

ORDINANCE NO. 2009-08-054

AN ORDINANCE RELATING TO THE ANNEXATION OF APPROXIMATELY TWO HUNDRED AND THIRTY THREE ACRES OF UNINCORPORATED PROPERTY LOCATED ADJACENT TO THE NORTHERN BOUNDARY OF THE BELLINGHAM CITY LIMITS AND COMMONLY KNOWN AS THE VAN WYCK/JAMES STREET ANNEXATION; ASSIGNING CITY LAND USE AND ZONING DESIGNATIONS, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on February 12, 2008, Whatcom County Council added the Van Wyck / James Street area to Bellingham's Northern Urban Growth Area (UGA) and rezoned the area from Rural 5-acres (R5A) to Urban Residential Mix (URMX) to allow for urban densities at 10 to 24 units per acre consistent with state law; therefore, the subject area is eligible for annexation; and

WHEREAS, on July 18, 2008 the property owners in the annexation area held the required neighborhood meeting to discuss the annexation process; and

WHEREAS, on or about August 4, 2008, the property owners filed a proper and sufficient Notice of Intent to commence annexation proceedings pursuant to RCW 35.13.125; and

WHEREAS, on September 29, 2008 the City Council held a public meeting and approved Resolution 2008-35, thereby initiating the review process for this annexation request, subject to adopting City land use designations, zoning and assumption of existing City indebtedness; and

WHEREAS, on October 3, 2008, the property owners within the annexation area submitted the required seventy-five percent petition to the City consistent with state law; and

WHEREAS, the City forwarded the petition to the Whatcom County Assessor, whereby the Assessor found the petition to comply with state law, and thereafter, provided a Certificate of Sufficiency to the City according to RCW 35.21.005; and

WHEREAS, on February 20, 2009 the City forwarded the Notice of Intention to the Boundary Review Board (BRB) for its 45-day review of the annexation proposal in accordance with state law (RCW 36.93); and

WHEREAS, in April, 2009 the Bellingham City Council and Whatcom County Council approved Amendment #18 to the 1997 Interlocal Agreement between the City and Whatcom County to include the Van Wyck/James Street Annexation; and

WHEREAS, on April 25, 2009 the Whatcom County Boundary Review Board deemed the Notice of Intention to Annex as described in the BRB file #2009-02 approved; and

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

WHEREAS, both the City of Bellingham and Whatcom County have established goals and policies to protect land within the Lake Whatcom Watershed and agricultural lands from development; and

WHEREAS, in April 2009 the City of Bellingham and Whatcom County Planning Directors jointly signed a Memorandum of Agreement to recommend that property owners within the annexation area purchase transfer development rights (TDR) as a condition of annexation; and

WHEREAS, the property owners within the Van Wyck/James Street Annexation area agree to purchase 1 transfer of development right (TDR) and/or purchase of development rights (PDR) for every 5 acres of land in exchange for annexation; and

WHEREAS, on June 29, 2009 the Bellingham City Council approved Ordinance 2009-06-037 which established a "fee in lieu of" option whereby property owners/developers in receiving zones could purchase development rights (PDR) to obtain additional residential density by paying an established fee to the City's Lake Whatcom Watershed Property Acquisition Program Fund; and

WHEREAS, the City's comprehensive plan recognizes the potential to accommodate a healthy mix of diverse residential, commercial and mixed-use development in designated urban villages; and

WHEREAS, portions of the Van Wyck/James Street Annexation area are appropriate for development of an urban village; and

WHEREAS, ALLIANCE Properties Inc., owner of approximately 132.95 acres within the annexation area has agreed to work with the City to develop an urban village within the annexation area; and

WHEREAS, ALLIANCE has signed a Concomitant Agreement with the City, whereby the property owner will develop a master plan and implementing regulations for development of an urban village on ALLIANCE properties for review and approval by the City; and

WHEREAS, on August 10, 2009 the Bellingham City Council held a public hearing and determined the annexation is consistent with the State Growth Management Act (GMA), and the policy direction in Whatcom County's Comprehensive Plan, the Countywide Planning Policies, the Bellingham Subarea Plan as revised, and Bellingham's Comprehensive Plan; and

WHEREAS, at the conclusion of the hearing, Council approved the Van Wyck/James Street annexation ordinance.

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

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

Section 1. The property commonly known as the Van Wyck/James Street Annexation as legally described in Exhibit A is hereby annexed to the City of Bellingham.

Section 2. The area annexed herein shall assume its proportional share of the existing indebtedness of the City of Bellingham.

Section 3. A new Area 13 is added to the King Mountain Neighborhood Plan, component of the Bellingham Comprehensive Plan as described in Exhibit B.

Section 4. A new Area 13 is added to the King Mountain Neighborhood Land Use Map of the Comprehensive Plan Land Use Map as shown in Exhibit C.

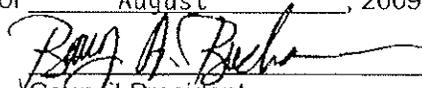
Section 5. A new Area 13 is added to King Mountain Table of Zoning Regulations of Bellingham Municipal Code 20.00.095, as shown in Exhibit D.

Section 6. A new Area 13 is added to the King Mountain Neighborhood Zoning Map as shown in Exhibit E.

Section 7. In exchange for annexation by the City, each of the nineteen property owners of the Van Wyck/James Street Annexation area has agreed to purchase or transfer one development right for every five acres of land annexed to the City by executing a Covenant to Purchase or Transfer Development Rights. An example of the covenant is attached as Exhibit F. The covenants shall be recorded only upon the City's approval of the annexation.

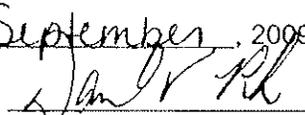
Section 8. The largest property in the Van Wyck/James Street Annexation area, Alliance Properties Inc., has executed a Concomitant Agreement with the City of Bellingham agreeing to develop an urban village master plan and implementing regulations for review and approval by the City as shown as Exhibit G attached and incorporated by reference. The Concomitant Agreement shall be recorded only upon the City's approval of the annexation.

PASSED by the Council this 24th day of August, 2009.

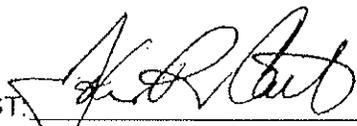


Council President

APPROVED by me this 1st day of September, 2009.



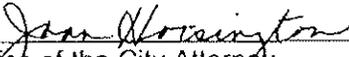
Mayor

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:

August 28, 2009

EXHIBIT A

Legal Description

(3-11-09)

Those portions of Sections 5, 6, 7, and 8, all in Township 38 North, Range 3 East of W.M., Whatcom County, WA., described as follows:

Beginning at the Northeast corner of the South Half of the Southeast Quarter of the Northwest Quarter of said Section 7, being a point on the City Limits line, said line having been established by City of Bellingham Ordinance No. _____ in 2009; thence along said City Limits line the following courses and distances:

Easterly along the north line of the South Half of the Southwest Quarter of the Northeast Quarter of said Section 7, a distance of 1320 feet, more or less, to the Northeast corner thereof; thence Southerly a distance of 660 feet, more or less, to the Southeast corner of said South Half; thence Easterly on the North line of the Northeast Quarter of the Southeast Quarter of said Section 7 a distance of 1290 feet, more or less to the West line of James Street Road as shown on the plat of 1st ADDITION TO KING MOUNTAIN TERRACE, (Vol. 8, Page 47); thence Northerly on said West line a distance of 104 feet more or less; thence Northeasterly on the Northwest line of Gooding Avenue, as shown on said plat, a distance of 51 feet, more or less, to the West line of the Southwest Quarter of the Northwest Quarter of said Section 8; thence Northerly on said West line a distance of 1169 feet, more or less, to the Northwest corner of said Southwest Quarter of the Northwest Quarter; thence approximately North 8° East 298 feet to the Southwest corner of that tract of land described under Parcel A of Auditor's File NO. 2060200205; thence approximately North 23° East 120 feet to the Northwest corner of said tract; thence approximately North 73° West 40 feet to a point measuring 20.10 feet southwesterly of the point of beginning of the most Northwest tract of land described under A.F. No. 2010400523; thence approximately North 23° East 140 feet to the Northwest corner of said Northwest tract; thence approximately South 73° East 571 feet to the intersection of the Southerly projection of the West line of that tract of land described under A.F. No. 1151053 with the North line of Parcel A of that tract of land described under A.F. No. 1507052, thence approximately North 01° East 239 feet on said West line and projection thereof to the Northwest corner of said tract described under A.F. No. 1151053; thence approximately South 73° East 210 feet to the Northeast corner of said tract; thence approximately South 01° West 35 feet to the Northwest corner of that tract of land described under Whatcom County Superior Court Cause 38026; thence approximately South 89° East 80 feet to the Northeast corner of said tract; thence approximately South 01° West 120 feet to the Southeast corner of said tract; thence approximately North 89° West 32 feet to the East line of that 15-foot access road easement described in said Court Cause; thence approximately South 01° West 98 feet to the intersection of said access road easement with the North line of Parcel A of said tract per A.F. No. 1507052; thence approximately South 73° East 20 feet to the Northeast corner of said tract; thence approximately South 24° West 11 feet to the intersection of the East line of said tract with the North line of that tract of land described under A.F. No. 1991001462; thence approximately South 66° East 60 feet to the Northeast corner of said tract; thence approximately South 24° West 361 feet to the intersection of the East line of said tract with the North line of the now vacated 40-foot wide portion of Gooding Avenue as shown on said plat of 1st ADDITION TO KING MOUNTAIN TERRACE; thence approximately South 70° East 230

feet to the Northeast corner thereof; thence approximately South 20° West 40 feet to the Southeast corner thereof; thence approximately South 62° East 53 feet to the most East corner of that 1.78 acre tract shown on said plat; thence approximately South 36° West 148 feet to the Northwest corner of Lot 23, Block 2 of said plat; thence approximately South 89° East 95 feet to an angle point in the North line of said Block. 2; thence approximately South 62° East 260 feet to the Northeast corner of Lot 5, Block 1 of said plat, being a point on the East line of the West Half of the Northwest Quarter of said Section 8;

Thence departing said City Limits line and northerly along said East line a distance of 1765 feet, more or less, to the North line of said Northwest Quarter; thence continuing northerly a distance of 20 feet, more or less, to the north right of way margin of Van Wyck Rd. (County Road No. 41); thence westerly along said north margin, within said Sections 5 and 6, a distance of 5280 feet, more or less, to the West line of the Southeast Quarter of the Southwest Quarter of said Section 6; thence southerly a distance of 20 feet, more or less along said West line to the Northwest corner of the Northeast Quarter of the Northwest Quarter of Section 7; thence southerly along the West line of said Northeast Quarter, also being the West line of Block 56 of the plat of BAKERVIEW ADDITION TO THE CITY OF BELLINGHAM, according to the map thereof, recorded in Volume 7 of Plats, Pages 40-45, inclusive, a distance of 1320 feet, more or less, to the Southwest corner of said Northeast Quarter; thence southerly along the West line of the North Half of said Southeast Quarter of the Northwest Quarter of Section 7, a distance of 660 feet, more or less, to the Southwest corner thereof; thence easterly along the South line of said North Half, a distance of 1320 feet, more or less, to the point of beginning.

Containing approximately 233 Acres, more or less.

EXHIBIT B

AREA 13

Area 13 is located at the northern edge of the King Mountain Neighborhood. It includes about 233 acres and was annexed to the City of Bellingham in September 2009. The most prominent feature is King Mountain. Panoramic views of the City, Bellingham Bay, San Juan Islands and the Canadian mountains can be seen from different areas on the mountain.

Located within the Squalicum Creek Watershed, Area 13 has a variety of environmental features that should be protected as development occurs. Spring Creek, for example, traverses the area in generally a north/south alignment along the western boundary of the area. This creek has areas of carved ravines and gullies with several dense wooded areas and wetlands that are either isolated or associated with Spring Creek. This corridor should be protected as development occurs to maintain slope stability and stream shading. Deciduous and evergreen trees are found throughout the area, including alder, maple, birch, cottonwood, willows and cedar. Along with forest shrubs, snowberry, huckleberry, elderberry, Oregon grape and salmonberry are also prolific in the area. Many of these natural features should be protected and/or incorporated into site design for future residential, commercial and mixed-use development. Open space and trail corridors should be provided as development occurs consistent with the North Bellingham Trail Plan and the Parks, Recreation and Open Space Plan to ensure connectivity with existing city open space and trail systems and between developments.

In exchange for annexation to Bellingham, the property owners in Area 13 signed a covenant with the City, whereby, they would purchase and/or transfer one development right per every five acres annexed. These development rights could be transferred from City or County TDR sending zones or could be purchased from the City for land in the Lake Whatcom Watershed. The intent of the covenant is to protect valuable natural resources from development within the Lake Whatcom Watershed.

Master Planning for Growth

Bellingham's Comprehensive Plan recognizes that an urban village in Area 13 could be an asset for the neighborhood and the community. The urban village should be located on or near arterial streets and transit routes to give it visibility and to serve as the neighborhood focal point.

A well designed village should include a mix of land uses, including pleasant living spaces in a variety of housing types; convenient shopping and working environments; pedestrian accessibility, places to meet and recreate; an attractive and well-connected street system; and a balance of retail, office, residential and public uses.

A master plan is required for the urban village. This plan should identify an appropriate mix of land uses and densities, street and utilities layout, lot arrangement, housing

types, potential village square and plaza locations, streetscape amenities, building types and their relationship to the street, parking structures or lots, protection of critical areas, pedestrian and bicycle facilities, and other items deemed necessary through the master planning process.

Adjacent developments within Area 13 should complement the urban village with compatible design and form, thereby, maintaining the character and livability of the neighborhood.

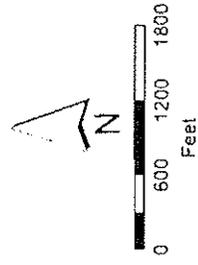
AREA 13 LAND USE DESIGNATION: MULTIFAMILY RESIDENTIAL, HIGH DENSITY

EXHIBIT C

KING MOUNTAIN NEIGHBORHOOD LAND USE

Legend:

COMPREHENSIVE PLAN LAND USE DESIGNATION	
AREA	LAND USE DESIGNATION
1	Residential Multi, High Density
2	Residential Single, Medium Density
3	Public
4	Public
5	Residential Single, Medium Density
6	Residential Single, Medium Density
7	Residential Single, Medium Density
8	Residential Multi, High Density
9	Residential Multi, High Density
10	Residential Single, Medium Density
11	Residential Single, Medium Density
12	Residential Single, Medium Density
13	Residential Multi, High Density



City of Bellingham
Planning Department
2009

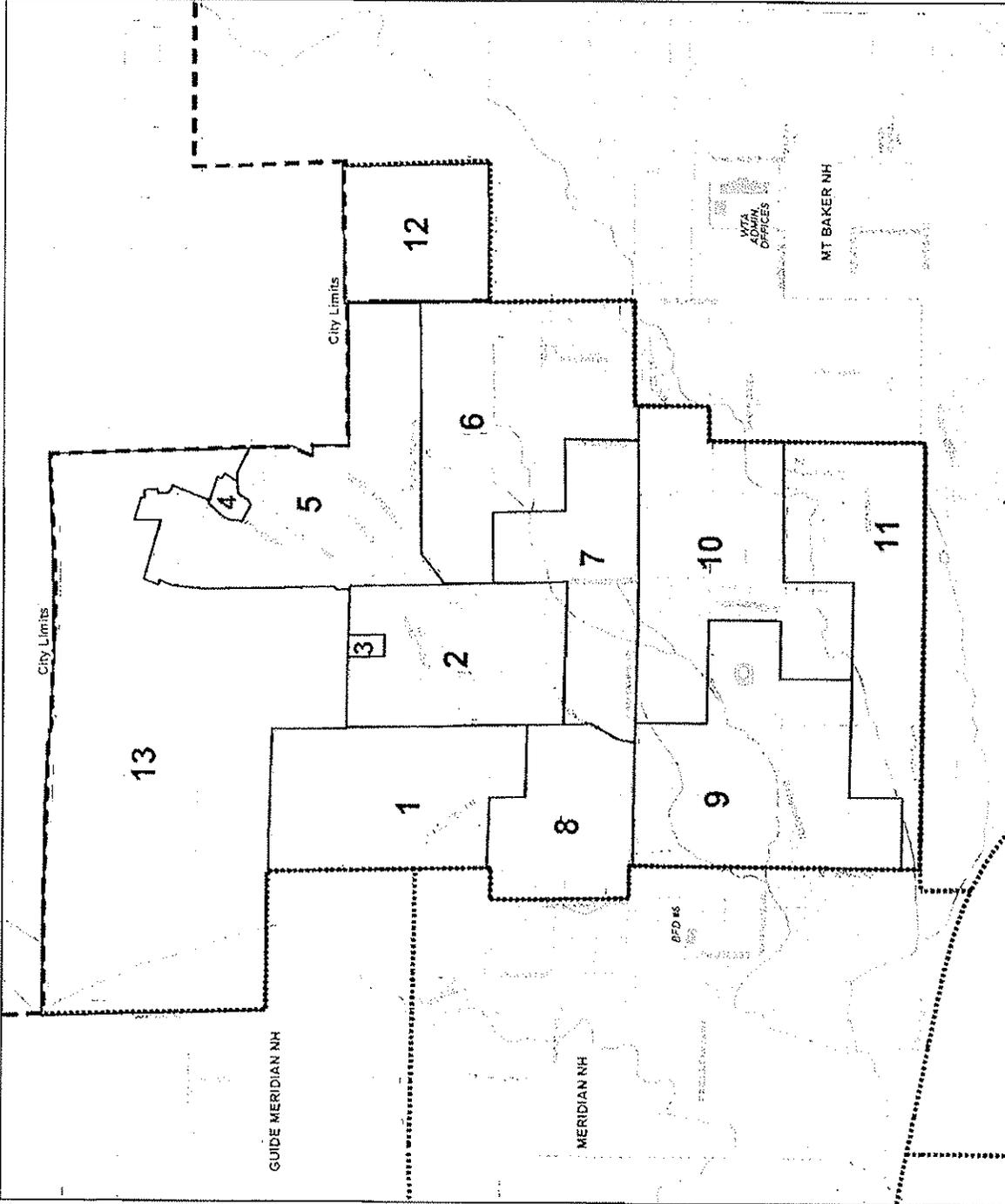


EXHIBIT D

King Mountain Neighborhood Table of Zoning Regulations

Area	Zoning	Use Qualifier	Density	Special Conditions	Prerequisite Considerations	Special Regulations
13	Residential Multi	Planned	<p>4,300 sq. ft. per dwelling unit, up to 1,800 sq. ft. per dwelling unit using cluster bonus provisions in BMC 18.32, adopted City TDR program, or the "fee-in-lieu-of" option, whereby a property owner/developer can purchase additional density by paying a fee to the City's Lake Whatcom Watershed Acquisition Program (LWVPAP)*</p> <p>The fee for a density bonus is calculated on a per dwelling unit basis according</p>	<p>Multimodal Transportation Concurrency evaluation required.</p> <p>Traffic study required according to Public Works Design Guidelines.</p> <p>Limit driveway and side street access points on arterial streets. Shared access is encouraged.</p> <p>Provide public trails as indentified and shown in the Bellingham Comprehensive Plan.</p>	<p>Improvement of James Street to full secondary arterial standard. (New alignment from current terminus to Van Wyck -- Thomas Road; ROW dedication and ¼ abutting improvements required).</p> <p>Improvement of a new Deemer Road to full collector arterial standard along the western edge of Area 13. (ROW dedication and ¼ abutting improvements required).</p>	<p>*The density bonus may be applied through cluster subdivision or planned development. It may exceed the 50% total maximum under BMC 18.32 but density shall not exceed 1,800 sq. ft. per dwelling unit.</p> <p>A portion of Area 13 is affected by Concomitant Agreement # _____ requiring a master plan and implementing development regulations approved by the City.</p>

			<p>to a fee schedule established by the City Council. One unit of additional density will be allowed for each unit purchased through use of this option.</p> <p>An applicant's submittal for planned development shall include a letter from the Bellingham Finance Department documenting the amount to be contributed to the LWWPAP.</p>		<p>Improvement of Van Wyck - Thomas Road to full collector arterial standard from new James Street alignment to western edge of Area 13. (May require additional ROW dedication; ¼ abutting improvements).</p> <p>Driveway and side street access control required along James Street, Van Wyck Road and Deemer Road.</p>	
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KING MOUNTAIN NEIGHBORHOOD

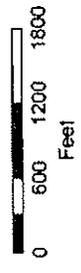
EXHIBIT E

**KING MOUNTAIN
NEIGHBORHOOD
ZONING**

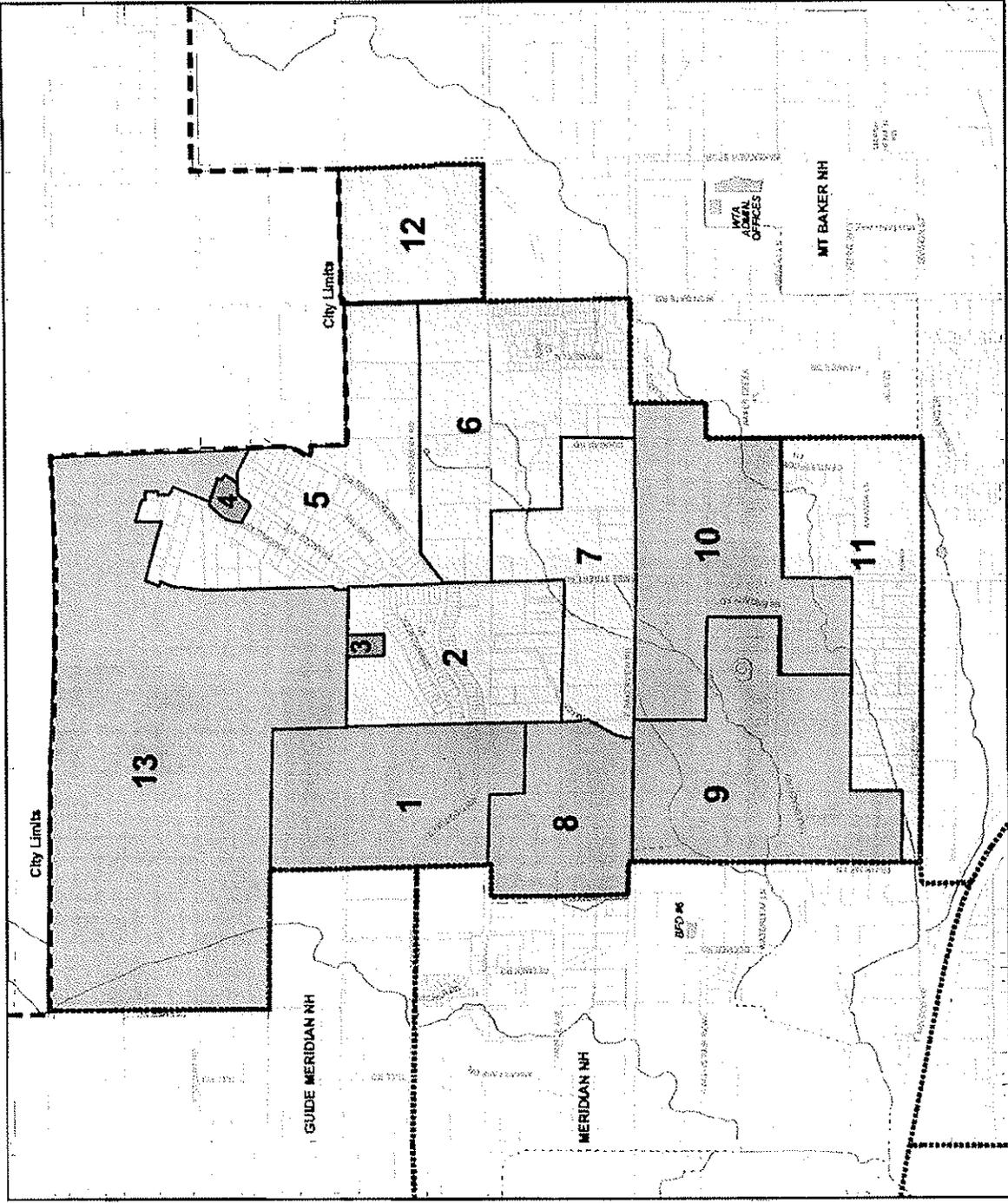
Legend:

AREA	ZONING DESIGNATION*
1	Planned Residential Multi
2	Residential Single
3	Public
4	Public
5	Residential Single
6	Residential Single
7	Residential Single
8	Planned Residential Multi
9	Planned Residential Multi
10	Residential Single
11	Residential Single
12	Residential Single
13	Planned Residential Multi

* SEE BELLINGHAM MUNICIPAL CODE TITLE 20
TABLE OF ZONING REGULATIONS FOR
MODIFICATIONS IN THE LIST OF PERMITTED
USES AND OTHER SPECIAL PROVISIONS
FOR EACH NUMBERED AREA



City of Bellingham
Planning Department
2009



AFTER RECORDING RETURN DOCUMENT TO:

EXHIBIT F

City of Bellingham - Planning &
Community Development Department
210 Lottie Street
Bellingham, WA 98225

DOCUMENT TITLE: *Covenant to Purchase or Transfer Development Rights in exchange for annexation to the City of Bellingham*

REFERENCE NUMBER OF RELATED DOCUMENT: Tidemark # MIS2008-00064.

GRANTOR(S): Allen & Carol Handy
325 Van Wyck Rd.
Bellingham, WA 98226-8796

GRANTEE(S): City of Bellingham

ABBREVIATED LEGAL DESCRIPTION: BAKERVIEW ADD TO BELLINGHAM THAT
PTN OF NW NE SEC 7-38-3E DAF-BEG AT NW COR OF W ½ N ½ OF BLK 57-
TH S 00 DEG 53'21" E ALG W LI OF BLK 57 431.30 FT-TH S 87 DEG 46'14" E
326.31 FT-TH N

ADDITIONAL LEGAL DESCRIPTION ON PAGE(S) N/A **OF DOCUMENT.**

ASSESSOR'S TAX/PARCEL NUMBER(S): 380307 278513 0000

**COVENANT TO PURCHASE OR TRANSFER DEVELOPMENT RIGHTS
IN EXCHANGE FOR ANNEXATION TO BELLINGHAM**

I (We) the owner(s) of property located within the Van Wyck/James Street Annexation Area and legally described as: BAKERVIEW ADD TO BELLINGHAM THAT PTN OF NW NE SEC 7-38-3E DAF-BEG AT NW COR OF W ½ N ½ OF BLK 57-TH S 00 DEG 53'21" E ALG W LI OF BLK 57 431.30 FT-TH S 87 DEG 46'14" E 326.31 FT-TH N acknowledge that both the City of Bellingham and Whatcom County have established goals and policies to protect land located within the Lake Whatcom Watershed and agricultural lands from development. I (We) acknowledge these goals and policies are in

place to protect the valuable natural resources and the citizens of our County; and therefore, in exchange for annexation to Bellingham, I (we) do agree to purchase or transfer one development right (DR) for every five acres of my (our) above described property annexed to Bellingham. For property of more or less than five acres, DRs shall be prorated for fractional shares of my (our) property.

These DRs may be transferred from either City or County TDR sending zones or may be purchased from the City for land in the Lake Whatcom watershed through the Purchase of Development (PDR) program of the City. The DR or portion thereof, may be transferred to other property owners. Development rights purchased prior to this covenant may be used to meet this requirement. The development rights may be used as a density bonus to increase the number of dwelling units from 10 up to 24 units/acre as allowed by the underlying zoning, at the owner's sole discretion.

The purchase or transfer of development rights shall occur prior to the approval of development of my (our) land. Development shall mean any land use application approval that results in the division of land, new residential units and/or a conditional use permit.

This covenant will be released when either 1) the development rights are purchased or transferred consistent with this covenant or 2) if my (our) land is not annexed into the City of Bellingham prior to the end of the year 2009. This covenant shall run with the land, is for the benefit of the general public and shall be binding upon my (our) heirs, devisees, executors, administrators, successors and assigns. This covenant shall not be revoked without prior written consent of the City of Bellingham.

EXECUTED this 21 day of July, 2009.

Allen Handy
Allen Handy

Carol Handy
Carol Handy

STATE OF Washington)
)SS
COUNTY OF Whatcom)

I certify that I know or have satisfactory evidence that Allen & Carol Handy
signed this instrument and acknowledged it to be their free and voluntary act for the uses
and purposes mentioned in the instrument.

July 21, 2009
Date

(Seal or stamp)

Swanny Strand
SIGNATURE OF NOTARY PUBLIC

Swanny Strand
NAME PRINTED

Notary
TITLE

11-05-09
DATE APPOINTMENT EXPIRES

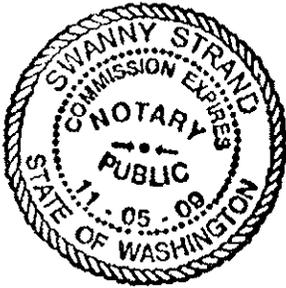


EXHIBIT G

Van Wyck / James Street Annexation

**Concomitant Agreement between ALLIANCE Properties,
LLC and the City of Bellingham**

August 24, 2009

AFTER RECORDING RETURN DOCUMENT TO:

City of Bellingham – Legal
210 Lottie Street
Bellingham, WA 98225

Reserved for Recording Purposes Only

DOCUMENT TITLE: CONCOMITANT AGREEMENT

REFERENCE NUMBER OF RELATED DOCUMENT: Tidemark # MIS2008-64

GRANTOR(S): ALLIANCE PROPERTIES 2000, LLC, a Washington limited liability corporation, RALPH AND SUSAN BLACK, MICHAEL AND HEATHER BLACK, 12TH AND HARRIS, LLC, a Washington limited liability corporation,

GRANTEE(S): CITY OF BELLINGHAM

LEGAL DESCRIPTION: SEE EXHIBIT 1

ASSESSOR'S TAX/PARCEL NUMBER(S): SEE EXHIBIT 2

CONCOMITANT AGREEMENT # - 2009

**VAN WYCK / JAMES STREET ANNEXATION
KING MOUNTAIN URBAN VILLAGE**

This **CONCOMITANT AGREEMENT** (this "Agreement") is made and entered into this 17 day of August, 2009 by and between the **CITY OF BELLINGHAM**, a municipal corporation, hereinafter called the "City" and **ALLIANCE PROPERTIES 2000, LLC**, a Washington limited liability corporation, **RALPH AND SUSAN BLACK, MICHAEL AND HEATHER BLACK, 12TH AND HARRIS, LLC**, a Washington limited liability corporation, hereinafter all referred to as "ALLIANCE."

RECITALS

A. ALLIANCE owns property located adjacent to the northern boundary of the Bellingham City limits, between Van Wyck Road on the north and the northern boundary of the King Mountain Neighborhood on the south. This property is referenced herein as the "ALLIANCE Property" and is more particularly described in Exhibit 1 attached and incorporated herein by this reference, and illustrated in Exhibit 3 attached. The ALLIANCE Property is part of an area referred to as the "Van Wyck / James Street Annexation."

B. As part of the joint City and Whatcom County ("County") Urban Fringe Subarea Plan update process and Urban Growth Area ("UGA") boundary analysis, ALLIANCE submitted to the City and County for review a concept of an urban village to be located on the ALLIANCE Property. ALLIANCE offered to plan and design an urban village providing for increased urban density once the property was added to Bellingham's Northern Urban Growth Area and annexed by the City.

C. The ALLIANCE concept is entitled "King Mountain Bellingham, WA, August 2005" and contains a description of the urban village, including site photos, a description of regional planning opportunities, site analysis, site plan, core area plan, Illustrations of the view of Market Square, and a vision statement for the urban village. This schematic is attached as Exhibit 4 and incorporated by reference.

D. The urban village as envisioned would allow approximately 1000 or more dwelling units including single family dwellings, townhomes, and condo/loft /apartments that would assist the City in accommodating its population growth and its population infill goals. It would also provide for commercial and retail development with live/work residential above, underground parking, a village square, plazas and potential transit stops and pocket parks.

E. In 2008, Whatcom County added the ALLIANCE Property, among other properties, to Bellingham's Northern UGA to allow annexation and development of an urban village on the ALLIANCE Property.

F. ALLIANCE, along with other property owners in the Van Wyck / James Street area, have petitioned the City to annex approximately two hundred and thirty three (233) acres of unincorporated property referred to as the Van Wyck / James Street Annexation.

G. While the current zoning and development regulations within the Van Wyck / James Street Annexation area do not allow for development of an urban village on the ALLIANCE Property, ALLIANCE and the City are committed to working together upon annexation to make the necessary zoning and development regulation changes to allow for an urban village.

H. ALLIANCE has agreed to design an urban village master plan and implementing regulations for review by the City.

I. The City finds it in the public interest to adopt an ordinance approving the annexation of the "Van Wyck / James Street Annexation" area subject to the execution of this binding agreement.

AGREEMENT

In consideration of the City of Bellingham annexing the above described ALLIANCE Property, ALLIANCE hereby covenants and agrees to the following:

A. Development of King Mountain Urban Village Plan and implementing development regulations.

1. ALLIANCE agrees to design an urban village master plan and implementing development regulations for an urban village on ALLIANCE Property legally described in Exhibit 1. The urban village master plan shall be known as the "King Mountain Urban Village Plan" and the urban village shall be known as the "King Mountain Urban Village." The King Mountain Urban Village Plan shall include an introduction, vision statement, and policies regarding development, land use, circulation, streetscape, parking, parks, plazas, and capital facilities. The implementing development regulations shall include regulations establishing urban village boundaries, land use areas, permitted uses, minimum site areas, maximum densities, building heights, floor area ratios, design standards and requirements for yards, street improvement, parking, landscaping and signs and other regulations identified in the review process.
2. ALLIANCE agrees that the King Mountain Urban Village Plan shall be in the spirit of the urban village concept entitled "King Mountain Bellingham, WA, August 2005" attached as Exhibit 4 to this Agreement. The specific design for the King Mountain Village Plan shall be determined by ALLIANCE and submitted to the City in accordance with the terms and conditions set forth in this agreement.
3. ALLIANCE agrees that the format and level of detail of the King Mountain Urban Village Master Plan and implementing development regulations shall be similar to the City's Old Town Urban Village Plan and Samish Way Urban Village Plan and their implementing development regulations.
4. ALLIANCE agrees to be responsible for its costs of designing the King Mountain Urban Village Plan and implementing development regulations.

5. ALLIANCE agrees that its property legally described in Exhibit 1 shall not be developed prior to the City's review of the King Mountain Urban Village Plan and implementing development regulations.

B. City review and approval of the King Mountain Urban Village Plan.

1. The City agrees to complete its review and approval of the King Mountain Urban Village Plan and implementing development regulations within 18 months of ALLIANCE submitting a complete urban village plan and implementing regulations to the City. The time period for the City completing its review and approval may be extended upon the mutual agreement of ALLIANCE and the City.
2. The City will follow a Type VI process in accordance with Bellingham Municipal Code 21.10.150 for completing its review of the King Mountain Urban Village Plan and implementing development regulations. This review shall include a public hearing before the City's Planning Commission, a recommendation by the Planning Commission to City Council, a public hearing before the City Council, and a final decision on the King Mountain Urban Village Plan and implementing regulations by City Council.
3. If the City fails to complete its review and approval within the timeline specified above, ALLIANCE may develop the ALLIANCE Property in accordance with the zoning and development regulations in place at the time of ALLIANCE submitting a complete development application to the City.

C. Agreement binding on ALLIANCE's successors.

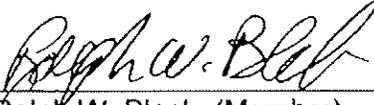
This agreement shall run with the land and be binding upon all subsequent owners, successors, and assigns of ALLIANCE.

complete, and exclusive statement of the terms of the agreement between the parties pertaining to the subject matter of this Agreement and supersede all prior and contemporaneous understandings or agreements of the parties. This Agreement may not be contradicted by evidence of any prior or contemporaneous statements or agreements. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation, understanding, agreement, commitment or warranty outside those expressly set forth in this Agreement.

6. Severability of Agreement. If any term or provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable, or invalid provisions or part thereof shall be stricken from this Agreement, and such provision shall not affect the legality, enforceability, or validity of the remainder of this Agreement. If any provision or part thereof of this Agreement is stricken in accordance with the provisions of this section, then this stricken provision shall be replaced, to the extent possible, with a legal, enforceable, and valid provision that is as similar in tenor to the stricken provision as is legally possible.
7. Time of the Essence. Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.
8. Waiver. No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy.
9. Headings. The headings in this Agreement are included for convenience only and shall neither affect the construction or interpretation of any provision in this Agreement nor affect any of the rights or obligations of the parties to this Agreement.
10. Necessary Acts, Further Assurances. The parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Agreement.
11. Execution. This Agreement may be executed in counterparts.

12. Consent to Jurisdiction and Forum Selection. The parties hereto agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the Superior Court located in Whatcom County. The aforementioned choice of venue is intended by the parties to be mandatory and not permissive in nature, thereby precluding the possibility of litigation between the parties with respect to or arising out of this Agreement in any jurisdiction other than that specified in this paragraph.
13. Specific Performance. The parties acknowledge that it will be impossible to measure in money the damage to them caused by any failure to comply with the covenants set forth in this Agreement, that each such covenant is material, and that in the event of any such failure, the injured party will not have an adequate remedy at law or in damages. Therefore, the parties consent to the issuance of an injunction or the enforcement of other equitable remedies against them at the suit of the other, without bond or other security, to compel performance of all of the terms of this Agreement.
14. Representation on Authority of Parties/Signatories. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.
15. Advice of Counsel. This Agreement was negotiated at arms-length with each Party receiving advice from independent legal counsel. It is the intent of the Parties that no part of this Agreement be construed against either of the Parties because of the identity of the drafter.

EXECUTED, this 17 day of August, 2009, for **ALLIANCE PROPERTIES 2000, LLC:**



Ralph W. Black, (Member)

EXECUTED, this 17 day of August, 2009, for: RALPH
AND SUSAN BLACK, and MICHAEL and HEATHER BLACK



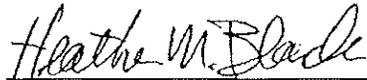
Ralph W. Black



Susan J. Black (by Ralph Black Attorney in fact)

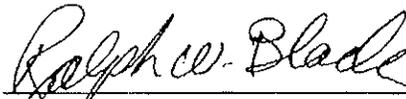


Michael O. Black (by Ralph Black Attorney in fact)



Heather M. Black (by Ralph Black Attorney in fact)

EXECUTED, this 17 day of August, 2009, for 12th and
Harris LLC:



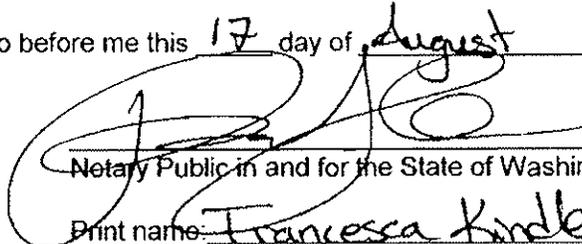
Ralph W. Black, (Member)

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that RALPH W. BLACK is the person who appeared before me and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Subscribed and Sworn to before me this 17 day of August, 2009.





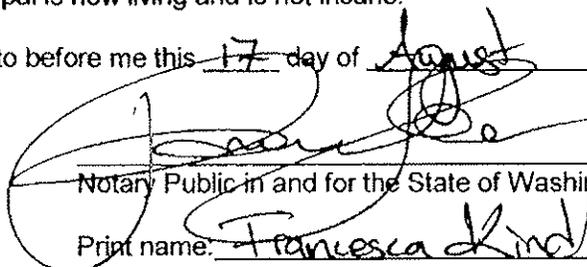
Notary Public in and for the State of Washington
Print name: Francesca Kindle
My commission expires: 3/20/10

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that before me personally appeared Ralph W. Black, to be known to be individual described in and who executed the foregoing instrument for himself and also as Attorney in Fact for Susan J. Black, Michael O. Black, Heather M. Black and acknowledge that he signed and sealed the same as his free and voluntary act and deed for himself and also his free and voluntary act and deed as Attorney in Fact for said principal for the uses and purposes therein mentioned, and on oath stated that the Power of Attorney authorizing the execution of this instrument has not been revoked and that the said principal is now living and is not insane.

Subscribed and Sworn to before me this 17 day of August, 2009.





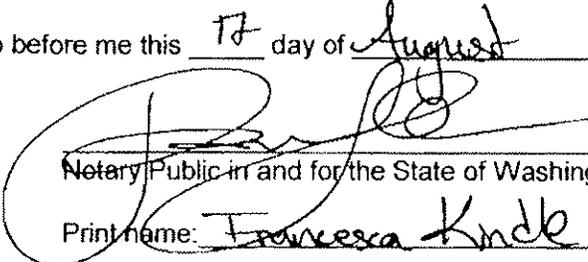
Notary Public in and for the State of Washington
Print name: Francesca Kindle
My commission expires: 3/20/10

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that Ralph W. Black signed this instrument on oath stated that he is authorized to execute the instrument and acknowledged it as a Member of Alliance Properties 2000 LLC, a Washington limited liability company to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Subscribed and Sworn to before me this 17 day of August, 2006.




Notary Public in and for the State of Washington

Print name: Francesca Kindle

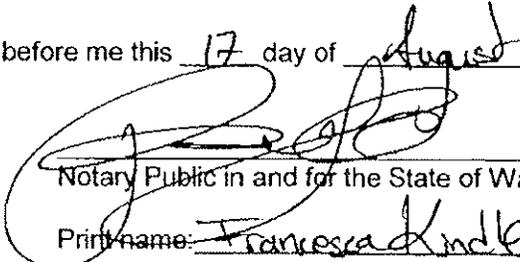
My commission expires: 3/20/10

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that Ralph W. Black signed this instrument on oath stated that he is authorized to execute the instrument and acknowledged it as a Member of 12th and Harris LLC, a Washington limited liability company to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Subscribed and sworn to before me this 17 day of August, 2009.




Notary Public in and for the State of Washington

Print name: Francesca Kindle

My commission expires: 3/20/10

EXECUTED, this _____ day of _____, 2009, for the CITY:

Departmental Approval:

Mayor

Department Head

Attest:

Approved as to Form:

Finance Director

Office of the City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM__)

On this _____ day of _____, 2009, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared _____, known to me to be the Mayor of the **CITY OF BELLINGHAM**, the first class municipal corporation of the State of Washington that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said first class municipal corporation of the State of Washington, for the purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.

Signature

Print Name
NOTARY PUBLIC in and for the State of
Washington, residing at _____.
My commission expires _____

EXHIBIT 1 - LEGAL DESCRIPTION OF THE ALLIANCE PROPERTY

EXHIBIT 2 - ASSESSOR'S TAX PARCEL NUMBERS

EXHIBIT 3 - ILLUSTRATION OF THE ALLIANCE PROPERTY

EXHIBIT 4 - CONCEPT OF THE ALLIANCE URBAN VILLAGE

EXHIBIT 1

Parcel Number	Owner Name	Size	Legal Description
380307 363476 0000	Ralph W and Susan J Black	15	BAKERVUE ADD TO BELLINGHAM THAT PTN OF BLK 57 DAF-NE 1/4-E 1/2 SE- EXC ALL MIN RTS-EXC 1/4 GAS-OIL RTS AS RES AF 755915-894331
380307 344430 0000	Alliance Properties 2000 L.L.C	4.83	BAKERVUE ADD TO BELLINGHAM W 1/2 SE OF BLK 57-EXC ALL MIN RTS-EXC 1/4 GAS-OIL RTS AS RES AF 755915-894331
380307 370378 0000	Michael O and Heather M Black	10	NE SW NE-EXC UNDIV 1/2 INT IN OIL-GAS- MIN RTS AS RES AF 1056616
380307 426475 0000	Ralph W and Susan J Black	14.73	BAKERVUE ADD TO BELLINGHAM THAT PTN OF BLK 57A DAF-BEG AT NW COR OF BLK 57A-TH S 86 DEG 28'28" E ALG NLY LI OF BLK 57A 622.85 FT-TH S 00 DEG 03'15" W 1048.44 FT-TH S 86 DEG 57'25" E 124.59
380307 504475 0000	Alliance Properties 2000 L.L.C	19.6	BAKERVUE ADD TO BELLINGHAM BLK 57A-EXC ALL MIN RTS-EXC 1/2 GAS OIL RTS AS RES AF 755915-EXC PTN DAF-BEG AT NE COR OF BLK 57A-TH S 00 DEG 03'15" W ALG ELY LI OF BLK 57A 1042.69 FT TO TPOB
380307 435364 0000	12th and Harris LLC	20	BAKERVUE ADD TO BELLINGHAM THAT PTN OF BLKS 53-57A DAF-BEG AT NW COR OF BLK 57A-TH S 00 DEG 10'29" W ALG WLY LI THEREOF 1053.58 FT TO TPOB-TH S 86 DEG 57'25" E 749.36 FT-TH S 00 DEG 03'
380308 075527 0000	12th and Harris LLC	25.4	BAKERVUE ADD TO BELLINGHAM BLK 61B-EXC PTN TO STATE DESC SC 38026- EXC PTN CONV T J SANTOS UNDER AF 1151063 EXC PTN DAF-BEG AT 1/16 COR MARKING SW COR OF BLK 61B-TH N 89 DEG 00'40" E
380307 498346 0000	Ralph W and Susan J Black	20.14	BAKERVUE ADD TO BELLINGHAM BLK 53-EXC PTN FOR RD IN KING MOUNTAIN TERRACE-EXC NLY 536 FT OF SLY 566 FT OF WLY 536 FT THEREOF-EXC ALL MIN RTS-EXC 1/2 INT IN OIL-GAS RTS-EXC PTN TR DESC
380308 042442 0000	Ralph W and Susan J Black	3.25	BAKERVUE ADD TO BELLINGHAM THAT PTN OF BLK 61B DAF-BEG AT NW COR OF BLK 61B SD PT BEING ALSO NW SEC COR-TH S 00 DEG 03'15" W ALG WLY LI OF BLK 61B 1016.60 FT TO TPOB-TH S 73 DEG 04'16" E

EXHIBIT 2

Alliance Properties - Assessor Tax Parcel Numbers

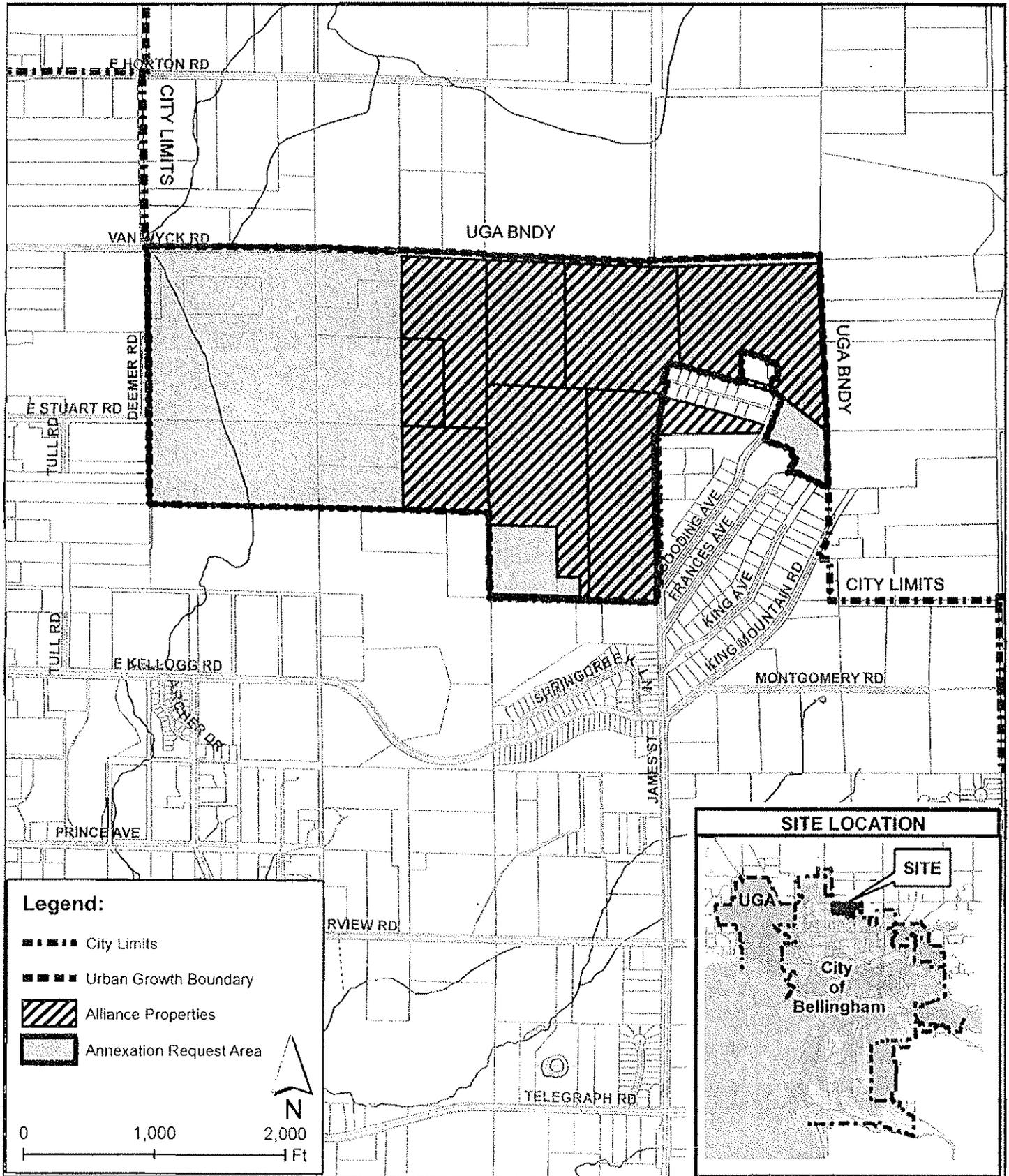
PARCEL NUMBER	OWNER	ACRES
380307344430	ALLIANCE PROPERTIES 2000 LLC	4.8
380307363476	RALPH W & SUSAN J BLACK	15.0
380307370378	MICHAEL O & HEATHER M BLACK	10.0
380307426475	RALPH W & SUSAN J BLACK &	14.7
380307435364	12TH & HARRIS LLC	20.0
380307498346	RALPH W & SUSAN J BLACK &	20.1
380307504475	ALLIANCE PROPERTIES 2000 LLC	19.6
380308042442	RALPH W & SUSAN J BLACK &	3.3
380308075527	12TH & HARRIS LLC	25.4

Van Wyck/James St. Rd. Annexation

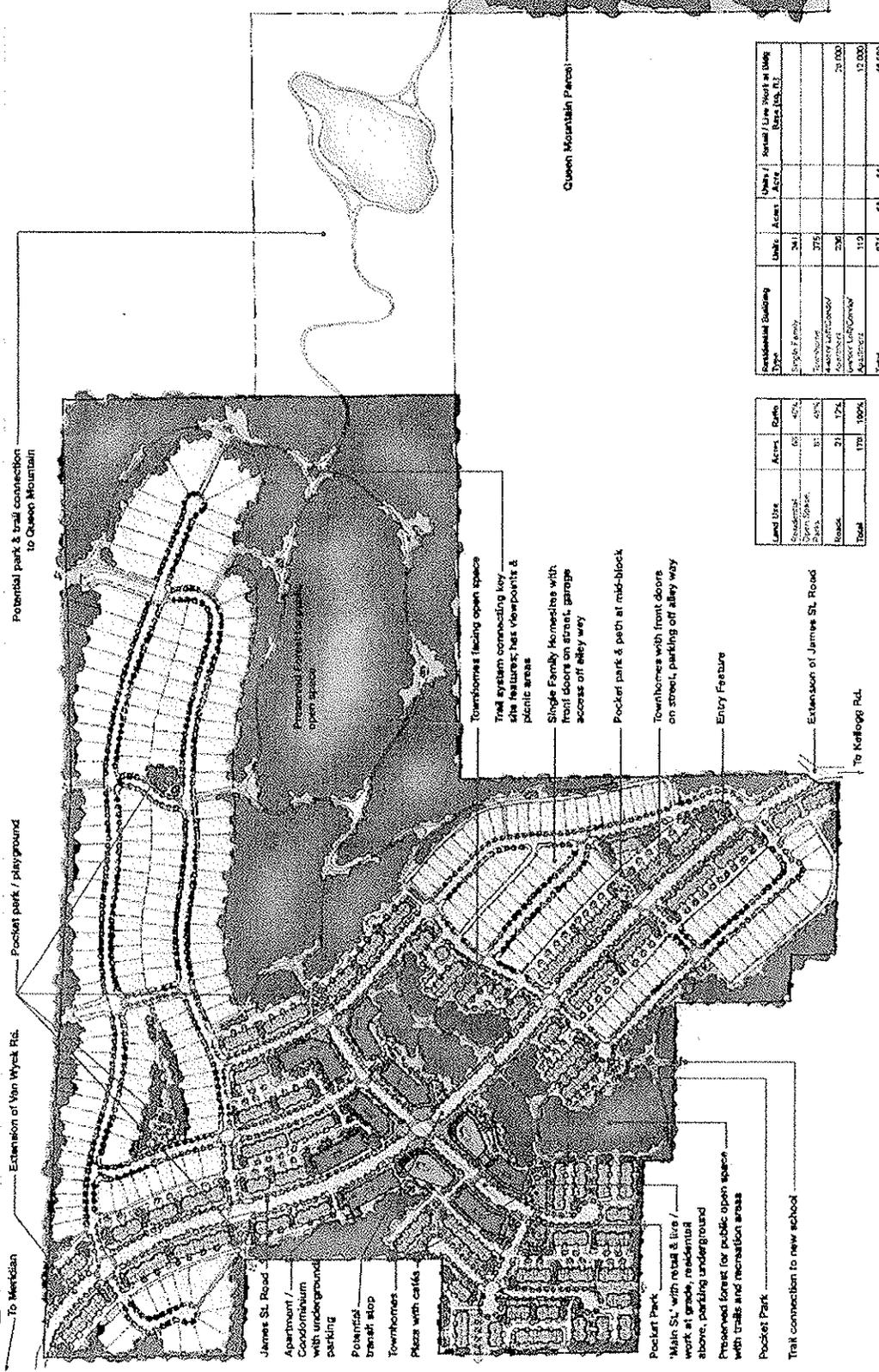
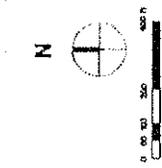
EXHIBIT 3 - ALLIANCE PROPERTIES



City of Bellingham
Planning & Community
Development Department, 2008



King Mountain Bellingham, WA



Residential Building Type	Units	Acres	Units / Acre	Area / Live Work at Day (Sq. Ft.)
Single Family	281			
Townhome	275			
Apartment	236			70,000
Live/Work	113			12,000
Total	871	61	14	82,000

Land Use	Acres	Ratio
Residential	61	45%
Open Space	31	45%
Public	21	17%
Total	113	100%

Development Summary



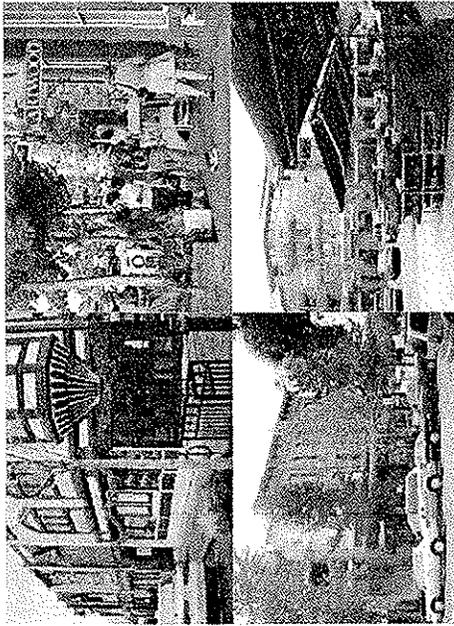
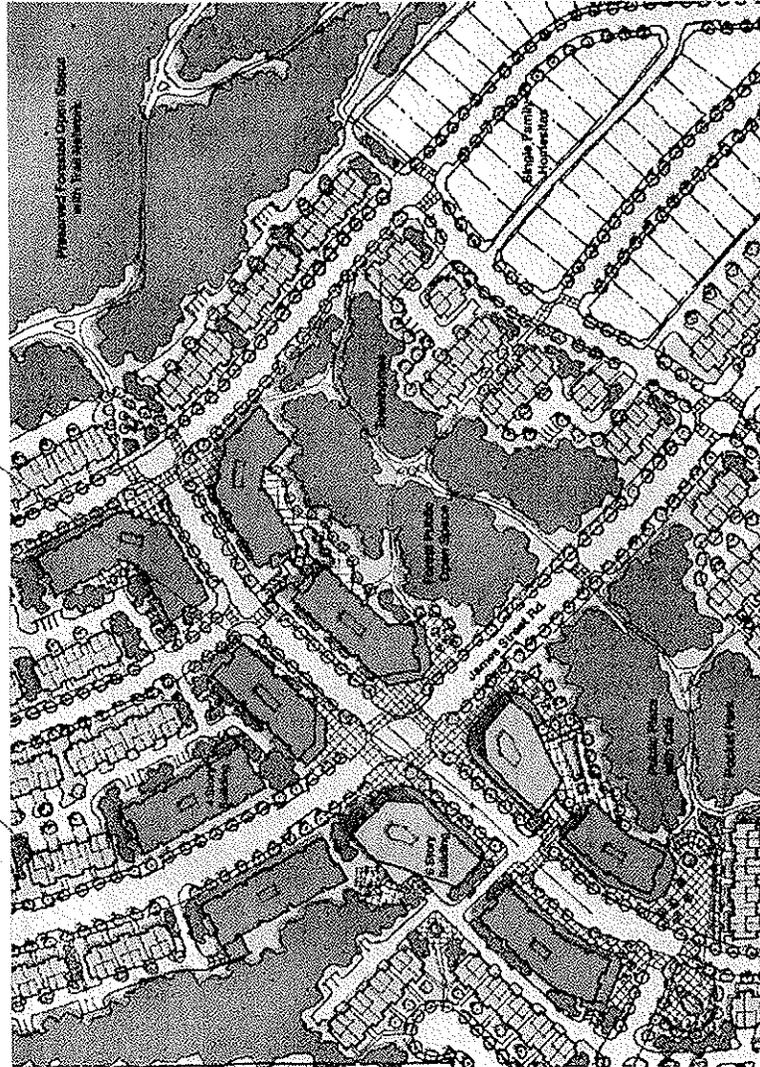
Site Plan

August 2005

King Mountain | Bellingham, WA

ALLIANCE PROPERTIES, 2000 L.L.C.

Townhomes with Front Doors on Street
Parking off Alley Way



Main Street



Stacked Multi-Family

Rendered Images

Site Plan

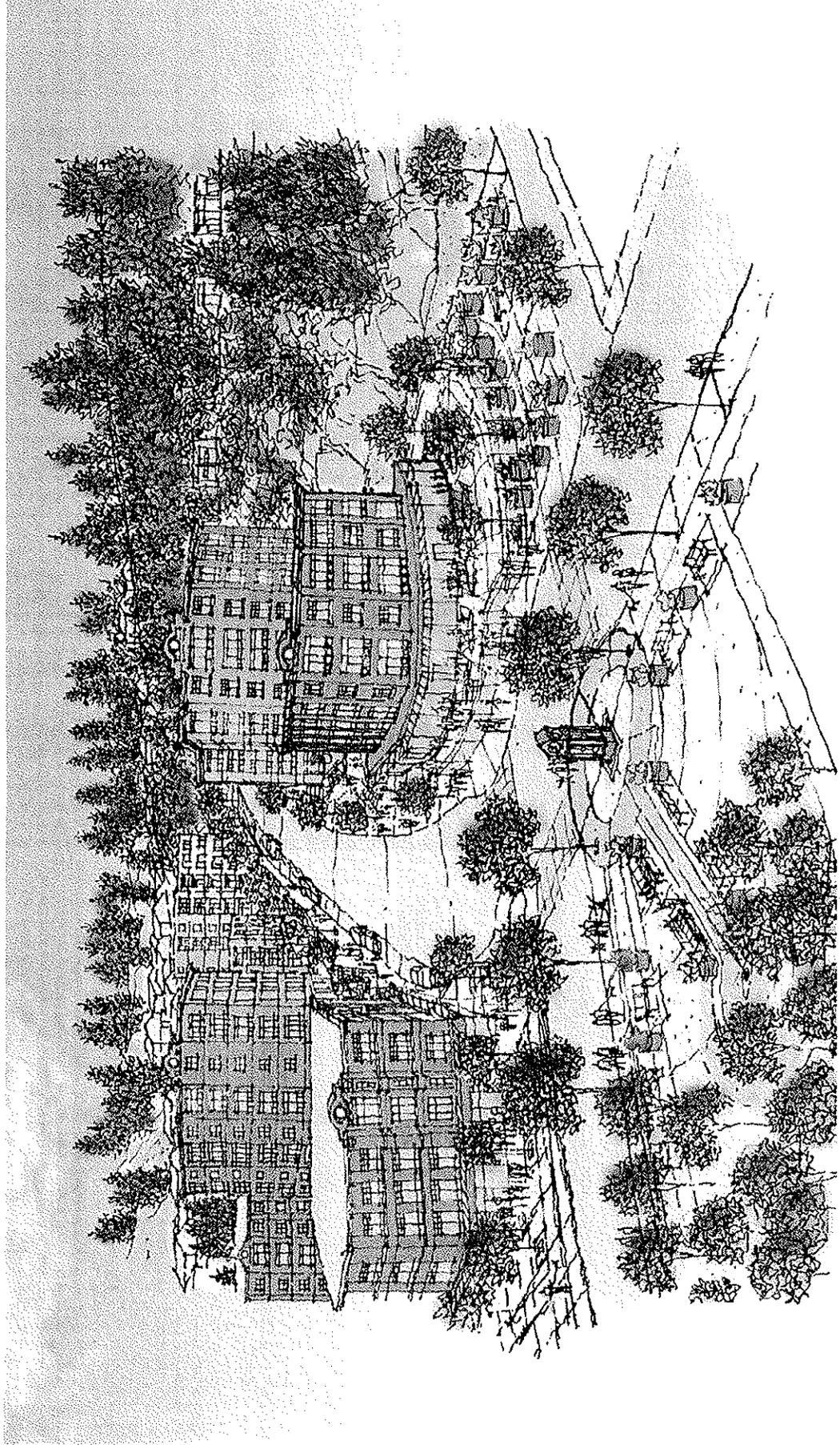
Core Area Plan

August 2005



King Mountain | Bellingham, WA

 ALLIANCE PROPERTIES, 2000 L.L.C.



Illustrations - View of Market Square

August 2005



King Mountain | Bellingham, WA



Vision: King Mountain is a proposed new Urban Village in northern Bellingham with strong linkages to the existing community and infrastructure. It will offer a dynamic mix of residential and commercial uses, interwoven with a network of pedestrian walkways, open spaces and parks, streets, plazas and public spaces.

Compact Development: The limits of the village area are governed by a radius of approximately 5 minute's walk from the core / center of the site.

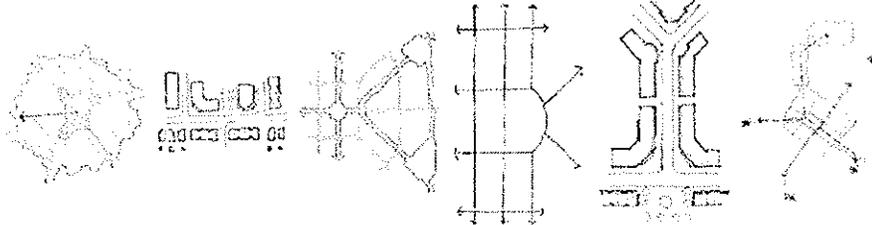
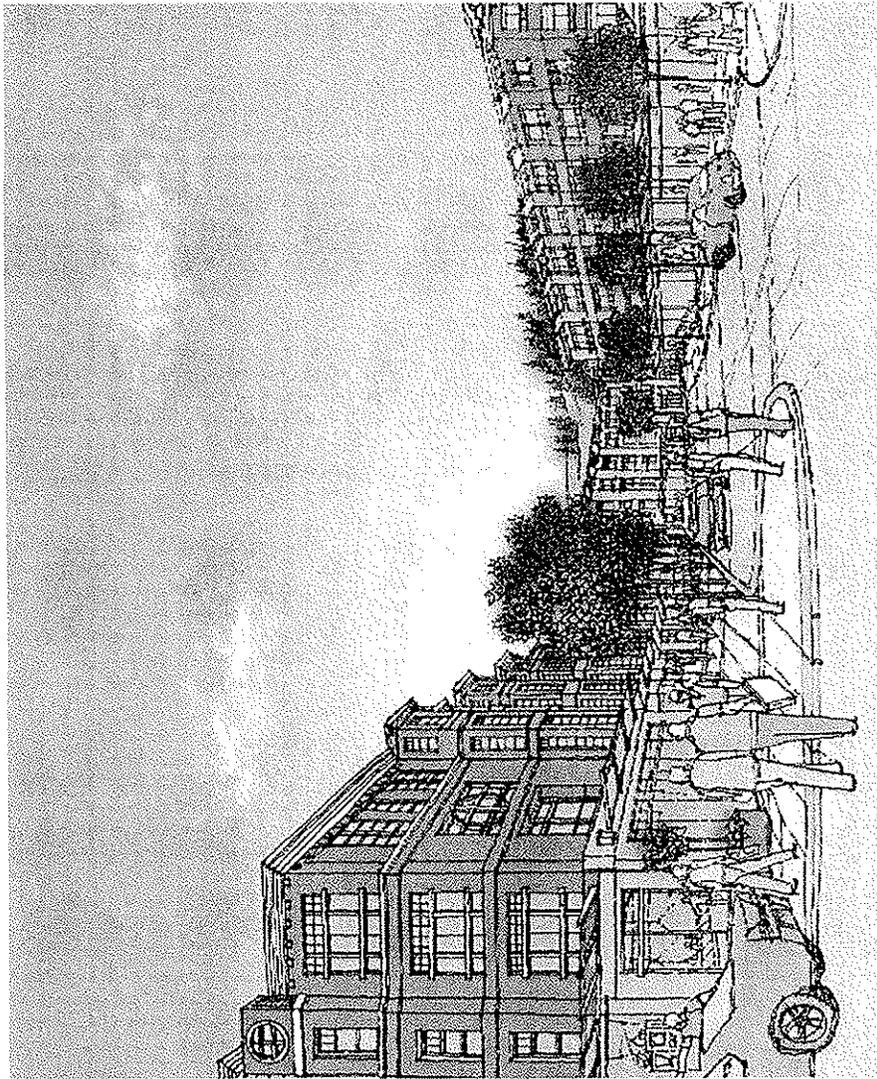
Diversity: A wide variety of housing types and commercial uses will be offered, all in close proximity to the core area.

Connected Natural Spaces: Due to the compactness of development, large contiguous areas of natural forest are retained. These accommodate trail networks and offer corridors for wildlife.

Connected Street Network: The street network is logically organized, inter-connected and fine-grained to create small enough development blocks to encourage pedestrian movement. Streets respect the topography of the site to minimize earthworks.

Defined Street Edges: Buildings in the core and surrounding area are of a scale and size to define the street edge in order to make the pedestrian experience pleasant and secure.

Linkages to Larger Community: Through a porous trail and street network the village is connected to other community elements such as the proposed new school, King Mountain Church, potential parklands surrounding Queen Mountain, and shopping on Mendian.



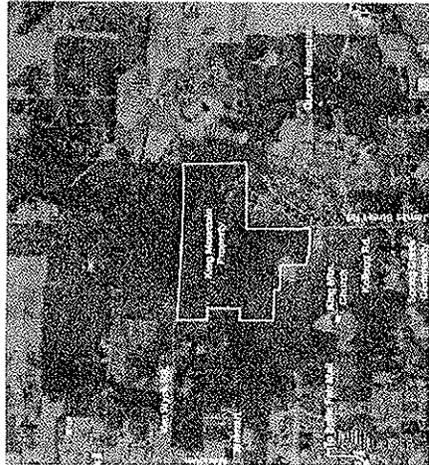
Vision

August 2005

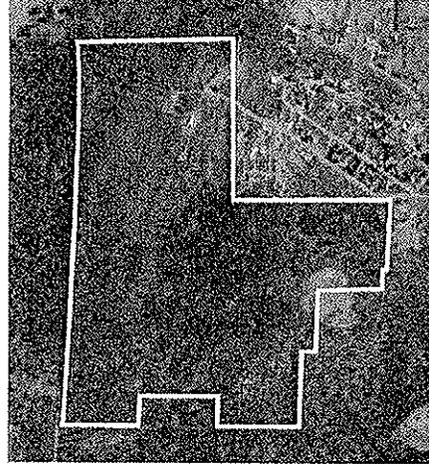


King Mountain Bellingham, WA

King Mountain | Bellingham, WA



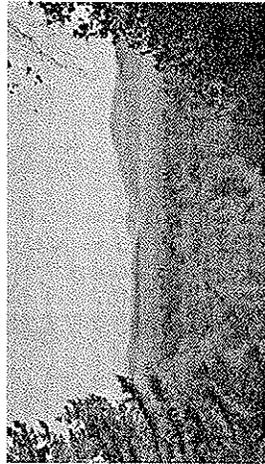
Surrounding Features
Site Context



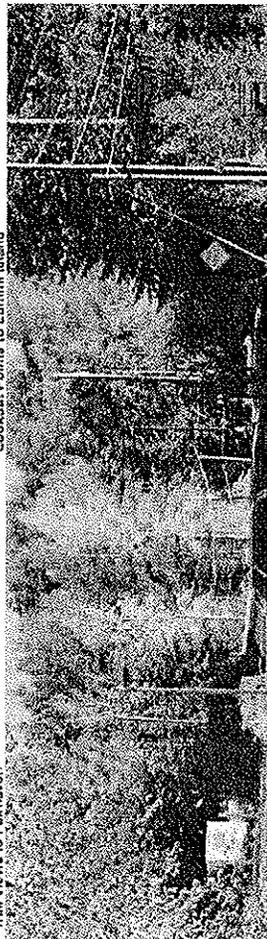
Site Close-up



Trail Views to Falhaven

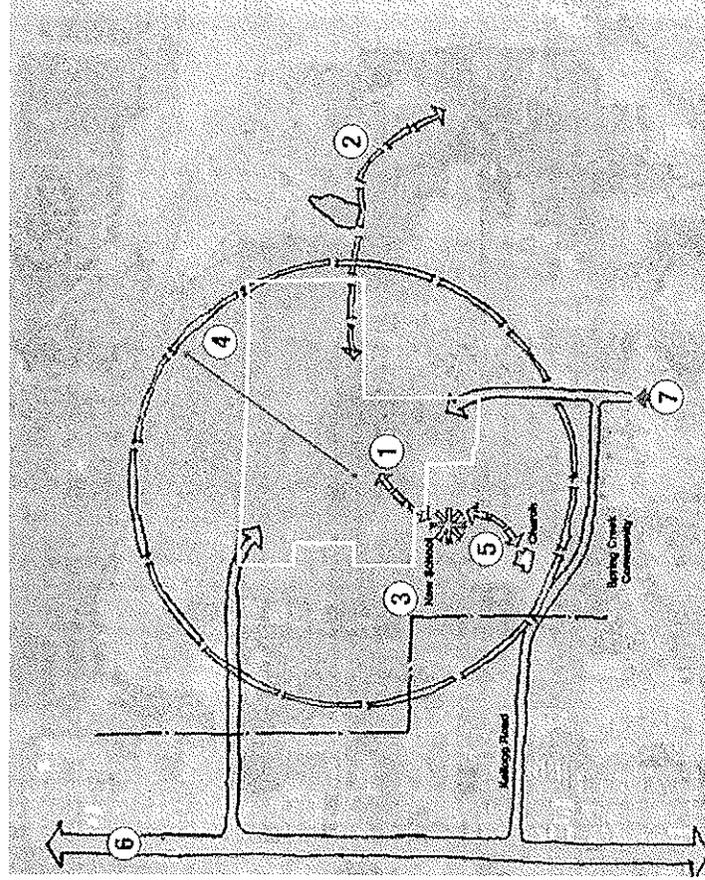


Lookout Points to Lummi Island



View of Site From James Street Road

Site Photos



- 1 Innovative pedestrian designed neighborhood providing diverse residential mix.
- 2 Opportunity to preserve unique North Bellingham parkland. Recreational, trail, wildlife corridors with linkage to valley and Queen Mountains.
- 3 Site is configured tight to Bellingham City limits.
- 4 10-minute walking distance - many amenities within comfortable pedestrian range.
- 5 School site provides opportunity for linkage.
- 6 Maridian shopping is close by.
- 7 Major roadways, James Street Rd. and Bakerview, serve site.

Regional Planning Opportunities

Context

August 2005

