

Ordinance No. 122184

Council Bill No. 115678

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 173 of the Official Land Use Map, to rezone property located at 3908 S. Kenyon St., from Lowrise 2 (L2) multifamily residential to Lowrise 4 (L4) multifamily residential and accepting a Property Use and Development Agreement in connection therewith. (Petition of Inter\*Im Community Development Association, C.F. 307757, Project Number 3003886)

# The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Steinbrueck

Councilmember

Approved As Amended  
2-0  
PS, TR

## Committee Action:

8-7-06 Passed 9-0

CF No. \_\_\_\_\_

Date Introduced:	<u>7-31-06</u>	
Date 1st Referred:	<u>7-31-06</u>	
Date Re - Referred:	To: (committee) <u>Urban Develop &amp; Planning</u>	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote: <u>9-0</u>	
Date Presented to Mayor:	Date Approved: <u>8/7/06</u>	
Date Returned to City Clerk:	Date Published: <u>3pm KC</u>	T.O. <input type="checkbox"/> F.T. <input checked="" type="checkbox"/>
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

This file is complete and ready for presentation to Full Council. Committee: \_\_\_\_\_ (initial/date)

*Law Department*

Law Dept. Review

OMP Review

City Clerk Review

Electronic Copy Loaded

Indexed

ORDINANCE 122184

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 173 of the Official Land Use Map, to rezone property located at 3908 S. Kenyon St., from Lowrise 2 (L2) multifamily residential to Lowrise 4 (L4) multifamily residential and accepting a Property Use and Development Agreement in connection therewith. (Petition of Inter\*Im Community Development Association, C.F. 307757, Project Number 3003886)

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

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

PARCEL A:

THE WEST HALF OF LOT 4, BLOCK 2, HERBERT S. UPPER'S ACRE TRACTS,  
ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 11 OF PLATS.  
PAGE 95, IN KING COUNTY, WASHINGTON;

EXCEPT THE WEST 105 FEET OF THE SOUTH 55 FEET THEREOF

PARCEL B:

THE WEST 105 FEET OF THE SOUTH 55 FEET OF LOT 4 BLOCK 2, HERBERT  
S. UPPER'S ACRE TRACTS, ACCORDING TO THE PLAT THEREOF, RECORDED  
IN VOLUME 11 OF PLATS, PAGE 95, IN KING COUNTY, WASHINGTON.

PARCEL C:

LOT 5, BLOCK 2, HERBERT S. UPPER'S ACRE TRACTS, ACCORDING TO THE PLAT  
THEREOF, RECORDED IN VOLUME 11 OF PLATS, PAGE 95, IN KING COUNTY,  
WASHINGTON;

EXCEPT 196.6 FEET THEREOF.

Section 2. The Official Land Use Map zone classification for the Property, as adopted by Ordinance 110381 and last revised by Ordinance 122054 and established on page 173 of the Official Land Use Map, is amended to rezone the Property from Lowrise 2 (L2) multifamily residential to Lowrise 4 (L4) multifamily residential, as shown in "Exhibit A," attached to this Ordinance.



1 Section 3. The Property Use and Development Agreement, attached to this Ordinance as  
2 "Exhibit B," executed by the Seattle Housing Authority, a Washington municipal corporation , owner  
3 ("Owner") of the Property by which said Owner and Successor agree to certain restrictions upon the  
4 Property to ameliorate the adverse impacts of uses and developments otherwise permitted in the L4 zone  
5 upon property in the vicinity, is hereby approved and accepted.

6 Section 4. This rezone shall expire and be of no force and effect four years from the effective date  
7 of the approval of this rezone unless within four years an application is filed for a Master Use Permit which  
8 is subsequently issued.

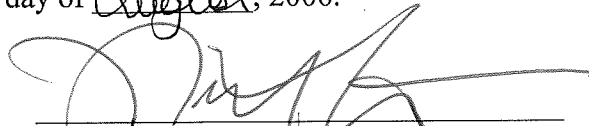
9 Section 5. The City Clerk is hereby authorized and directed to file said Property Use and  
10 Development Agreement, attached to this ordinance as Exhibit B, at the King County Records and  
11 Elections Division; to file, upon return of the recorded agreement from the King County Records and  
12 Elections Division, the original of said Property Use and Development Agreement with this Ordinance  
13 at the City Clerk's Office; and to deliver copies of the same to the Director of the Department of  
14 Planning and Development and to the King County Assessor's Office.

15 Section 6. This Ordinance, effectuating a quasi-judicial decision of the City Council and not  
16 subject to mayoral approval or disapproval, shall take effect and be in force thirty (30) days from and  
17 after its passage and approval by the City Council.


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1 Passed by the City Council the 7<sup>th</sup> day of August, 2006, and signed by me in open session  
2 in authentication of its passage this 7<sup>th</sup> day of August, 2006.

3  
4   
President \_\_\_\_\_ of the City Council

5  
6 Filed by me this 8 day of Aug, 2006.

7   
City Clerk

8 (Seal)

9  
10 **Exhibit A:** Rezone Map

11 **Exhibit B:** Property Use and Development Agreement

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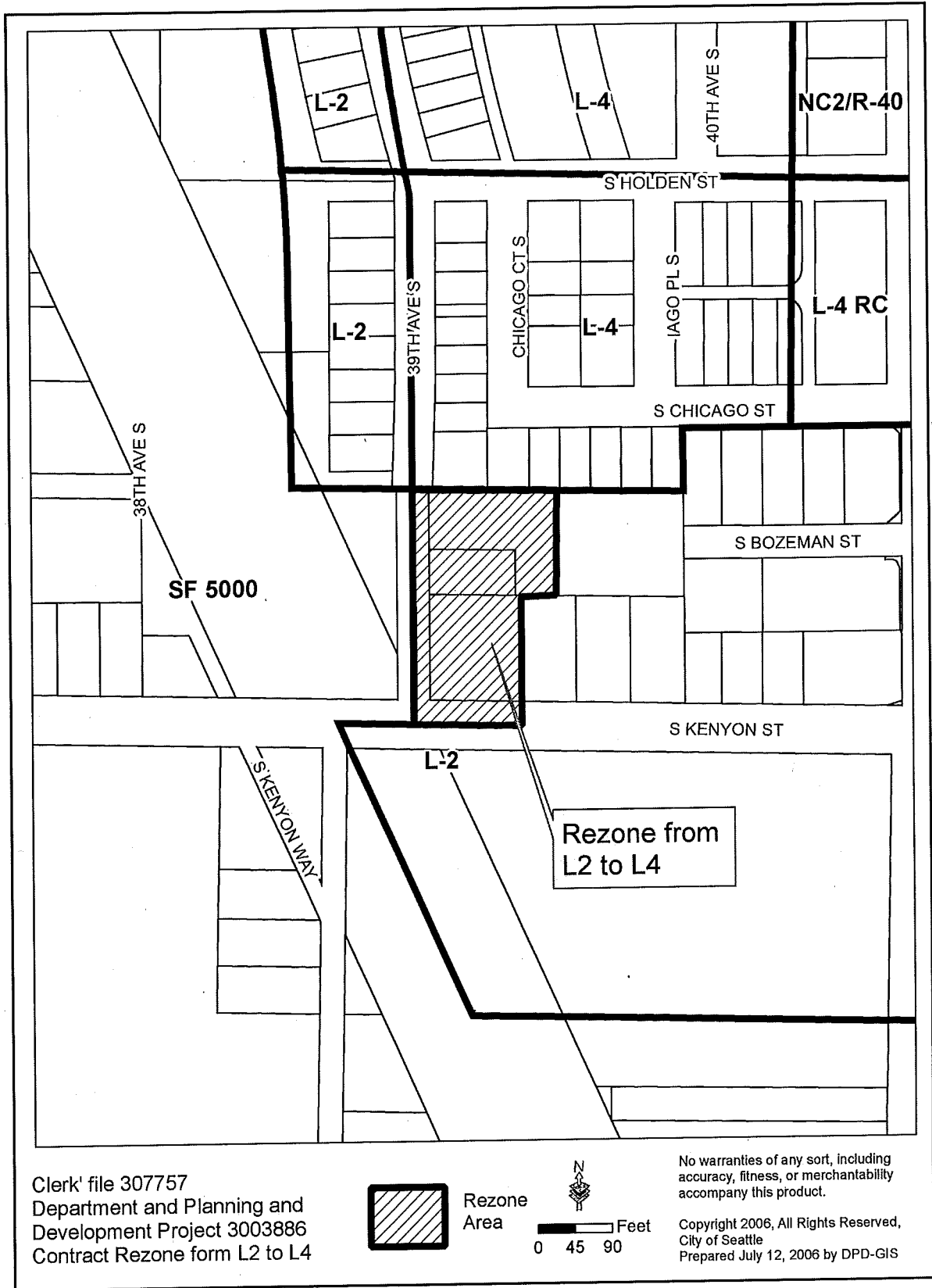


Exhibit A (Rezone Map)

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Exhibit B  
Property Use and Development Agreement



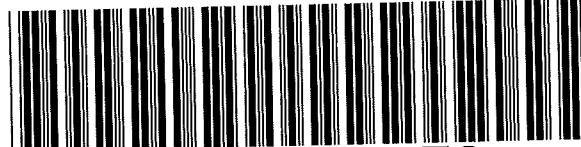
**Return Address:**

Seattle City Clerk's Office

600 4th Avenue, Floor 3

P O Box 94728

Seattle, WA 98124 - 4728



**20060824001750**

SEATTLE CITY C ORD 37.00  
PAGE 001 OF 006  
08/24/2006 14:14  
KING COUNTY, WA

WASHINGTON STATE RECORDER'S Cover Sheet (RCW 65.04)

Please print or type information

**Document Title(s)** (or transaction contained therein): (Insert Ordinance or Resolution Number Here)

1. Ordinance 122184

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 173 of the Official Land Use Map, to rezone property located at 3908 S. Kenyon St., from Lowrise 2 (L2) multifamily residential to Lowrise 4 (L4) multifamily residential and accepting a Property Use and Development Agreement in connection therewith. (Petition of Inter\*Im Community Development Association, C.F. 307757, Project Number 3003886)

**Grantor(s)**

- 1. City of Seattle
- Additional names on page \_\_\_ of document.

**Grantee(s)** Public (Last name first, then first name and initials)

- 1. N/A
- 2.
- 3.

**Legal description** (abbreviated: i.e. lot, block, plat or section, township, range)

Additional reference #'s on page \_\_\_ of document

- N/A (Previously recorded on 6/9/06 under recording number 20060609000737)

**Assessor's Property Tax Parcel/Account Number**

#

- Assessor Tax # not yet assigned.
- N/A

g:\Forms\Recorder Cover.doc

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CITY OF SEATTLE  
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CITY CLERK

ORDINANCE 122184

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THE WEST 105 FEET OF THE SOUTH 55 FEET OF LOT 4 BLOCK 2, HERBERT  
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5 upon property in the vicinity, is hereby approved and accepted.

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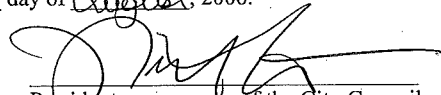
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12 Elections Division, the original of said Property Use and Development Agreement with this Ordinance  
13 at the City Clerk's Office; and to deliver copies of the same to the Director of the Department of  
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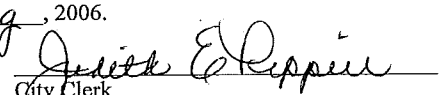
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1 Passed by the City Council the 7<sup>th</sup> day of August, 2006, and signed by me in open session  
2 in authentication of its passage this 7<sup>th</sup> day of August, 2006.

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

5  
6 Filed by me this 8 day of Aug, 2006.

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City Clerk

8 (Seal)

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10 **Exhibit A:** Rezone Map

11 **Exhibit B:** Property Use and Development Agreement

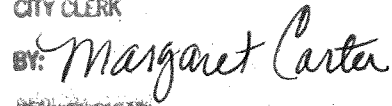
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STATE OF WASHINGTON  
COUNTY OF KING  
CITY OF SEATTLE

I, JUDITH E. PIPPIN, CITY CLERK OF THE CITY OF SEATTLE, DO HEREBY  
CERTIFY THAT THE WITHIN AND FOREGOING IS A TRUE AND CORRECT  
COPY OF ordinance 122184

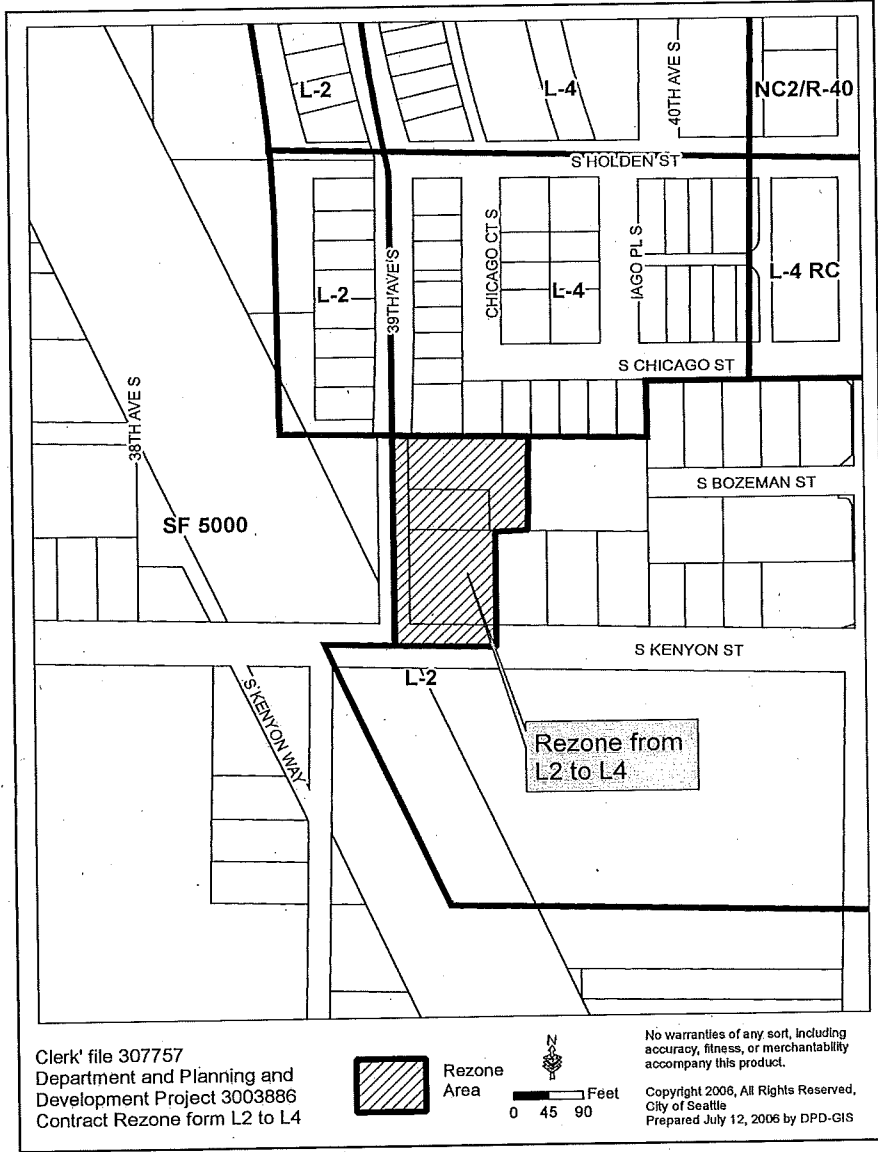
AS THE SAME APPEARS ON FILE, AND OF RECORD IN THIS DEPARTMENT.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED  
THE SEAL TO THE CITY OF SEATTLE, THIS 24<sup>th</sup> day of August, 2006

JUDITH E. PIPPIN  
CITY CLERK  
BY:   
DEPUTY CLERK



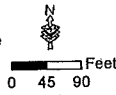
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Clerk' file 307757  
Department and Planning and  
Development Project 3003886  
Contract Rezone form L2 to L4



Rezone  
Area



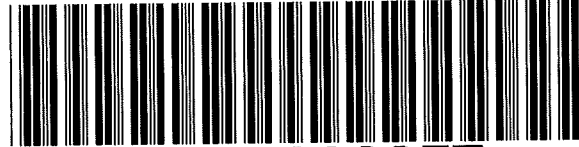
No warranties of any sort, including  
accuracy, fitness, or merchantability  
accompany this product.  
Copyright 2006, All Rights Reserved.  
City of Seattle  
Prepared July 12, 2006 by DPD-GIS



FILED  
CITY OF SEATTLE  
06 SEP 20 AM 11:51  
CITY CLERK

When Recorded, Return to:

THE SEATTLE CITY CLERK  
600 Fourth Avenue, Floor 3  
PO Box 34025  
Seattle, Washington 98124-4025



20060824002257

SEATTLE CITY CLERK  
PAGE 001 OF 004  
08/24/2006 15:18  
KING COUNTY, WA

35.00

ord. 122184

## PROPERTY USE AND DEVELOPMENT AGREEMENT

<b>Grantors:</b> 1) <u>Seattle Housing Authority</u> 2) _____ <input type="checkbox"/> Additional on page _____
<b>Grantee:</b> 1) <u>The City of Seattle</u> 2) _____ <input type="checkbox"/> Additional on page _____
<b>Legal Description (abbreviated):</b> THE WEST HALF OF LOT 4, BLOCK 2, AND LOT 5, BLOCK 2, EXCEPT 196.6 FEET THEREOF, HERBERT S. UPPER'S ACRE TRACTS, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 11 OF PLATS. PAGE 95, IN KING COUNTY, WASHINGTON;
<input type="checkbox"/> Additional on : <u>PAGE 2</u>
<b>Assessor's Tax Parcel ID #:</b> <u>884240-0090-08, 884240-0091-07, 884240-0100-06</u>
<b>Reference Nos. of Documents Released or Assigned:</b> _____

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this 2 day of AUGUST, 2006, in favor of the CITY OF SEATTLE (the "City"), a Washington municipal corporation, by the Seattle Housing Authority (the "Owner"), a Washington municipal corporation.



## RECITALS

**A.** The Seattle Housing Authority is the owner of that certain real property (the "Property") in the City of Seattle zoned Lowrise 2 (L2) multifamily residential and described as:

PARCEL A:  
THE WEST HALF OF LOT 4, BLOCK 2, HERBERT S. UPPER'S ACRE TRACTS, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 11 OF PLATS, PAGE 95, IN KING COUNTY, WASHINGTON; EXCEPT THE WEST 105 FEET OF THE SOUTH 55 FEET THEREOF

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**B.** On November 29, 2005, Inter\*Im Community Development Association, as agent for the Owner and successor in interest, submitted to the City of Seattle an application for a contract rezone from L2 multifamily residential to Lowrise 4 (L4) multifamily residential. The purpose of the application is to allow the Property to be used for more intense multi-family residential development.

**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."

NOW, THEREFORE, in consideration of the mutual agreements contained herein, the parties agree as follows:

## AGREEMENT

**Section 1. Agreement.** Pursuant to 23.34.004, Owners hereby covenant, bargain and agree, 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 L2 to L4:

**A.** Development at the site shall be rented and/or sold only to households earning no more than 80% of the area median income;



- B. Development under the L4 standards at the site shall be subject to design review through the neighborhood design review process provided by SMC chapter 23.41;
- C. Development at the site shall be accompanied by full street improvements as required by the Seattle Right-of-Way Improvement Manual and Chapter 23.53 of the Seattle Municipal Code; and
- D. Any future development on the site is limited to a Lowrise 3 density.

**Section 2. Agreement Runs With the Land.** This 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, its heirs, successors and assigns, and shall apply to after-acquired title of the Owner of the Property.

**Section 3. Termination.** The covenants herein and the rezone shall expire and be of no force and effect four years from the effective date of the approval of this rezone unless within four years an application is filed for a Master Use Permit which is subsequently issued.

**Section 4. Amendment.** This Agreement may be amended or modified by agreement between Owners and the City; provided, such amendment shall be approved by the legislative authority of the City by ordinance.

**Section 5. Exercise of Police Power.** Nothing in this Agreement shall prevent the City Council from making such further amendments to the Seattle Municipal Code or Land Use Code as it may deem necessary in the public interest.

**Section 6. No Precedent.** 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 7. Benefited.** This Agreement is made for the benefit of the City and for the benefit of the owners of 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 8. 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 or its successor 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 L2 zone.





**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>DOF Analyst/Phone:</b>
Legislative	Ketil Freeman 684-8178	Na

**Legislation Title:**

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 173 of the Official Land Use Map, to rezone property located at 3908 S. Kenyon St., from Lowrise 2 (L2) multifamily residential to Lowrise 4 (L4) multifamily residential and accepting a Property Use and Development Agreement in connection therewith. (Petition of Inter\*Im Community Development Association, C.F. 307757, Project Number 3003886)

- **Summary of the Legislation:** This ordinance effectuates a petitioner-requested contract rezone of a parcel of property from Lowrise 2 (L2) to Lowrise 4 (L4). See Clerk File (CF) 307757 for the record considered by the Council in reviewing the proposed rezone. CF 307757 also contains the Council's Findings, Conclusions and Decision in this matter.
- **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*
- *Please check one of the following:*

**This legislation does not have any financial implications.**



**ORDINANCE**

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3 ("Owner") of the Property by which said Owner and Successor agree to certain restrictions upon the  
4 Property to ameliorate the adverse impacts of uses and developments otherwise permitted in the L4 zone  
5 upon property in the vicinity, is hereby approved and accepted.

6 Section 4. The period of the rezone of the Property, as calculated by S.M.C. Section  
7 23.76.060B.1.b, is four (4) years from the effective date of this ordinance Section 5. The City Clerk is  
8 hereby authorized and directed to file said Property Use and Development Agreement, attached to this  
9 ordinance as Exhibit B, at the King County Records and Elections Division; to file, upon return of the  
10 recorded agreement from the King County Records and Elections Division, the original of said Property  
11 Use and Development Agreement with this Ordinance at the City Clerk's Office; and to deliver copies of  
12 the same to the Director of the Department of Planning and Development and to the King County  
13 Assessor's Office.

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15 subject to mayoral approval or disapproval, shall take effect and be in force thirty (30) days from and  
16 after its passage and approval by the City Council.

17  
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19 Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2006, and signed by me in open session  
20 in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 2006.

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22 \_\_\_\_\_  
23 President \_\_\_\_\_ of the City Council  
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Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
City Clerk

(Seal)

**Exhibit A: Rezone Map**

**Exhibit B: Property Use and Development Agreement**

Exhibit A (Rezone Map)

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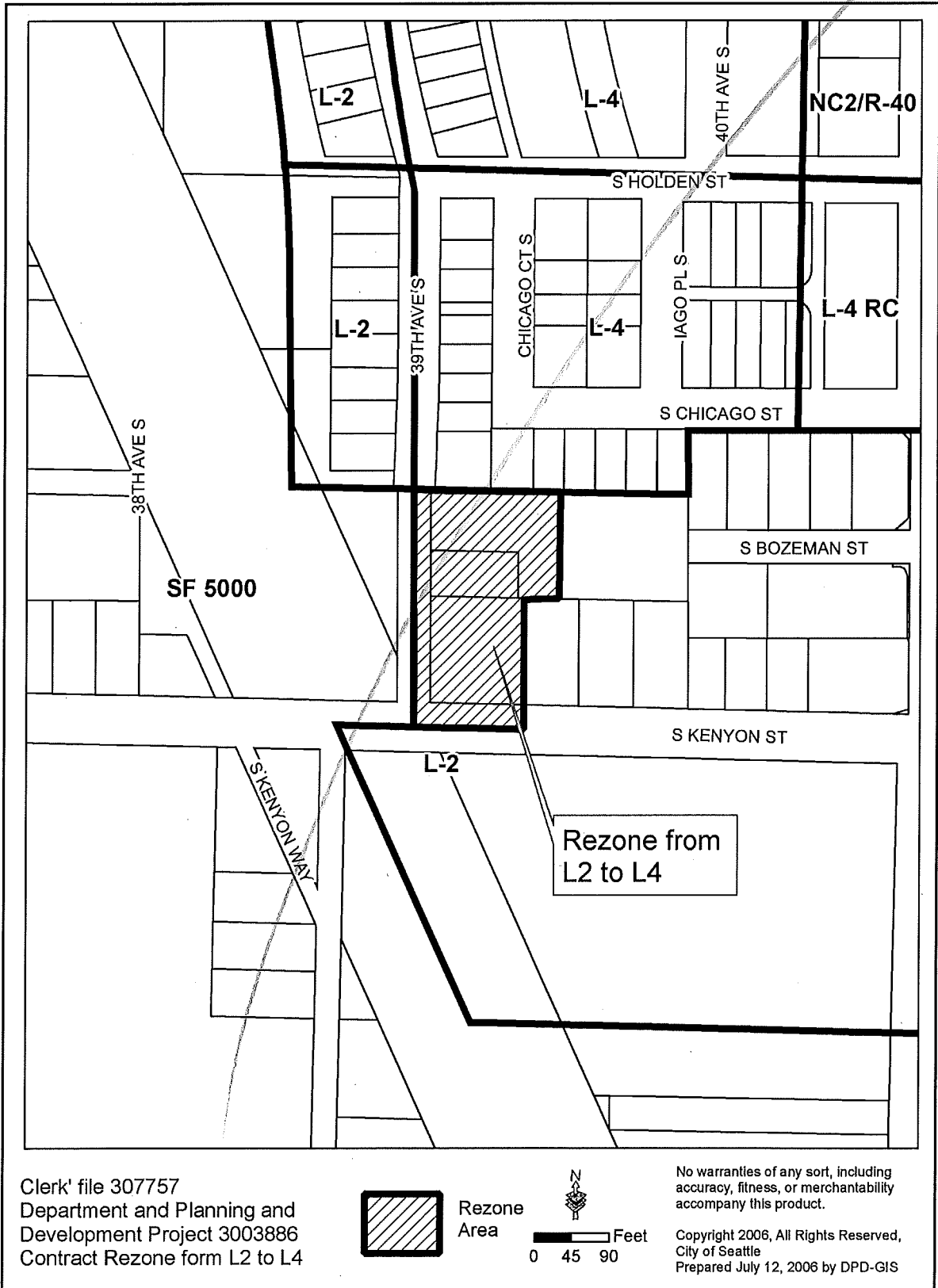


Exhibit B  
Property Use and Development Agreement

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**STATE OF WASHINGTON – KING COUNTY**

--SS.

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201713  
CITY OF SEATTLE, CLERKS OFFICE

No.

**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.

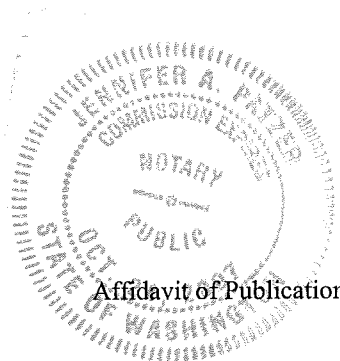
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122184 ORDINANCE


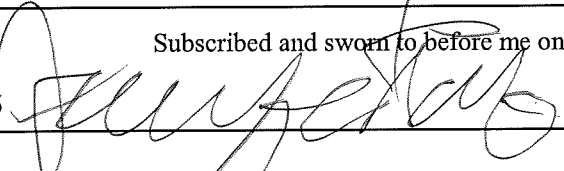
was published on

08/21/06

The amount of the fee charged for the foregoing publication is the sum of \$ 276.00, which amount has been paid in full.



Affidavit of Publication

  
\_\_\_\_\_  
Subscribed and sworn to before me on  
08/21/06   
\_\_\_\_\_  
Notary public for the State of Washington,  
residing in Seattle

# State of Washington, King County

## City of Seattle

### ORDINANCE 122184

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Official Land Use Map, to rezone property located at 3908 S. Kenyon St., from Lowrise 2 (L2) multifamily residential to Lowrise 4 (L4) multifamily residential and accepting a Property Use and Development Agreement in connection therewith. (Petition of Interim Community Development Association, C.F. 307757, Project Number 3003886)

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

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

##### PARCEL A:

THE WEST HALF OF LOT 4, BLOCK 2, HERBERT S. UPPER'S ACRE TRACTS,

ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 11 OF PLATS,

PAGE 95, IN KING COUNTY, WASHINGTON;

EXCEPT THE WEST 105 FEET OF THE SOUTH 55 FEET THEREOF

##### PARCEL B:

THE WEST 105 FEET OF THE SOUTH 55 FEET OF LOT 4 BLOCK 2, HERBERT S. UPPER'S ACRE TRACTS, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 11 OF PLATS, PAGE 95, IN KING COUNTY, WASHINGTON.

##### PARCEL C:

LOT 5, BLOCK 2, HERBERT S. UPPER'S ACRE TRACTS, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 11 OF PLATS, PAGE 95, IN KING COUNTY, WASHINGTON;

EXCEPT 196.6 FEET THEREOF.

Section 2. The Official Land Use Map zone classification for the Property, as adopted by Ordinance 110381 and last revised by Ordinance 122054 and established on page 173 of the Official Land Use Map, is amended to rezone the Property from Lowrise 2 (L2) multifamily residential, as shown in "Exhibit A," attached to this Ordinance.

Section 3. The Property Use and Development Agreement, attached to this

Ordinance as "Exhibit B," executed by the Seattle Housing Authority, a Washington municipal corporation, owner ("Owner") of the Property by which said Owner and Successor agree to certain restrictions upon the Property to ameliorate the adverse impacts of uses and developments otherwise permitted in the L4 zone upon property in the vicinity, is hereby approved and accepted.

Section 4. This rezone shall expire and be of no force and effect four years from the effective date of the approval of this rezone unless within four years an application is filed for a Master Use Permit which is subsequently issued.

Section 5. The City Clerk is hereby authorized and directed to file said Property Use and Development Agreement, attached to this ordinance as Exhibit B, at the King County Records and Elections Division; to file, upon return of the recorded agreement from the King County Records and Elections Division, the original of said 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 Planning and Development and to the King County Assessor's Office.

Section 6. This Ordinance, effectuating a quasi-judicial decision of the City Council and not subject to mayoral approval or disapproval, shall take effect and be in force thirty (30) days from and after its passage and approval by the City Council.

Passed by the City Council the 7th day of August, 2006, and signed by me in open session in authentication of its passage this 7th day of August, 2006.

Nick Licata

President of the City Council

Filed by me this 7th day of August, 2006.

(Seal) Judith Pippin

City Clerk

Exhibit A: Rezone Map

Exhibit B: Property Use and Development Agreement

Exhibit A (Rezone Map)

See City Clerk for Exhibit B

Publication ordered by JUDITH PIPPIN, City Clerk

Date of publication in the Seattle Daily Journal of Commerce, August 21, 2006.

8/21(201713)

