

AMENDED PROPERTY USE AND DEVELOPMENT AGREEMENT

THIS INSTRUMENT, executed this date in favor of The City of Seattle, a municipal corporation (herein called "City"), by the undersigned owner of the within described property (herein called "Owner"):

WITNESSETH:

WHEREAS, Owner is vested with a fee simple title in the following described property, (herein called the "Property"):

All of Blocks 4, 5, and 8, Golf Heights Addition to the City of Seattle as recorded in Volume 24 of Plats, page 12, records of King County, Washington,

TOGETHER WITH portions of South Norman Street, 13th Avenue South and alleyways vacated under Ordinance 59530, and along with a portion of South Judkins Street vacated under Ordinance 62723,

LESS that portion of said Block 5 dedicated for general street purposes; and

WHEREAS, the Mayor and the chair of the City Council's Land Use Committee have jointly proposed new major institution policies which would among other things amend the definition of "major institution," remove Pacific Medical Center from the list of designated major institutions and rezone its campus to the Commercial 1 (C-1) Zone; and

WHEREAS, the Mayor and the Chair of the City Council's Land Use Committee have recommended that the Property be rezoned to the Commercial 1 (C-1) Zone with structure height limits which vary by location on the site as shown on the attached map (Exhibit A) subject to the execution and recording of an agreement with the City pertaining to the use and development of

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the Property, relating to the preservation of existing structures, traffic circulation, buffer landscaping, and guidelines for new development and its relation to multi-family areas, which conditions will further minimize the non-conformity of existing uses within the zoning designation;

NOW, THEREFORE Owner covenants, bargains and agrees on behalf of itself and its successors and assigns that it will comply with the following conditions if the Property is rezoned to the Commercial 1 (C-1) Zone classification:

Section 1. Development of the Property shall be accomplished in accordance with the following conditions:

A. The architectural design and character of the original six low-rise structures fronting on 12th Avenue South, South Judkins Street and 14th Avenue South, and of the main tower structure shall be maintained to the maximum extent feasible, as provided by Owner's Quit-Claim Deed, dated November 24, 1981 and recorded in the records of King County under file No. 8112010772. Review and comment on any proposed exterior architectural or rehabilitation plans shall be made by the State Historic Preservation officer, State of Washington, prior to issuance of permits.

B. Major additions or alterations on the south facade of the main tower building shall not be permitted. The north facade may only be added to or modified as part of a program to bring the structure into conformance with present Building Code (seismic) requirements. Further, any additions or modifications

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to the north facade shall be architecturally compatible with and enhance the original design. Exterior changes to the north facade shall not alter the silhouette (outline) of the facade as viewed from the north within a range of 65 degrees centered on the north-south axis at the existing north facade of the tower. the silhouette of the north facade to be preserved shall be that portion of the tower above the seventh floor level, elevation 351.0 feet.

Potential impacts to the silhouette of the north facade shall be determined by visual analysis illustrating the existing main tower with any proposed additions. A finding that no change will occur to the silhouette when viewed from Yesler Way at the center of the I-5 overpass and from the intersection of Yesler Way and Sixteenth Avenue shall constitute compliance with this condition.

C. Exceptions to the 160 foot height limit may be granted only as part of a program to achieve Building Code compliance. There shall be no architectural design limitations for the remaining structures on the site.

D. Primary vehicular access shall be limited to locations that will minimize adverse traffic circulation impacts on adjacent residential areas. No primary egress/ingress shall be located within 200 feet of South Judkins Street. Vehicular access shall not be allowed from South Judkins Street.

E. The existing landscape buffering shall be maintained along all perimeter streets. Significant reduction of existing

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landscaping on the site shall not be allowed. Further extension of the buffer, as appropriate, shall be provided in new development. A landscaped area at least twenty feet width shall be maintained along all property lines. Exceptions shall be allowed for driveways and walkways to the Property.

F. Any development in the central landscaped common open area south of the main tower entry shall not exceed an elevation of 284.00' (the elevation of the existing lawn). Exceptions shall be permitted for unenclosed structures not to exceed 500 square feet per structure and a cumulative total of 10% of the open area, when such structures will facilitate the use of the open space.

G. Signs or other displays of commercial uses shall not be permitted along South Judkins Street.

H. The following C-1 uses are prohibited: automotive retail sales and services; marine retail sales and service; principal use parking; mini-warehouses; warehouses; recycling collection station; recycling center; outdoor storage; mobile home park; mortuary services; major durables sales, service, and rental; fast-food restaurant (over 750 square feet); brewpub; sales, service, and rental of commercial equipment and construction materials; sale of heating fuel; heavy commercial services; spectator sports facility; wholesale showroom; passenger terminal; transit vehicle base; helistop; and park and pool/ride lot.

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I. The following C-1 uses shall be subject to the maximum size limits listed for total gross area of the use permitted on the Property:

- (1) Personal and household retail sales and services - 15,000 sq. ft.
- (2) Eating and drinking establishments - 15,000 sq. ft.
- (3) Entertainment facilities - 30,000 sq. ft.
- (4) Transportation facilities - 5,000 sq. ft.
- (5) Utilities - 3,000 sq. ft.
- (6) Motion picture theater - 75 seats.

J. General manufacturing uses are prohibited, except that production of pharmaceuticals is permitted as a conditional use. Non-household sales and service uses shall be permitted outright, up to a total gross area of 15,000 sq. ft.; above that size, conditional use approval is required. All conditional uses are subject to the following provisions:

- (1) Conditional uses shall meet the development standards for uses permitted outright, as set forth in the Land Use Code and Section 1, subsection A through H and subsection L of this agreement.
- (2) The Director may approve, condition or deny a conditional use. The Director's decision shall be based on a determination whether the proposed use will be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.

(3) In authorizing a conditional use, the Director may mitigate adverse negative impacts by imposing requirements and conditions deemed necessary for the protection of other properties in the zone or vicinity and the public interest.

(4) The Director shall issue written findings of fact and conclusions to support the Director's decision.

(5) Any authorized conditional use which has been discontinued shall not be reestablished or recommended except pursuant to a new conditional use permit. The following shall constitute conclusive evidence that the conditional use has been discontinued:

(a) A permit to change the use of the property has been issued and the new use has been established; or

(b) The property has not been devoted to the authorized conditional use for more than twenty-four (24) consecutive months.

Property which is vacant, except for dead storage of materials or equipment of the conditional use, shall not be considered as being devoted to the authorized conditional use. The expiration of licenses necessary for the conditional use shall be evidence that the property is not being devoted to the conditional use.

(6) The Director may condition the permit in order to mitigate potential noise problems. Measures to be used by the Director for this purpose include, but are not limited to the following: landscaping, sound barriers or fences, mounding or

berming, adjustments to yards or the location of refuse storage areas, or parking development standards, design modification and fixing of hours for use of areas.

(7) A transportation plan shall be required, or if there is an existing transportation plan for the Property in place, that plan shall be modified to accommodate the proposed use. Consideration of the following elements and other similar factors may be required:

(a) Traffic. Number of staff during normal working hours; users, guests and other regularly associated with the institution; level of vehicular traffic generated; traffic peaking characteristics of the institution and the immediate area; likely vehicle use patterns; extent of congestion; types and number of vehicles associated with the use; and mitigating measures to be taken by the applicant;

(b) Parking Area. Number of spaces; extent of screening from public or abutting lots; direction of vehicle light glare; direction of lighting; sources of possible vibration; prevailing direction of exhaust fumes; location of driveway and curb cuts; accessibility and convenience of the parking area; and mitigating measures to be taken by the applicant, such as parking space preferences for carpool or vanpool vehicles and provisions for bicycle racks;

(c) Parking Overflow. Number of vehicles expected to park in the street; percentage of on-street parking supply to be used by the proposed use; opportunities available to

share existing parking areas; trends in local area development and mitigating measures to be taken by the applicant.

(d) Safety. Number of driveways which cross pedestrian walkways; location of passenger loading areas;

(e) Availability of Mass Transportation. Bus route location and frequency of service; private transportation programs, including carpools and vanpools, to be provided by the applicant.

The Director may condition a permit to mitigate potential traffic and parking problems. Measures which may be used by the Director for this purpose include, but are not limited to, the following:

(a) Implementing the institution's transportation plan to encourage use of public or private mass transit;

(b) Increasing on-site parking or loading space requirements to reduce overflow of vehicles into the on-street parking supply;

(c) Changing access and location of parking;

K. The Owner and/or responsible parties shall follow the Secretary of the Interior's Standards for Rehabilitation (36 CFR 67) on any proposed alterations and/or new construction. Every effort shall be made to preserve and protect character-defining architectural features.

L. No development of the Property will be undertaken if the PM peak hour vehicle trips to or from the Property exceed or will exceed 1000, as determined by the DCLU Director, until an

amendment to this agreement is considered and approved. The City Council may approve an amendment to permit further development of the site only after a review of the impacts of such development on the adjacent residential neighborhood and the North Beacon Hill community, and after notice to and comments from residents and business and property owners of said neighborhood and community. Any amendment to this agreement shall be based upon a five-year projection of anticipated development of the Property and in the North Beacon Hill area and an evaluation of factors which shall include, but not be limited to:

- (a) the level of service LOS at the intersection of Golf Drive South, and 12th Avenue South;
- (b) total daily traffic volumes in the vicinity of the site;
- (c) spillover parking impacts from the site to the adjacent neighborhood;
- (d) safety of pedestrians relative to traffic generated by development of the site; and
- (e) land use impacts on the adjacent neighborhood, particularly along the edge of the site.

M. The floor area ratio (FAR) limits for the C-1 85', C-1 125', and C-1 160' zones shall not apply.

Section 2. This Property Use and Development Agreement (hereafter "Agreement") shall be recorded in the records of King County and the covenants hereof shall be deemed to attach to and

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run with the Property and shall apply to after-acquired title of the Owners of the Property.

Section 3. This Agreement may be amended or modified by agreement between the Owner of the City; provided such amended agreement shall be approved by the legislative authority of the City by ordinance. Nothing in this Agreement shall prevent the City Council from making such further amendment to the Zoning Ordinance or Land Use Code as it may deem necessary in the public interest. Nothing in this Agreement is intended to authorize any use or dimension not otherwise permitted in a Commercial 1 (C-1) Zone by the Land Use Code or by this Agreement.

Section 4. This Agreement is made for the benefit of the City and owners of property within 300 feet of the Property, and either the City or any such property owner may institute and prosecute any proceeding at law or in equity to enforce this Agreement.

Section 5. It is further expressly agreed that in the event any condition or restriction hereinabove contained or any portion thereof is invalid or void, such invalidity or voidness shall in

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710 - Second Avenue  
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