500 will require underground parking or an alternative approved through the planned process.	Buffers; internal and pedestrian circulation; dedication of 10' right-of-way along Cordata Parkway;	Land or fee contribution to combined park/trail system for W. Bakerview area between Cordata Parkway and Northwest (see 1993 Tate Plan).	None

5. There are no apparent transcription errors in the current zoning code.
6. This zoning was written to encourage the consolidation of small and irregularly shaped lots.
7. Several other development issues, such as wetland setbacks and the implications of the underground stormwater pipe, will also affect site development.
8. The area of this subject property is approximately 2.4 acres.
9. The jointly owned properties to the west (410-436 W. Bakerview) total approximately 9 acres and are of the same zoning as the subject property.
10. The property to the northeast (northwest of 340 W. Bakerview) is approximately 1.5 acres in size and is of the same zoning as the subject parcel.
11. Interpretation of development regulations, such as this Director's Determination, is a Type I permit (BMC 21.10.040 B.8.).

II. CONCLUSIONS

1. The Commercial, Planned land use designation is intended to provide flexible design standards which will insure compatibility between the site and the development, as well as between the development and the surrounding area.
2. Use of this site for any form of commercial development requires at least eight acres, which could include parcels not owned by the owner of this site.
3. Development of this site for residential uses, other than one single-family home, requires at least four acres. This area could include parcels not owned by the owner of this site.

III. DECISION

Based upon the Findings of Fact and Conclusions, the Director of Planning and Community Development or designee determines that:

1. Development of this property may allow:
 - a. A commercial development permit which includes the involvement of the lot to the west, creating a consolidated lot area of eight or more acres, or
 - b. A multi-family residential development permit which includes the involvement of the lot to the west, creating a consolidated lot area of four or more acres, or
 - c. Construction of one single-family home.
2. Alternatively, the land owner may apply for a quasi-judicial rezone to remove the minimum planned contract area(s).

IV. APPEAL

Any party aggrieved by the decision of the Director may file an appeal within 14 days of the notice of decision in accordance with BMC 21.10.250. Any appeal must be filed with the Planning and Community Development Department on the appropriate forms and be accompanied by a filing fee as established by the City Council. The Hearing Examiner decides appeals.

Prepared By



Jacquelyn Lynch
Planning and Community Development
Department Department

Approved By



Jeff Thomas, Director
Planning and Community Development

KOY



Permit Center
 210 Lottie Street
 Bellingham, WA 98225
 phone: 360-778-8300
 fax: 360-778-8301
 www.cob.org

Land Use Application

Check all permits you are applying for in the boxes provided. Submit this application form, the applicable materials listed in the corresponding permit application packet(s) and application fee payment.

<input type="checkbox"/> Accessory Dwelling Unit <input type="checkbox"/> Binding Site Plan <input type="checkbox"/> Clearing Permit <input type="checkbox"/> Conditional Use Permit <input type="checkbox"/> Critical Area Permit <input type="checkbox"/> Critical Area Exemption <input type="checkbox"/> Design Review <input type="checkbox"/> Grading Permit <input type="checkbox"/> Home Occupation <input type="checkbox"/> Institutional <input type="checkbox"/> Interpretation <input type="checkbox"/> Landmark – Historic Certificate of Alteration <input type="checkbox"/> Legal Lot Determination <input type="checkbox"/> Nonconforming Use Certificate	<input type="checkbox"/> Parking Adjustment Application <input type="checkbox"/> Planned Development <input checked="" type="checkbox"/> Rezone <input checked="" type="checkbox"/> SEPA <input type="checkbox"/> Shoreline Permit <input type="checkbox"/> Shoreline Exemption <input type="checkbox"/> Subdivision-Short Plat/Lot Line Adjustment <input type="checkbox"/> Subdivision-Preliminary Plat <input type="checkbox"/> Subdivision-Final Plat <input type="checkbox"/> Variance <input type="checkbox"/> Wireless Communication <input type="checkbox"/> Zoning Compliance Letter <input type="checkbox"/> Other: _____	<p>Office Use Only</p> Date Rcvd: <u>1-23-2013</u> Case #: <u>SEP2013-4 & ZON2013-1</u> Process Type: <u>V-5</u> Neighborhood: <u>Meridian Cordata</u> Area Number: <u>17</u> Zone: <u>C1P</u> Pre-App. Meeting: <u>N/A</u> Concurrency: <u>IA</u>
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Project Address: W. Bakerview Road (precise address not assigned)

Tax Assessor Parcel Number(s): 380212 341038 0000

Project Description: This is a text rezone only. No particular project is proposed at this time.

Applicant/Agent Primary Contact for Application
 Name Jack O. Swanson, Esq.
 Address 900 Dupont Street
 City/State/Zip Bellingham, WA 98225

Phone (360) 734-6390
 FAX (360) 671-0753
 Email jack@belcherswanson.com

Owner(s) Applicant Primary Contact for Application
 Name Marion J. Larkin
 Address 19737 Trophy Lane
 City/State/Zip Mount Vernon, WA 98274

Phone _____
 FAX _____
 Email mjlarkin@hughes.net

Property Owner(s)

I am the owner of the property described above or am authorized by the owner to sign and submit this application. I grant permission for the City staff and agents to enter onto the subject property at any reasonable time to consider the merits of the application and post public notice. I certify under penalty of perjury of the laws of the State of Washington that the information on this application and all information submitted herewith is true, complete and correct.

I also acknowledge that by signing this application I am the responsible party to receive all correspondence from the City regarding this project including, but not limited to, expiration notifications. If I, at any point during the review or inspection process, am no longer the Applicant for this project, it is my responsibility to update this information with the City in writing in a timely manner.

Signature by Owner/Applicant/Agent Jack O. Swanson Date Jan 23, 2013
 City and State where this application is signed: Bellingham WA
 City State

SCANNED
 Into Tidemark



Permit Center
210 Lottie Street
Bellingham, WA 98225
phone: 360-778-8300
fax: 360-778-8301
www.cob.org

APPLICATION FOR REZONE

(PLEASE PRINT CLEARLY OR TYPE IN BLUE OR BLACK INK)

Project Data:

1. Legal Description of subject property SEEGER'S BAKERVIEW TRACTS - TRACT 4, WHATCOM COUNTY, WA

2. Full legal description of all property represented in the application See legal description attached as Exhibit "A." This description includes all of Area 17 Cordata Neighborhood.

3. Size of total land area represented in the application: All of Area 17 in the Cordata Neighborhood Plan. The subject property is approximately 2.4 acres. The total land area included in Area 17 is slightly under 13 acres. Tract 4, Seeger's Bakerview Tracts is the only undeveloped parcel in Area 17. Practically speaking, this amendment only affects Tract 4.

Land Use Classification:

4. Neighborhood Plan Name Cordata Neighborhood Plan
5. Zoning Area Number Area 17
6. Existing Zoning:
 - General Use Type Commercial
 - Use Qualifier Planned, Residential Units Allowed; Small Scale Office, 2,500 sq. ft. or less per building.
 - Density Minimum planned contract site plan - residential 4 acres, commercial 8 acres. Established residential density through planned review process; density greater than RM 2,500 will require underground parking or an alternative approved through the planned process.
7. Requested Zoning: parking or an alternative approved through the planned process.
 - General Use Type Commercial
 - Use Qualifier Planned, Residential Units Allowed, Small Office, 2,500 square feet or less per building. Minimum planned contract site plan - residential 4 acres, commercial 8 acres, provided this minimum site plan requirement does not apply to TRACT 4, SEEGER'S BAKERVIEW TRACTS. Established residential density through planned review process; density greater than RM 2,500 will require underground parking or an alternative approved through the planned process.
 - Density BAKERVIEW TRACTS. Established residential density through planned review process; density greater than RM 2,500 will require underground parking or an alternative approved through the planned process.
8. Attach an explanation of how the proposed zoning change meets each of the criteria listed in the attached Bellingham Municipal Code 20.19.030 A. (1-6) and at least one of the criteria in 7 (a-c). See attached explanation.
9. Is the rezone request related to a development proposal for the property? No.
If so, please provide available plans and information about the project.

EXHIBIT "A"

Legal Description for Area 17, Cordata Neighborhood.

PART OF TRACT 3 AND ALL OF TRACT 4, SEEGER'S BAKERVIEW
TRACTS

AND

BAKERVIEW SQUARE LLA AND BAKERVIEW SQUARE AMENDED LLA

(Formerly Tracts 5, 6, 7 & 8, Seeger's Bakerview Tracts).

EXPLANATION:

This proposal requests deletion of the requirement for a minimum planned contract site plan area. The current zoning requires at least 4 acres for a residential site plan and 8 acres for a commercial site plan. The subject site is approximately 2.4 acres. The lands to the east and west of the subject property are already fully developed. The land to the west (410 – 436 W. Bakerview) is approximately 9 acres in size and now occupied by Bakerview Square. The property to the northeast (northwest of 340 W. Bakerview) is approximately 1.5 acres in size and is currently occupied by a parking lot connected to Cordata Specific Binding Site Plan No. 2. It is physically impossible for Tract 4 to comply with the existing minimum site requirements for either residential or commercial.

BMC 20.19.030 Criteria.

A. The City may approve or approve with modifications an application for a rezone of property if:

(1) It is consistent with the comprehensive plan or corresponds to a concurrent comprehensive plan amendment application;

Discussion: Since this is not a development proposal, all the goals expressed in the comprehensive plan are still viable. The planned contract process will ensure that any proposal will address these goals and other issues. This rezone will allow infill in a commercially viable neighborhood.

(2) It will not adversely affect the public health, safety or general welfare;

Discussion: Public health, safety, or general welfare will be advanced by this change so that development of Tract 4 may proceed in the future. The comprehensive plan land use designation for Area I7 is commercial. The area already contains commercial development in the form of Bakerview Square, and the adjoining building and parking lot to the east. West Bakerview is a principal arterial stretching from Meridian to I-5. It has 4 travel lanes, bike lanes, setback sidewalks, street trees, and a landscaped median with dedicated left turn lanes. The comprehensive plan at page 6 identifies the existing services needed for development, which are present and include water, sewer, stormwater control, street maintenance, police, fire, medical response, emergency services, and litter control. Private utility companies provide electricity, natural gas, cable TV, satellite TV, telephone, cellular phone, and waste pickup. The provision of these services assures that the public health, safety, and general welfare are not adversely affected.

(3) It is in the best interest of the residents of Bellingham;

Discussion: The proposed change will permit development of the property which is presently forbidden. That development will provide either residential spaces for Bellingham's citizens to reside, or commercial spaces which would provide goods and services for the community. Moreover, either of these activities would provide jobs, both as part of construction and operation of the uses and would further enhance the tax base and provide needed tax revenue for the community, both in the form of real property taxes and sales taxes in connection with the construction and operation of any future development.

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

Discussion: The existing zone is commercial. Because of its location on W. Bakerview, which is a major thoroughfare, the property is probably best suited for additional commercial uses which are completely compatible with the uses already operating in the immediate vicinity.

(5) Adequate public facilities and services are, or would be, available to serve the development allowed by the proposed zone;

Discussion: As noted above, public facilities and services are already available and being utilized by the existing development in the immediate vicinity. The subject parcel is an infill parcel and would likely need to provide its own stormwater detention and treatment. Other services are readily available and are more fully discussed in response to question A(2) above, including police and fire protection, access to W. Bakerview, which is a major commercial arterial with multiple lanes, curb, gutter, sidewalk and stormwater facilities.

(6) It will not be materially detrimental to uses or property in the immediate vicinity of the subject property;

Discussion: For the most part, property in the vicinity is already developed into commercial uses which are compatible with the uses that would be available upon adoption of the rezone.

(7) It 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;

Discussion: Area 17 has significantly developed around the subject property, which has isolated it from development under the current zoning. This constitutes a material change in circumstances justifying the rezone. As noted in the answer to previous questions, development of the property would provide goods and

services to the citizens, enhance the tax base and tax revenues, and provide employment opportunities for the citizens of Bellingham.

(b) The rezone will correct a zone classification or zone boundary that was inappropriate when established; or

Discussion: N/A

(c) The rezone will implement the policies of the comprehensive plan.

Discussion: The policy of the comprehensive plan is stated in its discussion related to land use which designates this property as commercial. Commercial development is impossible on Tract 4 without relief from the minimum site size, which presently impedes development in conflict with the comprehensive plan.

ATTACHMENT D: Applicant's Submittals

DECLARATION OF JOHN SANDS:

1. I am making this declaration in support of an application filed at the City of Bellingham by Marion Larkin to rezone his property situated on West Bakerview, adjacent to Bakerview Square, (referred to herein as the "Property"), which has been assigned Assessor's Parcel No. 380212 341038 0000. I believe this matter has been assigned #ZON2013-00001.

2. I am an active real estate broker / salesperson operating out of RE/MAX Whatcom County, Inc. situated at 913 Lakeway Drive, Bellingham, WA 98229.

3. Marion Larkin is a real estate investor and I have worked with him for over 3 years, assisting him in the acquisition, marketing and sale of various properties that he has owned or owns presently.

4. I currently have the Property listed for sale. It has been on the market for the past 29 months. During that time, we have had several inquiries by potential users for the Property. These inquiries have essentially stalled when the prospective buyers learned about the zoning presently applicable to the Property. As you know, current zoning requires that development of the property obtain a planned contract and that the parcel being developed be 4 acres or larger for commercial development and 8 acres or larger for a multifamily development. In this case, the Property is only 2.4 acres and meets neither of those requirements.

5. We have told these prospective buyers that we are attempting to achieve a modification of the zoning which would eliminate that requirement. Based on my experience, that modification is absolutely necessary if this Property is to be successfully marketed, sold, and developed.

6. I recognize that the zoning does allow the construction of one single family residence on the Property. To my knowledge, no one has shown any interest in developing a single family home at this location. In my opinion, it would be a waste of a valuable resource for the community if a single family home was to be developed. This land is nestled between two commercial developments. It fronts on Bakerview, a major commercial arterial. The northerly side of the Property is in large part developed with multifamily residential. Services for commercial users are already built.

7. Thank you for the opportunity to speak on behalf of the proposed rezone. Under the circumstances, the rezone seems to me to be the only reasonable thing to do.


JOHN SANDS

REC-11
APR 2 2011
REC-11

DECLARATION OF MARION LARKIN:

I, Marion Larkin, declare under penalty of perjury under the laws of the State of Washington, that the following is true and correct to the best of my knowledge:

1. I am the owner of Tract 4, Seeger's Bakerview Tracts, which is situated on West Bakerview adjoining Bakerview Square, and has been assigned Assessor's Parcel No. 380212 341038 0000 (herein the "Property").

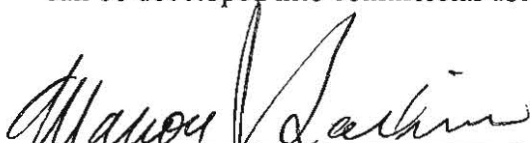
2. I first purchased the Property in 1988. The purpose in acquiring the Property was for investment. Because of its proximity to Bellis Fair Mall, and its location on Bakerview, a major east/west arterial, I felt the Property would be a terrific commercial site.

3. Commercial zoning did not come without a price. We were also required to agree to a local improvement district to improve Bakerview. Over the next 14 years, I paid \$41,446.35 in LID payments, plus an additional \$10,174.79 in interest for a total cost of \$51,621.14 on the LID. In addition, I paid the real estate taxes at a rate established for land zoned for commercial development in the total amount of \$84,003.31.

4. The present zoning of the Property requires that a developer have at least 4 acres in order to qualify for commercial uses and 8 acres for multifamily residential. My Property is only 2.4 acres in size. This means that the only use which is available to me at this time is single family residential. After all the money I have put into the Property over the years, a single family use makes no sense to me. Moreover, I have had the Property listed for some time, and those that do inquire are certainly not interested in using this site as a single family home. Those parties that have expressed interest, do so with the idea of developing the Property into a commercial site.

5. Development on both sides of the Property is now complete. Neither of those property owners has any incentive to join with me in order to qualify my Property for a planned contract. There is no way that this Property will develop as long as the 4-acre minimum site requirement remains in effect.

6. In light of the foregoing, I request that you grant my application to rezone the Property by eliminating the requirement that I must have 4 acres before the Property can be developed into commercial uses.


MARION LARKIN

ATTACHMENT E: Applicable Bellingham Municipal Code Citations

BMC 20.19.030 - CRITERIA

A. The City may approve or approve with modifications an application for a rezone of property if:

1. It is consistent with the comprehensive plan or corresponds to a concurrent comprehensive plan amendment application;
2. It will not adversely affect the public health, safety or general welfare;
3. It 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;
5. Adequate public facilities and services are, or would be, available to serve the development allowed by the proposed zone;
6. It will not be materially detrimental to uses or property in the immediate vicinity of the subject property; and
7. It 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.

BMC 21.10.140 - TYPE V PROCESS: CITY COUNCIL QUASI-JUDICIAL DECISIONS

A. Type V-A Process.

1. Pre-Application Procedures. A pre-application conference is required for Type V-A applications. A pre-application neighborhood meeting shall be conducted under the procedures of BMC 21.10.180 for Type V-A applications.

2. Application. A complete application shall consist of the submittal requirements established by the Director and stated on the application forms. An application shall be reviewed to determine whether it is complete under the procedures of Section 21.10.190.

a. Who may apply. The property owner or authorized agent of the property owner, City Council, Planning Commission or Planning Director may apply.

b. For an institutional master plan adoption or amendment, a property owner may apply for amendments or master plan adoption that apply only to the property they own. Any other amendment proposals must be initiated by the City Council Planning Commission or Planning Director.

3. Notice of Application. The procedures in Section 21.10.210 apply to a Type V-A application.

4. Minimum Comment Period. The procedures in Section 21.10.210 apply to a Type V-A application.

5. Environmental Review. When a threshold decision is required under BMC 16.20, the procedures in Section 21.10.220 apply to a Type V-A process.

6. Notice of Planning Commission Public Hearing. The Planning Commission shall conduct an open record public hearing on the proposal. Notice of the hearing shall be provided as follows:

a. Publishing. The City shall publish notice of the hearing in a newspaper of general circulation at least 15 days and not more than 30 days prior to the hearing date.

b. Mailed notice. The City shall mail a hearing notice no less than 15 days prior to the date of the hearing. Mailed notice shall be provided in the same manner as provided in BMC 21.10.200.D.

c. Posted notice. The City shall post one or more hearing notice signs on the site or in a

location immediately adjacent to the site that provides visibility from adjacent streets. The signs shall be posted at least 15 days prior to the hearing. The Director shall establish standards for size, color, layout, materials, number, placement, maintenance and removal.

7. Planning Commission Hearing. The Planning Commission shall conduct an open record public hearing on the proposal. Any person may participate in the hearing by submitting written comments to the Planning and Community Development Department prior to the hearing or by submitting written comments or making oral comments at the hearing. All comments received by the Department prior to the hearing shall be transmitted to the Planning Commission no later than the date of the public hearing.

8. Planning Commission Recommendation. The Planning Commission shall review the proposal based on the criteria listed in the applicable City code and provide a written recommendation to the City Council containing the following:

- a. Findings of fact and conclusions of law; and
- b. Recommendation.

9. Notice of City Council Hearing. Notice of the City Council closed record hearing shall be provided in the same manner as for the Planning Commission hearing.

10. City Council Decision. The City Council shall consider the proposal at a closed record hearing. The City Council shall not accept new information on the application, but shall consider the complete record before the Planning Commission and the Recommendation of the Planning Commission. The City Council may:

- a. Approve the application;
- b. Approve the application with modifications;
- c. Remand the application to the Planning Commission for additional review limited to specific issues identified by the Council; or
- d. Deny the application.

11. Notice of Decision. The procedures in Section 21.10.230 apply to a Type V-A process.

12. Appeal of Type V-A Decision. A Type V-A decision may be appealed to Superior Court by filing a land use petition which meets the requirements set forth in Chapter 36.70C RCW. The petition must be filed and served upon all necessary parties as set forth in State law and within the 21-day time period as set forth in RCW 36.70C.040. Requirements for fully exhausting City administrative appeal opportunities must be fulfilled.

Area 17 Cordata Neighborhood Zoning Text

20.00.045 - CORDATA NEIGHBORHOOD TABLE OF ZONING REGULATIONS

Area	Zoning	Use Qualifier	Density	Special Conditions	Prerequisite Considerations	Special Regulations
17	Com-mercial	Planned, residential units allowed; small scale office, 2,500 sq.ft. or less per building	Minimum planned contract site plan – residential 4 acres, commercial 8 acres. Establish residential density through planned review process; density greater than RM 2,500 will require underground parking or an alternative approved through the planned process.	Buffers; internal and pedestrian circulation; dedication of 10' right-of-way along Cordata Parkway;	Land or fee contribution to combined park/trail system for W. Bakerview area between Cordata Parkway and Northwest (see 1993 Tate Plan).	None

ATTACHMENT F: COMPREHENSIVE PLAN GOALS AND POLICIES

CORDATA NEIGHBORHOOD PLAN VISION STATEMENT

The Cordata Neighborhood strives to enhance the quality of life of its residents by access to public safety, educational opportunities and recreational facilities. The neighborhood values protection, maintenance, preservation and enhancement of open spaces and wildlife corridors. Future development within the neighborhood should be considered on a comprehensive basis that maintains neighborhood cohesion and aesthetic appeal.

Staff Comment: This proposal will not interfere with public safety, educational opportunities, or recreational facilities. Eventual lot development will comply with all stream and wetland preservation statutory requirements. As well, it will be reviewed under the Planned Development requirements which will mandate comprehensive development. There are no aesthetic design requirements for commercial development on this property. Multi-family development will be reviewed by the Multi-Family Design Review requirements of BMC Title 20.

CORDATA NEIGHBORHOOD PLAN -- IV. PUBLIC FACILITIES:

Drainage ...The 1990, National Wetlands Inventory maps show several probable wetland areas using data from aerial photographs and soil maps. This wetland information is considered incomplete due to its inability to detect wetlands on the ground beneath any forest canopy. When development is proposed for this area, delineated wetland studies will be required. Stormwater runoff from future development will be collected through a series of catch basins and storm drains. Runoff will be detained in ponds and released at its natural points of discharge along the boundaries of the neighborhood.

Stormwater Facilities: Stormwater requirements for this area will need to meet current City of Bellingham and Department of Ecology standards for stormwater management and account for the sensitivity of the receiving waters. Those requirements incorporate special measures to deal with thermal pollution, bacteria, nutrients, zinc, and dissolved oxygen levels. Properties and development will need to meet total maximum daily loading standards (TMDL's). City infrastructure development will also need to be done in a manner that protects and prevents further degradation of these facilities.

Goal No. 11 On-site stormwater retention facilities should be installed at planned developments to maintain stormwater peak run-off rates no greater than predevelopment levels. ...

Staff Comment: Wetland inventories, water quality treatment, stormwater detention, and the Spring Creek corridor will be addressed prior to development. Offsite mitigation may be required.

COMPREHENSIVE PLAN GOALS AND POLICIES:

VB 2 – Bellingham's way of accommodating growth while retaining a compact form is to emphasize infill. Private and public development decisions continue to reinforce a clear distinction and separation between urban and rural areas. Bellingham retains and strengthens its well-defined compact form and allows sufficient sites to accommodate projected growth, including some growth to the north.

VB 4 – Because infill is a major growth strategy, Bellingham devotes considerable energy to determining how to accommodate growth in existing neighborhoods in a manner that complements neighborhood character and builds on the pattern of planned park and open space systems.

FLU-2 - Bellingham's land use pattern should accommodate carefully planned levels of development that promotes efficient use of land, reduces sprawl, encourages alternative modes of transportation, safeguards the environment, promotes healthy neighborhoods, protects existing neighborhood character, and maintains Bellingham's sense of community.

Infill Strategy 1 - Make more efficient use of the remaining City land supply: facilitate development on existing lots of record; develop flexible code provisions that allow a range of housing types; adopt minimum density requirements; other steps necessary to make better use of the remaining land supply.

VB 6 – The character of individual neighborhoods is enhanced through flexible design standards and incentives that ensure compatibility as existing neighborhoods receive infill development and new neighborhoods are formed.

LU - 99 - Development regulations, including the allowed density and intensity, should provide for and encourage the efficient use of land.

Staff Comment: Vacant lots are one of the City's greatest infill resources. However, the minimum lot size zoning of this proposal's lot does not allow development. A minor alteration in the zoning text, removing the minimum lot size requirement, will allow for development. Development of vacant infill lots, such as this one, will allow a more efficient development pattern and reduce sprawl.

VB 17 – Development patterns that encourage walking, biking and transit use are fostered through incentives and zoning regulations, including provisions for developments that allow people to live within walking distance of shopping and employment. These provisions may encourage small scale neighborhood centers as well as cottage industry or home occupations.

LU - 47 Auto oriented strip or linear commercial development shall be avoided. Commercial areas of all types should be compact, allow for walking between businesses and easy access by transit and transit riders.

LU - 49 Mixed use developments should be encouraged in all commercial zones.

LU - 100 Infill developments that are sized and designed to fit their surroundings are encouraged.

LU - 102 New urban development should be allowed only where the full range of urban facilities and services exists or can be provided.

LU - 126 There are eight general land use categories (designations) on the comprehensive plan map and in the neighborhood plans. Single Family Residential; Multifamily Residential; Commercial; Industrial; Mixed Use; Urban Village; Institutional; and Public. The comprehensive plan recognizes that allowing or encouraging a mix of different types of land uses is an important strategy to achieving infill goals while maintaining and developing distinctive and efficient urban neighborhoods. ... **Commercial** – This designation should provide a range of commercial development intensities, from small neighborhood commercial areas to large planned commercial areas. In general, commercial areas should provide a broad range of services, commercial uses, mixed commercial and residential uses,

and personal service establishments. Flexible development standards should be used to insure design compatibility with the site and with the surrounding area. Linear expansion of existing "strip commercial" areas should be prohibited. Mixed use developments are strongly encouraged in commercial areas and as part of mixed-use developments in the designated urban centers. ...

Staff Comment: This proposed zoning text would continue to allow residential and commercial uses. It will increase the flexibility of development standards. A good range of urban facilities and services exists or is accessible close to this lot, including two grocery stores, the Cordata WTA Transit Center, a significant number of retail and service businesses, and Whatcom Community College. This lot is near a WTA "Go" line. This vacant lot is a break in the urban fabric. Development will increase the amount of walking, biking, and transit use with no additional public infrastructure cost. The underlying Planned Commercial zoning of this lot will not allow strip commercial/lineal development.

FLU-11 Plan to accommodate a 2022 population of 113,055 people and an employment base that includes 27,000 new jobs.

LU - 20 Land area sufficient to accommodate the 20-year population projections shall be available in Bellingham and the urban growth areas, as required by RCW 36.70.110, including land area for commercial and industrial development.

LU - 23 All rezone proposals should be evaluated for potential impacts on the available supply of residential, commercial or industrial zoned land.

Staff Comment: This proposal will allow residences and/or employment opportunities that are currently precluded by the existing zoning's limit on lot size.

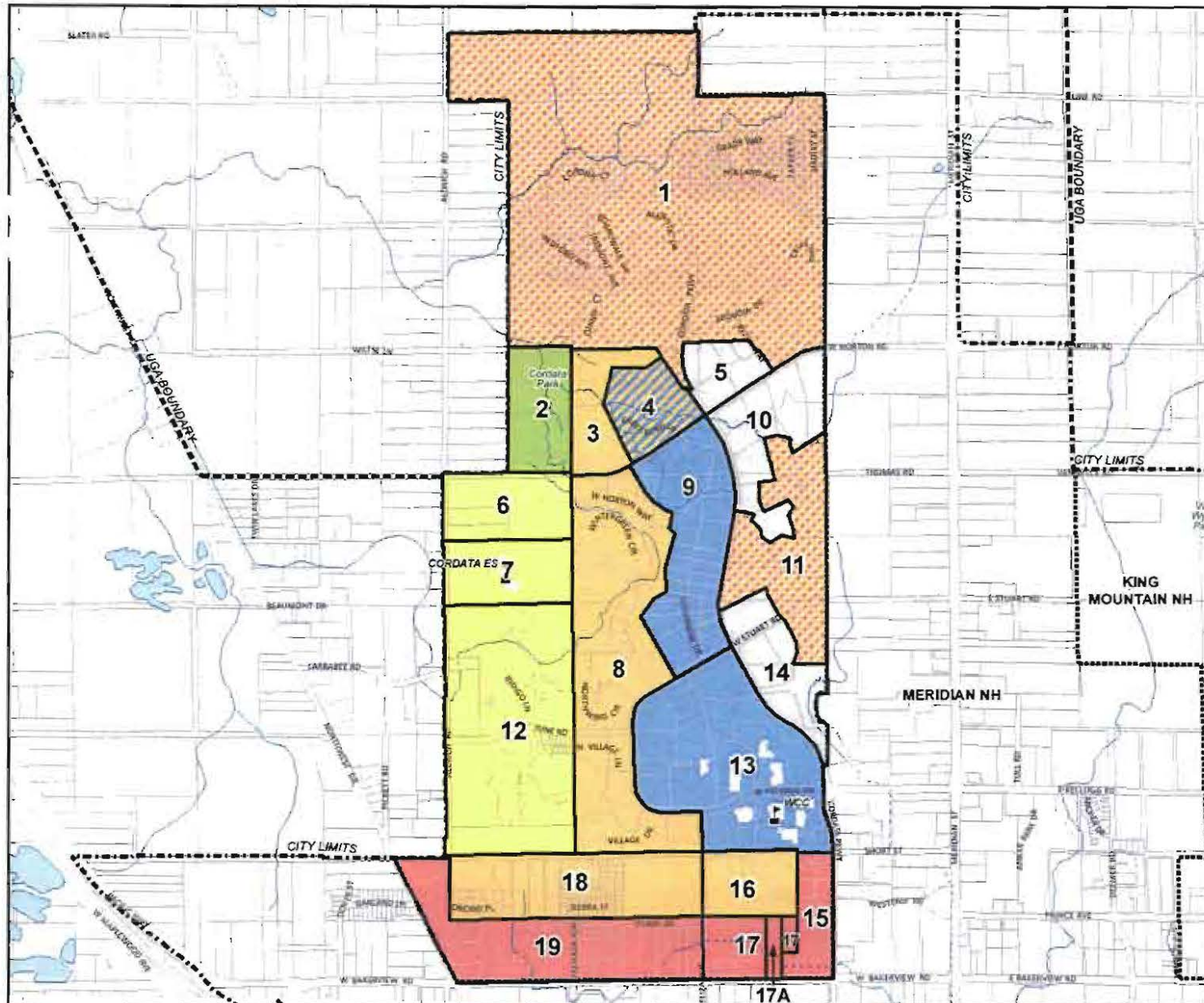
CDG-3 Allow for growth and diversity through standards that are adaptable to a variety of conditions.

Staff Comment: It is time to remove this lot's size limitation due to new a condition: Adjacent lots that could have been added to this one are developed.

CORDATA NEIGHBORHOOD ZONING

AREA ZONING DESIGNATION

- | AREA | ZONING DESIGNATION |
|------|---|
| 1 | Comm./Indus./Residential - Multi, Planned |
| 2 | Public, Park |
| 3 | Residential Multi, Planned |
| 4 | Institutional/Residential-Multi, Planned |
| 5 | Industrial, Light/Planned |
| 6 | Residential Single |
| 7 | Residential Single |
| 8 | Residential Multi, Planned |
| 9 | Institutional, Planned |
| 10 | Industrial, Light/Planned |
| 11 | Comm./Indus./Residential - Multi, Mixed/Planned |
| 12 | Residential Single |
| 13 | Institutional, Planned |
| 14 | Industrial, Light/Planned |
| 15 | Commercial, Planned |
| 16 | Residential Multi, Planned |
| 17 | Commercial, Planned |
| 17A | Commercial, Planned |
| 18 | Residential Multi, Planned |
| 19 | Commercial, Planned |



0 610 1,220 1,830 2,440 Feet

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5/30/2013, km

EXHIBIT B