

**CITY COUNCIL REGULAR SESSION**

Resolution authorizing the City Manager to formally terminate Concomitant Zoning Agreement No. 10737, which has been superseded by subsequent legislative actions.

Trisna Tanus, Consulting Attorney, 452-2970  
*Development Services Department*

Matt McFarland, Assistant City Attorney, 452-5284  
*City Attorney's Office*

**EXECUTIVE SUMMARY**

This Resolution authorizes the City Manager to formally terminate Concomitant Zoning Agreement No. 10737, which has been superseded by subsequent legislative actions.

**RECOMMENDATION**

Move to adopt Resolution No. 9823

**BACKGROUND/ANALYSIS**

Concomitant Zoning Agreement No. 10737 (the "Concomitant") was adopted by Ordinance No. 3562 in October 1985. The Concomitant imposed terms and conditions affecting the development of real property located at 302 Bellevue Way SE, King County Parcel No. 5223300500 (the "Property"), in exchange for the City rezoning the Property from single family (R-4) to Office (O) zoning.

The terms and conditions of the Concomitant subjected future development at the Property to certain development restrictions, Administrative Design Review approval, frontage improvements along SE Kilmarnock Street and Bellevue Way SE, limitations on construction hours and construction noise, and dedication of right-of-way on both Bellevue Way SE and SE Kilmarnock Street.

After the execution of the Concomitant, the City adopted multiple Ordinances amending regulations in the Land Use Code (LUC), which are applicable to the Property and development that could occur on the Property. The Ordinances adopted by the City resulted in the current LUC providing for development requirements that are different than or duplicate of those imposed under the terms and conditions of the Concomitant.

The current owners of the Property have submitted applications for City permits and approvals, including for a Critical Areas Land Use Permit, City of Bellevue File No. 18-114378-LO, and Administrative Design Review, City of Bellevue File No. 18-111951-LD, (collectively the "Permits"). The Permits would allow construction of a new 5,500 square feet mixed-use development, which would include offices, residential units, covered parking, and associated site improvements and utilities.

Although the Concomitant has been superseded by subsequent legislative actions, the Concomitant remains on the Property's title report and the City's permitting and mapping databases. Thus, if the Concomitant remains in effect, the City could only grant land use approval of the proposed development with certain conditions attached to the development despite the fact that the Property owners' applications for the Permits comply with the current LUC. One of the conditions of approval is

to terminate the Concomitant prior to issuance of any corresponding and necessary building permits.

The Property owners have requested that the City participate in and facilitate formal termination of the Concomitant. The proposed Resolution would authorize the City Manager to execute a termination of the Concomitant, thereby removing this Concomitant as an exception on the Property's title report and satisfying the relevant condition of approval for the Permits.

## **POLICY & FISCAL IMPACTS**

### **Policy Impact**

This Resolution authorizes the City Manager to formally terminate Concomitant Zoning Agreement No. 10737, which has been superseded by subsequent legislative actions.

### **Fiscal Impact**

There is no fiscal impact associated with this Resolution.

## **OPTIONS**

1. Adopt the Resolution authorizing the City Manager to formally terminate Concomitant Zoning Agreement No. 10737, which has been superseded by subsequent legislative actions.
2. Do not adopt the Resolution and provide alternative direction to staff

## **ATTACHMENTS & AVAILABLE DOCUMENTS**

A. Concomitant Zoning Agreement No. 10737  
Proposed Resolution No. 9823

## **AVAILABLE IN COUNCIL LIBRARY**

N/A