





ORDINANCE 121435

1  
2 AN ORDINANCE vacating Dexter Court North on the petition of Comstock Highlands LLC and  
3 accepting Public Access and Maintenance and Maximum Building Height Agreements in  
4 relation hereto, (C.F. 302281).

5 WHEREAS, there has been filed with the City Council the petition of Comstock Highlands LLC  
6 for the vacation of Dexter Court North as herein fully described; and

7 WHEREAS, following a public hearing on said petition, which commenced on September 10,  
8 1999, said petition was conditionally granted by the City Council; and

9 WHEREAS, the petitioner has executed and recorded Public Access and Maintenance and  
10 Maximum Building Height Agreements to ensure compliance with any conditions of  
11 street vacation approval that will not be fully satisfied prior to passage of the ordinance  
vacating the above-referenced street; and

12 WHEREAS, pursuant to Section 35.79.030, RCW, and Seattle Municipal Code Chapter 15.62,  
13 the petitioners have paid the vacation fee of \$228,000 to the City, which amount is one-  
14 half the appraised value of the property approved for vacation, according to an appraisal  
obtained by the Director of Transportation; NOW, THEREFORE,

15 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

16 Section 1. Dexter Court North, as established in Adelle Addition to the City of Seattle, as  
17 recorded in Volume 2 of Plats, page 16, Records of King County, Washington, described as  
18 follows: Dexter Court North from the north margin of Highland Drive to its terminus, 160 feet  
19 north of and parallel to the north margin of Highland Drive is hereby vacated; also RESERVING  
20 to the City of Seattle the right to make all necessary slopes for cuts or fills upon the above-  
21 described property in the reasonable original grading of any rights-of-way abutting upon said  
22 property after said vacation.  
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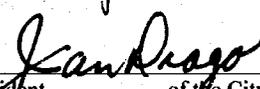


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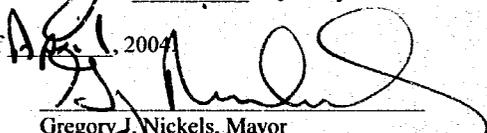
1 Section 2. That the Public Access and Maintenance and Maximum Building Height  
2 Agreements, King County Recording Number 20040127001149, attached here as Attachment A  
3 is hereby accepted.

4  
5 Section 3. This ordinance shall take effect and be in force thirty (30) days from and after  
6 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days  
7 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

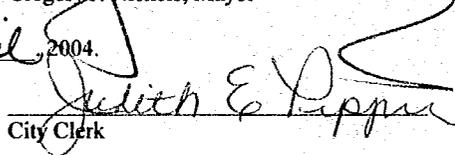
8 Passed by the City Council the 5<sup>th</sup> day of April, 2004, and signed by me in open  
9 session in authentication of its passage this 5<sup>th</sup> day of April, 2004.

10  
11  
12   
President \_\_\_\_\_ of the City Council

13 Approved by me this 13 day of April, 2004.

14  
15   
Gregory J. Nickels, Mayor

16 Filed by me this 13 day of April, 2004.

17  
18   
City Clerk

19  
20 (Seal)

21 Attachment A: Dexter Court North Public Access and Maintenance and Maximum Building  
22 Height Agreements



Seattle Department of Transportation

Gregory J. Nickels, Mayor

Grace Crunican, Director

*ord. 121435*

Date: April 21, 2004

To: Edna Wheaton, Information Services, City Clerk's Office

From: *M.G.* Moira Gray, Seattle Department of Transportation Street Vacation Office

Subject: Official Document for Filing

*revised*

FILED  
CITY OF SEATTLE  
04 APR 27 AM 11:35  
CITY CLERK

Attached for filing with the City Clerk is the original Public Access and Maintenance Agreement and Maximum Building Height Agreement executed and recorded by Dexter Lake Union, L.L.C. on behalf of The City of Seattle. This document is related to the street vacation in Clerk File 302881, and Vacation Ordinance 121435.

Please let me know if you have any questions or need more information. I can be reached at 684-8272. Thank you.

Attachment: Public Access and Maintenance Agreement and Maximum Building Height Agreement King County Recording Number 20040127001149.

FILED  
CITY OF SEATTLE  
04 APR 23 AM 9:53  
CITY CLERK

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After Recording Return To:

Andy Taber  
Opus Northwest, L.L.C.  
915 - 118th avenue S.E.  
Suite 300  
Bellevue, WA 98005

FILED  
CITY OF SEATTLE  
04 APR 23 AM 8:53  
CITY CLERK



20040127001149

JAMESON AG 47.00  
PAGE 001 OF 010  
01/27/2004 11:41  
KING COUNTY, WA

**PUBLIC ACCESS AND MAINTENANCE AGREEMENT  
AND  
MAXIMUM BUILDING HEIGHT AGREEMENT**

**Grantor:** Dexter Lake Union, L.L.C.

**Grantee:** City of Seattle

**Abbreviated Legal Description:** Portions of: Lots 5-8, Block 2, Adelle Addition to the City of Seattle, Vol. 2 of Plats, Page 16; Lots 1-5, Block 3, Hinckley's Supplemental Plat, Vol. 2 of Plats, page 132; and Lots 1-4, Block 3, Adelle Second Addition to the City of Seattle, Vol. 7 of Plats, Page 70. Complete legal description found in Exhibits A and B

**Assessor's Property Tax Parcel/Account Number(s):** 005200-0090-08; 338690-0105-03; 338690-0110-06; 338690-0115-01; 005300-0005-01; 005300-0020-02; 005200-0075-07; 005200-0090-08; 338690-0105-03; 338690-0110-06; 338690-0115-01; 005300-0005-01; & 005300-0020-02

This Public Access and Maintenance Agreement and Maximum Building Height Agreement (this "Agreement") is made this 21 day of January, 2004, by Dexter Lake Union, L.L.C. ("Owner") in favor of the City of Seattle, a municipal corporation of the State of Washington (the "City").

5122505014251109.V09 DNL

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FILED  
CITY OF SEATTLE  
04 APR 27 AM 11:35  
CITY CLERK

*Deemed*

**RECITALS:**

Owner is vested in fee simple title and/or has a substantial beneficial interest in the real property situated in King County, Washington, legally described on Exhibit A hereto (the "Apartment Property") and on Exhibit B hereto (the "Dexter Deli Building Property").

On October 11, 1999, the Seattle City Council voted to conditionally grant a petition to vacate Dexter Court North located within the Apartment Property as more particularly described in City Clerk File 302881 (the "Conditional Vacation"), for the construction of an apartment building on the Apartment Property (the "Project").

Pursuant to condition 2 of the Conditional Vacation, Owner is required to provide a view corridor subject to a maximum building height covenant on the Dexter Deli Building Property.

Pursuant to condition 4 of the Conditional Vacation, Owner was required to (1) construct pedestrian stairs, landscaping and view platform with benches in the Highland Drive right-of-way, (2) construct pedestrian stairs and landscaping in the Comstock Street right-of-way, and (3) provide a public plaza on Dexter Avenue North. The public plaza is located upon the Apartment Property. The description of the public plaza is attached hereto as Exhibit C and by this reference incorporated herein (the "Public Access Area").

Owner now seeks final vacation of Dexter Court North.

**AGREEMENT**

Now, therefore, the Owner hereby covenants, bargains and agrees on behalf of itself, its successors and assigns as follows:

**Section 1.** The Owner hereby covenants that the existing Dexter Deli building on the Dexter Deli Building Property may be retained, but any future redevelopment on the southern forty (40) feet of the Dexter Deli Building Property shall be limited in height to no more than two stories in order to protect view from the view platform on Highland Drive. This covenant shall last for the life of the Project.

**Section 2.** The Owner hereby grants to the City, for the benefit of the public, a right of public access over and across the Public Access Area as described in Exhibit C.

**Section 3.** Owner shall have the right from time to time to temporarily close or obstruct the Public Access Area for required maintenance and repair or because of circumstances beyond Owner's control. Owner may adopt and enforce such reasonable rules and regulations regarding the use of, and access to, the Public Access Area as Owner reasonably deems necessary to ensure the safety or security of the residents and tenants of the building located on the Apartment Property and users of the Public Access Area,

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including but not limited to rules and regulations similar to those applicable to other locations in the City of Seattle.

**Section 4.** To the full extent of Owner's negligence, as well as the negligence of agents and employees of Owner, Owner agrees to indemnify, hold harmless and defend the City and its officers, agents and employees from and against any and all claims, losses, costs and damages including without limitation personal injury, death, property damage, loss of use, and attorneys' fees, arising out of or relating to public use of the Public Access Area during Owner's ownership of the Apartment Property. This agreement to indemnify, hold harmless and defend the City and its officers, agents and employees shall be binding upon Owner's successors and assigns during each of their respective ownerships of the Apartment Property.

**Section 5.** Owner hereby acknowledges the on-going responsibility as owner of the Apartment Property to provide and maintain the public benefit aspects of the project sited on the Apartment Property, which include maintenance and/or replacement of the landscaping on the Highland Drive and Comstock Street rights-of-way, the bench on the Highland Drive view platform, the decorative art details of the stairs and retaining walls, and the Public Access Area. These responsibilities are congruent with the permission granted in Seattle Department of Transportation Street Use Type 45 Permit # X7358.

**Section 6.** This Agreement shall be recorded in the records of King County and the covenants hereof shall be deemed to attach to and run with the Apartment Property and shall be binding upon Owner, its heirs, successors and assigns as owner of the Apartment Property. Upon a sale of the Apartment Property by Owner or by any successors, Owner, and the selling successor shall be released from any obligations accruing under Sections 4 and 5 after the date of sale.

**Section 7.** This Agreement may be amended or modified by agreement between Owner and City; provided that any amended agreement shall be approved by the legislative authority of the City by ordinance. Nothing in this Agreement shall be construed as a surrender of the City's governmental powers.

**Section 8.** This Agreement grants a right of access to the public for the benefit of the City and the City may institute and prosecute any proceeding at law or in equity to enforce this Agreement. This Agreement shall not grant any private right of enforcement to any individual member of the public.

**Section 9.** Owner reserves the right to use the Public Access Area for any purpose which does not interfere with the public's use of the Public Access Area, including but not limited to the right to use the subsurface for construction, building spaces, support or tieback and the right to grant easements within the Public Access Area.

**Section 10.** Notwithstanding the covenants contained herein, nothing in this Agreement shall constitute a public dedication of any portion of the Apartment Property or the Dexter Deli Building Property.

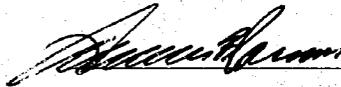
**Section 11.** In the event any covenant or condition hereinabove contained, or any portion thereof, is invalid or void, such invalidity or avoidance shall in no way affect any other covenant, condition or restriction herein contained.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered as of the 21 day of January, 2004.

OWNER: DEXTER LAKE UNION, L.L.C., a Delaware limited liability company

By: OPUS NORTHWEST, L.L.C.,  
Its Managing Member

By: AT



Name: Thomas B. Parsons

Title: Vice President and General Manager

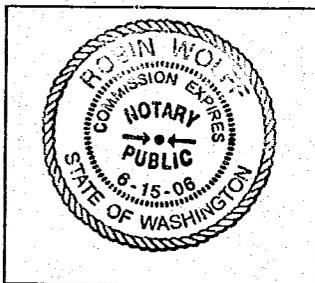
NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

STATE OF WASHINGTON )  
 )  
COUNTY OF KING ) ss.

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

On this 21<sup>st</sup> day of January, 2004, before me personally appeared Thomas B. Parsons, to me known to be the Vice President and General Manager of Opus Northwest, L.L.C., to me known to be the Managing Member of DEXTER LAKE UNION, L.L.C., the limited liability company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.



(Use This Space for Notarial Seal Stamp)

Robert Wolff  
Notary Public in and for the State of Washington,  
residing at Bellevue  
My commission expires: 4/5/06  
Robert Wolff  
[Type or Print Notary Name]

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**EXHIBIT A**

**Legal Description of Dexter Lake Union Apartment Project**

**PARCEL A:**

LOT 5 AND THE SOUTH 20 FEET OF LOT 6, BLOCK 2, ADELLE ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE(S) 16, IN KING COUNTY, WASHINGTON; EXCEPT THAT PORTION CONDEMNED FOR STREET BY KING COUNTY SUPERIOR COURT CAUSE NUMBER 236360, AS PROVIDED BY ORDINANCE NUMBER 59719 OF THE CITY OF SEATTLE; AND EXCEPT THE WESTERLY 35 FEET OF THAT PORTION OF LOT 5 LYING EASTERLY OF THE EAST LINE OF AURORA AVENUE AS CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 236360;

(ALSO KNOWN AS PARCEL A OF CITY OF SEATTLE LOT BOUNDARY ADJUSTMENT NO. 8803604, RECORDED UNDER RECORDING NUMBER 9208240326).

**PARCEL B:**

LOT 6, EXCEPT THE SOUTH 20 FEET THEREOF, AND ALL OF LOTS 7 AND 8, BLOCK 2, ADELLE ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 16, IN KING COUNTY, WASHINGTON; EXCEPT THAT PORTION CONDEMNED FOR AURORA AVENUE NORTH BY KING COUNTY SUPERIOR COURT CAUSE NUMBER 236360, AS PROVIDED BY CITY OF SEATTLE ORDINANCE NUMBER 59719;

(ALSO KNOWN AS PARCEL B OF CITY OF SEATTLE LOT BOUNDARY ADJUSTMENT NO. 8803604, RECORDED UNDER RECORDING NUMBER 9208240326).

**PARCEL C:**

THE EASTERLY 13 FEET OF LOT 1 AND ALL OF LOT 2 IN BLOCK 3, HINCKLEY'S SUPPLEMENTAL PLAT OF HINCKLEY'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 132, IN KING COUNTY, WASHINGTON; EXCEPT THAT PORTION CONDEMNED FOR AURORA AVENUE NORTH BY KING COUNTY SUPERIOR COURT CAUSE NUMBER 236360, AS PROVIDED BY CITY OF SEATTLE ORDINANCE NUMBER 59719.

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**PARCEL D:**

**LOT 3, BLOCK 3, HINCKLEY'S SUPPLEMENTAL PLAT OF HINCKLEY'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 132, IN KING COUNTY, WASHINGTON.**

**PARCEL E:**

**LOTS 4 AND 5, BLOCK 3, HINCKLEY'S SUPPLEMENTAL PLAT OF HINCKLEY'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 132, IN KING COUNTY, WASHINGTON;  
EXCEPT THE EAST 7 FEET OF SAID LOT 5 CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 61981 FOR DEXTER AVENUE AS PROVIDED BY ORDINANCE NUMBER 17628 OF THE CITY OF SEATTLE.**

**PARCEL F:**

**LOTS 1, 2 AND 3, BLOCK 3, ADELLE SECOND ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS, PAGE 70, IN KING COUNTY, WASHINGTON;  
EXCEPT THE EAST 7 FEET THEREOF CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 61981 FOR DEXTER AVENUE AS PROVIDED BY ORDINANCE NUMBER 17628 OF THE CITY OF SEATTLE.**

**PARCEL G:**

**THAT PORTION OF DEXTER COURT NORTH, AS ESTABLISHED IN ADELLE ADDITION TO THE CITY OF SEATTLE, AS RECORDED IN VOLUME 2 OF PLATS, PAGE 16, RECORDS OF KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:**

**DEXTER COURT NORTH, FROM THE NORTH MARGIN OF HIGHLAND DRIVE TO ITS TERMINUS, 160 FEET NORTH OF AND PARALLEL TO THE NORTH MARGIN OF HIGHLAND DRIVE.**

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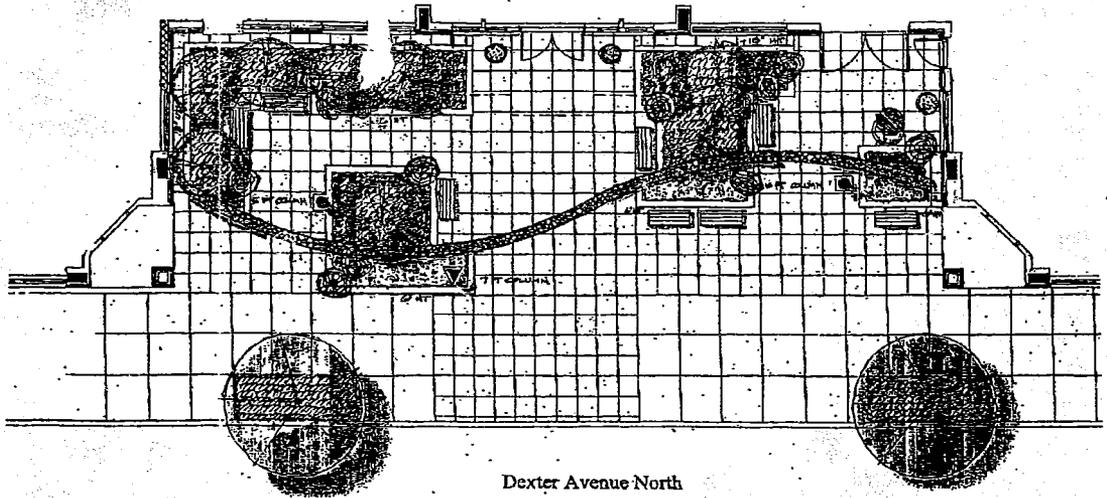
**EXHIBIT B**

**Legal Description of Dexter Deli Building Property**

**LOT 4, BLOCK 3, ADELLE SECOND ADDITION TO THE CITY OF SEATTLE,  
ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS,  
PAGE 70, IN KING COUNTY, WASHINGTON;  
EXCEPT THE EAST 7 FEET THEREOF CONDEMNED IN KING COUNTY  
SUPERIOR COURT CAUSE NUMBER 61981 FOR DEXTER AVENUE AS  
PROVIDED BY ORDINANCE NUMBER 17628 OF THE CITY OF SEATTLE.**

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Dexter Avenue North

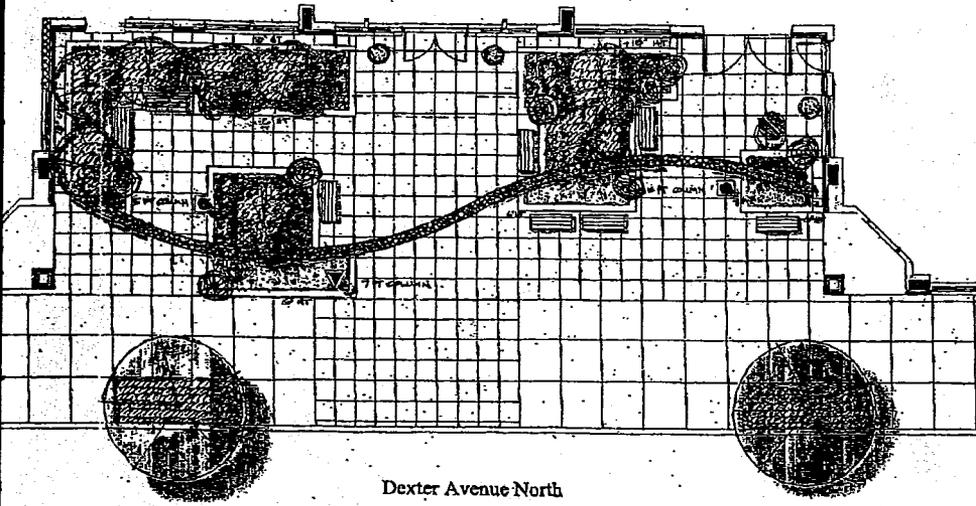
1215 Dexter Avenue

Description of Public Access Area

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EXHIBIT C

Description of Public Access Area



Dexter Avenue North

5 Dexter Avenue

**Consent of Beneficiary**

The undersigned, as beneficiary of that certain Combination Deed of Trust, Security Agreement and Fixture Financing Statement dated June 12, 2002 (the "Deed of Trust"), by Dexter Lake Union, L.L.C., a Delaware limited liability company ("Grantor"), to Chicago Title Insurance Company, a Missouri corporation, for the benefit of the undersigned, hereby consents to the above Public Access and Maintenance Agreement and Maximum Building Height Agreement dated 1/21/04, 2003, from Grantor to the City of Seattle, a municipal corporation of the State of Washington.

Dated: January 12, 2004

U.S. BANK NATIONAL ASSOCIATION, a  
national banking association

By: Michael R. [Signature]  
Its: Joe [Signature]

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**IN THE MATTER OF THE PETITION OF COMSTOCK HIGHLANDS LLC  
FOR THE VACATION OF DEXTER COURT NORTH  
CLERK FILE 302881**

The City Council grants approval of the petition of Comstock Highlands LLC for the vacation of:

**Dexter Court North, as established in Adelle Addition to the City of Seattle, as recorded in Volume 2 of Plats, page 16, Records of King County, Washington, described as follows: Dexter Court North from the north margin of Highland Drive to its terminus, 160 feet north of and parallel to the north margin of Highland Drive.**

The vacation is granted upon the petitioner meeting the following conditions. The petitioner shall demonstrate that all conditions imposed by the City Council have been satisfied prior to the passage of the street vacation ordinance.

1. The vacation is granted to allow the petitioner to build a project substantially in conformity with the project presented to the City Council and for no other purpose. Minor revisions to the proposal may be approved to meet code requirements or if approved by Seattle Transportation. Major revisions to the plan require approval by the Transportation Committee of the City Council.
2. The building façade on Highland Drive shall be set back 40 feet from the right-of-way line to provide a view corridor subject to a maximum building height covenant. The existing Dexter Deli building may be retained, but any future redevelopment shall be limited in height to no more than two stories in order to protect views from the view platform on Highland Drive. This covenant shall last for the life of the project.
3. All street improvements, including the required pedestrian stairs on Highland Drive and Comstock Street, the view platform, the turnarounds, sidewalks, and landscaping must be designed to City standards and reviewed and approved by Seattle Transportation.
4. The mitigation measures and public benefit elements presented to the Transportation Committee on September 10, 1999 and October 5, 1999, shall be included as required project elements:
  - Major modulation of Dexter Avenue North and Aurora Avenue North facades;
  - Significant modulation of Highland Drive façade as shown on Alternative B of the October 5, 1999 Highland Drive design alternatives;
  - Height reduction on center bay on Aurora Avenue North;
  - Corner reductions on Aurora Avenue North;
  - Major residential entry on Aurora Avenue North;
  - Ray windows; metal, sloped roofs; change in color and materials between the Dexter Avenue North and Aurora Avenue North building sides;

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- Public plaza on Dexter with furniture, landscaping and a major element such as art or a fountain;
  - Pedestrian stair, landscaping and a view platform with benches in Highland Drive right-of-way;
  - Pedestrian stairs and landscaping in the Comstock Street right-of-way; and
  - Extensive landscaping around the entire project site.
5. The colors, materials, and other surface treatments shown on the October 5, 1999 designs in Alternative B shall be implemented on the Comstock Street façade.
  6. The utility issues shall be resolved to the full satisfaction of the affected utility prior to the approval of the final vacation ordinance. This may include easements, restrictive covenants, relocation agreements, or acquisition of the utilities, which shall be at the sole expense of the petitioner.
  7. The developer shall continue to work with the Seattle Design Commission to ensure that the final plans contain the elements recommended by the Design Commission and required by the City Council. This includes the pedestrian stairs and the view platform in Highland Drive, the pedestrian stairs in Comstock Street and the public elements of the project including the plaza entry on Dexter Avenue North.

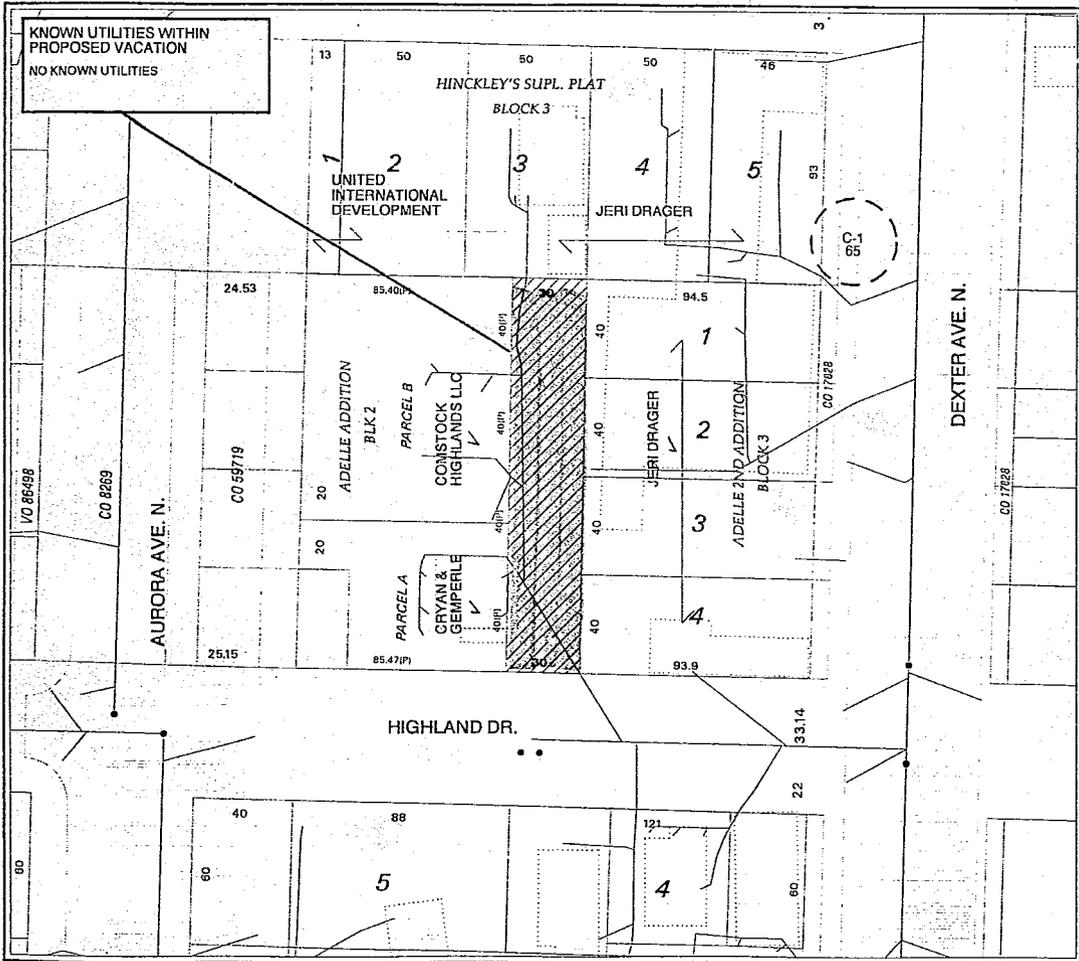
Signed by me in open session this 11<sup>th</sup> day of October, 1999.

  
\_\_\_\_\_  
President of the City Council

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KNOWN UTILITIES WITHIN  
PROPOSED VACATION  
NO KNOWN UTILITIES



Scale: 1" = 50'



VICINITY

2640



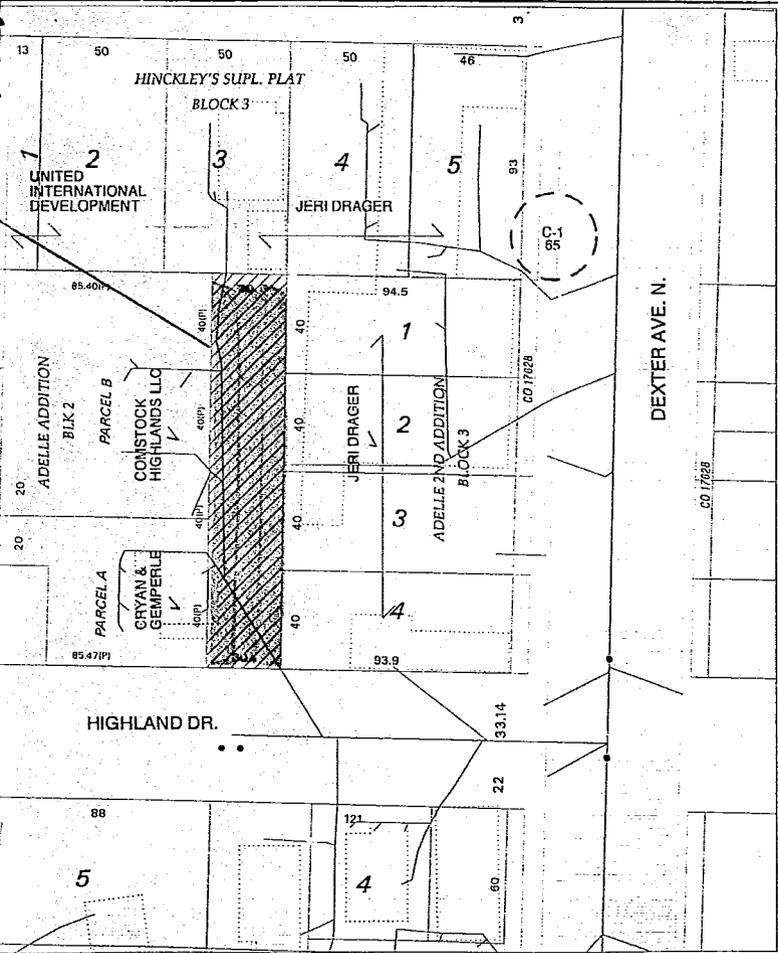
PROPOSED VACATION AREA

VACATION AREA = 4,800 SQ

SCALE 1"=50' KROLL 35E 1/4 SECTION N

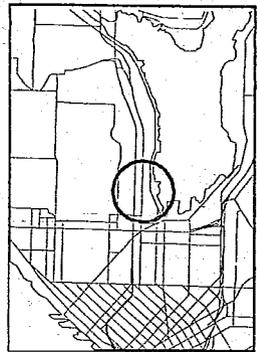
**VACATION SKETCH**

CITY CLERK FILE NO. 302881  
 VACATION PETITION NO. 3791  
 VALID SIGNATURES INDICATED BY   
 DISPOSITION:  
 APPROVD \_\_\_\_\_ DENIED \_\_\_\_\_ TERMINATED \_\_\_\_\_  
 INCOMPLETE SIGNATURES INDICATED BY \_\_\_\_\_  
 VACATION ORDINANCE NO. \_\_\_\_\_ DATE \_\_\_\_\_  
 MADE BY CM \_\_\_\_\_ CHECKED BY MLS \_\_\_\_\_ DATE \_\_\_\_\_



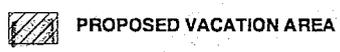


Scale: 1" = 50'



VICINITY MAP

2640



PROPOSED VACATION AREA

VACATION AREA = 4,800 SQ. FT

SCALE 1"=50' KROLL 35E 1/4 SECTION NE 30-25-4

### VACATION SKETCH

CITY CLERK FILE NO.	302881
VACATION PETITION NO.	3791
VALID SIGNATURES INDICATED BY	<input checked="" type="checkbox"/>
DISPOSITION:	
APPRVD	<input type="checkbox"/> DENIED <input type="checkbox"/> TERMINATED <input type="checkbox"/>
INCOMPLETE SIGNATURES INDICATED BY	
VACATION ORDINANCE NO.	DATE
MADE BY	CM CHECKED BY
	MLS DATE 1-8-99

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

DEXTER COURT NORTH STREET VACATION ATTACHMENT  
After Recording Return To:

Andy Taber  
Opus Northwest, L.L.C.  
915 - 118th avenue S.E.  
Suite 300  
Bellevue, WA 98005

**PUBLIC ACCESS AND MAINTENANCE AGREEMENT  
AND  
MAXIMUM BUILDING HEIGHT AGREEMENT**

**Grantor:** Dexter Lake Union, L.L.C.

**Grantee:** City of Seattle

**Abbreviated Legal Description:** Portions of: Lots 5-8, Block 2, Adelle Addition to the City of Seattle, Vol. 2 of Plats, Page 16; Lots 1-5, Block 3, Hinckley's Supplemental Plat, Vol. 2 of Plats, page 132; and Lots 1-4, Block 3, Adelle Second Addition to the City of Seattle, Vol. 7 of Plats, Page 70. Complete legal description found in Exhibits A and B

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5122505014251109.V09 DNL

ATTACHMENT A DEXTERCTNSTV.CORD



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On October 11, 1999, the Seattle City Council voted to conditionally grant a petition to vacate Dexter Court North located within the Apartment Property as more particularly described in City Clerk File 302881 (the "Conditional Vacation"), for the construction of an apartment building on the Apartment Property (the "Project").

Pursuant to condition 2 of the Conditional Vacation, Owner is required to provide a view corridor subject to a maximum building height covenant on the Dexter Deli Building Property.

Pursuant to condition 4 of the Conditional Vacation, Owner was required to (1) construct pedestrian stairs, landscaping and view platform with benches in the Highland Drive right-of-way, (2) construct pedestrian stairs and landscaping in the Comstock Street right-of-way, and (3) provide a public plaza on Dexter Avenue North. The public plaza is located upon the Apartment Property. The description of the public plaza is attached hereto as Exhibit C and by this reference incorporated herein (the "Public Access Area").

Owner now seeks final vacation of Dexter Court North.

**AGREEMENT**

Now, therefore, the Owner hereby covenants, bargains and agrees on behalf of itself, its successors and assigns as follows:

Section 1. The Owner hereby covenants that the existing Dexter Deli building on the Dexter Deli Building Property may be retained, but any future redevelopment on the southern forty (40) feet of the Dexter Deli Building Property shall be limited in height to no more than two stories in order to protect view from the view platform on Highland Drive. This covenant shall last for the life of the Project.

Section 2. The Owner hereby grants to the City, for the benefit of the public, a right of public access over and across the Public Access Area as described in Exhibit C.

Section 3. Owner shall have the right from time to time to temporarily close or obstruct the Public Access Area for required maintenance and repair or because of circumstances beyond Owner's control. Owner may adopt and enforce such reasonable rules and regulations regarding the use of, and access to, the Public Access Area as Owner reasonably deems necessary to ensure the safety or security of the residents and tenants of the building located on the Apartment Property and users of the Public Access Area,

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including but not limited to rules and regulations similar to those applicable to other locations in the City of Seattle.

Section 4. To the full extent of Owner's negligence, as well as the negligence of agents and employees of Owner, Owner agrees to indemnify, hold harmless and defend the City and its officers, agents and employees from and against any and all claims, losses, costs and damages including without limitation personal injury, death, property damage, loss of use, and attorneys' fees, arising out of or relating to public use of the Public Access Area during Owner's ownership of the Apartment Property. This agreement to indemnify, hold harmless and defend the City and its officers, agents and employees shall be binding upon Owner's successors and assigns during each of their respective ownerships of the Apartment Property.

Section 5. Owner hereby acknowledges the on-going responsibility as owner of the Apartment Property to provide and maintain the public benefit aspects of the project sited on the Apartment Property, which include maintenance and/or replacement of the landscaping on the Highland Drive and Comstock Street rights-of-way, the bench on the Highland Drive view platform, the decorative art details of the stairs and retaining walls, and the Public Access Area. These responsibilities are congruent with the permission granted in Seattle Department of Transportation Street Use Type 45 Permit # X7358.

Section 6. This Agreement shall be recorded in the records of King County and the covenants hereof shall be deemed to attach to and run with the Apartment Property and shall be binding upon Owner, its heirs, successors and assigns as owner of the Apartment Property. Upon a sale of the Apartment Property by Owner or by any successors, Owner, and the selling successors, shall be released from any obligations accruing under Sections 4 and 5 after the date of sale.

Section 7. This Agreement may be amended or modified by agreement between Owner and City; provided such amended agreement shall be approved by the legislative authority of the City by ordinance. Nothing in this Agreement shall be construed as a surrender of the City's governmental powers.

Section 8. This Agreement grants a right of access to the public for the benefit of the City and the City may institute and prosecute any proceeding at law or in equity to enforce this Agreement. This Agreement shall not grant any private right of enforcement to any individual member of the public.

Section 9. Owner reserves the right to use the Public Access Area for any purpose which does not interfere with the public's use of the Public Access Area, including but not limited to the right to use the subsurface for construction, building spaces, support or tieback and the right to grant easements within the Public Access Area.



Section 10. Notwithstanding the covenants contained herein, nothing in this Agreement shall constitute a public dedication of any portion of the Apartment Property or the Dexter Deli Building Property.

Section 11. In the event any covenant or condition hereinabove contained, or any portion thereof, is invalid or void, such invalidity or avoidance shall in no way affect any other covenant, condition or restriction herein contained.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered as of the \_\_\_ day of January, 2004.

OWNER: DEXTER LAKE UNION, L.L.C., a Delaware limited liability company

By: OPUS NORTHWEST, L.L.C.,  
Its Managing Member

By: \_\_\_\_\_

Name: Thomas B. Parsons

Title: Vice President and General Manager

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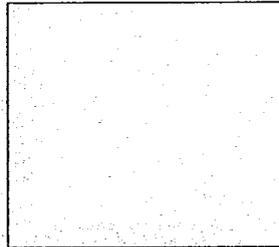


STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

On this \_\_\_\_\_ day of \_\_\_\_\_, 2004, before me personally appeared Thomas B. Parsons, to me known to be the Vice President and General Manager of Opus Northwest, L.L.C., to me known to be the Managing Member of DEXTER LAKE UNION, L.L.C., the limited liability company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.



(Use This Space for Notarial Seal Stamp)

\_\_\_\_\_  
Notary Public in and for the State of Washington,  
residing at \_\_\_\_\_  
My commission expires: \_\_\_\_\_

[Type or Print Notary Name]

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EXHIBIT A

Legal Description of Dexter Lake Union Apartment Project

PARCEL A:

LOT 5 AND THE SOUTH 20 FEET OF LOT 6, BLOCK 2, ADELLE ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE(S) 16, IN KING COUNTY, WASHINGTON; EXCEPT THAT PORTION CONDEMNED FOR STREET BY KING COUNTY SUPERIOR COURT CAUSE NUMBER 236360, AS PROVIDED BY ORDINANCE NUMBER 59719 OF THE CITY OF SEATTLE; AND EXCEPT THE WESTERLY 35 FEET OF THAT PORTION OF LOT 5 LYING EASTERLY OF THE EAST LINE OF AURORA AVENUE AS CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 236360;

(ALSO KNOWN AS PARCEL A OF CITY OF SEATTLE LOT BOUNDARY ADJUSTMENT NO. 8803604, RECORDED UNDER RECORDING NUMBER 9208240326).

PARCEL B:

LOT 6, EXCEPT THE SOUTH 20 FEET THEREOF, AND ALL OF LOTS 7 AND 8, BLOCK 2, ADELLE ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 16, IN KING COUNTY, WASHINGTON; EXCEPT THAT PORTION CONDEMNED FOR AURORA AVENUE NORTH BY KING COUNTY SUPERIOR COURT CAUSE NUMBER 236360, AS PROVIDED BY CITY OF SEATTLE ORDINANCE NUMBER 59719;

(ALSO KNOWN AS PARCEL B OF CITY OF SEATTLE LOT BOUNDARY ADJUSTMENT NO. 8803604, RECORDED UNDER RECORDING NUMBER 9208240326).

PARCEL C:

THE EASTERLY 13 FEET OF LOT 1 AND ALL OF LOT 2 IN BLOCK 3, HINCKLEY'S SUPPLEMENTAL PLAT OF HINCKLEY'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 132, IN KING COUNTY, WASHINGTON; EXCEPT THAT PORTION CONDEMNED FOR AURORA AVENUE NORTH BY KING COUNTY SUPERIOR COURT CAUSE NUMBER 236360, AS PROVIDED BY CITY OF SEATTLE ORDINANCE NUMBER 59719.

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EXHIBIT A TO ATTACHMENT



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PARCEL D:

LOT 3, BLOCK 3, HINCKLEY'S SUPPLEMENTAL PLAT OF HINCKLEY'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 132, IN KING COUNTY, WASHINGTON.

PARCEL E:

LOTS 4 AND 5, BLOCK 3, HINCKLEY'S SUPPLEMENTAL PLAT OF HINCKLEY'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 132, IN KING COUNTY, WASHINGTON;  
EXCEPT THE EAST 7 FEET OF SAID LOT 5 CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 61981 FOR DEXTER AVENUE AS PROVIDED BY ORDINANCE NUMBER 17628 OF THE CITY OF SEATTLE.

PARCEL F:

LOTS 1, 2 AND 3, BLOCK 3, ADELLE SECOND ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS, PAGE 70, IN KING COUNTY, WASHINGTON;  
EXCEPT THE EAST 7 FEET THEREOF CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 61981 FOR DEXTER AVENUE AS PROVIDED BY ORDINANCE NUMBER 17628 OF THE CITY OF SEATTLE.

PARCEL G:

THAT PORTION OF DEXTER COURT NORTH, AS ESTABLISHED IN ADELLE ADDITION TO THE CITY OF SEATTLE, AS RECORDED IN VOLUME 2 OF PLATS, PAGE 16, RECORDS OF KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

DEXTER COURT NORTH, FROM THE NORTH MARGIN OF HIGHLAND DRIVE TO ITS TERMINUS, 160 FEET NORTH OF AND PARALLEL TO THE NORTH MARGIN OF HIGHLAND DRIVE.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.



EXHIBIT B

Legal Description of Dexter Deli Building Property

LOT 4, BLOCK 3, ADELLE SECOND ADDITION TO THE CITY OF SEATTLE,  
ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS,  
PAGE 70, IN KING COUNTY, WASHINGTON;  
EXCEPT THE EAST 7 FEET THEREOF CONDEMNED IN KING COUNTY  
SUPERIOR COURT CAUSE NUMBER 61981 FOR DEXTER AVENUE AS  
PROVIDED BY ORDINANCE NUMBER 17628 OF THE CITY OF SEATTLE.

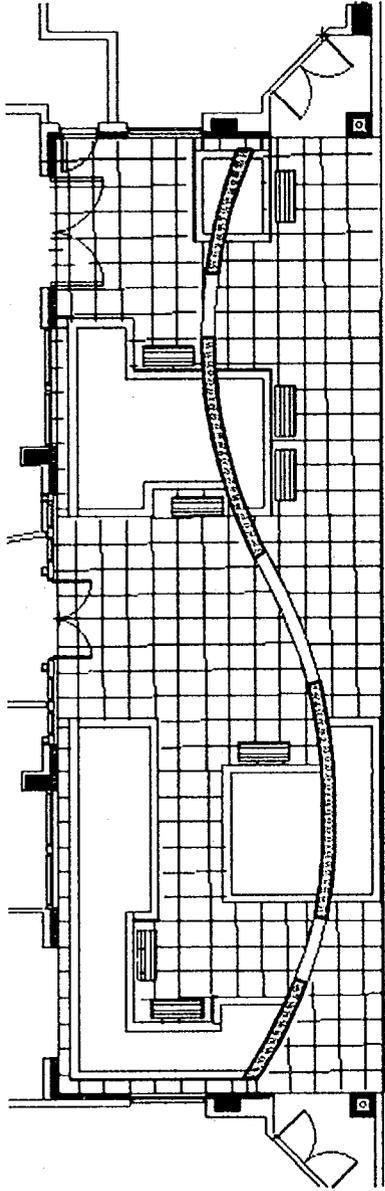
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Exhibit B to Attachment A



Exhibit C to Attachment A  
Dexter Court N. Street Vacation



PUBLIC SIDEWALK

1215  
DEXTER AVENUE NORTH

Exhibit C to Attachment A  
Dexter Court N. Street Vacation

ACTING  
CITY  
CLERK

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Moira Gray  
January 27, 2004  
DexterCtNSI/VacOrd:  
Version #1

Form revised December 30, 2003

**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Transportation	Moira Gray 684-8272	Jennifer Devore 615-1328

**Legislation Title:**

AN ORDINANCE vacating Dexter Court North on the petition of Comstock Highlands LLC and accepting Public Access and Maintenance and Maximum Building Height Agreements in relation hereto, (C.F. 302281).

• **Summary of the Legislation:**

This legislation vacates Dexter Court North between Aurora Avenue North, Dexter Avenue North, Highland Drive and Comstock Street. The legislation also accepts agreements relating to the petitioner's on-going responsibilities to provide stairway maintenance, public access to the building plaza and to restrict future building height on a portion of the block.

• **Background:** (Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):

This legislation completes the Dexter Court North vacation process. The City Council granted conditional approval of the vacation in 1999. The petitioner has constructed the project including a single mixed-use building with residential and retail space, new stairways, landscaping and public plaza. The Council conditions have either been met or are provided for in the related agreements.

• *Please check one of the following:*

**This legislation does have financial implications.**

Although this legislation does not accept or appropriate funds, SDOT received a vacation fee of \$228,000 in October 2003, which was deposited in the Street Vacation Fund at that time.

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ACTING  
CITY  
CLERK



## City of Seattle

Gregory J. Nickels, Mayor

### Office of the Mayor

February 17, 2004

Honorable Jan Drago  
President  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor

Dear Council President Drago:

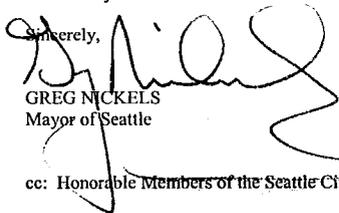
In 1999, the City Council conditionally approved Comstock Highland LLC's vacation petition, and the development of a mixed-use property between Aurora Avenue North and Dexter Avenue North in the East Queen Anne area. (I have attached to this letter a list of the Council Conditions that were imposed on the vacation for your review.) Construction of the project, known as the Dexter Lake Union Apartments, was completed in the fall of 2003. The attached Council Bill vacates property at Dexter Court North (C.F. 302281), and accepts a "Public Access And Maintenance Agreement and Maximum Building Height Agreement," to facilitate further development of this project.

The Dexter Lake Union Apartments project provides mixed-use residential and commercial space, with 225 moderate income residential units and approximately eight thousand square feet of retail space. Three hundred parking spaces are provided below grade. The project provides new stair connections with a Lake Union view platform connecting Aurora Avenue North and Dexter Avenue North, enhanced landscaping, an art wall, and a small public plaza on Dexter Avenue North.

The "Public Access And Maintenance Agreement and Maximum Building Height Agreement" will ensure compliance with any street vacation conditions that may not be fully satisfied prior to the passage of this legislation. The Agreement provides assurance that the long-term responsibilities of the petitioner will be met, including maintenance of the enhanced stairways linking Aurora and Dexter Avenues, and ongoing public access to the plaza on Dexter Avenue North.

Thank you for your consideration of this legislation. Should you have questions, please contact Moira Gray at 684-8272.

Sincerely,

  
GREG NICKELS  
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7<sup>th</sup> Floor, P.O. Box 94749, Seattle, WA 98124-4747  
Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, E-mail: mayors.office@ci.seattle.wa.us  
An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.



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After Recording Return To

Andy Taber  
Opus Northwest, L L C  
915- 118th avenue S E  
Suite 300  
Bellevue, WA 98005



20040127001149

JAMESON  
PROCESS OF 818 RC 47 00  
01/27/2004 11 41  
KING COUNTY, WA

**PUBLIC ACCESS AND MAINTENANCE AGREEMENT  
AND  
MAXIMUM BUILDING HEIGHT AGREEMENT**

**Grantor:** Dexter Lake Union, L L C

**Grantee:** City of Seattle

**Abbreviated Legal Description:** Portions of Lots 5-8, Block 2, Adelle Addition to the City of Seattle, Vol 2 of Plats, Page 16; Lots 1-5, Block 3, Hinckley's Supplemental Plat, Vol 2 of Plats, page 132; and Lots 1-4, Block 3, Adelle Second Addition to the City of Seattle, Vol 7 of Plats, Page 70. Complete legal description found in Exhibits A and B

**Assessor's Property Tax Parcel/Account Number(s):** 005200-0090-08; 338690-0105-03, 338690-0110-06, 338690-0115-01, 005300-0005-01, 005300-0020-02, 005200-0075-07; 005200-0090-08, 338690-0105-03, 338690-0110-06, 338690-0115-01, 005300-0005-01, & 005300-0020-02

This Public Access and Maintenance Agreement and Maximum Building Height Agreement (this "Agreement") is made this 21 day of January, 2004, by Dexter Lake Union, L L C ("Owner") in favor of the City of Seattle, a municipal corporation of the State of Washington (the "City")

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**RECITALS:**

Owner is vested in fee simple title and/or has a substantial beneficial interest in the real property situated in King County, Washington, legally described on Exhibit A hereto (the "Apartment Property") and on Exhibit B hereto (the "Dexter Deli Building Property")

On October 11, 1999, the Seattle City Council voted to conditionally grant a petition to vacate Dexter Court North located within the Apartment Property as more particularly described in City Clerk File 302881 (the "Conditional Vacation"), for the construction of an apartment building on the Apartment Property (the "Project").

Pursuant to condition 2 of the Conditional Vacation, Owner is required to provide a view corridor subject to a maximum building height covenant on the Dexter Deli Building Property

Pursuant to condition 4 of the Conditional Vacation, Owner was required to (1) construct pedestrian stairs, landscaping and view platform with benches in the Highland Drive right-of-way, (2) construct pedestrian stairs and landscaping in the Comstock Street right-of-way, and (3) provide a public plaza on Dexter Avenue North. The public plaza is located upon the Apartment Property. The description of the public plaza is attached hereto as Exhibit C and by this reference incorporated herein (the "Public Access Area")

Owner now seeks final vacation of Dexter Court North

**AGREEMENT**

Now, therefore, the Owner hereby covenants, bargains and agrees on behalf of itself, its successors and assigns as follows:

**Section 1** The Owner hereby covenants that the existing Dexter Deli building on the Dexter Deli Building Property may be retained, but any future re-development on the southern forty (40) feet of the Dexter Deli Building Property shall be limited in height to no more than two stories in order to protect view from the view platform on Highland Drive. This covenant shall last for the life of the Project.

**Section 2** The Owner hereby grants to the City, for the benefit of the public, a right of public access over and across the Public Access Area as described in Exhibit C

**Section 3** Owner shall have the right from time to time to temporarily close or obstruct the Public Access Area for required maintenance and repair or because of circumstances beyond Owner's control. Owner may adopt and enforce such reasonable rules and regulations regarding the use of, and access to, the Public Access Area as Owner reasonably deems necessary to ensure the safety or security of the residents and tenants of the building located on the Apartment Property and users of the Public Access Area,

including but not limited to rules and regulations similar to those applicable to other locations in the City of Seattle

**Section 4** To the full extent of Owner's negligence, as well as the negligence of agents and employees of Owner, Owner agrees to indemnify, hold harmless and defend the City and its officers, agents and employees from and against any and all claims, losses, costs and damages including without limitation personal injury, death, property damage, loss of use, and attorneys' fees, arising out of or relating to public use of the Public Access Area during Owner's ownership of the Apartment Property. This agreement to indemnify, hold harmless and defend the City and its officers, agents and employees shall be binding upon Owner's successors and assigns during each of their respective ownerships of the Apartment Property.

**Section 5** Owner hereby acknowledges the on-going responsibility as owner of the Apartment Property to provide and maintain the public benefit aspects of the project sited on the Apartment Property, which include maintenance and/or replacement of the landscaping on the Highland Drive and Comstock Street rights-of-way, the bench on the Highland Drive view platform, the decorative art details of the stairs and retaining walls, and the Public Access Area. These responsibilities are congruent with the permission granted in Seattle Department of Transportation Street Use Type 45 Permit # X7358.

**Section 6** This Agreement shall be recorded in the records of King County and the covenants hereof shall be deemed to attach to and run with the Apartment Property and shall be binding upon Owner, its heirs, successors and assigns as owner of the Apartment Property. Upon a sale of the Apartment Property by Owner or by any successors, Owner, and the selling successors, shall be released from any obligations accruing under Sections 4 and 5 after the date of sale.

**Section 7** This Agreement may be amended or modified by agreement between Owner and City, provided such amended agreement shall be approved by the legislative authority of the City by ordinance. Nothing in this Agreement shall be construed as a surrender of the City's governmental powers.

**Section 8** This Agreement grants a right of access to the public for the benefit of the City and the City may institute and prosecute any proceeding at law or in equity to enforce this Agreement. This Agreement shall not grant any private right of enforcement to any individual member of the public.

**Section 9** Owner reserves the right to use the Public Access Area for any purpose which does not interfere with the public's use of the Public Access Area, including but not limited to the right to use the subsurface for construction, building spaces, support or tieback and the right to grant easements within the Public Access Area.

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**Section 10.** Notwithstanding the covenants contained herein, nothing in this Agreement shall constitute a public dedication of any portion of the Apartment Property or the Dexter Del Building Property

**Section 11.** In the event any covenant or condition hereinabove contained, or any portion thereof, is invalid or void, such invalidity or avoidance shall in no way affect any other covenant, condition or restriction herein contained

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered as of the 21 day of January, 2004

OWNER. DEXTER LAKE UNION, L L C , a Delaware limited liability company

By OPUS NORTHWEST, L L C  
Its Managing Member

By   
Name Thomas B Parsons  
Title Vice President and General Manager

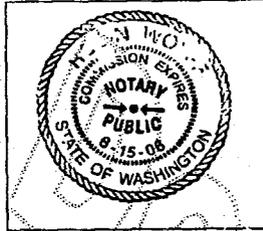
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STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

On this 21st day of January, 2004, before me personally appeared Thomas B. Parsons, to me known to be the Vice President and General Manager of Opus Northwest, L.L.C., to me known to be the Managing Member of DEXTER LAKE UNION, L.L.C., the limited liability company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.



(Use This Space for Notarial Seal Stamp)

Robin Wolff  
Notary Public in and for the State of Washington,  
residing at Bellevue  
My commission expires 8/15/08  
Robin Wolff  
[Type or Print Notary Name]

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EXHIBIT A

Legal Description of Dexter Lake Union Apartment Project

PARCEL A

LOT 5 AND THE SOUTH 20 FEET OF LOT 6, BLOCK 2, ADELLE ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE(S) 16, IN KING COUNTY, WASHINGTON, EXCEPT THAT PORTION CONDEMNED FOR STREET BY KING COUNTY SUPERIOR COURT CAUSE NUMBER 236360, AS PROVIDED BY ORDINANCE NUMBER 59719 OF THE CITY OF SEATTLE, AND EXCEPT THE WESTERLY 35 FEET OF THAT PORTION OF LOT 5 LYING EASTERLY OF THE EAST LINE OF AURORA AVENUE AS CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 236360,

(ALSO KNOWN AS PARCEL A OF CITY OF SEATTLE LOT BOUNDARY ADJUSTMENT NO 8803604, RECORDED UNDER RECORDING NUMBER 9208240326)

PARCEL B

LOT 6, EXCEPT THE SOUTH 20 FEET THEREOF, AND ALL OF LOTS 7 AND 8, BLOCK 2, ADELLE ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 16, IN KING COUNTY, WASHINGTON, EXCEPT THAT PORTION CONDEMNED FOR AURORA AVENUE NORTH BY KING COUNTY SUPERIOR COURT CAUSE NUMBER 236360, AS PROVIDED BY CITY OF SEATTLE ORDINANCE NUMBER 59719,

(ALSO KNOWN AS PARCEL B OF CITY OF SEATTLE LOT BOUNDARY ADJUSTMENT NO 8803604, RECORDED UNDER RECORDING NUMBER 9208240326)

PARCEL C

THE EASTERLY 13 FEET OF LOT 1 AND ALL OF LOT 2 IN BLOCK 3, HINCKLEY'S SUPPLEMENTAL PLAT OF HINCKLEY'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 12, IN KING COUNTY, WASHINGTON, EXCEPT THAT PORTION CONDEMNED FOR AURORA AVENUE NORTH BY KING COUNTY SUPERIOR COURT CAUSE NUMBER 236360, AS PROVIDED BY CITY OF SEATTLE ORDINANCE NUMBER 59719

**PARCEL D**

LOT 3, BLOCK 3, HINCKLEY'S SUPPLEMENTAL PLAT OF HINCKLEY'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 132, IN KING COUNTY, WASHINGTON

**PARCEL E**

LOTS 4 AND 5, BLOCK 3, HINCKLEY'S SUPPLEMENTAL PLAT OF HINCKLEY'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 132, IN KING COUNTY, WASHINGTON, EXCEPT THE EAST 7 FEET OF SAID LOT 5 CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 61981 FOR DEXTER AVENUE AS PROVIDED BY ORDINANCE NUMBER 17628 OF THE CITY OF SEATTLE

**PARCEL F**

LOTS 1, 2 AND 3, BLOCK 3, ADELLE SECOND ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS, PAGE 70, IN KING COUNTY, WASHINGTON, EXCEPT THE EAST 7 FEET THEREOF CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 61981 FOR DEXTER AVENUE AS PROVIDED BY ORDINANCE NUMBER 17628 OF THE CITY OF SEATTLE

**PARCEL G**

THAT PORTION OF DEXTER COURT NORTH, AS ESTABLISHED IN ADELLE ADDITION TO THE CITY OF SEATTLE, AS RECORDED IN VOLUME 2 OF PLATS, PAGE 16, RECORDS OF KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS

DEXTER COURT NORTH, FROM THE NORTH MARGIN OF HIGHLAND DRIVE TO ITS TERMINUS, 160 FEET NORTH OF AND PARALLEL TO THE NORTH MARGIN OF HIGHLAND DRIVE

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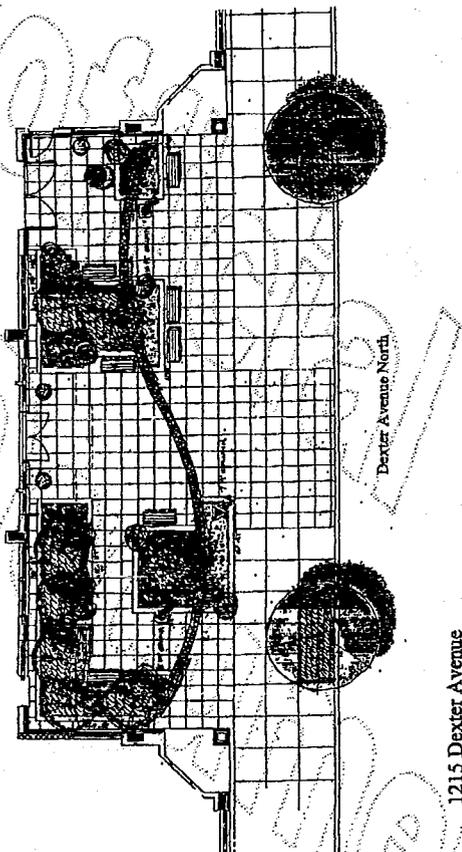
EXHIBIT B

Legal Description of Dexter Delt Building Property

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SUPERIOR COURT CAUSE NUMBER 61981 FOR DEXTER AVENUE AS  
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EXHIBIT C  
Description of Public Access Area



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*Consent of Beneficiary*

The undersigned, as beneficiary of that certain Combination Deed of Trust, Security Agreement and Fixture Financing Statement dated June 12, 2002 (the "Deed of Trust"), by Dexter Lake Union, L.L.C., a Delaware limited liability company ("Grantor"), to Chicago Title Insurance Company, a Missouri corporation, for the benefit of the undersigned, hereby consents to the above Public Access and Maintenance Agreement and Maximum Building Height Agreement dated 1/21/04, ~~2003~~, from Grantor to the City of Seattle, a municipal corporation of the State of Washington.

Dated January 12, 2004

U S BANK NATIONAL ASSOCIATION, a  
national banking association

By *Michael R. Rupp*  
Its *John F. Rupp*

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
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Document

STATE OF WASHINGTON - KING COUNTY

--SS.

171183  
CITY OF SEATTLE, CLERKS 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 12<sup>th</sup> 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:121435 ORD IN FULL

was published on

4/21/2004



*Melinda*

Subscribed and sworn to before me on

4/21/2004

*Jennifer Payne*

Notary public for the State of Washington,  
residing in Seattle

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# State of Washington, King County

## City of Seattle

### ORDINANCE 121435

AN ORDINANCE vacating Dexter Court North on the petition of Comstock Highlands LLC and accepting Public Access and Maintenance and Maximum Building Height Agreements in relation hereto. (C.F. 502251).

WHEREAS, there has been filed with the City Council the petition of Comstock Highlands LLC for the vacation of Dexter Court North as herein fully described; and

WHEREAS, following a public hearing on said petition, which commenced on September 10, 1999, said petition was conditionally granted by the City Council; and

WHEREAS, the petitioner has executed and recorded Public Access and Maintenance and Maximum Building Height Agreements to ensure compliance with any conditions of street vacation approval that will not be fully satisfied prior to passage of the ordinance vacating the above-referenced street; and

WHEREAS, pursuant to Section 35.79.030, RCW, and Seattle Municipal Code Chapter 15.62, the petitioners have paid the vacation fee of \$228,000 to the City, which amount is one-half the appraised value of the property approved for vacation, according to an appraisal obtained by the Director of Transportation; NOW, THEREFORE,

### BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Dexter Court North, as established in Adelle Addition to the City of Seattle, as recorded in Volume 2 of Plate, page 16, Records of King County, Washington, described as follows: Dexter Court North from the north margin of Highland Drive to its terminus, 180 feet north of and parallel to the north margin of Highland Drive is hereby vacated; also RESERVING to the City of Seattle the right to make all necessary slopes for cuts or fills upon the above-described property in the reasonable original grading of any rights-of-way abutting upon said property after said vacation.

Section 2. That the Public Access and Maintenance and Maximum Building Height Agreements, King County Recording Number 20040127001149, attached here as Attachment A is hereby accepted.

Section 3. This ordinance shall take effect and be in force thirty (30) days from and after its 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 5th day of April, 2004, and signed by me in open session in authentication of its passage this 5th day of April, 2004.

Jan Drago

President of the City Council

Approved by me this 8th day of April, 2004.

Gregory J. Nickels, Mayor

Filed by me this 13th day of April, 2004.

(Seal) Judith Pippin, City Clerk

Attachment A: Dexter Court North Public Access and Maintenance and Maximum Building Height Agreements

See City Clerk for Attachments

Publication ordered by JUDITH PIPPIN, City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, April 21, 2004.

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