



City of Tacoma
Office of the City Attorney

DEC 13 2007

December 10, 2007

Charles Hawkins
PO Box 64550
Tacoma, WA 98464

Re: Concomitant Agreement
1010 and 1018 S. Highland Street and 1007 S. Woodlawn Street
Rezoning Modification
Rezoning File No. REZ 2006-40000070743

Dear Mr. Hawkins:

I enclose three originals Concomitant Agreements. Please review, sign where indicated and have your signature notarized. Once this is accomplished, please return the originals to Barb Nord at the address listed below, and she will have the City parties sign and the documents recorded. You will then be provided with a fully executed, recorded document for your record.

If you have any questions, I may be reached at (253) 591-5467.

Sincerely,

Molly D. Schmidt, Paralegal
CITY OF TACOMA

:mds
Enclosures

cc: Karie Hayashi-BLLUS (w/encl.)

When Recorded, Return To:

Steve L. Gross
Assistant City Attorney
747 Market Street, Room 1120
Tacoma, WA 98402

CONCOMITANT AGREEMENT

THIS AGREEMENT is entered into this 2ND day of JANUARY, 2008, by and between CHARLES HAWKINS, hereinafter referred to as the "Owner/Applicant," and the CITY OF TACOMA, a municipal corporation, hereinafter referred to as the "City."

WITNESSETH:

WHEREAS the City has authority to enact laws and to enter into agreements to promote the health, safety, and welfare of its citizens and thereby control the use and development of property within its jurisdiction, and

WHEREAS the Owner/Applicant has applied for a rezone of certain property described below within the City's jurisdiction from R-2 One-Family Dwelling District to C-2 Commercial District, and

WHEREAS the City, pursuant to RCW 43.21C, the Washington State Environmental Policy Act, should mitigate any adverse effects which might result because of the proposed rezone, and

WHEREAS the City and the Owner/Applicant are both interested in complying with the City's Comprehensive Plan and the ordinances of the City of Tacoma relating to the use and development of property situated in the City and legally described as follows:

PARCEL "A":

Lots 3 through 9, inclusive in Block 22 of WOODLAWN ADDITION TO TACOMA W.T., according to Plat recorded in Volume 2 of Plats at Page 91 in Pierce County, Washington.

Except that portion of Lots 3 through 9 deeded to the State of Washington by Ordinance No. 16082.

PARCEL "B":

Lots 13 through 24, inclusive in Block 22 of WOODLAWN ADDITION TO TACOMA W.T., according to Plat recorded in Volume 2 of Plats at Page 91 in Pierce County, Washington.

Except that portion of Lot 24 through 8 deeded to the State of Washington by Ordinance No. 16063.

Also together with that vacated portion of Woodlawn Street abutting Lots 16 through 24.

PARCEL "C":

Lots 10, 11 and 12, in Block 22 of WOODLAWN ADDITION TO TACOMA, Washington according to the recorded Plat thereof on record in the office of the Auditor of said Pierce County. Situate in the County of Pierce, State of Washington.

hereinafter sometimes referred to as the "site," and

WHEREAS the Owner/Applicant has indicated willingness to cooperate with the City, its Public Works Department, and the Hearing Examiner of the City to ensure compliance with all City ordinances and all other local, state, and federal laws relating to the use and development of the site by entering into an agreement as authorized by RCW 36.70B.170, and

WHEREAS the City, in addition to civil and criminal sanctions available by law, desires to enforce the rights and interests of the public by this Concomitant Agreement pursuant to the authority granted by RCW 36.70B.170.

NOW, THEREFORE, in the event the site is rezoned from R-2 One-Family Dwelling District to C-2 Commercial Dwelling District and subject to the terms and

conditions hereinafter stated, the Owner/Applicant does hereby covenant and agree to develop the property as follows:

A. SPECIAL CONDITIONS:

1. The Applicant shall provide a detailed site plan prior to construction indicating location(s) for solid waste/recycle collection. The specific size/type of container must be indicated. The Applicant shall contact Solid Waste Management prior to construction to obtain enclosure specifications.
2. The Applicant shall extend the water main in Highland Street to provide a new fire hydrant capable of 1500 gallons per minute fire flow within 200 feet of the fire turnaround at the southeast parking lot. Verification of fire lane turning radii and hammerhead dimensions shall be complete at the time of building permit review of the project.
3. Any utility construction, relocation, or adjustment costs shall be at the applicant's expense.
4. Each building shall have an independent connection to the City sanitary sewer at the building construction stage. Permits for this work shall be obtained.
5. All storm drainage shall be collected and conveyed to the City storm system in compliance with the City reviewed drainage plan submitted with the building plan.
6. Project totaling 5,000 square feet or more of effective pollution-generating impervious surface within a threshold discharge area shall be required to construct stormwater treatment facilities. Commonly used stormwater treatment facilities include cartridge filtration, biofiltration, wet ponds/vaults, or a combination of such devices. Due to any number of site-specific conditions, the selection of an appropriate stormwater treatment facility is the responsibility of the project engineer and shall be based on Volume V, Chapter 2 of the *City of Tacoma Surface Water Management Manual*. Pollution-generating impervious surfaces created and/or replaced offsite as a result of this project shall count toward the pollution-generating impervious surface total.

7. The Applicant shall install sidewalk on the East side of Woodlawn from the end of the existing sidewalk around the cul-de-sac to what will be the west line of the applicant's property following completion of the vacation. The Applicant will also install a "T" or "branch" turnaround within the City right of way at the end of Highland Street.

8. A permanent turnaround, which complies with the requirements of the Fire Code, shall be constructed at the northern end of the required improvement on South Highland Street to the approval of the City Engineer. The turnaround shall be constructed with 3 inches of Hot Mix Asphalt PG58-22, 2 ½ inches of Crushed Surfacing Top Course and 5 inches of Crushed Surfacing Base Course and include necessary drainage. The type, width and location of all driveway approaches serving the site(s) shall be approved by the City Engineer. All street work shall be accomplished via the City's work order process.

9. The Applicant shall provide a detailed landscape plan for the review and approval of the Land Use Administrator prior to any development permits issued for the site. The landscape plan shall conform to the standards contained in TMC 13.06.502.B Commercial and X-District Landscaping.

10. The use shall be a mini-storage facility. The Applicant shall adhere to the project plans submitted, except as the same may be altered by these conditions. The height of the structure shall be as shown, except that the canopy shall be lowered by seven (7) feet so that the maximum building elevation is 358 feet.

11. The conditions of the Mitigated Determination of Non-Significance (SEP2006-4000070742) issued in connection with the subject rezone shall be carried out.

12. The Applicant shall obtain a Solid Waste Handling Permit from the Tacoma-Pierce County Health Department prior to grading of the site to ensure the proper disposal of waste concrete and asphalt.

13. Prior to any construction activities on the site, the applicant will engage an exterminator to make a good faith effort to eradicate rodents.

14. The Applicant shall give consideration to the suggestions of the Puget Creek Restoration Society as set forth in their letter of June 13, 2007.

B. USUAL CONDITIONS:

1. THE CONDITIONS SET FORTH HEREIN ARE BASED UPON REPRESENTATIONS MADE AND EXHIBITS, INCLUDING DEVELOPMENT PLANS AND PROPOSALS, SUBMITTED AT THE HEARING CONDUCTED BY THE HEARING EXAMINER. ANY SUBSTANTIAL CHANGE(S) OR DEVIATION(S) IN SUCH DEVELOPMENT PLANS, PROPOSALS, OR CONDITIONS OF APPROVAL IMPOSED SHALL BE SUBJECT TO THE APPROVAL OF THE HEARING EXAMINER AND MAY REQUIRE FURTHER AND ADDITIONAL HEARINGS.
2. THE AUTHORIZATION GRANTED HEREIN IS SUBJECT TO ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, REGULATIONS, AND ORDINANCES. COMPLIANCE WITH SUCH LAWS, REGULATIONS, AND ORDINANCES ARE CONDITIONS PRECEDENT TO THE APPROVALS GRANTED AND ARE CONTINUING REQUIREMENTS OF SUCH APPROVALS. BY ACCEPTING THIS APPROVAL, THE OWNER/APPLICANT REPRESENTS THAT THE DEVELOPMENT AND ACTIVITIES ALLOWED WILL COMPLY WITH SUCH LAWS, REGULATIONS, AND ORDINANCES. IF, DURING THE TERM OF THE APPROVAL GRANTED, THE DEVELOPMENT AND ACTIVITIES PERMITTED DO NOT COMPLY WITH SUCH LAWS, REGULATIONS, OR ORDINANCES, THE OWNER/APPLICANT AGREES TO PROMPTLY BRING SUCH DEVELOPMENT OR ACTIVITIES INTO COMPLIANCE.
3. The Owner/Applicant further agrees and understands that prior to obtaining a temporary certificate of occupancy, the required improvements shall be constructed or the Owner/Applicant shall provide to the City of Tacoma a performance bond or other financial security, as approved by the City Attorney, guaranteeing the completion of such improvements. A final certificate of occupancy will not be issued until such improvements are completed.
4. No modifications of this agreement shall be made unless mutually agreed upon by the parties in writing.
5. The City may, at its discretion, bring a lawsuit to compel specific performance of the terms of this agreement. In addition to all other remedies available to the City by law, the City reserves the right to revoke the reclassification of the site should the Owner/Applicant fail to comply with any of the terms and conditions of this agreement.

6. If any condition or covenant herein contained is not performed by the Owner/Applicant, the Owner/Applicant hereby consents to entry upon the site by the City of Tacoma or any entity, individual, person, or corporation acting on behalf of the City of Tacoma for purposes of curing said defect and performing said condition or covenant. Should the City in its discretion exercise the rights granted herein to cure said defect, the Owner/Applicant, his successors and assigns, consent to the entry of the City on the above described property and waive all claims for damages of any kind whatsoever arising from such activity, and the Owner/Applicant further agrees to pay the City all costs incurred by the City in remedying said defects or conditions. **The obligations contained in this section are covenants running with the land, and burden the successors and assigns of the respective parties.**

7. In the event that any term or clause of this agreement conflicts with applicable law, such conflict shall not affect other terms of this agreement which can be given effect without the conflicting term or clause, and to this end, the terms of this agreement are declared to be severable.

IN WITNESS WHEREOF the parties hereto have executed this agreement as of the day and year first above written.

Attest:

CITY OF TACOMA

City Clerk

By: _____
William H. Baarsma, Mayor

[seal]

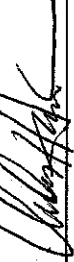
Legal Description Approved:

Chief Surveyor
Public Works Department

Approved as to form:

Assistant City Attorney

OWNER/APPLICANT:



CHARLES HAWKINS

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

On this **2nd** day of **January, 2008**, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared **Charles Hawkins**, known to me, and acknowledged the said instrument to be his free and voluntary act and deed, for the purposes therein mentioned.

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


(seal)



NOTARY PUBLIC in and for the
State of Washington
Residing at Wilkeson
My commission expires April 20, 2008

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2008, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the _____ of _____, the corporation that executed the forgoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, 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 acknowledgement is the person whose true signature appears on this document.

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

(seal)

NOTARY PUBLIC in and for the
State of Washington
Residing at _____
My commission expires _____