City of Tukwila
Washington
Ordinance No. 2013

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, APPROVING AND AUTHORIZING THE DEVELOPMENT AGREEMENT WITH TUKWILA TSD, LLC, FOR THE SHARED USE OF PARKING IN THE PUBLIC RIGHT-OF-WAY OF CHRISTENSEN ROAD AS IT RELATES TO THE PLANNED DEVELOPMENT OF A HOTEL LOCATED AT 90 ANDOVER PARK EAST; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, RCW 36.70B.170, et seq. and Tukwila Municipal Code (TMC) Chapter 18.86 authorize development agreements between the City and persons having ownership or control of real property in order to establish development standards to govern and vest the development, use and mitigation of real properties; and

WHEREAS, Tukwila TSD, LLC, desires to build a new five-story hotel at 90 Andover Park East with over 90 guest rooms; and

WHEREAS, Tukwila TSD, LLC, proposes non-exclusive use of parking and drive aisle area in the right-of-way of Christensen Road to meet the parking requirements for the proposed hotel at 90 Andover Park East; and

WHEREAS, Tukwila TSD, LLC, also proposes to construct additional parking in the right-of-way, provide monetary compensation to the City for the shared use of parking, and maintain parking in the public right-of-way for the term of the agreement; and

WHEREAS, the City of Tukwila and Tukwila TSD, LLC, wish to enter into a Development Agreement for the shared use of parking in the public right-of-way of Christensen Road as it relates to the planned development of a hotel located at 90 Andover Park East, a copy of which is attached hereto as Exhibit A; and

WHEREAS, as required pursuant to Tukwila Municipal Code Section 18.86.050, a public hearing was conducted on the 24th day of November 2014 to take public testimony regarding this Development Agreement, as proposed; and
WHEREAS, the City Council finds that the terms of this Development Agreement are necessary to achieve public benefits, to respond to changing community needs and to encourage modifications that adequately achieve the purposes of otherwise applicable City standards;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Development Agreement. The Development Agreement by and between the City of Tukwila and Tukwila TSD, LLC, for the use of shared parking in the public right-of-way of Christensen Road as it relates to the planned development of a hotel located at 90 Andover Park East, a copy of which is attached hereto as Exhibit A, is hereby approved, and the Mayor is authorized and directed to execute said Development Agreement on behalf of the City of Tukwila.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 3. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 4. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City, and shall take effect and be in full force five days after passage and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this 16TH day of March, 2015.

ATTEST/AUTHENTICATED:

Christy O’Flaherty, MMC, City Clerk
Jim Haggert, Mayor

APPROVED AS TO FORM BY:

Rachel B. Turpin, City Attorney

Filed with the City Clerk: 3-11-15
Passed by the City Council: 3-16-15
Published: 3-19-15
Effective Date: 3-24-15
Ordinance Number:

Exhibit A – Development Agreement
DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF TUKWILA AND
TUKWILA TSD LLC, FOR THE SHARED USE OF PARKING IN THE
RIGHT-OF-WAY OF CHRISTENSEN ROAD, AS IT RELATES TO THE
PLANNED DEVELOPMENT OF A HOTEL LOCATED AT 90 ANDOVER PARK EAST

I. PREAMBLE

THIS DEVELOPMENT AGREEMENT is made and entered into this ___ day of
___, 2015, by and between the City of Tukwila, a noncharter, optional code
Washington municipal corporation, hereinafter the “City,” and Tukwila TSD LLC, a (corporation,
limited partnership, partnership, etc.) organized under the laws of the State of Washington,
hereinafter the “Developer.”

II. RECITALS

WHEREAS, the Developer desires to develop a new five-story hotel at 90 Andover Park East
with over 90 guest rooms; and

WHEREAS, one parking space per guest room is required for lodging uses in the Tukwila
Urban Center Transit Oriented Development District; and

WHEREAS, the Developer has submitted a site plan showing the required number of parking
stalls for the hotel cannot be accommodated as surface parking on the project site; and

WHEREAS, the Developer proposes non-exclusive use of parking and drive aisle area in the
right-of-way of Christensen Road to meet the parking requirements for the proposed hotel at 90
Andover Park East; and

WHEREAS, the City of Tukwila is the owner of the Christensen Road right-of-way, which
includes undeveloped area adjacent to the project’s eastern property line, paved street, parking, and
cul-de-sac areas; and

WHEREAS, the parking area in the right-of-way of Christensen Road is currently used by
members of the public for access to the Green River Trail, shoreline, and parks areas; and

WHEREAS, hotel parking spaces are expected to be used primarily in the evening and
nighttime hours; parking spaces for trail, shoreline, and parks access are expected to be used during
daylight hours; and

WHEREAS, the Developer proposes to add parking spaces within the undeveloped right-of-
way area adjacent to the hotel site and to reconfigure existing spaces to increase the number of
parking spaces that would be shared for hotel use and the public for access to the Green River Trail; and
WHEREAS, all parking spaces within the right-of-way area will be shared and at least four/seven spaces will be designated for non-hotel users to ensure access to the Green River Trail for members of the public; and

WHEREAS, the Developer proposes to maintain the parking area within the right-of-way as outlined in Exhibit 2 for the length of this agreement; and

WHEREAS, the vision for parking areas within the Transit Oriented Development (TOD) Neighborhood in the Southcenter Subarea Plan is that “parking will be accommodated by a combination of off- and on-street parking spaces/lots” and shared parking facilities. “Such facilities can be shared between public and private uses” (p. 19); and

WHEREAS, the Developer proposes to construct a pedestrian connection between the intersection of Andover Park East and Tukwila Parkway to the Green River Trail; and

WHEREAS, implementation strategies for policy 10.2.1 of the Tukwila Comprehensive Plan include “Seek opportunities for public/private partnerships;” and

WHEREAS, a through-way from Andover Park East to Christensen Road will be constructed as part of the project to replace the emergency vehicle maneuvering function of the cul-de-sac; and

WHEREAS, uses that provide public access are prioritized in the Urban Conservancy Environment in the Shoreline Element of the Tukwila Comprehensive Plan and the proposed development furthers this goal; and

WHEREAS, the Washington State Legislature has authorized the execution of a development agreement between a local government and a person having ownership or control of real property within its jurisdiction (RCW 36.70B.170(1)); and

WHEREAS, a development agreement must set forth the development standards and other provisions that shall apply to, govern and vest the development, use and mitigation of the development of the real property for the duration specified in the agreement (RCW 36.70B.170(1)); and

WHEREAS, for the purposes of this development agreement, “development standards” includes, but is not limited to, all of the standards listed in RCW 36.70B.170(3); and

WHEREAS, a development agreement must be consistent with the applicable development regulations adopted by a local government planning under chapter 36.70A RCW (RCW 36.70B.170(1)); and
WHEREAS, Tukwila Municipal Code Section 18.86.030 explicitly allows for flexibility in
development standards applicable to a property developed under a development agreement “to
achieve public benefits, respond to changing community needs, or encourage modifications which
provide the functional equivalent or adequately achieve the purposes of otherwise applicable City
standards”; and

WHEREAS, this Development Agreement by and between the City of Tukwila and the
Developer (hereinafter the “Development Agreement”), relates to the development known as the 90
Andover Park East Hotel, which is located at: 90 Andover Park East (hereinafter the “Subject
Property”); and

WHEREAS, a development agreement must be approved by ordinance or resolution after a
public hearing (RCW 36.70B.200); and

WHEREAS, a public hearing for this Development Agreement was held on November 24,
2014, and the City Council approved this Development Agreement by Ordinance No. _____ on
_____________________; and

NOW THEREFORE, in consideration of the mutual promises set forth herein, the parties hereto
agree as follows:

III. AGREEMENT

Section 1. The Project. The Project is the development and use of the Subject Property,
consisting of 0.39 acres (approximately17,000 square feet) in the City of Tukwila located at 90
Andover Park East and a portion of Christensen Road right-of-way for a 92-room 5-story hotel and
45(option 2) / 48(option 3) shared parking spaces on Christensen Road right-of-way, as shown on
Exhibit 2.

Section 2. The Subject Property. The Subject Property and right-of-way are legally
described in Exhibit 1, attached hereto and incorporated herein by this reference.

Section 3. Definitions. As used in this Development Agreement, the following terms, phrases
and words shall have the meanings and be interpreted as set forth in this Section.

a) “Adopting Ordinance” means the Ordinance which approves this Development Agreement,
as required by RCW 36.70B.200.

b) “Council” means the duly elected legislative body governing the City of Tukwila.

c) “Design Guidelines” means the Tukwila Design Manual, as adopted by the City.

d) “Director” means the City’s Community Development Director.

e) “Effective Date” means the effective date of the Adopting Ordinance.
f) “Existing Land Use Regulations” means the ordinances adopted by the City Council of Tukwila in effect on the Effective Date, including the adopting ordinances that govern the permitted uses of land, the density and intensity of use, and the design, improvement, construction standards and specifications applicable to the development of the Subject Property, including, but not limited to the Comprehensive Plan, the City’s Official Zoning Map and development standards, the Design Manual, the Public Works Standards, SEPA, Concurrency Ordinance, and all other ordinances, codes, rules and regulations of the City establishing subdivision standards, park regulations, building standards. “Existing Land Use Regulations” does not include non-land use regulations, which includes taxes and impact fees.

g) “Landowner” is the party who has acquired any portion of the Subject Property from the Developer who, unless otherwise released as provided in this Agreement, shall be subject to the applicable provisions of this Agreement. The “Developer” is identified in Section 5 of this Agreement.

h) “Project” means the anticipated development of the Subject Property, as specified in Section 1 and as provided for in all associated permits/approvals, and all incorporated exhibits.

i) “Vesting date” means the date a valid and fully complete building permit application for the hotel is submitted to the City of Tukwila.

Section 4. Exhibits. Exhibits to this Agreement are as follows:

A. Exhibit 1 - Legal description of the Subject Property and the right-of-way. (Option 2 or 3)

B. Exhibit 2 - Conceptual Site Plan (Option 2 or Option 3)

Section 5. Parties to Development Agreement. The parties to this Agreement are:

A. The “City” is the City of Tukwila, 6200 Southcenter Blvd., Tukwila, WA 98188.

B. The “Developer” or Owner is a private enterprise which owns the Subject Property in fee, and whose principal office is located at 21109 66th Avenue South, Kent, WA 98032.

C. The “Landowner.” From time to time, as provided in this Agreement, the Developer may sell or otherwise lawfully dispose of a portion of the Subject Property to a Landowner who, unless otherwise released, shall be subject to the applicable provisions of this Agreement related to such portion of the Subject Property.

Section 6. Project is a Private Undertaking. It is agreed among the parties that the Project is a private development and that the City has no interest therein except as explicitly outlined in this Agreement and as authorized in the exercise of its governmental functions.
Section 7. Effective Date and Term. This Agreement shall commence upon the effective date of the Adopting Ordinance approving this Agreement, and shall continue in force for a period of 50 years, with the option to extend the Agreement an additional 30 years, unless extended or terminated as provided herein. Following the expiration of the term or extension thereof, or if sooner terminated, this Agreement shall have no force and effect, subject however, to post-termination obligations of the Developer or Landowner.

Section 8. Terms.

A. Design

- The Project at 90 Andover Park East shall be allowed non-exclusive use rights for the parking spaces and drive aisle area of Christensen Road (as depicted in Exhibit 2) to meet minimum parking requirements for the development. This Agreement shall not preclude the City from entering into additional agreements regarding use of this area by other private parties. The Project will be subject to the development regulations in effect at the time of complete permit application submittals.

- The site plan attached as Exhibit 2 is included with this Agreement for reference only, and has not yet been approved as of the date of execution of this Agreement. The site plan shall be subject to modifications during review of the required land use permits.

- As a result of the cul-de-sac closure, public access through 90 Andover Park East is hereby allowed and provided for.

- The Developer shall construct a pedestrian connection between the intersection of Andover Park East and Tukwila Parkway to the Green River Trail.

- All shared parking stalls will be constructed and maintained to Public Works Infrastructure Design and Construction Standards.

- The Developer shall be responsible for making a payment of $93,849 (option 2)/$145,897 (option 3) to the City of Tukwila. This payment shall be made prior to the issuance of the building permit for the hotel.

B. Construction

- The cost of permits and plans required for construction of the parking area shall be borne by the Developer and submitted as part of the permits for the hotel. The parking in the right-of-way must receive final approval by all required City departments prior to issuance of the Certificate of Occupancy for the hotel.

C. Maintenance

- The parking area shall be subject to inspections every five years.

- Developer is solely responsible for the cost and maintenance of the parking spaces. New striping of the parking spaces shall be completed every three years.
D. Operations

- A total of 92 parking spaces are required for the 92-room hotel as proposed. The site plan in Exhibit 2 includes 98(option2) / 101(option3) parking spaces. All parking spaces within the right-of-way of Christensen Road shall be for the joint use of the hotel users and members of the public and at least four(option2) / seven(option3) spaces shall be designated for non-hotel users to ensure access to the Green River Trail for members of the public. If the final design of the hotel is for less than 92 rooms, then any additional spaces after calculating one space per room plus two spaces shall be designated for non-hotel users.

Section 9. Vested Rights. During the term of this Agreement, unless sooner terminated in accordance with the terms hereof, in developing the Subject Property consistent with the Project described herein, Developer is assured, and the City agrees, that the development rights, obligations, terms and conditions specified in this Agreement, are fully vested in the Developer and may not be changed or modified by the City, except as may be expressly permitted by, and in accordance with, the terms and conditions of this Agreement, including the Exhibits hereto, or as expressly consented thereto by the Developer.

Section 10. Minor Modifications. Minor modifications from the approved permits or the exhibits attached hereto may be approved in accordance with the provisions of the City’s code, and shall not require an amendment to this Agreement.

Section 11. Further Discretionary Actions. Developer acknowledges that the Existing Land Use Regulations contemplate the exercise of further discretionary powers by the City. These powers include, but are not limited to, review of additional permit applications under Shoreline Substantial Development Permit and Design Review. Nothing in this Agreement shall be construed to limit the authority or the obligation of the City to hold legally required public hearings, or to limit the discretion of the City and any of its officers or officials in complying with or applying Existing Land Use Regulations.

Section 12. Existing Land Use Fees and Impact Fees.

A. Land use fees adopted by the City by ordinance as of the Effective Date of this Agreement may be increased by the City from time to time, and are applicable to permits and approvals for the Subject Property, as long as such fees apply to similar applications and projects in the City.

B. All impact fees shall be paid as set forth in the approved permit or approval, or as addressed in Chapters 16.26 and 9.48 of the Tukwila Municipal Code.

IV. GENERAL PROVISIONS

Section 1. Assignment of Interests, Rights, and Obligations. This Agreement shall be binding and inure to the benefit of the Parties. No Party may assign its rights under this Agreement without the written consent of the other Party, which consent shall not unreasonably be withheld. This Agreement shall be binding upon and shall inure to the benefit of the heirs, successors, and assigns of the Developer and the City.
Section 2. Incorporation of Recitals. The Recitals contained in this Agreement, and the Preamble paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.

Section 3. Severability. The provisions of this Agreement are separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this Agreement, or the validity of its application to other persons or circumstances.

Section 4. Termination. This Agreement shall expire and/or terminate as provided below:

A. This Agreement shall expire and be of no further force and effect if the Developer fails to submit a complete building permit application for the construction of the hotel within one year, or if the Project construction is not completed within three years, of the effective date of this Agreement; or if at any time after Project construction is completed, Developer fails to maintain the parking areas according to the terms of this Agreement. Nothing in this Agreement shall extend the expiration date of any permit or approval issued by the City for any development.

B. This Agreement shall expire and be of no further force and effect if the Developer does not construct the Project as contemplated by the permits and approvals identified in this Agreement, or submits applications for development of the Subject Property that are inconsistent with such permits and approvals.

C. This Agreement shall terminate at such time as a change of use occurs at 90 Andover Park East, or at such time as 90 Andover Park East is redeveloped.

D. This Agreement shall terminate in the event the Washington State Department of Transportation (WSDOT) widens Interstate 405 in the vicinity of the Subject Property, or should any other project or condition arise that requires reconfiguration of Tukwila Parkway and/or the Project parking area.

E. This Agreement shall terminate upon the abandonment of the Project by the Developer. The Developer shall be deemed to have abandoned the Project if/when written notice is provided to the City that the Developer’s interest in the Project has been terminated. Said notice shall be given to the City no more than 30 days after the Developer’s interest in the Project is terminated.

F. This Agreement may terminate pursuant to Section IV.,3, Severability, or Section IV.,10, Default, or as otherwise outlined in this Agreement.

G. If the use will continue upon expiration of the term of this Agreement, the Developer shall either negotiate a new agreement with the City or provide documentation showing how the number of parking spaces required by the codes at the time of expiration will be provided.
Section 5. Effect upon Termination on Developer Obligations. Termination of this Agreement as to the Developer of the Subject Property or any portion thereof shall not affect any of the Developer's obligations to comply with the City Comprehensive Plan and the terms and conditions or any applicable zoning code(s) or subdivision map or other land use entitlements approved with respect to the Subject Property, any other conditions of any other development specified in the Agreement to continue after the termination of this Agreement or obligations to pay assessments, liens, fees or taxes.

Section 6. Effects upon Termination on City. Upon any termination of this Agreement as to the Developer of the Subject Property, or any portion thereof, the entitlements, conditions of development, limitations on fees and all other terms and conditions of this Agreement shall no longer be vested hereby with respect to the property affected by such termination (provided that vesting of such entitlements, conditions or fees may then be established for such property pursuant to then existing planning and zoning laws).

Section 7. Specific Performance. The parties specifically agree that damages are not an adequate remedy for breach of this Agreement, and that the parties are entitled to compel specific performance of all material terms of this Agreement by any party in default hereof.

Section 8. Governing Law and Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. Venue for any action shall lie in King County Superior Court or the U.S. District Court for Western Washington.

Section 9. Attorneys' Fees. In the event of any litigation or dispute resolution process between the Parties regarding an alleged breach of this Agreement, neither Party shall be entitled to any award of attorneys' fees.


A. In the event a Party, acting in good faith, believes the other Party has violated the terms of this Agreement, the aggrieved Party shall give the alleged offending Party written notice of the alleged violation by sending a detailed written statement of the alleged breach. The alleged offending Party shall have 30 days from receipt of written notice in which to cure the alleged breach unless the Parties agree, in writing, to additional time. This notice requirement is intended to facilitate a resolution by the Parties of any dispute prior to the initiation of litigation. Upon providing notice of an alleged breach, the Parties agree to meet and agree upon a process for attempting to resolve any dispute arising out of this Agreement. A lawsuit to enforce the terms of this Agreement shall not be filed until the latter of (a) the end of the cure period, or (b) the conclusion of any dispute resolution process.

B. After notice and expiration of the 30-day period or other time period as agreed to by the Parties, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other party or Landowner to this Agreement may, at its option, institute legal proceedings pursuant to this Agreement. In addition, the City may decide to file an action to enforce
the City's Codes, and to obtain penalties and costs as provided in the Tukwila Municipal Code for violations of this Development Agreement and the Code.

**Section 11. No Third-Party Beneficiaries.** This Agreement is for the benefit of the Parties hereto only and is not intended to benefit any other person or entity, and no person or entity not a signatory to this Agreement shall have any third-party beneficiary or other rights whatsoever under this Agreement. No other person or entity not a Party to this Agreement may enforce the terms and provisions of this Agreement.

**Section 12. Integration.** This Agreement and its exhibits represent the entire agreement of the parties with respect to the subject matter hereof. There are not other agreements, oral or written, except as expressly set forth herein.

**Section 13. Authority.** The Parties each represent and warrant that they have full power and actual authority to enter into this Agreement and to carry out all actions required of them by this Agreement. All persons are executing this Agreement in their representative capacities and represent and warrant that they have full power and authority to bind their respective organizations.

**Section 14. Covenants Running with the Land.** The conditions and covenants set forth in this Agreement and incorporated herein by the Exhibits shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. The Developer, Landowner and every purchaser, assignee or transferee of an interest in the Subject Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Subject Property, or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Subject Property sold, assigned or transferred to it.

**Section 15. Amendment to Agreement; Effect of Agreement on Future Actions.** This Agreement may be amended by mutual consent of all of the parties, provided that any such amendment shall follow the process established by law for the adoption of a development agreement (see RCW 36.70B.200). However, nothing in this Agreement shall prevent the City Council from making any amendment to its Comprehensive Plan, Zoning Code, Official Zoning Map or development regulations affecting the Subject Property as the City Council may deem necessary to the extent required by a serious threat to public health and safety. Nothing in this Development Agreement shall prevent the City Council from making any amendments of any type to the Comprehensive Plan, Zoning Code, Official Zoning Map or development regulations relating to the Subject Property.

**Section 16. Releases.** Developer, and any subsequent Landowner, may free itself from further obligations relating to the sold, assigned, or transferred property, provided that the buyer, assignee or transferee expressly assumes the obligations under this Agreement as provided herein.
Section 17. Notices. Notices, demands, correspondence to the City and Developer shall be sufficiently given if dispatched by pre-paid first-class mail to the addresses of the parties as designated in Section 5. Notice to the City shall be to the attention of both the Mayor’s Office and the City Attorney. Notices to subsequent Landowners shall be required to be given by the City only for those Landowners who have given the City written notice of their address for such notice. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

Section 18. Reimbursement for Agreement Expenses of the City. Developer agrees to reimburse the City for actual expenses incurred over and above fees paid by Developer as an applicant incurred by City directly relating to this Agreement, including recording fees, publishing fees and reasonable staff and consultant costs not otherwise included within application fees. This Agreement shall not take effect until the fees provided for in this section, as well as any processing fees owed to the City for the Project, are paid to the City. This Agreement shall be terminated if the Developer does not pay to the City the fees provided for in this section. Upon payment of all expenses, the Developer may request written acknowledgement of all fees. Such payment of all fees shall be paid, at the latest, within 30 days from the City’s presentation of a written statement of charges to the Developer.

Section 19. Police Power. Nothing in this Agreement shall be construed to diminish, restrict or limit the police powers of the City granted by the Washington State Constitution or by general law.

Section 20. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity other than a party or a Landowner to challenge this Agreement or any provision herein, the City and Developer will collaborate to resolve such legal action. In the event such legal action cannot be resolved, the City may elect to tender the defense of such lawsuit or individual claims in the lawsuit to Developer and/or Landowner(s). In such event, Developer and/or such Landowners shall hold the City harmless from and defend the City from all costs and expenses incurred in the defense of such lawsuit or individual claims in the lawsuit, including but not limited to, attorneys' fees and expenses of litigation, and damages awarded to the prevailing party or parties in such litigation. Neither the City nor the Developer and/or Landowner shall settle any lawsuit without the consent of the other. The City and Developer/Landowner shall act in good faith and shall not unreasonably withhold consent to settle.

Section 21. No Presumption Against Drafter. This Agreement has been reviewed and revised by legal counsel for both Parties and no presumption or rule that ambiguity shall be construed against the party drafting the document shall apply to the interpretation or enforcement of this Agreement.

Section 22. Headings. The headings in this Agreement are inserted for reference only and shall not be construed to expand, limit or otherwise modify the terms and conditions of this Agreement.

Section 23. Recording. Developer shall record an executed copy of this Agreement with the King County Auditor, pursuant to RCW 36.70B.190, no later than 14 days after the Effective Date.
Section 24. Legal Representation. In entering into this Agreement, Developer represents that it has been advised to seek legal advice and counsel from its attorney concerning the legal consequences of this Agreement; that it has carefully read the foregoing Agreement and knows the contents thereof, and signs the same of its own free act; and that it fully understands and voluntarily accepts the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Development Agreement to be executed as of the dates set forth below:

OWNER/DEVELOPER:  CITY OF TUKWILA

By ___________________________  By ___________________________
   Its Managing Member  Its Mayor
Tukwila TSD LLC
21109 66th Avenue South
Kent, WA 98032

ATTEST:

By ___________________________
   City Clerk

APPROVED AS TO FORM:

By ___________________________
   City Attorney

STATE OF WASHINGTON )
   ) ss.
COUNTY OF ___________

On this ____________________ day of ____________________, 2015, before me personally appeared ________________________________, to me known to be the individual that executed the within and foregoing instrument, and acknowledged the said instrument to be his/her free and voluntary act and deed for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute said instrument.

____________________________

Print name: ______________________________

NOTARY PUBLIC in and for the State of Washington
Residing at ______________________________
Commission expires: ____________________
STATE OF WASHINGTON

COUNTY OF __________

) ss.

On this ____________________ day of ____________________, 2015, before me personally appeared ________________________________, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument, and acknowledged as the _______________________ of the City of Tukwila to be the free and voluntary act of said party for the uses and purposes mentioned in this instrument.

________________________________________

Print name: ______________________________

NOTARY PUBLIC in and for the State of Washington

Residing at ______________________________

Commission expires: ______________________
Exhibit 1: Legal Description

Legal Description shall be revised based on the final decision by City Council.
OPTION 2 - CUL DE SAC INTO LANDSCAPING

SITE PLAN - OPTION 2

1' = 50'-0"

53 ONSITE PARKING SPACES
45 OFFSITE PARKING SPACES
98 TOTAL

HOLIDAY INN EXPRESS
TUKWILA, WA
TUKWILA TSD L.L.C.

Dale Sweeney
ARCHITECT

5715 143rd Place S.E.
Bellevue, WA 98008
425-360-0060

1/22/15
OPTION 3 - CUL DE SAC INTO PARKING

SITE PLAN - OPTION 3

53 ONSITE PARKING SPACES
48 OFFSITE PARKING SPACES
101 TOTAL

HOLIDAY INN EXPRESS
TULWILIA, WA

TUKWILA TSD. L.L.C.

Dale Sweeney
ARCHITECT

5715 143rd Place S.E.
Bellevue, WA 98006
425-250-9889

1/22/15
City of Tukwila Public Notice of Ordinance Adoption for Ordinances 2471-2473.

On March 16, 2015 the City Council of the City of Tukwila, Washington, adopted the following ordinances, the main points of which are summarized by title as follows:

**Ordinance 2471:** An Ordinance of the City Council of the City of Tukwila, Washington, Relating to Contracting Indebtedness; Providing for the Issuance, Sale and Delivery of Not to Exceed $6,250,000 Aggregate Principal Amount of Limited Tax General Obligation Bonds to Provide Funds to Pay or Reimburse the City For the Cost of Road Construction and Improvement Projects and to Pay the Costs of Issuance and Sale of the Bonds; Fixing or Setting Parameters With Respect to Certain Terms and Covenants of the Bonds; Appointing the City’s Designated Representative to Approve the Final Terms of the Sale of the Bonds; And Providing for Other Related Matters; Providing for Severability; And Establishing an Effective Date.

**Ordinance 2472:** An Ordinance of the City Council of the City of Tukwila, Washington, Amending Ordinance No. 2464, Section 4 (Part) and Section 5, and Amending Exhibit A of Ordinance No. 2465, To Conform Debt Service Payment Dates; And Providing for Other Properly Related Matters; Providing for Severability; And Establishing an Effective Date.

**Ordinance 2473:** An Ordinance of the City Council of the City of Tukwila, Washington, Approving and Authorizing the Development Agreement with Tukwila TSD, LLC, for the Shared Use of Parking in the Public Right-of-Way of Christensen Road As It Relates to the Planned Development of a Hotel Located at 90 Andover Park East; Providing for Severability; And Establishing an Effective Date.

The full text of these ordinances will be provided upon request.

Christy O’Flaherty, MMC, City Clerk

Published Seattle Times: March 19, 2015