

**ORDINANCE NO. 2023-02-005**

**AN ORDINANCE OF THE CITY OF BELLINGHAM REZONING APPROXIMATELY 3.8 ACRES AND CREATING A NEW SUBAREA, AREA 8A, IN THE SOUTH NEIGHBORHOOD ZONING TABLE, BMC 20.00.190, AND THE CITY'S ADOPTED ZONING MAP.**

**WHEREAS**, Chapter 20.19 Bellingham Municipal Code (BMC) provides the decision criteria for amending the City's adopted zoning tables and map; and

**WHEREAS**, on January 9, 2022, the applicant held a neighborhood meeting to introduce the proposed rezone to the public; and

**WHEREAS**, on April 20, 2022, the Planning and Community Development Department received a rezone application to create a new zoning subarea, Area 8A in the South Neighborhood with a Residential Single zoning, 7,200 square foot density and a cluster use qualifier; and

**WHEREAS**, upon review of the applicant's proposal, staff determined that establishing a new subarea in the South Neighborhood that maintains the 7,200 square foot density and allows use of the cluster provision is appropriate to address the presence of critical areas and the proximity to public infrastructure and services; and

**WHEREAS**, the responsible official reviewed the proposed rezone under the procedures of the SEPA, and a non-project Determination of Non-Significance was issued on November 16, 2022; and

**WHEREAS**, as required by RCW 36.70A.106, notice of the City's intent to approve the rezone was sent to the Department of Commerce on November 17, 2022; and

**WHEREAS**, after notice was posted on site, mailed, and published as required by Chapter 21.10 BMC, the Planning Commission held a public hearing on the proposed rezone on December 1, 2022; and

**WHEREAS**, the Planning Commission considered the staff report and comments received and thereafter made Findings, Conclusions and Recommendations for Approval of the proposed rezone by a 4-2 vote; and

**WHEREAS**, the Planning Commission finds that the proposed amendment and rezone is consistent with the 2016 Bellingham Comprehensive Plan and meets all of the rezone review criteria in BMC 20.19.030; and

**WHEREAS**, after notice was posted on site, mailed, and published as required by BMC 21.10, the City Council held a public hearing on the proposed rezone on February 13, 2023; and

**WHEREAS**, the City Council considered the recommendation of the Planning Commission, the staff report, and the public comment and hereby approves the Findings, Conclusions and Recommendations of the Planning Commission; and

**WHEREAS**, the City Council finds that the proposed rezone is consistent with the 2016 Bellingham Comprehensive Plan and meets all of the rezone review criteria in BMC 20.19.030.

**NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:**

**Section 1.** The City's official zoning map is hereby amended to include a new subarea, Area 8A, in the South Neighborhood as shown in EXHIBIT A.

**Section 2.** Bellingham Municipal Code 20.00.190 South Neighborhood Table of Zoning Regulations is hereby amended to add a new zoning subarea, Area 8A, as shown in EXHIBIT B.

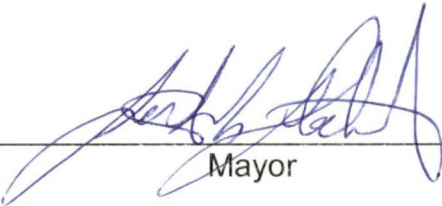
**Section 3.** The City Council agrees with and hereby approves the Planning Commission's Findings, Conclusions, and Recommendations, attached as EXHIBIT C.

**Section 4.** City administration and the codifiers of this ordinance are authorized to make necessary clerical corrections including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any reference thereto.

**PASSED** by the Council this 27th day of February, 2023

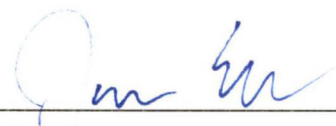
  
\_\_\_\_\_  
Council President

APPROVED by me this 15<sup>th</sup> day of March, 2023

  
\_\_\_\_\_  
Mayor

ATTEST:   
\_\_\_\_\_  
Finance Director

APPROVED AS TO FORM:

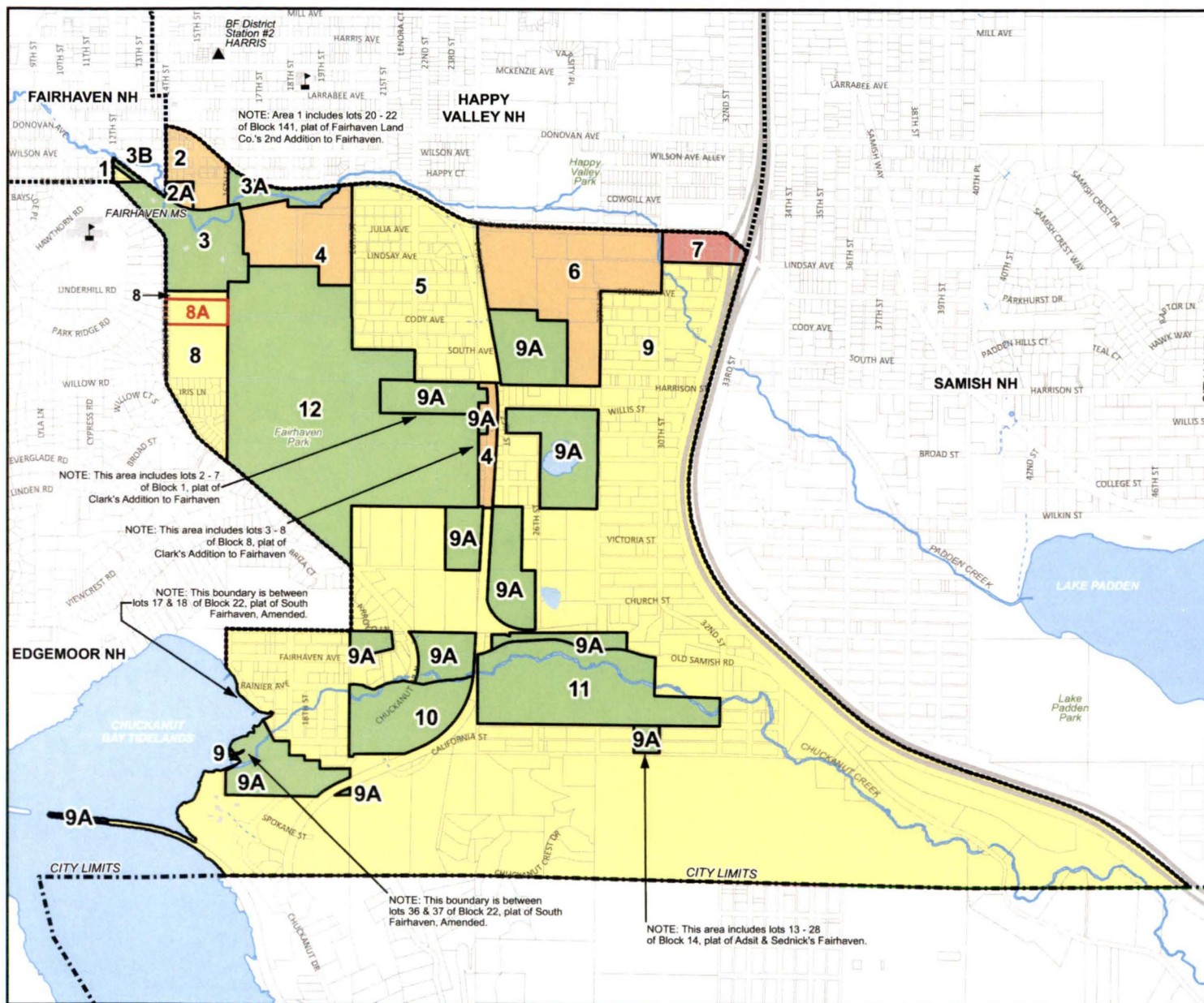
  
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Office of the City Attorney

PUBLISHED: March 3, 2023



# SOUTH NEIGHBORHOOD ZONING

AREA	ZONING DESIGNATION
1	Res. Single
2	Res. Multi, Transition
2A	Res. Multi, Planned
3	Public, Park
3A	Public, Open Space/Park
3B	Public, Open Space/Park
4	Res. Multi, Planned
5	Res. Single
6	Res. Multi, Planned
7	Commercial, Planned
8	Res. Single
8A	Res. Single
9	Res. Single
9A	Public, Open Space/Park/Utilities
10	Public, Open Space/Utilities
11	Public, Open Space
12	Public, Open Space/Park



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## 20.00.190 South neighborhood table of zoning regulations.

Area	Zoning	Use Qualifier	Density	Special Conditions	Prerequisite Considerations	Special Regulations
Areas 1-8: [No Change]						
<u>8A</u>	<u>Residential</u> <u>Single</u>	<u>Cluster</u>	<u>7,200 sq. ft.</u> <u>minimum</u> <u>detached</u> <u>lot size. 1</u> <u>lot/7,200</u> <u>sq. ft.</u> <u>average</u> <u>overall</u> <u>cluster</u> <u>density.</u>	<u>None</u>	<u>None</u>	<u>None</u>
Areas 9-12: [No Change]						

## BELLINGHAM PLANNING COMMISSION FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS

DECEMBER 1, 2022

### SUMMARY

Following the public hearing and deliberation on the proposed rezone to the Bellingham Municipal Code, the Bellingham Planning Commission has determined that the proposed changes comply with, and will implement, the goals and policies of the Bellingham Comprehensive Plan.

### I. FINDINGS OF FACT

#### 1. Project or Proposal Description:

The applicant, AVT Consulting on behalf of the property owner Burton Baxter Testamentary Trust, applied for a Rezone to amend the official zoning map and the South Neighborhood Table of Zoning regulation by adding a new subarea, Area 8A, with a Residential Single land use designation, 7,200 square-foot density and a cluster use qualifier. Area 8A is proposed to include a single parcel that is located at 331 Chuckanut Drive N (Parcel #370212 230367).

The subject property is currently regulated under the Bellingham Municipal Code (BMC) 20.00.190 and is zoned:

Area	Zoning	Use Qualifier	Density	Special Conditions	Prerequisite Considerations	Special Regulations
8	Residential Single	Detached	7,200 sq. ft. minimum detached lot size.	None	None	None

Proposed amendments to the South Neighborhood Zoning Table BMC 20.00.190 to support the Rezone are shown in the draft ordinance.

The site contains critical areas regulated by the Critical Areas Ordinance BMC 16.55. These critical areas and associated buffers limit the developable area of the site. The existing zoning has a 'detached' use qualifier which only allows detached single-family residences on lots with a minimum area of 7,200 square feet. The limited developable area and the detached use qualifier together affect the site's ability to achieve the number of housing units allowed by the zoned density. Adding a cluster provision allows development with a broader range of housing types and lot sizes that accommodates the allowed density on buildable portions of the site.



## 2. Background Information/Procedural History:

### Procedural History

January 19, 2022: The applicant on behalf of the property owner held a virtual pre-application neighborhood meeting.

April 20, 2022: The applicant submitted a rezone application for the subject site and a SEPA checklist.

October 31, 2022: A Notice of the Planning Commission Hearing was issued pursuant to BMC 21.10.150.

November 16, 2022: The City SEPA Official issued a non-project environmental threshold Determination of Nonsignificance. SEP2022-0020

November 17, 2022: Notice of the City's intent to adopt the proposed rezone was sent to the Washington State Department of Commerce.

## 3. Comprehensive Plan Goals and Policies:

The City's Comprehensive Plan identifies the goals and policies that are used as a guide for legislative and administrative decisions regarding changes to the development codes. Relevant comprehensive plan goals and policies are listed below:

### Land Use

**GOAL LU-1** Support sense of place in neighborhoods.

**Policy LU-1** The Single-Family Residential designation permits a range of housing densities to achieve the City's housing diversity and affordability goals. In undeveloped or infill areas, new housing may include single-family detached, single-family attached, townhouses, cottage housing, accessory dwelling units, clustered housing and other small-scale housing forms. Accessory, public and semi-public uses are also allowed.

**Policy LU-3** Residential densities are permitted as follows:

**Residential, Medium Density – 3,600 to 7,200 square feet per dwelling unit (6 to 12 units per acre)**. The Medium-Density Residential designation should be used for land that is suitable for moderate density development.

**Policy LU-10** To achieve a healthy mix of housing that is affordable to a wide range of incomes, implement and seek new, innovative tools, including, but not limited to:

- Density bonuses;
- Cluster subdivisions that preserve open space, retain natural features and provide other public benefits;

- The Infill Housing Toolkit, which includes small lot homes, townhomes and other housing forms;
- Accessory dwelling units;

**GOAL LU-7** Protect and restore our community's natural resources (land, water and air) through proactive environmental stewardship.

**Policy LU-66** Encourage design flexibility (e.g. clustering and low impact development) to preserve existing site features, including trees, wetlands, streams, natural topography, and similar features.

### **Housing**

**GOAL H-1** Ensure that Bellingham has a sufficient quantity and variety of housing types and densities to accommodate projected growth and promote other community goals (see Land Use Chapter).

**Policy H-1** Support high-density and mixed commercial/residential development in the City's urban villages, high capacity transit corridors connecting the villages and other appropriate areas that allow people to work, shop and recreate near where they live.

**Policy H-2** Encourage mixed housing types for new development on greenfield sites, a benefit of which is the integration of people from various socio-economic backgrounds.

**Policy H-3** Encourage well-designed infill development on vacant or underutilized properties.

**Policy H-4** Continue to support implementation of the Infill Housing Toolkit, which permits innovative housing forms such as small and smaller lot single-family homes, cottages, duplexes, triplexes, common courtyards and townhomes.

**GOAL H-3** Promote sense of place in neighborhoods (see Land Use Chapter).

**Policy H-40** Foster innovative housing and mixtures of housing types that preserve natural resources and consolidate open space (e.g. context-sensitive residential clustering).

**GOAL H-5** Existing manufactured homes parks should be preserved.

**Policy H-55** Identify and evaluate methods to encourage the preservation of existing manufactured home parks to ensure their continued provision of affordable housing.

### **Environmental**

**GOAL EV-3** Protect and restore ecological functions and habitats.



**Policy EV-10** Incorporate sustainable land use and design elements into projects early in the planning stages to avoid impacts to critical areas (see Land Use and Community Design Chapters).

**Policy EV-11** Promote the use of the Bellingham Habitat Restoration Technical Assessment and other natural resource assessments conducted by the City in project design, development review, and restoration and mitigation project selection to achieve the maximum benefits for preservation and restoration of critical areas.

#### **4. Public Comment:**

In response to the Notice of Planning Commission Hearing, the City received one public comment prior to the issuance date of the staff report. The comment was from the South Neighborhood Association and raised issues concerning allowable density, impacts to Padden Creek, previous use of the property as a fill site and impacts from lighting associated with development.

The staff report and the application materials discuss the historical use of this property as a fill site. The applicant submitted a technical memorandum concerning the subsurface conditions of the property resulting from the fill and finding the fill material is generally not suitable for development. Additional analysis will be performed at the project level.

The allowable density is not proposed to change with the Rezone. The number of units permitted to develop on the site will be determined upon review of land use applications for consistency with applicable code, which will also include a more in depth review of environmental considerations and lighting.

Three members of the public provided testimony at the Planning Commission hearing that generally summarized the existing written record with additional comment concerning the historical .

#### **5. State Environmental Policy Act (SEPA) Determination if applicable**

A non-project Determination of Non-Significance was issued on November 16, 2022.

#### **6. REZONE REVIEW CRITERIA: BMC 20.19.030**

In evaluating proposed rezones, the Planning Commission and City Council should consider the following criteria:

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

See the discussion under Comprehensive Plan amendment criterion B.1. and B. 2.

The Commission finds that this criterion has been met.

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

The proposed Rezone will not adversely affect the public health, safety or general welfare. Adding a cluster provision will not change the underlying zoning or allowed density stated in the current regulations but will increase development opportunities of the subject site by allowing a broader range of housing types on smaller lots.

The Commission finds that this criterion has been met.

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

The proposed Rezone will result in a long-term benefit to the community by increasing the development opportunity of a parcel that is currently served by transit and public infrastructure and is in close proximity to recreation, schools and services. As stated above, this infill opportunity furthers many of the City's comprehensive plan's goals and policies.

The Commission finds that this criterion has been met.

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

The subject property is suitable for development in general conformance with zoning standards with a cluster provision in the proposed zoning district. The Rezone continues to allow residential development as the primary use while maintaining the underlying zoning and densities.

The wetlands and their associated buffers pose development constraints on the property and adding a cluster provision will increase the opportunity for development in general conformance with the zoning district and overall purpose of the cluster provision. Additional environmental review will be required with an actual development proposal.

The 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 subject site is or can be adequately served by City facilities and existing life safety services. Specific details of the required public facilities and services needed to support development of the site will be determined with project review.

The 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.**

The Rezone proposal will not be materially detrimental to the uses or properties in the



immediate vicinity. The housing types allowed through a cluster preliminary plat are consistent with the form, scale and densities of abutting development.

The 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**

The current zoning was established in the early 80s, before adoption of environmental regulations concerning wetlands. Under the City's current Critical Area Ordinance, BMC 16.55, a proposal must demonstrate mitigation sequencing that prioritizes avoidance of critical area impacts. The site is not able to realize development at the zoned density with the detached use qualifier in part due to the size and location of the critical areas and the requirement that each lot must be developed with a detached single-family residence on a 7,200 sf lot. Adding a cluster provision will allow development to cluster in the buildable area of the property using smaller lots and achieve the development of more units.

The Commission finds that this criterion has been met.

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

This criterion is not applicable to the proposal.

- 3. The rezone will implement the policies of the comprehensive plan.**

See response above to decision criterion BMC 20.19.030(A).

The Commission finds that this criterion has been met.

**II. CONCLUSIONS**

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

1. The Rezone continues to allow residential development as the primary use while maintaining the underlying zoning and densities.
2. A cluster use qualifier will increase development opportunities of the subject site by allowing a broader range of housing types on smaller development footprints in a manner consistent with adjacent land uses.
3. The proposed amendment is consistent with the 2016 Bellingham Comprehensive Plan and meets all of the rezone criteria in BMC 20.19.030.

4. The abutting parcel to the north, 221 Chuckanut Drive N, should not be included in the Rezone.

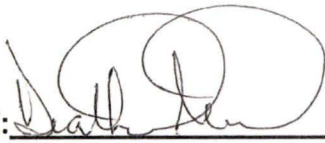
### III. RECOMMENDATIONS

Staff recommends the Planning Commission forward to City Council a recommendation of approval to rezone a portion of Area 8 of the South Neighborhood by creating a new subarea, Area 8A, in the South Neighborhood Table of Zoning Regulations (BMC 20.00.190) with a Residential-single zoning designation with a 7,200 square foot density and a cluster use qualifier and amending the City's adopted zoning map.

**ADOPTED** this 1st day of December, 2021.



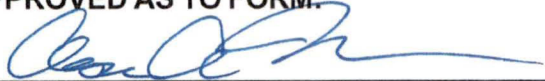
*Planning Commission Chairperson*



**ATTEST:**

*Recording Secretary*

**APPROVED AS TO FORM:**



*City Attorney*