



SNOHOMISH COUNTY COUNCIL  
SNOHOMISH COUNTY, WASHINGTON

AMENDED ORDINANCE NO. 09-063

RELATING TO THE GROWTH MANAGEMENT ACT, ADOPTING FUTURE LAND USE  
MAP AMENDMENTS TO THE SNOHOMISH COUNTY GROWTH MANAGEMENT  
ACT COMPREHENSIVE PLAN (GMACP) – GENERAL POLICY PLAN (GPP) AND  
ZONING MAP AMENDMENTS TO IMPLEMENT CHANGES  
TO THE FUTURE LAND USE MAP FOR  
THE SOUTHWEST URBAN GROWTH AREA (SW 42 – GREEN SPACE, INC.)

WHEREAS, RCW 36.70A.130 and .470 direct counties planning under the Growth Management Act (GMA) to adopt procedures for interested persons to propose amendments and revisions to the GMACP or development regulations; and

WHEREAS, the Snohomish County Council adopted chapter 30.74 Snohomish County Code (SCC), "Growth Management Act Public Participation Program Docketing," to comply with the requirements of RCW 36.70A.130 and .470; and

WHEREAS, the Snohomish County Council has determined that the consideration of the proposed amendments and revisions to the GMACP and development regulations would promote a county purpose as established under RCW 36.70A.130, RCW 36.70A.470 and chapter 30.74 SCC; and

WHEREAS, on June 9, and June 16, 2008, the Snohomish County Council held public hearings to receive public testimony on proposed county and non-county initiated amendments to the GMACP for consideration on the Final Docket XIII including SW 42 – Green Space, Inc.; and

WHEREAS, the Snohomish County Council, on June 16, 2008, approved, by Motion No. 08-238, a list of proposed GMACP amendments for inclusion on Final Docket XIII, including SW 42 – Green Space, Inc., and authorized the County Executive, through the Department of Planning and Development Services (PDS), to process Final Docket XIII consistent with chapters 30.73 and 30.74 SCC; and

WHEREAS, Final Docket XIII, including SW 42 – Green Space, Inc., to amend the map and text of the GMACP was presented to the Planning Advisory Committee (PAC) of Snohomish County Tomorrow (SCT); and

WHEREAS, pursuant to chapter 30.74 SCC, PDS completed final review and evaluation of Final Docket XIII, including SW 42 – Green Space, Inc., to amend the map and text of the

1 GMACP, and forwarded a recommendation of denial for SW 42 to the Snohomish County  
2 Planning Commission in advance of its scheduled public hearing on Batch 1 of the Final Docket  
3 XIII proposals, including SW 42; and  
4

5 WHEREAS, the PDS recommendation of denial for SW 42 dated January 27, 2009, was  
6 based on the results of the PDS evaluation of this proposal against the six final docket review  
7 criteria in SCC 30.74.060. PDS is required to recommend approval of a final docket proposal  
8 only if all of the six criteria are met. PDS determined that the SW 42 proposal was not supported  
9 by the Transportation element and certain transportation objectives and policies in the GPP  
10 which restrict direct vehicle access onto designated principal arterials to maintain and improve  
11 the integrity of traffic flow; and  
12

13 WHEREAS, the Snohomish County Planning Commission held a public hearing and  
14 received public testimony on SW 42 – Green Space, Inc. on January 27, 2009; and  
15

16 WHEREAS, on February 3, 2009, the Snohomish County Planning Commission  
17 deliberated on SW 42 – Green Space, Inc. at the conclusion of the public hearing and  
18 recommended by a 5 – 3 vote that SW 42 be denied; and  
19

20 WHEREAS, the 45-day public comment period on a draft supplemental environmental  
21 impact statement (DSEIS) issued on January 12, 2009, for this non-project action concluded on  
22 February 26, 2009. As a result of the oral and written comments received, PDS reevaluated the  
23 six final docket review criteria in SCC 30.74.060 and, on April 15, 2009, issued a revised staff  
24 recommendation of approval, which was further revised on May 18, 2009, for the SW 42  
25 proposal. This proposal is now consistent with all of the docket review criteria in SCC  
26 30.74.060(2) based on a determination of consistency with the Transportation element and  
27 certain objectives and policies in the GPP, subject to completion of the Final Supplemental  
28 Environmental Impact Statement (FSEIS) for this proposal, which will be issued at least seven  
29 days prior to final action on this proposal by the county council; and  
30

31 WHEREAS, the Snohomish County Council held a public hearing on July 8, 2009  
32 continued to August 12, 2009, to consider the entire record, including the planning commission  
33 recommendations on Final Docket XIII and to hear public testimony on this Ordinance No. 09-  
34 063.  
35

36 NOW, THEREFORE, BE IT ORDAINED:  
37

38 **Section 1.** The county council makes the following findings:  
39

- 40 A. The county council adopts and incorporates the foregoing recitals as findings as if set forth  
41 fully herein.
- 42 B. The SW 42 – Green Space, Inc. proposal is to re-designate 3.24 acres from Urban Low  
43 Density Residential (ULDR) to Urban Commercial (UC) and to rezone the property from R-

1 7200 to Neighborhood Business (NB). The property is located on the north side of 134<sup>th</sup> Pl.  
2 SE (Cathcart Way) and between 61<sup>st</sup> Ave. SE and North Snohomish Cascade Blvd. (NSCB).

3 C. Transportation issues regarding access were identified as the proposal site has direct access  
4 onto the adjacent 134<sup>th</sup> Pl. SE, which is designated as an urban principal arterial in the  
5 Transportation Element (TE) of the GMACP. Future commercial development of the  
6 property as a result of the proposal would increase the severity and frequency of conflicts  
7 between through traffic on 134<sup>th</sup> Pl. SE and vehicles accessing the property. Consistent with  
8 the TE, vehicular access is reviewed through access management treatments required at the  
9 time of submittal of a specific development project. The Department of Public Works  
10 (DPW) is requiring that the docket proponent agree to include certain access standards,  
11 conditions and requirements through a concomitant agreement as an integral part of the  
12 rezone of the SW 42 proposal.

13 D. The rezone proposal includes the execution of a concomitant agreement where the property  
14 owner agrees to abide by the following access restrictions at the time a commercial  
15 development application is submitted:

16 1. The property will be allowed only one access point from 134<sup>th</sup> Pl. SE. The location of  
17 that access point will be determined by the Department of Public Works (DPW) during  
18 project review.

19 2. Ingress and egress from 134<sup>th</sup> Pl. SE will be restricted to a right in, right out configuration  
20 unless the applicant can demonstrate an alternative use profile and access configuration  
21 that provides access acceptable to DPW.

22 3. A traffic control device(s) will be constructed in the 134<sup>th</sup> Pl. SE right-of-way that will  
23 restrict access to and from the property to right in, right out. The type of traffic control  
24 device(s) will be determined by the DPW during project review.

25 4. If the applicant can obtain either easement rights over or ownership of a strip of land that  
26 enables access to the east portion of the property from NSCB, suitable to meet County  
27 access requirements, the applicant shall be entitled to a curb/median cut in NSCB, north  
28 of the 134<sup>th</sup> Pl. SE intersection at a location that complies with the County's Engineering  
29 Design and Development Standards (EDDS).

30 5. No access is allowed from 61<sup>st</sup> Ave. SE and 62<sup>nd</sup> Dr. SE.

31 E. The concomitant agreement is attached to this ordinance as Exhibit C and is incorporated by  
32 reference. The concomitant agreement is required to be filed with the County Auditor prior  
33 to or simultaneous with the approval of the proposed rezone by adoption of this ordinance.  
34 The concomitant agreement is a deed restriction that will be applicable to current and future  
35 owners of the property.

36  
37 F. The proposal, as conditioned, is consistent with the following goals, objectives and policies  
38 of the GPP:

39 1. Goal LU 2, "Establish development patterns that use urban land more efficiently."

- 1        2. Objective LU 5.A, “Revitalize or create identifiable, pedestrian-oriented neighborhood
- 2        areas with focal points, mixed-use centers, and employment areas that are linked with
- 3        each other.”
- 4        3. LU Policy 5.A.6, “For planning and zoning proposed within Urban Growth Areas more
- 5        detailed planning processes may be developed for identified Neighborhood Commercial
- 6        Centers with the following characteristics:
- 7                (a) a variety of small scale commercial uses, public buildings, and
- 8                mixed use development within one-half mile or a fifteen minute
- 9                walking distance for the majority of neighborhood residents;
- 10              (b) approximately 3 acres in size;
- 11              (c) served by public transportation; and
- 12              (d) compatible with adjacent uses.”
- 13        4. Objective HO 1.B, “Ensure that a broad range of housing types is available in urban and
- 14        rural areas.”
- 15        5. Objective HO 1.D, “Maintain an adequate supply of appropriately zoned developable
- 16        land.”
- 17        6. TR Policy 1.C.2, “Adequate access to and circulation within all developments shall be
- 18        maintained for emergency service and public transportation vehicles.”
- 19        7. TR Policy 1.C.10, “Developments taking access from existing roadways shall be required
- 20        to make offsite improvements to improve them to at least minimum standards for
- 21        vehicular access based upon such factors as the volume and other characteristics of
- 22        existing and newly-generated traffic.”
- 23        8. TR Policy 2.B.1, “Access and mobility for transit users and pedestrians without reliance
- 24        on automobiles shall be enhanced through the design of pedestrian-scale neighborhoods
- 25        and activity centers.”
- 26        9. Objective TR 4.D, “Restrict direct vehicle access from public and private property onto
- 27        designated principal and minor arterials to maintain and improve the integrity of traffic
- 28        flow.
- 29        10. TR Policy 4.D.1, “In order to promote public safety and operations efficiency, access to
- 30        principal, minor and collector arterials shall be limited.”
- 31        11. Goal ED 1, “Promote the maintenance and enhancement of a healthy economy.”
- 32        12. Goal ED 3, “Encourage the retention and expansion of existing businesses and jobs and
- 33        attract new businesses and jobs.”
- 34        13. Objective NE 1.B, “Accommodate population growth in a manner that maintains and
- 35        protects elements of the natural environment.”
- 36        G. The proposal, as conditioned, is consistent with the following Countywide Planning Policies
- 37        (CPPs):

- 1 1. UG-8, "Ensure UGAs provide sufficient density, developable land, public facilities and  
2 public services to accommodate most of the projected population and employment  
3 growth. In addition, the density should be adequate, according to recent studies, to  
4 support transit services and the efficient utilization of infrastructure."
  - 5 2. TR-4(e), "Adequate access to and circulation for public service and public transportation  
6 vehicles will be part of the planning for comprehensive plan land use designations and  
7 subsequent development."
  - 8 3. OD-10, "Encourage policies that allow for infill and redevelopment of suitable areas in  
9 accordance with local comprehensive plans."
- 10 H. A DSEIS to the EIS issued for the 2005 Snohomish County GMACP 10-Year Update was  
11 issued on January 12, 2009, for the proposal. An FSEIS, including responses to comments on  
12 the DSEIS, was prepared following the 45-day comment period and was issued on June 12,  
13 2009. The purpose of the FSEIS was to analyze potential significant adverse environmental  
14 impacts of the proposals and any alternatives that were not previously identified in the EIS  
15 and to provide supplemental analysis and information relating to the proposed map  
16 amendment.
- 17 I. The county council includes in its findings and conclusions the revised final review and  
18 evaluation of the proposal completed by PDS on May 18, 2009, in accordance with chapter  
19 30.74 SCC, which is hereby made a part of this ordinance as if set forth herein. The May 18,  
20 2009, review and evaluation supersedes the January 27, 2009, PDS review and evaluation  
21 that had recommended denial of the proposal due to transportation concerns. The May 18,  
22 2009, review and evaluation also supersedes the April 15, 2009, PDS review and evaluation  
23 that recommended approval of the proposal as the April 15, 2009, review and evaluation was  
24 issued prior to the development of the concomitant agreement. As discussed above, and as  
25 set forth more fully in the May 18, 2009, PDS evaluation, approval of the FLU map re-  
26 designation and rezone, as conditioned, and including the concomitant agreement, would be  
27 consistent with the docket approval criteria.

28  
29 **Section 2.** The county council makes the following conclusions:

- 30
- 31 A. The SW 42 – Green Space, Inc. proposal to re-designate 3.24 acres from ULDR to UC and to  
32 rezone from R-7200 to NB more closely meets the goals, objectives and policies of the GPP  
33 than the existing plan designation.
- 34 B. The proposed Future Land Use (FLU) map and zoning map amendments are consistent with  
35 the following final review and evaluation criteria of chapter 30.74 SCC:
  - 36 1. The proposed amendments maintain consistency with other elements of the GMACP.
  - 37 2. All applicable elements of the GMACP support the proposed amendments.
  - 38 3. The proposed amendments meet the goals, objectives, and policies of the GPP as  
39 discussed in the specific findings.

- 1 4. The proposed amendments are consistent with the CPPs.
- 2 5. The proposed amendments comply with the goals and requirements of the GMA.
- 3 6. New information is available which was not considered at the time the plan or regulation
- 4 was amended.
- 5 C. The revisions to the FLU map are consistent with the forecasted population and employment
- 6 growth for the succeeding 20-year period, consistent with the forecast promulgated by the
- 7 Washington State Office of Financial Management.
- 8 D. The amendments are consistent with the GMA requirement that the GMACP of a county or
- 9 city be an internally consistent document (RCW 36.70A.070).
- 10 E. The amendments to the GMACP satisfy the procedural and substantive requirements of the
- 11 GMA.
- 12 F. The amendments maintain the GMACP's consistency with the CPPs for Snohomish County.
- 13 G. The proposed amendments meet the goals, objectives and policies of the GPP as discussed in
- 14 the specific findings.
- 15 H. All SEPA requirements with respect to this non-project action have been satisfied.
- 16 I. The County complied with state and local public participation requirements under the GMA
- 17 and chapter 30.73 SCC.

18 **Section 3.** The county council bases its findings and conclusions on the entire record of the  
19 county council, including all testimony and exhibits. Any finding, which should be deemed a  
20 conclusion, and any conclusion which should be deemed a finding, is hereby adopted as such.  
21

22 **Section 4.** Based on the foregoing findings and conclusions, the Snohomish County GMACP –  
23 GPP Future Land Use Map last amended by Ordinance No. 08-049, is amended as indicated in  
24 Exhibit A to this ordinance which is attached hereto and incorporated by reference into this  
25 ordinance as if set forth in full.  
26

27 **Section 5.** Based on the foregoing findings and conclusions, the area-wide zoning map, last  
28 amended by Ordinance No. 08-045, is amended as indicated in Exhibit B to this ordinance,  
29 which is attached hereto and incorporated by reference into this ordinance as if set forth in full,  
30 subject to the terms of the executed concomitant agreement attached hereto as Exhibit C.  
31


32 **Section 6.** The county council directs the Code Reviser to update SCC 30.10.060 pursuant to  
33 SCC 1.02.020(3).  
34

35 **Section 7. Severability.** If any section, sentence, clause or phrase of this ordinance shall be held  
36 to be invalid or unconstitutional by the Growth Management Hearings Board, or a court of  
37 competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or  
38 constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided,  
39 however, that if any section, sentence, clause or phrase of this ordinance is held to be invalid by

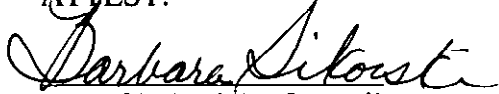
1 the Board or court of competent jurisdiction, then the section, sentence, clause or phrase in effect  
2 prior to the effective date of this ordinance shall be in full force and effect for that individual  
3 section, sentence, clause or phrase as if this ordinance had never been adopted.  
4

5  
6 PASSED this 12<sup>th</sup> day of August, 2009.  
7

8 SNOHOMISH COUNTY COUNCIL  
9 Snohomish County, Washington

10  
11   
12 Council Chair

13 ATTEST:

14   
15

16 Asst. Clerk of the Council


- 17  
18  APPROVED  
19  EMERGENCY  
20  VETOED

21 DATE: Aug 31, 2009  
22

23  
24   
25 for Snohomish County Executive

26 AARON REARDON  
27 County Executive

28 ATTEST:

29 

30 Approved as to form only:  
31

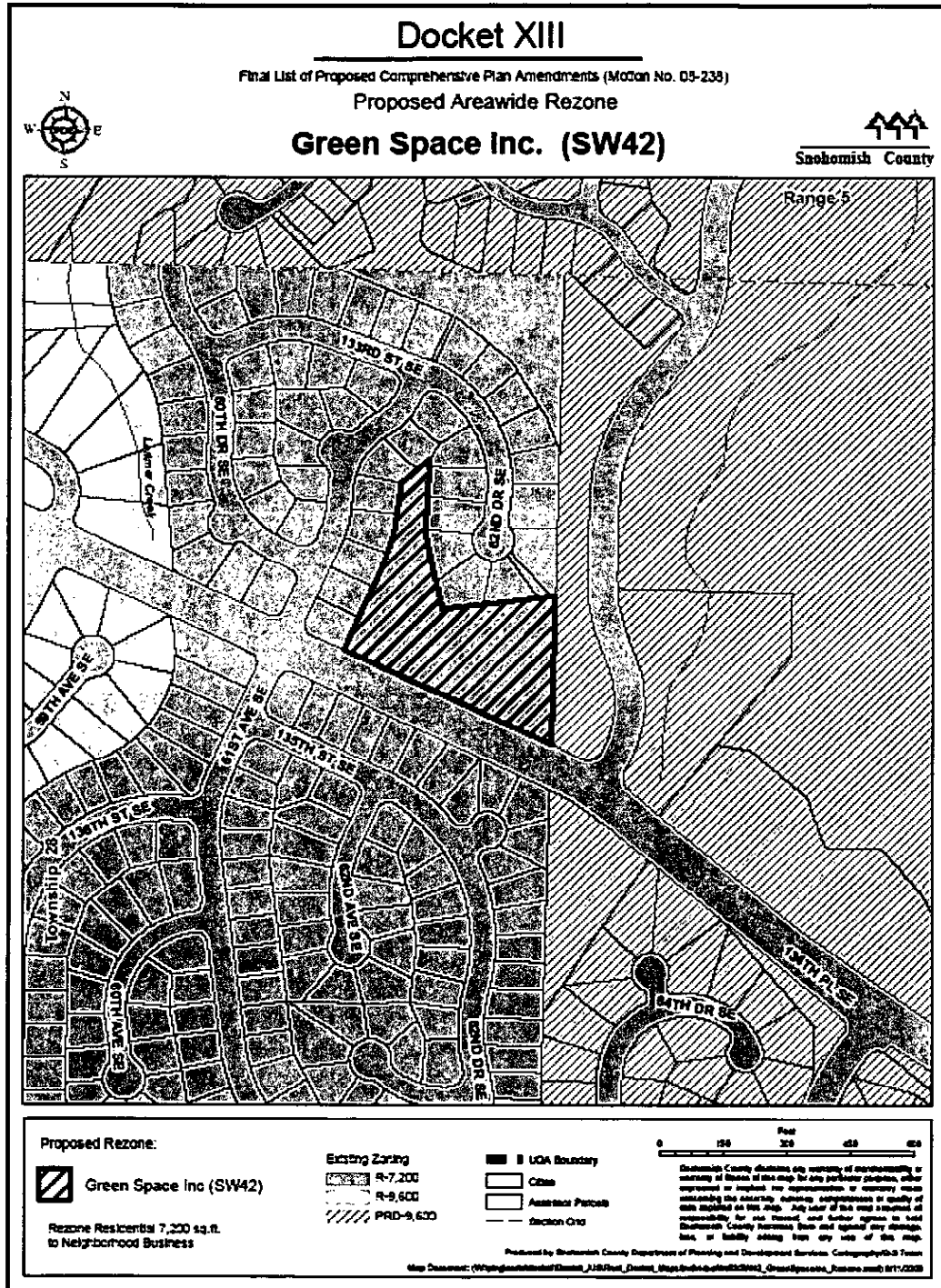
32 \_\_\_\_\_  
33 Deputy Prosecuting Attorney  
34

D.14





Exhibit B  
 Amended Ordinance No. 09-063  
 Final Docket XIII, Zoning Map Amendments  
 SW 42 Green Space, Inc.



AMENDED ORDINANCE No. 09-063  
 RELATING TO THE GROWTH MANAGEMENT ACT, ADOPTING FUTURE LAND USE MAP AMENDMENTS TO THE SNOHOMISCOUNTY GROWTH MANAGEMENT ACT COMPREHENSIVE PLAN (GMACP) – GENERAL POLICY PLAN (GPP) AND ZONING MAP AMENDMENTS TO IMPLEMENT CHANGES TO THE FUTURE LAND USE MAP FOR THE SOUTHWEST URBAN GROWTH AREA (SW 42 – GREEN SPACE, INC.)

Exhibit C  
Amended Ordinance No. 09-063  
Concomitant Agreement  
Green Space, Inc.

AMENDED ORDINANCE No. 09-063  
RELATING TO THE GROWTH MANAGEMENT ACT, ADOPTING FUTURE LAND USE MAP AMENDMENTS TO THE  
SNOHOMISCOUNTY GROWTH MANAGEMENT ACT COMPREHENSIVE PLAN (GMACP) – GENERAL POLICY PLAN (GPP) AND  
ZONING MAP AMENDMENTS TO IMPLEMENT CHANGES TO THE FUTURE LAND USE MAP FOR THE SOUTHWEST URBAN  
GROWTH AREA (SW 42 – GREEN SPACE, INC.)

After Recording, Return to;  
Department of Planning and Development Services  
Planning Division  
M/S #604

---

### CONCOMITANT AGREEMENT

**Owner(s)/Grantor:** GreenSpace, Inc. (A Washington Corporation)

**Grantee:** Snohomish County

**Legal Description:** Tracts A & C, Block 000, Puget Park No.2, V34, PGS 88 - 89.  
Located in Section 34, Township 28 N, Range 5 E, W.M.

**Assessor's Tax Account No(s):** 00641900005400 and 00641900005600

THIS AGREEMENT is made and entered into this 15th day of May, 2009 by GreenSpace Inc., hereinafter referred to as "OWNER."

WITNESSETH:

WHEREAS, the Owner is the title holder(s) of certain real property located in the 6200 Block of 134<sup>th</sup> PL SE on the north side ("the Property"), the same being described as follows:

Tracts A and C Replat of Puget Park No.2, as per plat recorded in Volume 34 of Plats, Page 88 through 89, records of Snohomish County. Situated in the County of Snohomish, State of Washington; and

Whereas, the Owner proposes to use the Property for commercial purposes, subject to the terms and conditions of this Agreement and has applied to Snohomish County for a change in

zoning to Neighborhood Business (NB) through the Docketing process per Chapters 30.73 and 30.74 Snohomish County Code (SCC); and

Whereas, Snohomish County has found that the requested rezone to NB is in the public interest, provided that the development of the Property is planned and implemented in accordance with certain standards, conditions and requirements which shall be documented herein and hereafter considered to be an integral part of the zoning restrictions applicable to the Property;

NOW, THEREFORE, THE OWNER HEREBY AGREES AS FOLLOWS:

1. Access Restrictions:

- a. The Property will be allowed only one (1) access point from 134<sup>th</sup> PL SE. The location of which will be determined by the Department of Public Works (DPW) during project review.
- b. Ingress and Egress from 134<sup>th</sup> Pl SE will be restricted to a right in, right out configuration, unless the applicant can demonstrate an alternative use profile and access configuration that provides access acceptable to DPW.
- c. A traffic control device(s) may be constructed in the 134<sup>th</sup> PL SE right-of-way that will restrict access to and from the Property to right in, right out. The type and location of traffic control device(s) will be determined by the DPW during project review.
- d. If the applicant can obtain either easement rights over or ownership of a strip of land that enables access to the east portion of the property from North

Snohomish Cascade Boulevard (NSCB), suitable to meet County access requirements, the applicant shall be entitled to a curb/median cut in NSCB, north of the 134<sup>th</sup> PL SE intersection at a location that complies with the Snohomish County Engineering and Development Standards (EDDS) and is approved by DPW .

e. No vehicular access is allowed from 61<sup>st</sup> Ave. SE and 62<sup>nd</sup> Dr. SE.

2. Legal Requirements: The Owner, and its successors and assigns, shall comply with all County laws and regulations applicable to the development and use of the Property, and nothing herein shall be construed as superseding said laws and regulations.

3. Recording: This Agreement shall be filed in the records of the Snohomish County Auditor for the purpose of subjecting the Property to the restrictions, conditions and limitations herein set forth which are intended and shall have the force and effect of deed restrictions and shall be deemed to be covenants running with the land and binding upon the Owner and its successors, and assigns.

4. Enforcement: Any violation of this Agreement by the Owner, its successors or assigns, shall be considered a violation of Titles 13 and 30 SCC, and shall be subject to all applicable penalties and remedies. Snohomish County may also elect to bring such action or actions as will accomplish specific performance of this agreement.

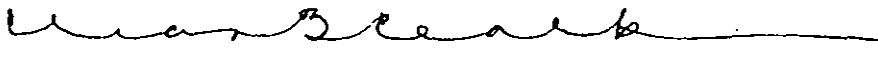
5. Construction of Agreement: This Agreement is concomitant with the action of the Snohomish County Council in rezoning of the Property to NB. Nothing herein shall be construed as being agreed to in consideration for said rezone, nor does Snohomish County relinquish its legislative power with respect to said rezone in consideration for this Agreement.

6. Amendment: This Agreement shall NOT be superseded by any subsequent rezone of the Property.

7. Effective Date: This Agreement shall become effective upon approval of the rezone by the Snohomish County Council and the recording of the Agreement.

IN WITNESS WHEREOF, the Owner has caused these presents to be executed in their names on the date and year first above written.

**GREENSPACE INC.**

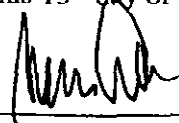


\_\_\_\_\_  
**Alan B. Clark, AIA**  
President & CEO

STATE OF WASHINGTON )  
  ) ss.  
COUNTY OF SNOHOMISH )

On this day personally appeared before me Alan B. Clark, to me known to be the individual described in and who executed the within and foregoing instrument; and acknowledged that he is the President & CEO of GreenSpace Inc., a Washington corporation, and authorized to sign on behalf of the corporation and signed the same as his free and voluntary act and deed for the uses and purposes herein mentioned.

Given under my hand and official seal this 15<sup>th</sup> day of May, 2009.



\_\_\_\_\_  
NOTARY PUBLIC in the State of Washington

residing at Seattle, wa

