

Ordinance No. 120926

Council Bill No. 114301

The City of Seattle

FILED
CITY OF SEATTLE

Council Bill/Ordinance

02 SEP 24 PM 2:13

CITY CLERK

Bush!

AN ORDINANCE relating to land use and zoning, amending page 133 of the Official Land Use Map, (Vol. 1 of Plats, page 57, of the records of King County) to rezone property located at 2106 24th Avenue South, from Commercial-one with a 40' height limit (C1-40) to Commercial-one with a 65' height limit (C1-65) and accepting a Property Use and Development Agreement in connection therewith. (Petition of Sclater Partners for Thistledown, LLC, C.F. 304901 Application. 2104484)

CF No. _____

Date Introduced: SEP - 3 2002	
Date 1st Referred: SEP - 3 2002	To: (committee) Land Use Committee
Date Re - Referred:	To: (committee)
Date Re - Referred:	To: (committee)
Date of Final Passage: 9-23-02	Full Council Vote: 8-0
Date Presented to Mayor: 9-24-02	Date Approved: 9/24/02
Date Returned to City Clerk: 9/24/02	Date Published: 1-0 2 pp
Date Vetoes by Mayor:	Date Veto Published:
Date Passed Over Veto:	Veto Sustained:

Do
9-17-02 PASS

9-23-02 Pass

This file is complete and ready

Law Department

Law Dept. Review

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: _____

[Signature]
Councilmember

Committee Action:

Do Pass as Amended

9-17-02 PASS as amended 2-0 (N.M.P.)

(E.S.)

9-23-02 Passed 8-0 (Absent: Diago)

This file is complete and ready for presentation to Full Council.

Committee: _____

(initials)

Law Department

PLZ + Attachment

Law Dept. Review

OMP
Review

me
City Clerk
Review

Electronic
Copy Loaded

Indexed

ORDINANCE

120926

AN ORDINANCE relating to land use and zoning, amending page 133 of the Official Land Use Map, (Vol. 1 of Plats, page 57, of the Records of King County) to rezone property located at 2106 24th Avenue South, from Commercial-one with a 40' height limit (C1-40) to Commercial-one with a 65' height limit (C1-65) and accepting a Property Use and Development Agreement in connection therewith. (Petition of Sclater Partners for Thistledown, LLC, C.F. 304901 Application. 2104484)

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. This Ordinance affects the following described property (the "Property"):

All of lots 1, 2, 3, 4, and 5, Block 46, T.I. McKinney's Central Seattle, excluding the East 2' thereof dedicated for alley widening, according to the plat recorded in Vol. 1 of Plats, page 57, of the Records of King County.

Section 2. The Official Land Use Map zone classification for the Property, as adopted by Ordinance 110381 and last amended by Ordinance 120860, and established on pages 132 and 133 of the Official Land Use Map, is amended to rezone the Property from Commercial-one with a 40' height limit (C1-40) to Commercial-one with a 65' height limit (C1-65), as shown in "Exhibit A," attached to this Ordinance.

Section 3. Property Use and Development Agreement that was submitted to the City by Sclater Partners for Thistledown, LLC, owner of the Property, by which said owner agrees to certain restrictions upon the Property to ameliorate the adverse impacts of uses and developments otherwise permitted in the Commercial-one zone upon property in the vicinity, is hereby accepted and attached to this Ordinance as "Exhibit B."

Section 4. Pursuant to SMC Section 23.76.060B(1)(b), the rezone of the Property shall expire and be of no force and effect five (5) years from the effective date of the approval of this rezone unless an application is filed for a building permit for the building described in Exhibit B and that building is completed and a Certificate of Occupancy obtained from DCLU within the time permit authority is active and valid.



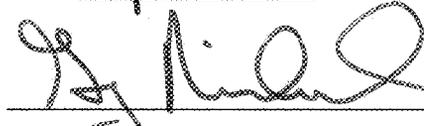
1 Section 5. The City Clerk is hereby authorized and directed to file a copy of said Property
2 Use and Development Agreement and of this Ordinance at the King County Records and
3 Elections Division, to file the original of the Property Use and Development Agreement
4 with this Ordinance at the City Clerk's Office, and to deliver copies of the same to the
5 Director of the Department of Design, Construction and Land Use and to the King County
6 Assessor's Office.

7 Section 6. This Ordinance shall take effect and be in force thirty (30) days from and after
8 its passage and approval by the Mayor, but if not approved and returned by the Mayor
9 within ten (10) days after presentation, it shall take effect as provided by Municipal Code
10 Section 1.04.020.

11
12 Passed by the City Council the 23rd day of September, 2002, and signed by
13 me in open session in authentication of its passage this 23rd day of September,
14 2002.

15 
16 _____
17 President of the City Council

18 Approved by me this 24 day of September, 2002.

19 
20 _____
21 Mayor

22
23 Filed by me this 17th day of September, 2002.

24 
25 _____
26 City Clerk

27 (SEAL)

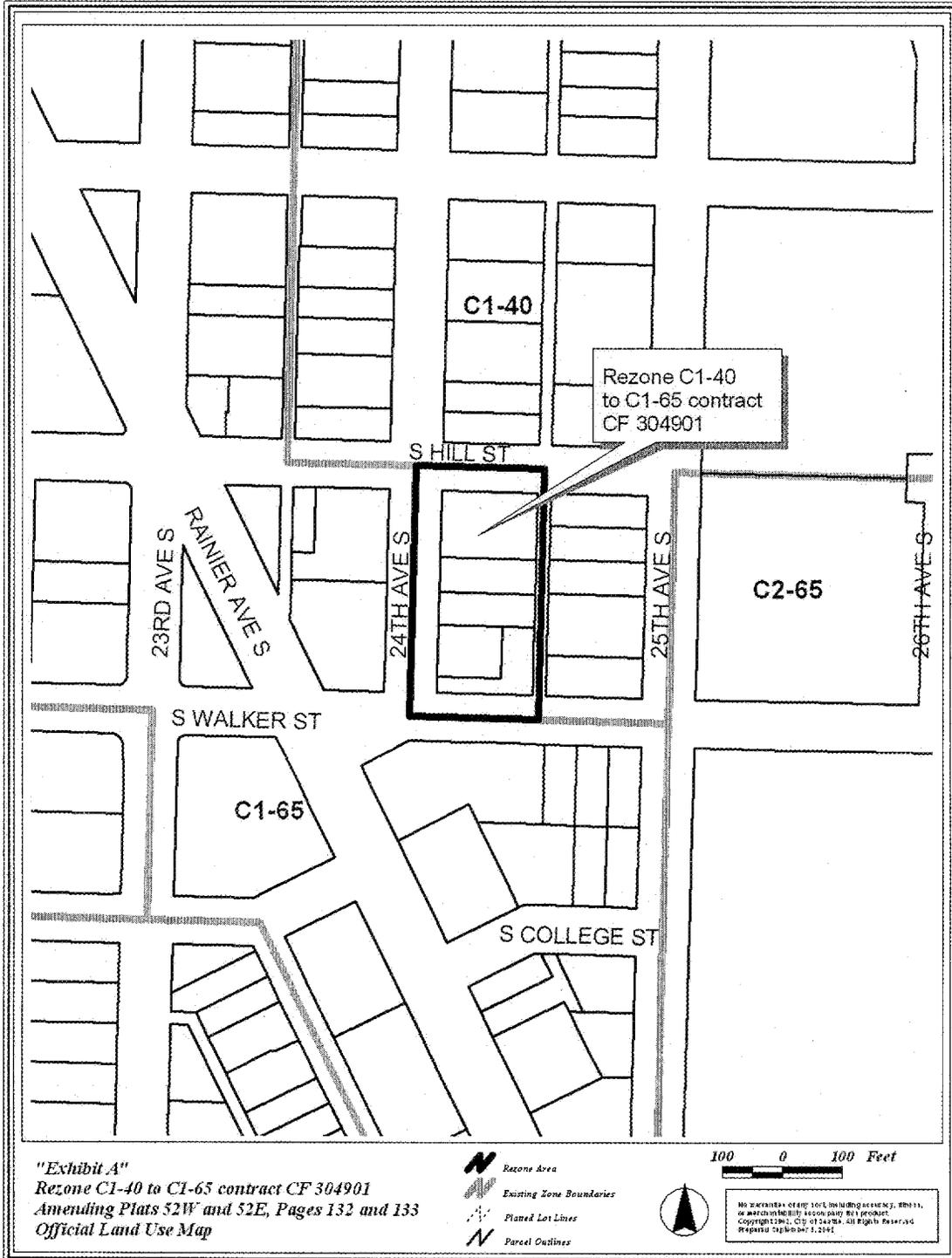
28 Exhibit A: Map

29 Exhibit B: Property Use and Development Agreement
30
31



1

Exhibit A



2

3



When Recorded, Return to:

THE CITY CLERK
First Floor, Municipal Building
600 4th Avenue
Seattle, WA 98104

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantor:	1) <u>Thistledown, LLC</u>	2) _____
	<input type="checkbox"/> Additional on page _____	
Grantee:	1) <u>The City of Seattle</u>	2) _____
	<input type="checkbox"/> Additional on page _____	
Legal Description (abbreviated):	<u>Lots 1-5, Block 46, T.I. McKinney's Central Seattle, exc. east 2 ft. thof dedicated for alley widening Vol. 1, pg 57 of King County plats.</u>	
	<input type="checkbox"/> Additional on : _____	
Assessor's Tax Parcel ID #:	<u>149830-3115, 149830-3116, 149830-3130, 149830-3105, 149830-3106.</u>	
Reference Nos. of Documents Released or Assigned:	<u>N/A</u>	

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this 10 day of Sept, 2002 in favor of the City of Seattle, a Washington municipal corporation (herein called "City"), by Thistledown, LLC, a Washington limited liability company, owner of property legally described herein (herein called "Owner").

RECITALS

A. Thistledown, LLC is the owner of that certain real property in the City of Seattle described as "all of lots 1, 2, 3, 4, and 5, Block 46, T.I. McKinney's Central Seattle, excluding the East 2' thereof dedicated for alley widening, according to the plat recorded in Vol. 1 of Plats, page 57, of the Records of King County" at 2106 24th Ave. S. and zoned Commercial-One with a 40 foot height limit (C1-40), that is the subject of this agreement (herein called the "Property").



B. On October 23, 2001, Thistledown, LLC, submitted to the City of Seattle an application for a contract rezone from Commercial-One with a 40' height limit (C1-40) to Commercial-One with a 65' height limit (C1-65). The purpose of the application is to allow the Property to be used for construction of a building that would exceed the existing 40-foot height limit by approximately four feet to be occupied by Treehouse, which serves foster children in the Seattle area.

C. Seattle Municipal Code (SMC) Section 23.34.004 allows the City to approve a contract rezone subject to "self-imposed restrictions upon the use and development of the property in order to ameliorate adverse impacts which could occur from unrestricted use and development permitted in the zone."

D. The Owner has a fee simple or other beneficial interest in the Property described in paragraph A. and wants the City Council to rezone the property pursuant to SMC23.34.004.

AGREEMENT

Section 1. Zone Changes Limited to Proposed Building. Pursuant to SMC 23.34.004, the Owner hereby covenants, bargains and agrees, on behalf of itself and its successors and assigns, that it will comply with the following limitations and conditions in consideration of the rezone of the Property from C1-40 to C1-65: The changes in zone designation are established only for development with a building with substantially the same height, design and materials and with substantially the same amenities and improvements in the pedestrian environment, both public and private, as depicted in the application for MUP 2104484 and represented in the Clerk's File CF 304901. Typical mechanical vents and exhausts may be added to the roof of the approved building.

Section 2. Agreement Runs With the Land. This Property Use and Development Agreement ("Agreement") shall be recorded in the records of King County by the City Clerk. The covenants hereof shall be deemed to attach to and run with the Property and shall be binding upon the Owner, its heirs, successors and assigns, and shall apply to after-acquired title of the Owner of the Property; provided the covenants herein and the rezone shall expire and be of no force and effect Five (5) years from the effective date of



the approval of this rezone unless an application is filed for a building permit for the building contemplated in the attached Exhibit A and that building is completed and a Certificate of Occupancy obtained from DCLU within the time permit authority is active and valid.

Section 3. Amendment, Exercise of Police Power, No Precedent. This agreement may be amended or modified by agreement between Owner and the City provided such amendment 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 amendments to the Land Use Code or exercising the City's police power as it may deem necessary in the public interest. Owner agrees that nothing in this Agreement is intended to authorize any use or dimension not otherwise permitted in a Commercial-One zone with a sixty-five foot height limit (C1-65). The conditions contained in this Agreement are based on the unique circumstances applicable to this Property, and this Agreement is not intended to establish precedent for other rezones in the surrounding area.

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

Section 5. Repeal as Additional Remedy. Owner acknowledges that compliance with the conditions of this Agreement is a condition of the subject rezone and that if Owner avails itself of the benefits of this rezone but then fails to comply with the conditions of this Agreement with the City, in addition to pursuing any other remedy, the City may revoke the rezone by ordinance and require the use of the Property to conform to the requirements of the previously existing C1-40' zone.

SIGNED this 10 day of September, 2002.



OWNER [Signature]

a _____

By Julia Calhoun

owner (title).

STATE OF WASHINGTON

COUNTY OF KING

} ss.

On this day personally appeared before me Julia Calhoun, to me known to be the owner of Thistledown, LLC, the party that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such corporation, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 10 day of September, 2002.

[Signature]

Printed Name

Jennifer D. Hannibal

NOTARY PUBLIC in and for the State of Washington, residing at

16000 Ashworth Ave N. Shoreline

My Commission Expires

05-21-03



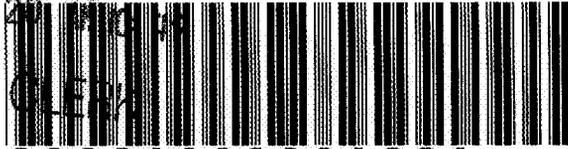
FILED
CITY OF SEATTLE

Return Address:

Seattle City Clerk's Office
600 4th Avenue, Room 104
Seattle, WA 98104

2002 NOV 20

CITY CLERK



20021003001621

SEATTLE CITY C CORD 22.00
PAGE 001 OF 004
10/03/2002 14:48
KING COUNTY, WA

Please print or type information WASHINGTON STATE RECORDER'S Cover Sheet (RCW 65.04)

20021003001621

Document Title(s) (or transaction contained therein): (all areas applicable to your document must be filled in.

1. ORDINANCE #120926

Re - _____ of document.

AN ORDINANCE relating to land use and zoning, amending page 133 of the Official Land Use Map, (Vol. 1 of Plats, page 57, of the Records of King County) to rezone property located at 2106 24th Avenue South, from Commercial-one with a 40' height limit (C1-40) to Commercial-one with a 65' height limit (C1-65) and accepting a Property Use and Development Agreement in connection therewith. (Petition of Sclater Partners for Thistledown, LLC, C.F. 304901 Application. 2104484) (Attachment - Property Use and Development Agreement PUDA)

Grantor(s) (Last name first, then first name and initials) 1.City of Seattle Additional names on page----- of document.

Grantee(s) (Last name first, then first name and initials) 1.N/A 2.

Legal description (abbreviated: i.e. lot, block, plat or section, township, range) Additional reference #s on page -----of document N/A

Assessor's Property Tax Parcel/Account Number/ N/A

Assessor Tax # not yet assigned.

ORDINANCE 120926

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Section 3. Property Use and Development Agreement that was submitted to the City by Sclater Partners for Thistledown, LLC, owner of the Property, by which said owner agrees to certain restrictions upon the Property to ameliorate the adverse impacts of uses and developments otherwise permitted in the Commercial-one zone upon property in the vicinity, is hereby accepted and attached to this Ordinance as "Exhibit B."

Section 4. Pursuant to SMC Section 23.76.060B(1)(b), the rezone of the Property shall expire and be of no force and effect five (5) years from the effective date of the approval of this rezone unless an application is filed for a building permit for the building described in Exhibit B and that building is completed and a Certificate of Occupancy obtained from DCLU within the time permit authority is active and valid.



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JUDITH E. PIPPEN, CITY CLERK OF THE CITY OF SEATTLE, DO HEREBY CERTIFY THAT THE WITHIN AND FOREGOING IS A TRUE AND CORRECT COPY of ordinance 120926

AS THE SAME APPEARS ON FILE, AND AS REQUIRED IN THIS DEPARTMENT.

IN WITNESS WHEREOF, I HAVE HEREBY SET MY HAND AND AFFIXED THE SEAL TO THE CITY OF SEATTLE, THIS 3rd day of Oct. 2002

JUDITH E. PIPPEN
CITY CLERK

BY: Margaret Carter
DEPUTY CLERK

RAM:ram
V2 Ordinance - Selater - Thistledown Rezone
September 17, 2002
V2
Page 2

20021003001621

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Section 5. The City Clerk is hereby authorized and directed to file a copy of said Property Use and Development Agreement and of this Ordinance at the King County Records and Elections Division, to file the original of the Property Use and Development Agreement with this Ordinance at the City Clerk's Office, and to deliver copies of the same to the Director of the Department of Design, Construction and Land Use and to the King County Assessor's Office.

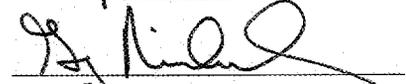
Section 6. This Ordinance shall take effect and be in force thirty (30) days from and after its passage and approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 23rd day of September, 2002, and signed by me in open session in authentication of its passage this 23rd day of September, 2002.



President of the City Council

Approved by me this 24th day of September, 2002.



Mayor

Filed by me this 17th day of September, 2002.



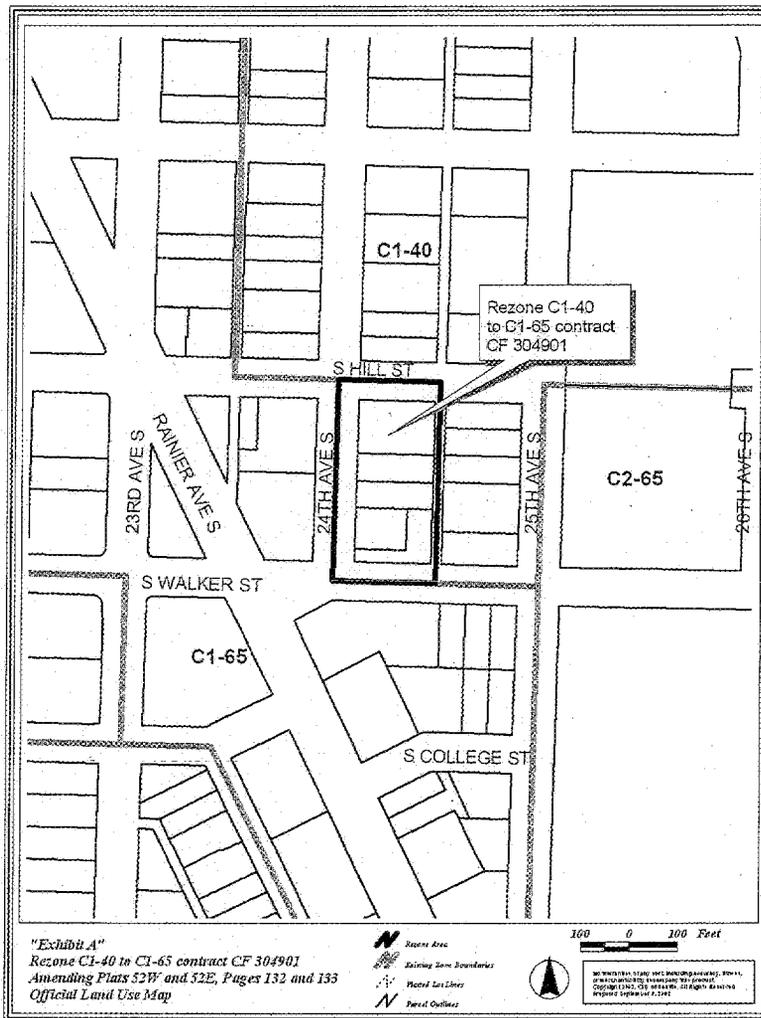
City Clerk

(SEAL)

- Exhibit A: Map
- Exhibit B: Property Use and Development Agreement



Exhibit A



20021003001621

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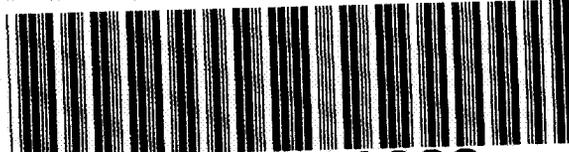
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FILED
CITY OF SEATTLE

2002 NOV 20 AM 10:49

CITY CLERK



20021003001622

SEATTLE CITY CLERK
PAGE 001 OF 004
10/03/2002 14:48
KING COUNTY, WA

22.00

Exhibit B (8/27/02)

When Recorded, Return to:

THE CITY CLERK
First Floor, Municipal Building
600 4th Avenue
Seattle, WA 98104

20021003001622

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	<input type="checkbox"/> Additional on page _____	
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20021003001622

Exhibit B (8/27/02)

B. On October 23, 2001, Thistledown, LLC, submitted to the City of Seattle an application for a contract rezone from Commercial-One with a 40' height limit (C1-40) to Commercial-One with a 65' height limit (C1-65). The purpose of the application is to allow the Property to be used for construction of a building that would exceed the existing 40-foot height limit by approximately four feet to be occupied by Treehouse, which serves foster children in the Seattle area.

C. Seattle Municipal Code (SMC) Section 23.34.004 allows the City to approve a contract rezone subject to "self-imposed restrictions upon the use and development of the property in order to ameliorate adverse impacts which could occur from unrestricted use and development permitted in the zone."

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20021003001622

Exhibit B (8/27/02)

the approval of this rezone unless an application is filed for a building permit for the building contemplated in the attached Exhibit A and that building is completed and a Certificate of Occupancy obtained from DCLU within the time permit authority is active and valid.

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SIGNED this 10 day of September, 2002.



20021003001622

Handwritten notes and stamps at the top of the page, including a signature and various official markings.

Exhibit B (8/27/02)

OWNER *[Signature]*
a _____
By Julia Calhoun
owner (title).

STATE OF WASHINGTON
COUNTY OF KING } ss.

On this day personally appeared before me Julia Calhoun
to me known to be the owner of Thistledown, LLC, the party
that executed the foregoing instrument, and acknowledged such instrument to be the free
and voluntary act and deed of such corporation, for the uses and purposes therein
mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 10 day of
September, 2002.



[Signature]
Printed Name
Jennifer D. Hannibal
NOTARY PUBLIC in and for the State of
Washington, residing at
16000 Ashworth Ave N Shoreline
My Commission Expires
05-21-03



ORDINANCE

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4 AN ORDINANCE relating to land use and zoning, amending page 133 of the Official Land
5 Use Map, (Vol. 1 of Plats, page 57, of the Records of King County) to rezone
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18 Plats, page 57, of the Records of King County.
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27 Sclater Partners for Thistledown, LLC, owner of the Property, by which said owner agrees
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29 developments otherwise permitted in the Commercial-one zone upon property in the
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34 this rezone unless an application is filed for a building permit for the building described in
35 Exhibit B and that building is completed and a Certificate of Occupancy obtained from
36 DCLU within the time permit authority is active and valid.
37

1 Section 5. The City Clerk is hereby authorized and directed to file a copy of said Property
2 Use and Development Agreement and of this Ordinance at the King County Records and
3 Elections Division, to file the original of the Property Use and Development Agreement
4 with this Ordinance at the City Clerk's Office, and to deliver copies of the same to the
5 Director of the Department of Design, Construction and Land Use and to the King County
6 Assessor's Office.

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8 its passage and approval by the Mayor, but if not approved and returned by the Mayor
9 within ten (10) days after presentation, it shall take effect as provided by Municipal Code
10 Section 1.04.020.

11
12 Passed by the City Council the ____ day of _____, 2002, and signed by
13 me in open session in authentication of its passage this ____ day of _____,
14 2002.

15 _____
16 President of the City Council

17
18 Approved by me this ____ day of _____, 2002.

19 _____
20
21 Mayor

22
23 Filed by me this ____ day of _____, 2002.

24 _____
25
26 City Clerk

27 (SEAL)

28 Exhibit A: Map

29 Exhibit B: Property Use and Development Agreement
30

When Recorded, Return to:

THE CITY CLERK
First Floor, Municipal Building
600 4th Avenue
Seattle, WA 98104

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantor:	1) <u>Thistledown, LLC</u>	2) _____
	<input type="checkbox"/> Additional on page _____	
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	<input type="checkbox"/> Additional on : _____	
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THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this _____ day of _____, 2002 in favor of the City of Seattle, a Washington municipal corporation (herein called "City"), by Thistledown, LLC, a Washington limited liability company, owner of property legally described herein (herein called "Owner").

RECITALS

A. Thistledown, LLC is the owner of that certain real property in the City of Seattle described as "all of lots 1, 2, 3, 4, and 5, Block 46, T.I. McKinney's Central Seattle, excluding the East 2' thereof dedicated for alley widening, according to the plat recorded in Vol. 1 of Plats, page 57, of the Records of King County" at 2106 24th Ave. S. and zoned Commercial-One with a 40 foot height limit (C1-40), that is the subject of this agreement (herein called the "Property").

B. On October 23, 2001, Thistledown, LLC, submitted to the City of Seattle an application for a contract rezone from Commercial-One with a 40' height limit (C1-40) to Commercial-One with a 65' height limit (C1-65). The purpose of the application is to allow the Property to be used for construction of a building that would exceed the existing 40-foot height limit by approximately four feet to be occupied by Treehouse, which serves foster children in the Seattle area.

C. Seattle Municipal Code (SMC) Section 23.34.004 allows the City to approve a contract rezone subject to "self-imposed restrictions upon the use and development of the property in order to ameliorate adverse impacts which could occur from unrestricted use and development permitted in the zone."

D. The Owner has a fee simple or other beneficial interest in the Property described in paragraph A. and wants the City Council to rezone the property pursuant to SMC23.34.004.

AGREEMENT

Section 1. Zone Changes Limited to Proposed Building. Pursuant to SMC 23.34.004, the Owner hereby covenants, bargains and agrees, on behalf of itself and its successors and assigns, that it will comply with the following limitations and conditions in consideration of the rezone of the Property from C1-40 to C1-65: The changes in zone designation are established only for development with a building with substantially the same height, design and materials and with substantially the same amenities and improvements in the pedestrian environment, both public and private, as depicted in the application for MUP 2104484 and represented in the Clerk's File CF 304901. Typical mechanical vents and exhausts may be added to the roof of the approved building.

Section 2. Agreement Runs With the Land. This Property Use and Development Agreement ("Agreement") shall be recorded in the records of King County by the City Clerk. The covenants hereof shall be deemed to attach to and run with the Property and shall be binding upon the Owner, its heirs, successors and assigns, and shall apply to after-acquired title of the Owner of the Property; provided the covenants herein and the rezone shall expire and be of no force and effect Five (5) years from the effective date of

the approval of this rezone unless an application is filed for a building permit for the building contemplated in the attached Exhibit A and that building is completed and a Certificate of Occupancy obtained from DCLU within the time permit authority is active and valid.

Section 3. Amendment, Exercise of Police Power, No Precedent. This agreement may be amended or modified by agreement between Owner and the City provided such amendment 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 amendments to the Land Use Code or exercising the City's police power as it may deem necessary in the public interest. Owner agrees that nothing in this Agreement is intended to authorize any use or dimension not otherwise permitted in a Commercial-One zone with a sixty-five foot height limit (C1-65). The conditions contained in this Agreement are based on the unique circumstances applicable to this Property, and this Agreement is not intended to establish precedent for other rezones in the surrounding area.

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

Section 5. Repeal as Additional Remedy. Owner acknowledges that compliance with the conditions of this Agreement is a condition of the subject rezone and that if Owner avails itself of the benefits of this rezone but then fails to comply with the conditions of this Agreement with the City, in addition to pursuing any other remedy, the City may revoke the rezone by ordinance and require the use of the Property to conform to the requirements of the previously existing C1-40' zone.

SIGNED this _____ day of _____, 2002.

OWNER _____

a _____

By _____

_____ (title).

STATE OF WASHINGTON

COUNTY OF KING

} ss.

On this day personally appeared before me _____,
to me known to be the _____ of Thistledown, LLC, the party
that executed the foregoing instrument, and acknowledged such instrument to be the free
and voluntary act and deed of such corporation, for the uses and purposes therein
mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this ____ day of
_____, 2002.

Printed Name

NOTARY PUBLIC in and for the State of
Washington, residing at

My Commission Expires

STATE OF WASHINGTON – KING COUNTY

--SS.

150342
City of Seattle, Clerk's Office

No. ORDINANCE IN FULL

Affidavit of Publication

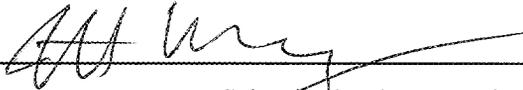
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:120926/ORD IN FULL

was published on

10/14/2002



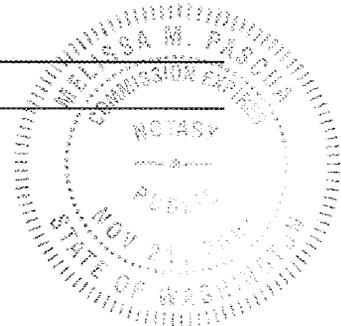
Subscribed and sworn to before me on

10/14/2002



Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication



State of Washington, King County

City of Seattle

ORDINANCE 120026

AN ORDINANCE relating to land use and zoning, amending page 133 of the Official Land Use Map, (Vol. 1 of Plats, page 57, of the Records of King County) to rezone property located at 2106 24th Avenue South, from Commercial-one with a 40' height limit (C1-40) to Commercial-one with a 65' height limit (C1-65) and accepting a Property Use and Development Agreement in connection therewith. (Petition of Slater Partners for Thistledown, LLC C.F. 304901 Application. 2104484)

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. This Ordinance affects the following described property (the "Property"):

All of lots 1, 2, 3, 4 and 5, Block 46, T.1 McKinney's Central Seattle, excluding the East 2' thereof dedicated for alley widening, according to the plat recorded in Vol. 1 of Plats, page 57, of the Records of King County.

Section 2. This Official Land Use Map zone classification for the Property, as adopted by Ordinance 110281 and last amended by Ordinance 120860, and established on pages 132 and 133 of the Official Land Use Map, is amended to rezone the Property from Commercial-one with a 40' height limit (C1-40) to Commercial-one with a 65' height limit (C1-65), as shown in "Exhibit A," attached to this Ordinance.

Section 3. Property Use and Development Agreement that was submitted to the City by Slater Partners for Thistledown, LLC, owner of the Property, by which said owner agrees to certain restrictions upon the Property to ameliorate the adverse impacts of uses and developments otherwise permitted in the Commercial-one zone upon property in the vicinity, is hereby accepted and attached to this Ordinance as "Exhibit B."

Section 4. Pursuant to SMC Section 23.76.060B(1)(b), the rezoning of the Property shall expire and be of no force and effect five (5) years from the effective date of the approval of this rezoning unless an application is filed for a building permit for the building described in Exhibit B and that building is completed and a Certificate of Occupancy obtained from DCU within the time permit authority is active and valid.

Section 5. The City Clerk is hereby authorized and directed to file a copy of said Property Use and Development Agreement and of this Ordinance at the King County Records and Elections Division, to file the original of the Property Use and Development Agreement with this Ordinance at the City Clerk's Office, and to deliver copies of the same to the Director of the Department of Design, Construction and Land Use and to the King County Assessor's Office.

Section 6. This Ordinance shall take effect and be in force thirty (30) days from and after its passage and approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 23rd day of September, 2002, and signed by me in open session in authentication of its passage this 23rd day of September, 2002.

PETER STEINHRUECK,

President of the City Council.

Approved by me this 24th day of September, 2002.

GREGORY J. NICKELS,

Mayor

Filed by me this 17th day of September, 2002.

(Seal) JUDITH E. PIPPIN,

City Clerk.

Publication ordered by JUDITH PIPPIN, City Clerk.

Exhibit A: Map.

Exhibit B: Property Use and Development Agreement.

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantor: Thistledown, LLC.

Grantee: The City of Seattle.

Legal Description (abbreviated): Lots 1-5, Block 46, T.1 McKinney's Central Seattle, exc. east 2 ft. thof dedicated for alley widening Vol. 1, pg 57 of King County plats.

Assessor's Tax Parcel ID #: 149830-3115, 149830-3118, 149830-3130, 149830-3105, 149830-3106.

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this 10th day of September, 2002 in favor of the City of Seattle, a Washington municipal corporation (herein called "City"), Thistledown, LLC, a Washington limited liability company, owner of property legally described herein (herein called "Owner").

RECITALS

A. Thistledown, LLC is the owner of that certain real property in the City of Seattle described as "all of lots 1, 2, 3, 4, and 5, Block 46, T.1 McKinney's Central Seattle, excluding the East 2' thereof dedicated for alley widening, according to the plat recorded in Vol. 1 of Plats, page 57, of the Records of King County at 2106 24th Ave. S. and zoned Commercial-One with a 40 foot height limit (C1-40), that is the subject of this agreement (herein called the "Property").

B. On October 23, 2001, Thistledown, LLC, submitted to the City of Seattle an application for a contract rezoning form Commercial-One with a 40' height limit (C1-40) to Commercial-One with a 65' height limit (C1-65). The purpose of the application is to allow the Property to be used for construction of a building that would exceed the existing 40-foot height limit by approximately four feet to be occupied by Treeshouse, which serves foster children in the Seattle area.

C. Seattle Municipal Code (SMC) Section 23.74.004 allows the City to approve a contract rezoning subject to "self-imposed restrictions upon the use and development of the property in order to ameliorate adverse impacts which could occur from unrestricted use and development permitted in the zone."

D. The Owner has a fee simple or other beneficial interest in the Property described in paragraph A, and wants the City Council to rezone the property pursuant to SMC 23.74.004.

AGREEMENT

Section 1. Zone Changes Limited to Proposed Building. Pursuant to SMC 23.74.004, the Owner hereby covenants, bargains and agrees, on behalf of itself and its successors and assigns, that it will comply with the following limitations and conditions in consideration of the rezoning of the Property from C1-40 to C1-65. The changes in zone designation are established only for development with a building with substantially the same height, design and materials and with substantially the same amenities and improvements in the pedestrian environment, both public and private, as depicted in the application for MUP 2104484 and represent in the Clerk's File CF 304901. Typical mechanical vents and exhausts may be added to the roof of the approved building.

Section 2. Agreement Runs With the Land. This Property Use and Development Agreement ("Agreement") shall be recorded in the records of King County by the City Clerk. The covenants hereof shall be deemed to attach to and run with the Property and shall be binding upon the Owner, its heirs, successors and assigns, and shall apply to after-acquired title of the Owner of the Property, provided the covenants herein and the rezoning shall expire and be of no force and effect five (5) years from the effective date of the approval of this rezoning unless an application is filed for a building permit for the building contemplated in the attached Exhibit A and that building is completed and a Certificate of Occupancy obtained from DCU within the time permit authority is active and valid.

Section 3. Amendment, Exercise of Police Power, No Precedent. This agreement may be amended or modified by agreement between Owner and the City provided such amendment 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 amendments to the Land Use Code or exercising the City's police power as it may deem necessary in the public interest. Owner agrees that nothing in this Agreement is intended to authorize any use or dimension not otherwise permitted in a Commercial-One zone with a sixty-five foot height limit (C1-65). The conditions contained in this Agreement are based on the unique circumstances applicable to this Property, and this Agreement is not intended to establish precedent for other rezones in the surrounding area.

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

Section 5. Repeal as Additional Remedy. Owner acknowledges that compliance with the conditions of this Agreement is a condition of the subject rezoning and that if Owner avails itself of the benefits of this rezoning but then fails to comply with the conditions of this Agreement with the City, in addition to pursuing any other remedy, the City may revoke the rezoning and require the use of the Property to conform to the requirements of the previously existing C1-40' zone.

SIGNED this 10th day of September, 2002.

JULIA CALHOUN,

Owner.

STATE OF WASHINGTON, County of King--s.

On this day personally appeared before me Julia Calhoun, to me known to be the Owner of Thistledown, LLC, the party that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such corporation, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 10th day of September, 2002.

JENNIFER D. HANNIBAL, Notary Public in and for the State of Washington, residing at 18000 Ashworth Ave. N, Shoreline.

My Commission Expires: 05-21-03.
Date of publication in the Seattle Daily Journal of Commerce, October 14, 2002.

10/14/2002

