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City of Bellingham
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Bellingham WA 9822

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DOCUMENT TITLE(S):
Ordinance

AUDITOR FILE NUMBER & VOL. & PG. NUMBERS OF DOCUMENT(S) BEING ASSIGNED OR RELEASED:
2007-11-085, AF#2071201158
Additional reference numbers can be found on page _____ of document.

GRANTOR(S)
City of Bellingham
Additional grantor(s) can be found on page _____ of document.

GRANTEE(S):
Public
Additional grantee(s) can be found on page _____ of document.

ABBREVIATED LEGAL DESCRIPTION: (Lot, block, plat name OR; qtr/qtr, section, township and range OR; unit, building and condo name.)
N/A
Additional legal(s) can be found on page _____ of document.

ASSESSOR'S 16-DIGIT PARCEL NUMBER:
N/A
Additional numbers can be found on page _____

The Auditor/Recorder will rely on the information provided on this form. The responsibility for the accuracy of the indexing information is that of the document preparer.

ORDINANCE NO. 2007-11-085

AN ORDINANCE RELATING TO LAND USE PLANNING AND ZONING, SPECIFICALLY REZONING APPROXIMATELY 12 ACRES AND CREATING A NEW SUBAREA (8 WEST) IN THE WHATCOM FALLS NEIGHBORHOOD ZONING TABLE AND ZONING MAP. THE CREATION OF THE NEW SUBAREA WILL CHANGE THE MINIMUM CLUSTER LOT SIZE FROM 7,200 SQUARE FEET TO 5,000 SQUARE FEET. THE OVERALL CLUSTER DENSITY OF 10,000 SQUARE FEET PER DWELLING UNIT WILL REMAIN IN EFFECT.

WHEREAS, the Director of Planning and Community Development received an application for a site-specific rezone for approximately 12 acres within Area 8 of the Whatcom Falls Neighborhood; and

WHEREAS, the applicants for the site-specific rezone requested a change in the minimum cluster lot size from 7,200 square feet to 5,000 square feet while maintaining the overall cluster density of 10,000 square feet per dwelling unit; and

WHEREAS, on September 14, 2006, the Bellingham Planning Commission conducted a public hearing on the rezone and voted 6-0 to remand the rezone application back to staff to allow the applicant the opportunity to work with the neighborhood to develop a contract rezone that is acceptable to all parties; and

WHEREAS, on October 12, 2006, the applicant held a neighborhood meeting as recommended by the Bellingham Planning Commission and subsequently submitted a modified rezone proposal, which did not receive full neighborhood support; and

WHEREAS, on March 8, 2007, the Bellingham Planning Commission resumed the public hearing and voted 3-2-1 to recommend denial of the proposed rezone; and,

WHEREAS, on May 17 and 25, 2007, the Bellingham Planning Commission held meetings and evaluated the proposal based on the rezone criteria as established in

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-676-6903

Bellingham Municipal Code 20.19.030. The Commission rejected a motion to adopt additional findings and conclusions based on the rezone criteria by a vote of 2-2; and,

WHEREAS, on September 10, 2007, the City Council conducted a closed record hearing and has considered the record in this matter; and

WHEREAS, the City Council hereby adopts as its own findings, the findings of fact and conclusions of law from the Planning Staff report dated May 17, 2007 in support of a "Positive Recommendation for ZON2005-00006" (Exhibit A); and

WHEREAS, the City Council finds that it granted a similar rezone in 2004 for another portion of Area 8 of the Whatcom Falls Neighborhood (creating Area 8 East) to reduce the minimum cluster lot size from 7200 sq. ft. to 5000 sq. ft., as is requested here; and

WHEREAS, the City Council finds that a reduction in the minimum lot size for cluster development such as was approved for Area 8 East, and as requested by the subject site-specific rezone application, is a reasonable means of facilitating sensitive land preservation and modest infill of large undeveloped property; and

WHEREAS, the City Council finds that the site-specific rezone application as conditioned herein will preserve a significant stream corridor for future generations and provide an adequate buffer to existing developments; and

WHEREAS, the City Council finds that the site-specific rezone application satisfies the requirements of BMC 20.19.030, and is consistent with the State Growth Management Act, the Bellingham Comprehensive Plan, and the Whatcom Falls Neighborhood Plan; and,

WHEREAS, the City Council approved the rezone application with modifications in the form of conditions, by a vote of 4 – 3;

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. The Whatcom Falls Neighborhood Zoning Map is hereby amended to include a new subarea (8West) and as shown on Exhibit B.

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City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-676-6903

Section 2. The Whatcom Falls Neighborhood Zoning Table (BMC 20.00.23) is hereby amended to include Area 8West as follows:

Area	Zoning	Use Qualifier	Density	Special Conditions	Prerequisite Considerations	Special Regulations
8West	Residential Single	Detached, cluster detached (Ord. No. 2007-11-088) See Concomitant Agreement # 2007-0566.	10,000 sq. ft. minimum detached lot size 1 lot/10,000 sq. ft. average overall cluster density. Minimum cluster lot size 5,000 sq. ft. (Ord. No. 2007-11-088) See Concomitant Agreement #2007-0566	Preservation of the Cemetery Creek Corridor, Clearing	None.	None.

Section 3. Pursuant to BMC 20.19.040, the Applicant and the City shall enter into a Concomitant Agreement establishing the following conditions for the rezone:

1. Lot abutment on a public right-of-way is not required if development is approved as a cluster subdivision;
2. The total number of Single Family lots shall not exceed 44 lots within Area 8West;
3. Xenia Street from Old Lakeway to Yew Street shall be a "traffic calmed" residential street including pedestrian facilities and at least three (3) traffic calming elements as recommended by the Public Works Department; and
4. Upon final subdivision of the Property, more than four (4) acres of open space substantially as shown on Exhibit C ("Site Plan") shall be dedicated to the City or preserved by conservation easement at the discretion of the Director of the Planning and Community Development Department. This dedication shall include a preservation corridor for Cemetery Creek (Tract "A" on Site Plan) and a triangular section in the Northeast corner of the Property together with a treed buffer along the North Property boundary between Yew Street and Xenia Street (Tract

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Bellingham, Washington 98225
360-676-6903

"B" on Site Plan). The final lot layout shall be reviewed and approved through the City's preliminary plat process.

PASSED by the Council this 5th day of November, 2007.

Bob Ry-
Council President

APPROVED by me this 21st day of November, 2007

[Signature]
Mayor

ATTEST: [Signature]
Finance Director

APPROVED AS TO FORM:

[Signature]
Office of the City Attorney

Published:

November 9, 2007

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-676-6903

EXHIBIT A

Positive Recommendation for ZON2005-00006

Findings of Fact

The proposal is to reduce the minimum single family cluster lot size within an approximately 12 acre portion of Area 8, Whatcom Falls Neighborhood.

There would not be a change in the underlying density qualifier or any other aspect of the Bellingham Municipal Code.

All information included within the staff report and public testimony received is herein incorporated by reference.

Conclusions of Law

The proposal is consistent with the Comprehensive Plan, especially the specific goal and policy statements listed within the staff report.

It will not adversely affect the public health, safety or general welfare, all codes will be followed;

It is in the best interests of the residents of Bellingham as one means of implementing the Comprehensive Plan;

The subject property is suitable for development in general conformance with zoning standards under the proposed zoning district, there will be no change in permitted uses or underlying density;

Adequate public facilities and services will be available to serve the development allowed by the proposed zone;

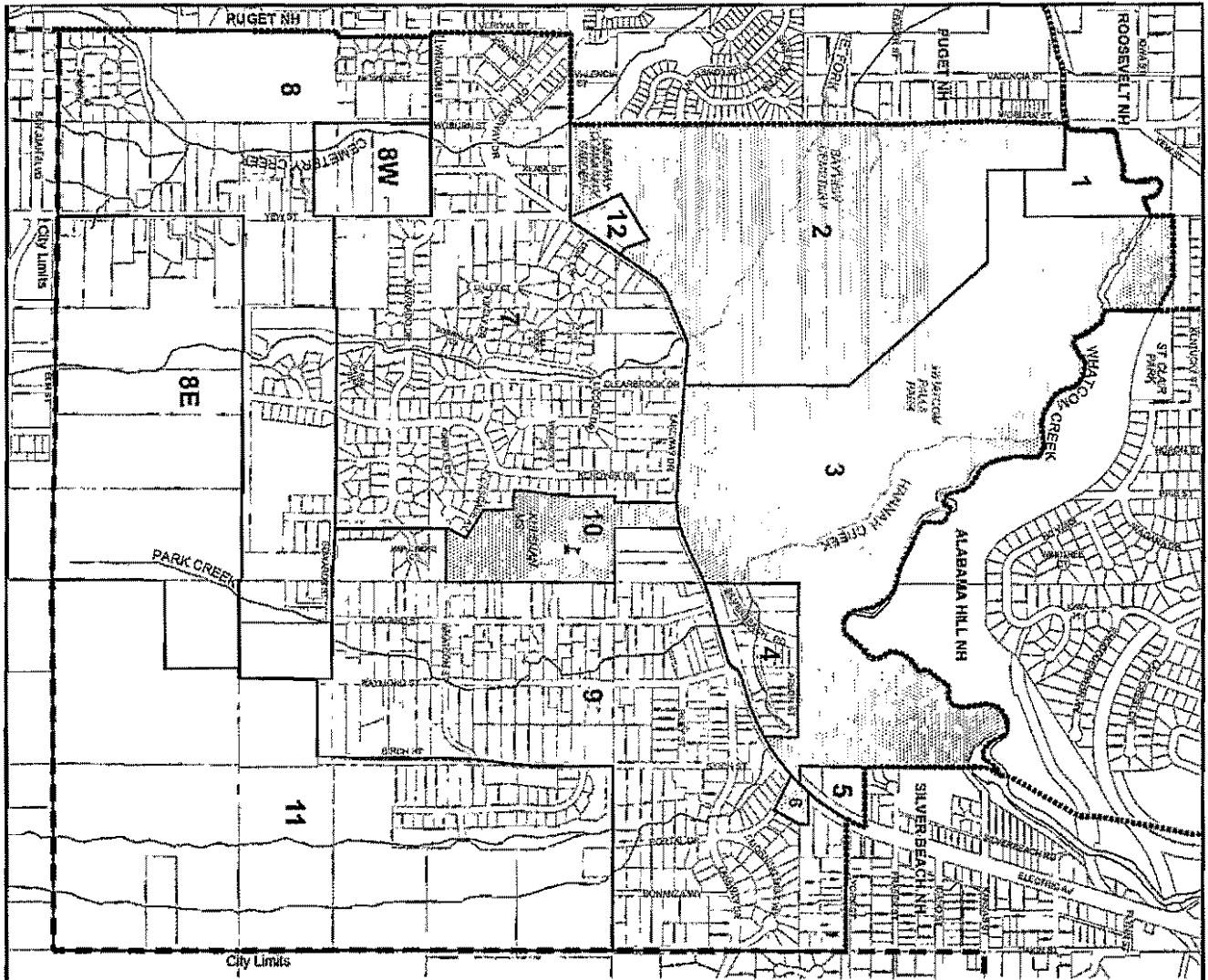
It will not be materially detrimental to uses or property in the immediate vicinity of the subject property, proper site design can buffer or screen development where desired from existing developed areas;

It is appropriate because conditions in the immediate vicinity have changed sufficiently since the property was classified under the current zoning. The extent of developable land available at the time of original zoning has subsequently been reduced by the adoption of increasingly more stringent wetland and stream protection regulations over the years.

The rezone will implement the policies of the comprehensive plan.

Recommendation

Approve the rezone request



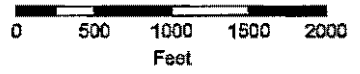
WHATCOM FALLS NEIGHBORHOOD ZONING

Legend:

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

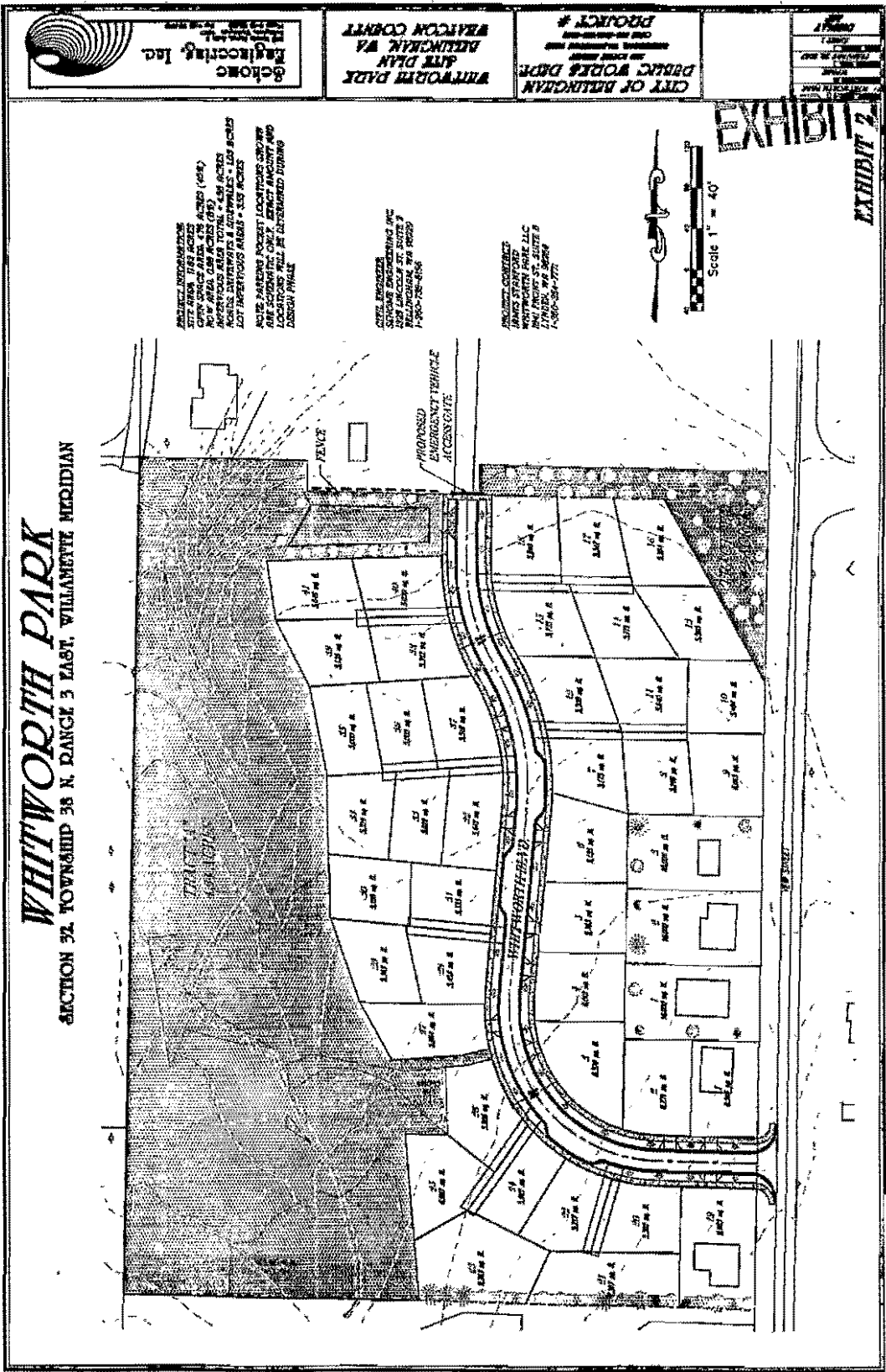
EXHIBIT D

* 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
2007

WHITWORTH PARK
SECTION 32, TOWNSHIP 36 N, RANGE 3 EAST, WILLAMETTE MERIDIAN

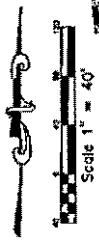


PROJECT INFORMATION
SITE AREA: 118.5 ACRES
GROSS GROUND AREA: 478 ACRES (45%)
TOTAL LOT AREA: 118.5 ACRES
TOTAL IMPERVIOUS AREA: 145 ACRES
TOTAL IMPERVIOUS AREAS: 135 ACRES

NOTE: PARKING SPACES, LOCATIONS, SIZES, AND
AREAS SHOWN ON THIS PLAN ARE APPROXIMATE AND
LOCATIONS WILL BE DETERMINED DURING
DESIGN PHASE.

CITY ENGINEER
SANDRA ENGINEERING INC.
1000 N. W. 10TH ST. SUITE 200
PORTLAND, OR 97227
1-503-251-4771

PROJECT CONSULTANT
JAMES STRAIN
WESTPORTH PARK LLC
2001 NORTH ST. SUITE 200
PORTLAND, OR 97227
1-503-251-4771

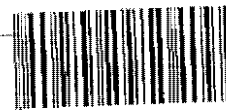


GeoHome
Engineering, Inc.
1111 SW 10TH AVE
PORTLAND, OR 97205
503-251-4771

**WHITWORTH PARK
SITE PLAN
REVISIONS**
REVISION NO. 1
DATE: 08/15/11

**CITY OF PORTLAND
PUBLIC WORKS DEPT.
PROJECT #**

EXHIBIT 2



Request of: BELLINGHAM CITY OF

AFTER RECORDING RETURN DOCUMENT TO:

City of Bellingham
Planning Department
210 Lottie Street
Bellingham, WA 98225



↑ Reserved for Recording Purposes Only ↑

DOCUMENT TITLE: Concomitant Agreement # 2007-0566

REFERENCE NO. OF RELATED DOCUMENT(S): ORD. NO. 2007-11-085
AF# 2071201157

GRANTORS: Whitworth Park LLC and Hardan Family LLC

GRANTEE: City of Bellingham

ABBREVIATED LEGAL: Portion of the E 1/2 SE 1/4 NE 1/4 Sec 32 Twp 38 N Rge 3 E

ADDITIONAL LEGAL DESCRIPTION ON PAGE(S) 6 & 7 **OF DOCUMENT.**

ASSESSOR'S TAX/PARCEL NUMBER(S): 380332 529360 0000; 380332 529375 0000;
380332 529386 0000; 380332 533413 0000; 380332 558398 0000

CONCOMITANT AGREEMENT

This agreement is entered into this 21st day of November, 2007, between the CITY OF BELLINGHAM, a municipal corporation, hereinafter called the "City", and Whitworth Park LLC and Hardan Family LLC, hereinafter called the Applicant.

WHEREAS, the Applicant applied for a site-specific rezone for approximately 12 acres within Area 8 of the Whatcom Falls Neighborhood to change the minimum cluster lot size from 7,200 square feet to 5,000 square feet;

WHEREAS, on September 10, 2007, the City Council conducted a closed record hearing and approved the rezone with conditions; and

WHEREAS, the conditions should be imposed through a concomitant agreement executed by the parties in accordance with BMC 20.19.040;

NOW THEREFORE, the City of Bellingham and Applicant agree that the rezone of the property within Area 8 of the Whatcom Falls Neighborhood, as described in Exhibit A which is attached and incorporated by reference ("Property"), changing the minimum cluster lot size from 7,200 square feet to 5,000 square feet while maintaining the overall cluster density of 10,000 square feet per dwelling unit is subject to the following conditions:

1. Lot abutment on a public right-of-way is not required if the Property is developed as a cluster subdivision;
2. The total number of single family lots on the Property shall not exceed 44 lots;
3. Xenia Street from Old Lakeway Drive to Yew Street shall be a traffic calmed residential street including pedestrian facilities and at least 3 traffic calming elements as recommended by the City's Public Works Department; and
4. Upon final subdivision of the Property, more than four (4) acres of open space substantially as shown on Exhibit B ("Site Plan") shall be dedicated to the City or preserved by conservation easement at the discretion of the Director of the Planning and Community Development Department. This dedication shall include a preservation corridor for Cemetery Creek (Tract "A" on Site Plan) and a triangular section in the northeast corner of the Property together with a treed buffer along the north Property boundary between Yew Street and Xenia Street (Tract "B" on Site Plan). The final lot layout shall be reviewed and approved through the City's preliminary plat process.

APPROVED this 9th day of November, 2007 for the Applicant, Whitworth Park LLC and Hardan Family LLC..

Whitworth Park LLC

James Hoyle
Name

President

Title

Hardan Family LLC

Glacia Hardan

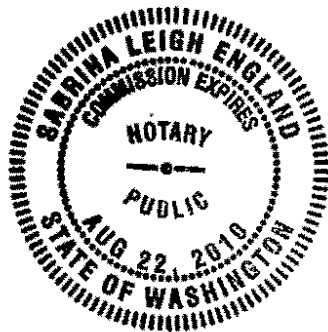
Name

owner

Title

STATE OF WASHINGTON)
)ss
COUNTY OF WHATCOM)

I CERTIFY that I know or have satisfactory evidence that James Stanford is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President of Whitworth Park LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.



November 7, 2007
DATED

Sabrina L. England
SIGNATURE OF NOTARY PUBLIC

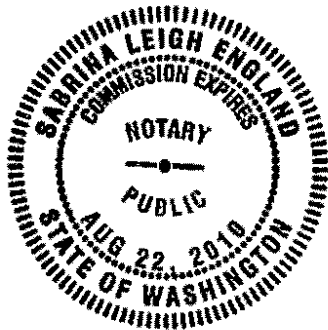
Sabrina L. England
Name Printed

Paralegal / Notary Public
TITLE

8/22/2010
MY APPOINTMENT EXPIRES

STATE OF WASHINGTON)
)ss
COUNTY OF WHATCOM)

I CERTIFY that I know or have satisfactory evidence that Gloria Hardan is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Owner of the Hardan Family LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.



November 9, 2007
DATED

Sabrina L. England
SIGNATURE OF NOTARY PUBLIC

Sabrina L. England
Name Printed

Paralegal / Notary Public
TITLE

8/22/2010
MY APPOINTMENT EXPIRES

Approved this 21st day of November, 2007 for the City of Bellingham.

Mayor



ATTEST:

[Signature]
Finance Director

APPROVED AS TO FORM:

[Signature]
Office of the City Attorney

DEPARTMENTAL APPROVAL:

[Signature]
Director, Department of Planning

11-14-07
Date

[Signature]
Department of Public Works

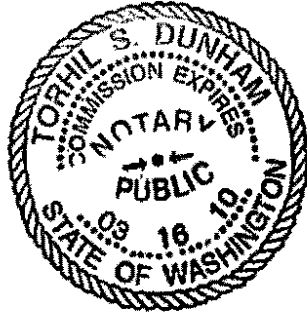
19 Nov 2007
Date

STATE OF WASHINGTON)

)ss

COUNTY OF WHATCOM)

I CERTIFY that I know or have satisfactory evidence that **Tim Douglas** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Mayor** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.



11/21/07
DATED

[Signature]
SIGNATURE OF NOTARY PUBLIC

Torhil S. Dunham
Name Printed

Notary Public
TITLE

3/16/10
MY APPOINTMENT EXPIRES

STATE OF WASHINGTON)

)ss

COUNTY OF WHATCOM)

I CERTIFY that I know or have satisfactory evidence that **THERESE HOLM** is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the **Finance Director** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.



11/26/07
DATED

[Signature]
SIGNATURE OF NOTARY PUBLIC

LINDA D. ANDERSON
Name Printed

Notary Public
TITLE

9/29/2010
MY APPOINTMENT EXPIRES

Exhibit A

Assessor's Tax Parcel No. 380332 533413 0000 (Whitworth Park LLC):

The North half of the Northeast quarter of the Southeast quarter of the Northeast quarter of Section 32, Township 38 North, Range 3 East of W.M. Also beginning at a point 100 feet West of the Northeast corner of the South half of the Northeast quarter of the Southeast quarter of the Northeast quarter of said Section 32; thence South 110 feet; thence West to the West line of said South half of the Northeast quarter of the Southeast quarter of the Northeast quarter; thence North 110 feet; thence East along the North line to the point of beginning.

Except that portion awarded to Garrett F. Day and Geraldine E. Day, husband and wife, by judgment filed May 10, 2002 in Whatcom County Civil Case No. 99-2-01551-3.

Except the right-of-way for Yew Street, Woburn and Xenia Street abutting said property.

Situate in Whatcom County, Washington.

Assessor's Tax Parcel No. 380332 529360 0000 (Whitworth Park LLC):

The North half of the North half of the Southeast quarter of the Southeast quarter of the Northeast quarter of Section 32, Township 38 North, Range 3 East of W.M., except therefrom the right-of-way for Yew Street lying along the easterly line thereof.

Assessor's Tax Parcel No. 380332 529375 0000 (Whitworth Park LLC):

The South 110 feet of the South half of the Northeast quarter of the Southeast quarter of the Northeast quarter of Section 32, Township 38 North, Range 3 East of W.M., except right-of-way for Yew Street, lying along the East line thereof.

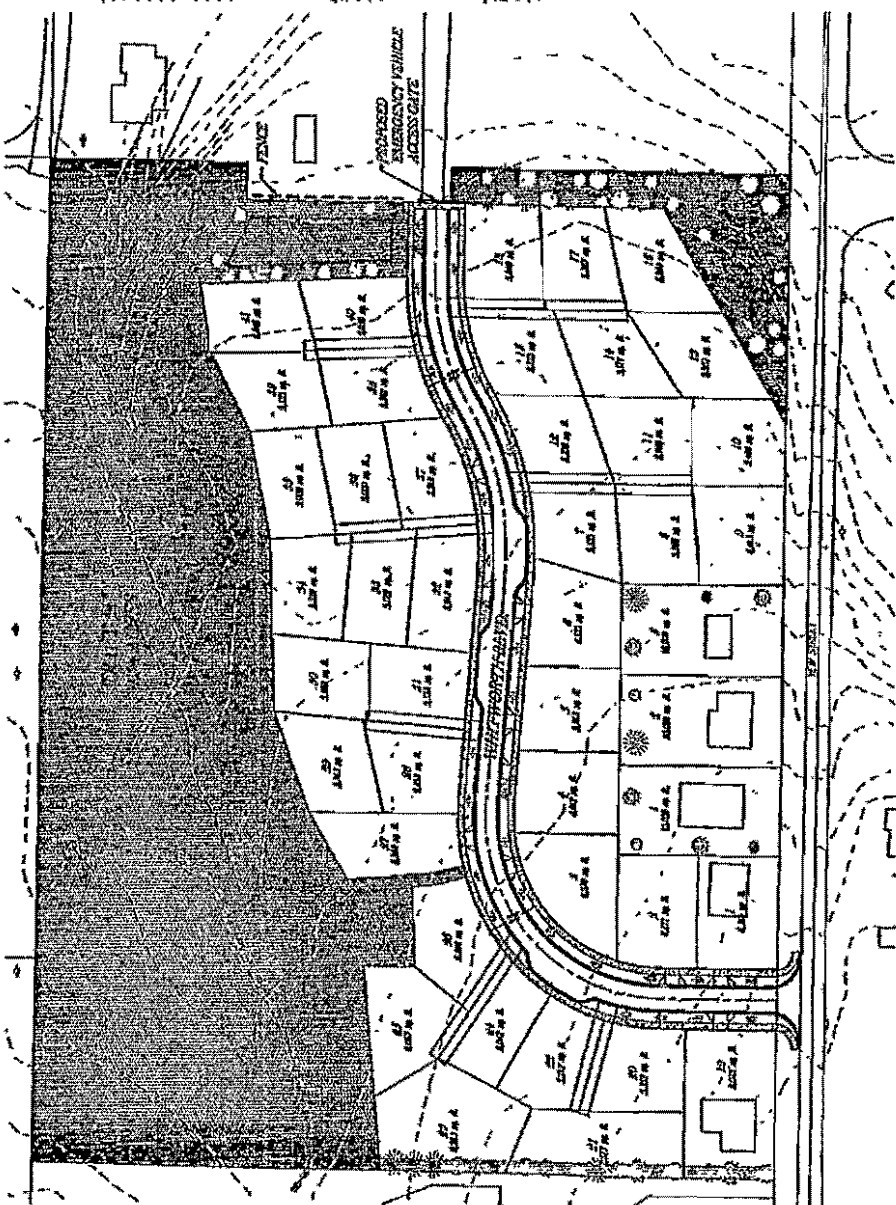
Assessor's Tax Parcel No. 380332 529386 0000 (Hardan Family LLC):

Beginning at a point 110 feet north of the Southwest corner of the South half of the Northeast quarter of the Southeast quarter of the Northeast quarter of Section 32, Township 38 North, Range 3 E. W.M.; thence North 110 feet; thence East 550 feet; thence North 10 feet; thence East 100 feet to Yew Street; thence South along Yew Street 120 feet; thence West 550 feet to place of beginning, less roads, more or less.

Assessor's Tax Parcel No. 380332 558398 0000 (Hardan Family LLC):

The East 100 feet of the North 100 feet of the South half of the Northeast quarter of the Southeast quarter of the Northeast quarter of Section 32, Township 38 North, Range 3 East, W.M. less road.

WHITWORTH PARK
SECTION 52, TOWNSHIP 38 N., RANGE 3 EAST, WILMETTE MERIDIAN



PROPOSED EMERGENCY VEHICLE ACCESS GATE

FENCE

WHITWORTH DRIVE

Belmont Engineering, Inc.
Engineering, Inc.
1000 1st St. N.E.
Washouak, WA 98641
Phone: (509) 835-1111

CITY OF BELLINGHAM
PUBLIC WORKS DEPT.
1000 1st St. N.E.
Bellingham, WA 98201
Phone: (360) 835-1111

PROJECT #
1000 1st St. N.E.
Bellingham, WA 98201
Phone: (360) 835-1111

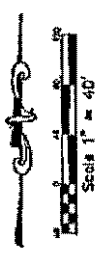


EXHIBIT B