

**RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:**

LeAnne M. Bremer
Miller Nash Graham & Dunn, LLP
500 Broadway, Suite 400
P.O. Box 694
Vancouver, Washington 98666

Grantor : Daniel P. MacKay and William A. Mackay, as Co-Trustees of the Donald G. MacKay Remainder Trust; Kates Heath, LLC
Grantee : City of Camas, Washington
Abbreviated Legal : SE ¼ Section 32 and SW ¼ of Section 33, T2N, R3E
Assessor's Tax Parcel Nos.: 986028-434; 986028-435
Prior Excise Tax No. : NA
Other Reference No. : AFN 4661127

AMENDMENT TO COVENANT REZONE AGREEMENT

THIS AMENDMENT TO COVENANT REZONE AGREEMENT is made this ____ day of _____, 2020, by Daniel P. MacKay and William A. Mackay, as Co-Trustees of the Donald G. MacKay Remainder Trust, and Kates Heath, LLC, as owners (“Owners”) and the City of Camas, Washington.

RECITALS:

- A. Owners, and their predecessors, recorded the Covenant Rezone Agreement on April 30, 2010, under Clark County Auditor’s File No. 4661127 (“Rezone Agreement”) applicable to the property legally described in **Exhibit A**, attached and incorporated by reference (“Property”).
- B. The Rezone Agreement implements the conditions contained in Ordinance No. 2529.
- C. One of the conditions of Ordinance No. 2529 limits the uses on the Property, which is in the LI zone.

D. Section 2.A. of the Rezone Agreement lists some Permitted and Not Permitted Uses applicable to the Property, but it is unclear if other uses permitted in the LI zone are allowed on the Property.

E. The Owners, or their predecessors, executed the Rezone Agreement nearly 10 years ago, and it applied to approximately 52 acres. Since then, a 4.75-acre parcel has approval for a storage facility, and the remaining approximate 47 acres contains 9 usable acres after taking into account land set aside for mitigation and critical areas.

F. By this Amendment the Rezone Agreement shall be clarified to prohibit additional mini or vehicular storage facilities.

G. Section 4 of the Rezone Agreement allows it to be modified by action of the City of Camas.

H. The parties desire to amend the Rezone Agreement to clarify the Permitted and Not Permitted Uses on the Property.

NOW, THEREFORE, Owners agree as follows:

1. Clarification of Permitted and Not Permitted Uses. The Permitted and Conditionally Permitted Uses are all of those uses allowed in the current LI zone listed in Table 18.07.030 of the Camas Municipal Code set forth in **Exhibit B**, attached and incorporated into the Rezone Agreement and this Amendment by reference except mini-storage/vehicular storage (which exception does not include the previously approved project on Tax Parcel No. 125195-000). The table in **Exhibit B** fully replaces the table in Section 2.A. of the Rezone Agreement except that any Permitted or Conditional Use in the table in Section 2.A will continue to be a Permitted Use or Conditional Use applicable to the Property, even if prohibited in the table in **Exhibit B**.
2. Ordinance No. 2529. The City of Camas agrees to take all necessary steps to amend Ordinance No. 2529, if necessary, to be consistent with this Amendment.
3. Binding. This Covenant shall remain in full force and effect until amended, modified or terminated by the action of the City of Camas in zoning proceedings appropriate for that purpose. Nothing in this Covenant shall be construed as limiting in any way the authority of the City of Camas, or its governmental successors, from approving amendments or modifications to this Covenant. It is expressly provided that this Covenant may be amended, modified or terminated with the approval of the City of Camas, or its governmental successors, and under no circumstances shall any approval by any other person or entity be required in order for the Owners to seek amendment, modification or termination of this Covenant in whole or in part.
4. Amendatory. Except as otherwise amended by this Amendment, the Rezone Agreement remains in full force and effect.

Daniel P. MacKay and William A. Mackay, as Co-Trustees of the Donald G. MacKay Remainder Trust

By: Daniel P. MacKay
Title: Trustee
Date: _____

By: William A. MacKay
Title: Trustee
Date: _____

State of Washington)
)
County of Clark) ss.

On this ___ day of _____, 2020, before me personally appeared Daniel P. Mackay, to me known to be the Trustee of the Donald G. MacKay Remainder Trust that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

Dated: _____, 2020.

Notary Public for _____

(Printed or Stamped Name of Notary)
Residing at _____
My appointment expires: _____

State of Washington)
)
County of Clark) ss.

On this ___ day of _____, 2020, before me personally appeared Daniel P. Mackay, to me known to be the Trustee of the William P. MacKay Remainder Trust that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

Dated: _____, 2020.

Notary Public for _____

(Printed or Stamped Name of Notary)
Residing at _____
My appointment expires: _____

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Kates Heath, LLC:

By: _____
Title: _____
Date: _____

State of Washington)
)
County of Clark) ss.

On this ___ day of _____, 2020, before me personally appeared David Lugliani, to me known to be the Manager of Kates Heath, LLC that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

Dated: _____, 2020.

Notary Public for _____

(Printed or Stamped Name of Notary)
Residing at _____
My appointment expires: _____

City of Camas, Washington:

By: _____
Title: _____
Date: _____

State of Washington)
)
County of Clark) ss.

On this ___ day of _____, 2020, before me personally appeared _____, to me known to be the _____ of the City of Camas, Washington that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

Dated: _____, 2020.

Notary Public for _____

(Printed or Stamped Name of Notary)

Residing at _____

My appointment expires: _____

Exhibit A to Amendment
Legal Description of Property

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Exhibit B to Amendment
 Permitted and Conditionally Permitted Uses
 Table 18.07.030

18.07.030 - Table 1—Commercial and industrial land uses.

KEY: P = Permitted Use
 C = Conditional Use
 X = Prohibited Use
 T = Temporary Use

Zoning Districts	NC	DC	CC	RC	MX	BP	LI/BP	LI	HI
Commercial Uses									
Animal kennel, commercial boarding ⁶	X	X	X	P ¹¹	X	P ₁₁	X	P ₁₁	P ₁₁
Animal shelter ⁶	X	X	X	C	X	C	X	C	P
Antique shop ⁶	P	P	P	P	P	C	X	X	P
Appliance sales and service ⁶	X	P	P	P	P	P	X	C	P
Automobile repair (garage) ⁶	X	P	C	P	X	P	X	P	P
Automobile sales, new or used ⁶	X	P	X	P	X	P	X	P	P
Automobile service station ⁶	X	P	C	P	X	P	X	P	P
Automobile wrecking ⁶	X	X	X	X	X	X	X	X	C
Bakery (wholesale) ⁶	X	X	X	P	X	P	P ⁵	P	P
Bakery (retail) ⁶	P	P	P	P	P	P	P ⁵	P	P

Zoning Districts	NC	DC	CC	RC	MX	BP	LI/BP	LI	HI
Banks, savings and loan	X	P	P	P	P	P	P ⁵	P	P
Barber and beauty shops ⁶	P	P	P	P	P	P	P ⁵	P	P
Boat building ⁶	X	X	X	C	X	C	X	C	P
Boat repair and sales ⁶	X	P	X	P	X	P	X	P	P
Book store ⁶	C	P	P	P	P	P	P ⁵	P	P
Bowling alley/billiards ⁶	X	P	X	P	P	P	X	P	P
Building, hardware and garden supply store ⁶	X	P	C	P	P	P	X	P	P
Bus station ⁶	X	C	C	P	C	P	X	P	P
Cabinet and carpentry shop ⁶	X	P	C	P	C	P	P ⁵	P	P
Candy; confectionery store ⁶	P	P	P	P	P	P	P ⁵	P	P
Cemetery ⁶	X	X	X	C	X	X	X	C	P
Clothing store ⁶	C	P	P	P	P	P	X	P	P
Coffee shop, cafe ⁶ or kiosk	P	P	P	P	P	P	P ⁵	P	P
Convention center ⁶	X	P	X	C	C	P	P	C	X
Day care center ⁶	C	P	P	C	P	C	P ⁵	C	C
Day care, adult	P	P	P	P	P	P	P	P	P

Zoning Districts	NC	DC	CC	RC	MX	BP	LI/BP	LI	HI
Day care, family home ⁶	P	P	P	P	P	X	P ⁵	P	X
Day care, mini-center ⁶	P	P	P	P	P	P	P ⁵	P	X
Delicatessen (deli) ⁶	P	P	P	P	P	P	P ⁵	P	P
Department store ⁶	X	P	C	P	P	P	X	P	X
Electric vehicle battery charging station and rapid charging stations	P	P	P	P	P	P	P	P	P
Equipment rental ⁶	C	P	C	C	C	P	P ⁵	P	P
Event center	X	P	C	P	C	P	P	P	P
Feed store ⁶	X	X	X	P	X	C	X	P	P
Fitness center/sports club ⁶	X	P	P	P	P	P	P ⁵	P	P
Florist shop ⁶	P	P	P	P	P	P	P ⁵	P	X
Food cart/food truck/ food delivery business ⁶	C	P	C	P	C	P	C	P	X
Furniture repair; upholstery ⁶	X	P	C	P	P	P	X	P	P
Furniture store ⁶	X	P	C	P	P	P	X	P	X
Funeral home ⁶	X	P	C	P	P	X	X	X	X
Gas/fuel station ⁶	X	P	C	P	X	P	X	P	P
Gas/fuel station with mini market ⁶	X	P	C	P	X	P	X	P	P

Zoning Districts	NC	DC	CC	RC	MX	BP	LI/BP	LI	HI
Grocery, large scale ⁶	X	P	C	P	P	C ⁸	X	P	P
Grocery, small scale ⁶	P	P	C	P	P	P	X	P	P
Grocery, neighborhood scale ⁶	P	P	P	P	P	P	P ⁵	P	X
Hospital, emergency care ⁶	X	C	P	P	P	P	X	P	X
Hotel, motel ⁶	X	C	C	P	P	P	X	P	X
Household appliance repair ⁶	X	P	C	P	P	P	X	P	P
Industrial supplies store ⁶	X	P	X	C	C	C	X	C	P
Laundry/dry cleaning (industrial)	X	X	X	P	X	X	X	P	P
Laundry/dry cleaning (retail) ⁶	P	P	P	P	P	P	P ⁵	P	P
Laundry (self-serve)	P	P	P	P	P	P	X	P	P
Liquor store ⁶	X	P	C	P	C	C	X	C	C
Machine shop ⁶	X	X	C	C	C	C	P ⁵	C	P
Marijuana processor	X	X	X	X	X	X	X	X	X
Marijuana producer	X	X	X	X	X	X	X	X	X
Marijuana retailer	X	X	X	X	X	X	X	X	X
Medical or dental clinics (outpatient) ⁶	C	P	P	P	P	P	P ⁵	P	P

Zoning Districts	NC	DC	CC	RC	MX	BP	LI/BP	LI	HI
Mini-storage/vehicular storage ⁶	X	X	X	X	X	X	X	P	P
Manufactured home sales lot ⁶	X	X	X	P	X	X	X	P	P
Newspaper printing plant ⁶	X	P	C	C	X	X	X	P	P
Nursery, plant ⁶	X	P	C	C	C	C	X	C	P
Nursing, rest, convalescent, retirement home ⁶	C	P	P	P	P	X	X	X	X
Office supply store ⁶	X	P	P	P	P	X	P ⁵	P	P
Pawnshop ⁶	X	X	X	X	X	X	X	C	C
Parcel freight depots ⁶	X	P	X	P	X	P	P ⁵	P	P
Pet shops ⁶	X	P	P	P	P	P	X	P	C
Pharmacy ⁶	X	P	P	P	P	P	P ⁵	P	P
Photographic/electronics store ⁶	X	P	P	P	P	P	P ⁵	P	P
Plumbing, or mechanical service ⁶	X	X	X	P	C	P	X	P	P
Printing, binding, blue printing ⁶	C	P	P	P	P	P	P ⁵	P	P
Professional office(s) ⁶	C	P	P	P	P	P	P	P	P
Public agency ⁶	C	P	P	P	P	P	P	P	P
Real estate office ⁶	C	P	P	P	P	P	T	P	P

Zoning Districts	NC	DC	CC	RC	MX	BP	LI/BP	LI	HI
Recycling center ⁶	X	X	X	X	X	X	X	P	P
Recycling collection point ⁶	T or C	P	T or C	T or C	C	C	P ⁵	P	P
Recycling plant ⁶	X	X	X	X	X	X	X	C	P
Research facility ⁶	X	P	C	C	X	P	P	P	P
Restaurant ⁶	C	P	P	P	C	P	P ⁵	P	P
Restaurant, fast food ⁶	X	P	C	P	C	P	P ⁵	P	P
Roadside produce stand ⁶	T	T	T	T	C	X	T	T	T
Sand, soil, gravel sales and storage ⁶	X	X	X	X	X	X	X	C	P
Second-hand/consignment store ⁶	C	P	P	P	P	P	X	P	P
Sexually oriented business ^{1,5}	X	X	X	X	X	X	P	X	X
Shoe repair and sales ⁶	P	P	P	P	P	P	X	P	P
Smoke shop/head shop ⁹	X	X	P	P	X	X	X	X	X
Stock broker, brokerage firm	P	P	P	P	P	P	P	P	P
Specialty goods production (e.g. brew pub)	P	P	P	P	P	P	P	P	P
Taverns ⁶	X	P	C	P	C	P	X	P	P
Theater, except drive-in ⁶	X	P	C	P	P	P	X	P	P

Zoning Districts	NC	DC	CC	RC	MX	BP	LI/BP	LI	HI
Truck terminals ⁶	X	C	X	C	X	X	X	C	P
Veterinary clinic ⁶	X	P	C	P	P	P	X	P	P
Warehousing, wholesale and trade ⁶	X	X	X	C	C	P	P ⁵	P	P
Warehousing, bulk retail ⁶	X	X	X	C	C	X	X	P	P
Manufacturing and/or processing of the following:									
Cotton, wool, other fibrous material	X	X	X	X	X	P	X	P	P
Food production or treatment	X	X	X	C	C	P	X	P	C
Foundry	X	X	X	X	X	X	X	C	C
Furniture manufacturing	X	P	X	X	C	C	X	P	P
Gas, all kinds (natural, liquefied)	X	X	X	X	X	X	X	X	C
Gravel pits/rock quarries	X	X	X	X	X	X	X	C	P
Hazardous waste treatment—Off-site	X	X	X	X	X	X	X	X	P
Hazardous waste treatment—On-site	X	X	X	X	X	X	X	X	P
Junkyard/wrecking yard	X	X	X	X	X	X	X	X	C
Metal fabrication and assembly	X	X	X	X	X	C	X	X	P
Hazardous waste treatment—On-site	X	X	X	X	X	X	X	X	P

Zoning Districts	NC	DC	CC	RC	MX	BP	LI/BP	LI	HI
Paper, pulp or related products	X	X	X	X	X	X	X	X	P
Signs or other advertising structures	X	X	X	C	C	C	P	C	P
Electronic equipment	X	P	X	X	X	X	P	P	P
Industrial Uses									
High-tech industry	X	P	X	X	P	P	P ²	X	X
Manufacturing of miscellaneous goods (e.g. musical instruments, toys, vehicle parts)	X	X	X	X	C	X	X	P	P
Optical goods	X	C	C	C	C	P	P ⁵	P	P
Packaging of prepared materials	X	X	C	P	C	C	P ⁵	C	P
Scientific and precision instruments	X	P	X	X	X	P	P	P	P
Recreational, Religious, Cultural Uses									
Auditorium ⁶	C	P	P	P	P	P	X	P	P
Community club ⁶	C	P	P	P	P	P	X	P	P
Church ⁶	P	P	P	P	P	P	X	P	P
Golf course/driving range ⁶	P	X	P	P	X	P	P ⁵	P	P
Library ⁶	C	P	P	P	P	P	X	P	P
Museum ⁶	C	P	P	P	P	P	X	P	P

Zoning Districts	NC	DC	CC	RC	MX	BP	LI/BP	LI	HI
Recreational vehicle park ⁶	X	X	X	C	X	X	X	P	P
Open space ⁶	P	P	P	P	P	P	P	P	P
Park or playground	P	P	P	P	P	P	P	P	P
Sports fields ⁶	C	X	P	P	P	P	X	P	P
Trails	P	P	P	P	P	P	P	P	P
Educational Uses									
College/university ⁶	P	P	P	P	P	P	X	P	P
Elementary school ⁶	P	P	P	P	P	P	X	P	P
Junior or senior high school ⁶	P	P	P	P	P	P	X	P	P
Private, public or parochial school ⁶	P	P	P	P	P	P	X	P	P
Trade, technical or business college ⁶	P	P	P	P	P	P	P	P	P
Residential Uses									
Adult family home	C	P	P	X	P	X	X	X	X
Assisted living	C	P	P	X/P 10	P	X	X	X	X
Bed and breakfast	P	P	P	X	P	X	X	X	X
Designated manufactured home	X	X	X	X	P	X	X	X	X

Zoning Districts	NC	DC	CC	RC	MX	BP	LI/BP	LI	HI
Duplex or two-family dwelling	X	C/P ₇	X	X	P	X	X	X	X
Group home	C	P	P	X	P	X	X	X	X
Home occupation	P	P	P	X/P ₁₀	P	X	X	X	X
Housing for the disabled	P	P	P	X/P ₁₀	P	X	X	X	X
Apartment, multifamily development, row houses	X	C/P ₇	X/P ₁₀	X/P ₁₀	C	X	X	X	X
Residence accessory to and connected with a business	P	P	P	X/P ₁₀	P	X	X	X	X
Single-family dwelling	X	X	X	X	P	X	X	X	X
Communication, Utilities and Facilities									
Electrical vehicle infrastructure	P	P	P	P	P	P	P	P	P
Wireless communications facility	Refer to Chapter 18.35								
Facilities, minor public	P	P	P	P	C	P	P	C	P
Facility, essential ⁶	X	X	C	C	C	C	P	C	C
Railroad tracks and facilities ⁶	C	X	C	C	C	X	X	C	C
Temporary Uses									

Zoning Districts	NC	DC	CC	RC	MX	BP	LI/BP	LI	HI
Temporary sales office for a development ⁴	T	T	T	T	T	T	T	T	T

Notes:

1. See CMC Chapter 5.36 Sexually Oriented Businesses for additional regulations for siting sexually oriented business facilities.
2. Similar uses are permitted in the zone district only at the discretion of the community development director or designee.
3. Reserved.
4. See CMC Chapter 18.47 "Temporary Uses" for additional regulations.
5. See secondary use provisions of LI/BP zone.
6. See CMC Chapter 18.19 "Design Review" for additional regulations. CMC Chapter 18.19 is not applicable to development in the LI/BP zone.
7. Residential uses may be outright permitted if part of a mixed use building, where residential use is not located on the ground level; otherwise it shall be a conditional use.
8. If grocery store is less than one hundred thousand square feet then use is outright permitted. If one hundred thousand square feet or over then a conditional use permit is required.
9. A. Must be sited a minimum one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or game arcade to which is not restricted to persons twenty-one years or older as defined in WAC 314-55-010 on June 20, 2015;
 - B. The business shall post clear signage in a conspicuous location near each public entrance stating no person under the age of twenty-one may enter the premises; and
 - C. No smoke shop/head shop subject to this note shall be located within five miles of an existing lawfully established smoke shop/head shop. All measurements under (A) and (C) shall be measured from the nearest property line of the property on which the use is proposed to the nearest property line of an existing business utilizing Clark County GIS.

10. On tracts ten acres or more, subject to approval by city council of a master plan and development agreement, a mixed use development may be approved provided no less than fifty-one percent of the net developable acreage is committed to commercial uses.

11. Conditional use permit is required if facilities for kennels are proposed outdoors.

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