

Ordinance No. 123305

Council Bill No. 116861

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 175 of the Official Land Use Map to rezone property located at 7700 Rainier Avenue South from Single Family 5000 (SF 5000) to Neighborhood Commercial 2 with a 40 foot height limit (NC2-40), and accepting a Property Use and Development Agreement in connection therewith. (Petition by Kevin Sutton, C.F. 309754, DPD Project 3009571)

Related Legislation File:

Date Introduced and Referred: <u>May 10, 2010</u>	To: (committee): Built Environment
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: <u>5.17.10</u>	Date Presented to Mayor: <u>[Signature]</u>
Date Signed by Mayor: <u>—</u>	Date Returned to City Clerk: <u>5.17.10</u>
Published by Title Only _____	Date Vetoed by Mayor:
Published in Full Text <input checked="" type="checkbox"/>	
Date Veto Published:	Date Passed Over Veto:
Date Veto Sustained:	Date Returned Without Signature:

The City of Seattle – Legislative Department

Council Bill/Ordinance sponsored by: [Signature]

Committee Action:

Date	Recommendation	Vote
<u>05-12-10</u>	<u>APPROVE</u>	<u>2-0</u>
	<u>[Signature]</u>	<u>SC, SB</u>

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

Full Council Action:

Date	Decision	Vote
<u>5.17.10</u>	<u>Passed</u>	<u>7-0 Excused: Conlin, Burgers</u>

Law Department

ORDINANCE 123305

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 175 of the Official Land Use Map to rezone property located at 7700 Rainier Avenue South from Single Family 5000 (SF 5000) to Neighborhood Commercial 2 with a 40 foot height limit (NC2-40), and accepting a Property Use and Development Agreement in connection therewith. (Petition by Kevin Sutton, C.F. 309754, DPD Project 3009571)

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. This Ordinance affects the following legally described lots (“the Property”) commonly known as 7700 Rainier Avenue South:

THE EAST 150 FEET OF TRACT 2, WILDWOOD, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY WASHINGTON.

and

TRACT 3, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

and

NORTH HALF OF TRACT 4, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

and

SOUTH HALF OF TRACT 4, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

and

NORTH 40 FEET OF TRACT 5, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.



1 Section 2. The Official Land Use Map zone classification, established on page 175 of the
2 Official Land Use Map, and adopted by Ordinance 110381 and last modified by Ordinance
3 123282, is amended to rezone the Property from Single Family 5000 (SF 5000) to Neighborhood
4 Commercial 2 with a 40 foot height limit (NC2-40), as shown in Exhibit A of this ordinance.
5 The Official Land Use Map zone classification is conditioned upon performance and continued
6 compliance with the conditions of the Property Use and Development Agreement referenced in
7 Section 3 of this ordinance.
8

9 Section 3. The Property Use and Development Agreement, attached to this Ordinance
10 as Exhibit B, is hereby approved and accepted.
11

12 Section 4. The rezone approval of the Property expires, pursuant to Section
13 23.76.060.B of the Seattle Municipal Code, two years from the effective date of approval, unless,
14 within the two year period, an application is filed for a Master Use Permit, which permit is
15 subsequently issued. If the permit is subsequently issued, the rezone remains in effect unless
16 revoked pursuant to Section 23.34.004.
17

18 Section 5. The City Clerk is hereby authorized and directed to file said Property Use
19 and Development Agreement, attached to this ordinance as Exhibit B, at the King County
20 Records and Elections Division; to file, upon return of the recorded agreement from the King
21 County Records and Elections Division, the original of said Property Use and Development
22 Agreement with this Ordinance at the City Clerk's Office; and to deliver copies of the same to the
23 Director of the Department of Planning and Development and to the King County Assessor's
24 Office.
25
26
27
28



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

4 Passed by the City Council the 17th day of May, 2010, and
5 signed by me in open session in authentication of its passage this

6
7 17th day of May, 2010.

8
9
10 
11 _____
12 President ~~pro tem~~ of the City Council

13
14 Filed by me this 17th day of May, 2010.

15 
16 _____
17 City Clerk

18 (Seal)

19 Exhibit A: Rezone Map

20 Exhibit B: Property Use and Development Agreement



Exhibit A: Rezone Map for 7700 Rainier Avenue South

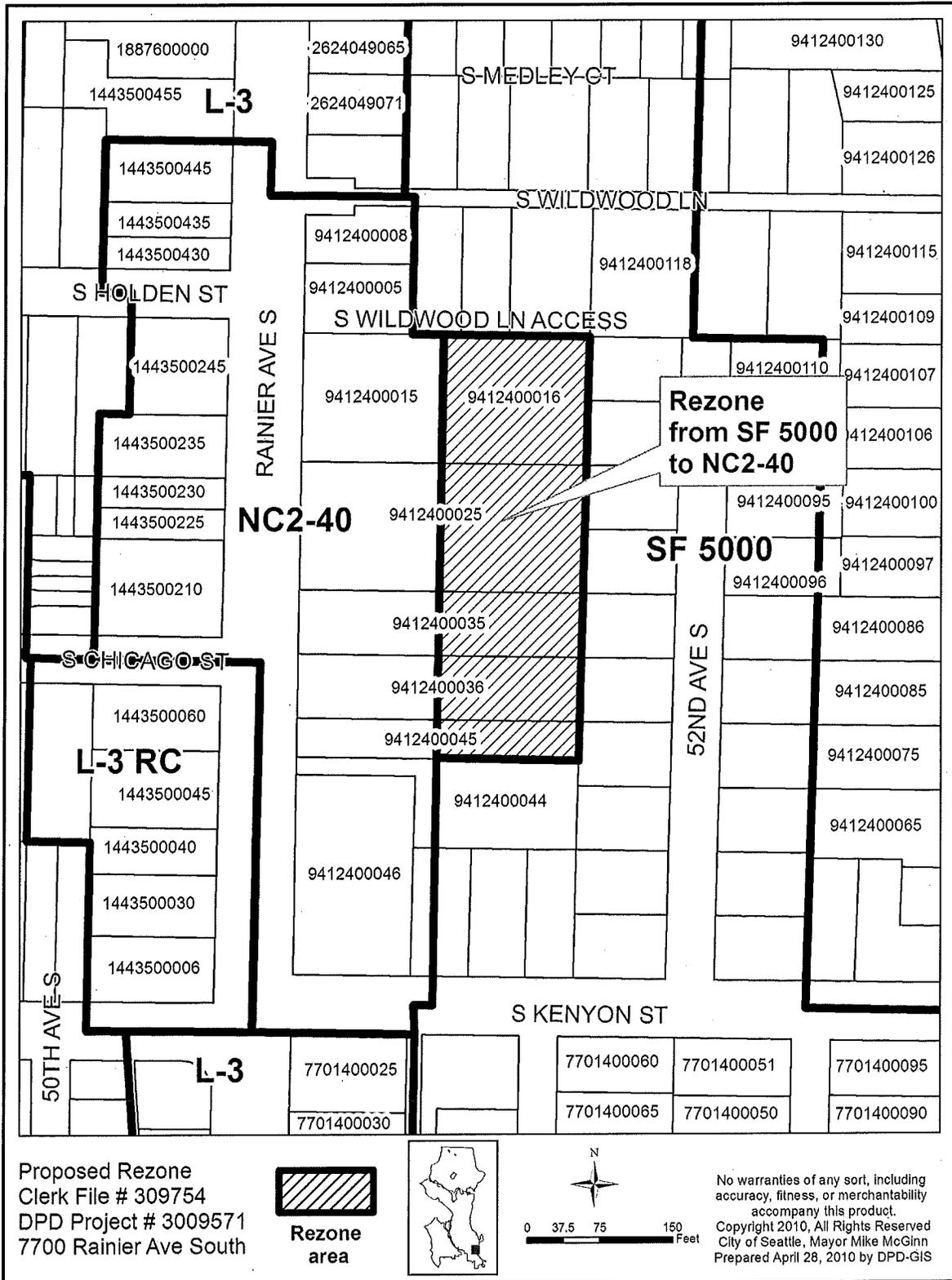


Exhibit B: Property Use and Development Agreement – v.1

When Recorded, Return to:

THE CITY CLERK
600 Fourth Avenue, Floor 3
PO Box 94728
Seattle, Washington 98124-4728

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantor:	1) <u>Urban Impact</u>	2) <u>Emerald City Bible Fellowship</u>
	<input type="checkbox"/> Additional on page _____	
Grantee:	1) <u>The City of Seattle</u>	2) _____
	<input type="checkbox"/> Additional on page _____	
Legal Description (abbreviated):	THE EAST 150 FEET OF TRACT 2, WILDWOOD, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY WASHINGTON.	
	and	
	TRACT 3, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.	
	and	
	NORTH HALF OF TRACT 4, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.	
	and	
	SOUTH HALF OF TRACT 4, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.	
	and	
	NORTH 40 FEET OF TRACT 5, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.	
	<input type="checkbox"/> Additional on : _____	
Assessor's Tax Parcel ID #:	<u>9412400016; 9412400025; 9412400035; 9412400036;</u> <u>9412400045</u>	
Reference Nos. of Documents Released or Assigned:	_____	



THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this ____ day of ____, 2010, in favor of the **CITY OF SEATTLE** (the "City"), a Washington municipal corporation, by Urban Impact and Emerald City Bible Fellowship (the "Owners"), Washington nonprofit corporations.

RECITALS

A. Urban Impact and Emerald City Bible Fellowship are the owners of that certain real property (the "Rezone Area") in the City of Seattle zoned Single Family 5000 (SF 5000) shown in Attachment A and described as:

THE EAST 150 FEET OF TRACT 2, WILDWOOD, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY WASHINGTON.

and

TRACT 3, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

and

NORTH HALF OF TRACT 4, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

and

SOUTH HALF OF TRACT 4, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

and

NORTH 40 FEET OF TRACT 5, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

B. On June 19, 2009, the Owners submitted to the City of Seattle an application for a contract rezone of the Rezone Area from Single Family 5000 (SF 5000) to Neighborhood Commercial 2 with a 40 foot height limit (NC2-40). The purpose of the application is to allow the Rezone Area to be used for mixed-use, commercial and multi-family residential development of greater density.

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, the Owners 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 Rezone Area from Single Family 5000 (SF 5000) to Neighborhood Commercial 2 with a 40 foot height limit (NC2-40):

General Conditions

1. Development of the Impact Family Village structure on tax parcels 9412400015 and 9412400016 shall be governed by the height and bulk and setback requirements established by the Land Use Code and the Design Review process, and as shown on the plan set approved by DPD in the MUP decision.
2. Landscaping for the Impact Family Village structure on tax parcels 9412400015 and 9412400016 shall be governed by the Land Use Code, the Design Review process, and the landscape requirements shown on the plan set approved by DPD in the MUP decision.
3. The cluster of trees on tax parcels 9412400025, 9412400035 and 9412400036 east of the 60 foot topographic line, as shown on the site survey submitted for the MUP, will be preserved based on tree protections for a grove in Director's Rule 16-2008 and general tree protection regulations in SMC25.11.050B and E. Should the trees perish for any reason before or after construction, the area will be reforested at a one-to-one rate.
4. On tax parcels 9412400035, 9412400036 and 9412400045, all rear and side setbacks adjacent to a Single Family zone shall be increased from 15 to 25 feet for portions of buildings over 13 feet in height.

SEPA Conditions – During Construction

5. Condition(s) to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other weatherproofing material and shall remain in place for the duration of construction.
6. Grading, delivery and pouring of concrete and similar noisy activities will be prohibited on Saturdays and Sundays. In addition to the Noise Ordinance



requirements, to reduce the noise impact of construction on nearby residences, only the low noise impact work such as that listed below, will be permitted on Saturdays from 9:00 A.M. to 6:00 P.M.:

- A. Surveying and layout.
 - B. Testing and tensioning P. T. (post tensioned) cables, requiring only hydraulic equipment (no cable cutting allowed).
 - C. Other ancillary tasks to construction activities will include site security, surveillance, monitoring, and maintenance of weather protecting, water dams and heating equipment.
7. In addition to the Noise Ordinance requirements to reduce the noise impact of construction on nearby properties, all construction activities shall be limited to the following:
- A. on-holiday weekdays between 7:00 A.M and 6:00 P.M.
 - B. non-holiday weekdays between 6:00 P.M. and 8:00 P.M limited to quieter activities based on a DPD approved mitigation plan and public notice program outlined in the plan.
 - C. Saturdays between 9:00 A.M. and 6:00 P.M. limited to quieter activities based on a DPD approved mitigation plan and public notice program outlined in the plan.
 - D. Emergencies or work which must be done to coincide with street closures, utility interruptions or other similar necessary events, limited to quieter activities based on a DPD approved mitigation plan and public notice program outlined in the plan.
8. Non-noisy activities, such as site security, monitoring, weather protection shall not be limited by this condition.
9. Construction activities outside the above-stated restrictions may be authorized upon approval of a Construction Noise Management Plan to address mitigation of noise impacts resulting from all construction activities. The Plan shall include a discussion on management of construction related noise, efforts to mitigate noise impacts and community outreach efforts to allow people within the immediate area of the project to have opportunities to contact the site to express concern about noise. Elements of noise mitigation may be incorporated into any Construction Management Plans required to mitigate any short -term transportation impacts that result from the project.

Section 2. Agreement Runs With the Land. This Property Use and Development Agreement (hereinafter "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 land and shall be binding upon the Owner, their heirs, successors and assigns, and shall apply to after-acquired title of the Owners of the Property.

Section 3. Termination. The covenants herein and the rezone do not expire and remain in effect unless revoked pursuant to Section 23.34.004.

Section 4. Amendment. This Agreement may be amended or modified by agreement between Owners and the City; provided, such amendment agreement 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 Rezone Area 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. Owners acknowledges that compliance with the conditions of this Agreement is a condition of the subject rezone and that if Owners avail themselves of the benefits of this rezone but then fail 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 Rezone Area to conform to the requirements of the Single Family 5000 (SF 5000) zone.

SIGNED this _____ day of _____, 2010.

Urban Impact
a Washington nonprofit corporation

By:

By: _____
Steve Bury
Its: Executive Director

STATE OF WASHINGTON
COUNTY OF KING

}
ss.

On this day personally appeared before me Steve Bury, to me known to be the Executive Director of Urban Impact 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 _____, 2010.

Printed Name

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

My Commission Expires



SIGNED this _____ day of _____, 2010.

Emerald City Bible Fellowship
a Washington nonprofit corporation

By:

By: _____
Harvey Drake
Its: President

STATE OF WASHINGTON

COUNTY OF KING

}

ss.

On this day personally appeared before me Harvey Drake, to me known to be the President of Emerald City Bible Fellowship 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 _____, 2010.

Printed Name

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

My Commission Expires



ATTACHMENT A

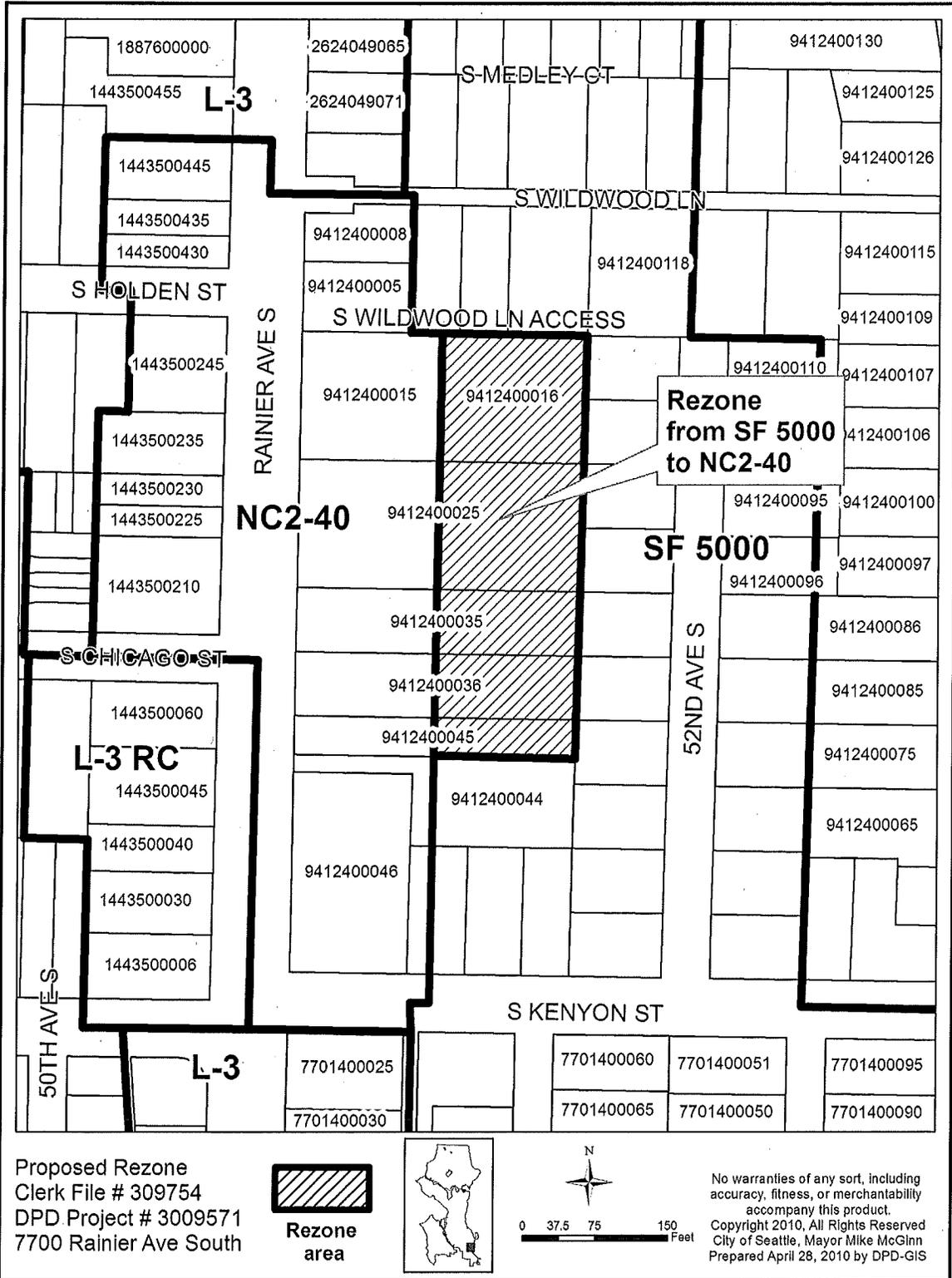


Exhibit B: Property Use and Development Agreement – v.1

When Recorded, Return to:

THE CITY CLERK
600 Fourth Avenue, Floor 3
PO Box 94728
Seattle, Washington 98124-4728

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantor: 1) <u>Urban Impact</u> 2) <u>Emerald City Bible Fellowship</u> <input type="checkbox"/> Additional on page _____
Grantee: 1) <u>The City of Seattle</u> 2) _____ <input type="checkbox"/> Additional on page _____
Legal Description (abbreviated): THE EAST 150 FEET OF TRACT 2, WILDWOOD, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY WASHINGTON. and TRACT 3, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON. and NORTH HALF OF TRACT 4, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON. and SOUTH HALF OF TRACT 4, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON. and NORTH 40 FEET OF TRACT 5, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.
<input type="checkbox"/> Additional on : _____
Assessor's Tax Parcel ID #: <u>9412400016; 9412400025; 9412400035; 9412400036; 9412400045</u>
Reference Nos. of Documents Released or Assigned: _____

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this 13th day of MAY, 2010, in favor of the **CITY OF SEATTLE** (the "City"), a Washington municipal corporation, by Urban Impact and Emerald City Bible Fellowship (the "Owners"), Washington nonprofit corporations.

RECITALS

A. Urban Impact and Emerald City Bible Fellowship are the owners of that certain real property (the "Rezone Area") in the City of Seattle zoned Single Family 5000 (SF 5000) shown in Attachment A and described as:

THE EAST 150 FEET OF TRACT 2, WILDWOOD, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY WASHINGTON.

and

TRACT 3, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

and

NORTH HALF OF TRACT 4, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

and

SOUTH HALF OF TRACT 4, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

and

NORTH 40 FEET OF TRACT 5, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

B. On June 19, 2009, the Owners submitted to the City of Seattle an application for a contract rezone of the Rezone Area from Single Family 5000 (SF 5000) to Neighborhood Commercial 2 with a 40 foot height limit (NC2-40). The purpose of the application is to allow the Rezone Area to be used for mixed-use, commercial and multi-family residential development of greater density.

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, the Owners 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 Rezone Area from Single Family 5000 (SF 5000) to Neighborhood Commercial 2 with a 40 foot height limit (NC2-40):

General Conditions

1. Development of the Impact Family Village structure on tax parcels 9412400015 and 9412400016 shall be governed by the height and bulk and setback requirements established by the Land Use Code and the Design Review process, and as shown on the plan set approved by DPD in the MUP decision.
2. Landscaping for the Impact Family Village structure on tax parcels 9412400015 and 9412400016 shall be governed by the Land Use Code, the Design Review process, and the landscape requirements shown on the plan set approved by DPD in the MUP decision.
3. The cluster of trees on tax parcels 9412400025, 9412400035 and 9412400036 east of the 60 foot topographic line, as shown on the site survey submitted for the MUP, will be preserved based on tree protections for a grove in Director's Rule 16-2008 and general tree protection regulations in SMC25.11.050B and E. Should the trees perish for any reason before or after construction, the area will be reforested at a one-to-one rate.
4. On tax parcels 9412400035, 9412400036 and 9412400045, all rear and side setbacks adjacent to a Single Family zone shall be increased from 15 to 25 feet for portions of buildings over 13 feet in height.

SEPA Conditions – During Construction

5. Condition(s) to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other weatherproofing material and shall remain in place for the duration of construction.
6. Grading, delivery and pouring of concrete and similar noisy activities will be prohibited on Saturdays and Sundays. In addition to the Noise Ordinance

- requirements, to reduce the noise impact of construction on nearby residences, only the low noise impact work such as that listed below, will be permitted on Saturdays from 9:00 A.M. to 6:00 P.M.:
- A. Surveying and layout.
 - B. Testing and tensioning P. T. (post tensioned) cables, requiring only hydraulic equipment (no cable cutting allowed).
 - C. Other ancillary tasks to construction activities will include site security, surveillance, monitoring, and maintenance of weather protecting, water dams and heating equipment.
7. In addition to the Noise Ordinance requirements to reduce the noise impact of construction on nearby properties, all construction activities shall be limited to the following:
- A. on-holiday weekdays between 7:00 A.M and 6:00 P.M.
 - B. non-holiday weekdays between 6:00 P.M. and 8:00 P.M limited to quieter activities based on a DPD approved mitigation plan and public notice program outlined in the plan.
 - C. Saturdays between 9:00 A.M. and 6:00 P.M. limited to quieter activities based on a DPD approved mitigation plan and public notice program outlined in the plan.
 - D. Emergencies or work which must be done to coincide with street closures, utility interruptions or other similar necessary events, limited to quieter activities based on a DPD approved mitigation plan and public notice program outlined in the plan.
8. Non-noisy activities, such as site security, monitoring, weather protection shall not be limited by this condition.
9. Construction activities outside the above-stated restrictions may be authorized upon approval of a Construction Noise Management Plan to address mitigation of noise impacts resulting from all construction activities. The Plan shall include a discussion on management of construction related noise, efforts to mitigate noise impacts and community outreach efforts to allow people within the immediate area of the project to have opportunities to contact the site to express concern about noise. Elements of noise mitigation may be incorporated into any Construction Management Plans required to mitigate any short -term transportation impacts that result from the project.

Section 2. Agreement Runs With the Land. This Property Use and Development Agreement (hereinafter "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 land and shall be binding upon the Owner, their heirs, successors and assigns, and shall apply to after-acquired title of the Owners of the Property.

Section 3. Termination. The covenants herein and the rezone do not expire and remain in effect unless revoked pursuant to Section 23.34.004.

Section 4. Amendment. This Agreement may be amended or modified by agreement between Owners and the City; provided, such amendment agreement 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 Rezone Area 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. Owners acknowledges that compliance with the conditions of this Agreement is a condition of the subject rezone and that if Owners avail themselves of the benefits of this rezone but then fail 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 Rezone Area to conform to the requirements of the Single Family 5000 (SF 5000) zone.

SIGNED this 13 day of May, 2010.

Urban Impact
a Washington nonprofit corporation

By:

By: [Signature]
Steve Bury
Its: Executive Director

STATE OF WASHINGTON }
COUNTY OF KING } ss.

On this day personally appeared before me Steve Bury, to me known to be the Executive Director of Urban Impact 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 13th day of
May, 2010.

Rebecca Sue Bicknell

Printed Name

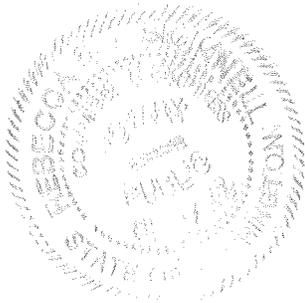
[Signature]

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

Seattle

My Commission Expires

07-17-12



SIGNED this 13th day of May, 2010.

Emerald City Bible Fellowship
a Washington nonprofit corporation

By:

By: [Signature]
Harvey Drake
Its: President

STATE OF WASHINGTON }
COUNTY OF KING } ss.

On this day personally appeared before me Harvey Drake, to me known to be the President of Emerald City Bible Fellowship 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 13th day of May, 2010.

Rebecca Sue Bicknell

Printed Name

[Signature]

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

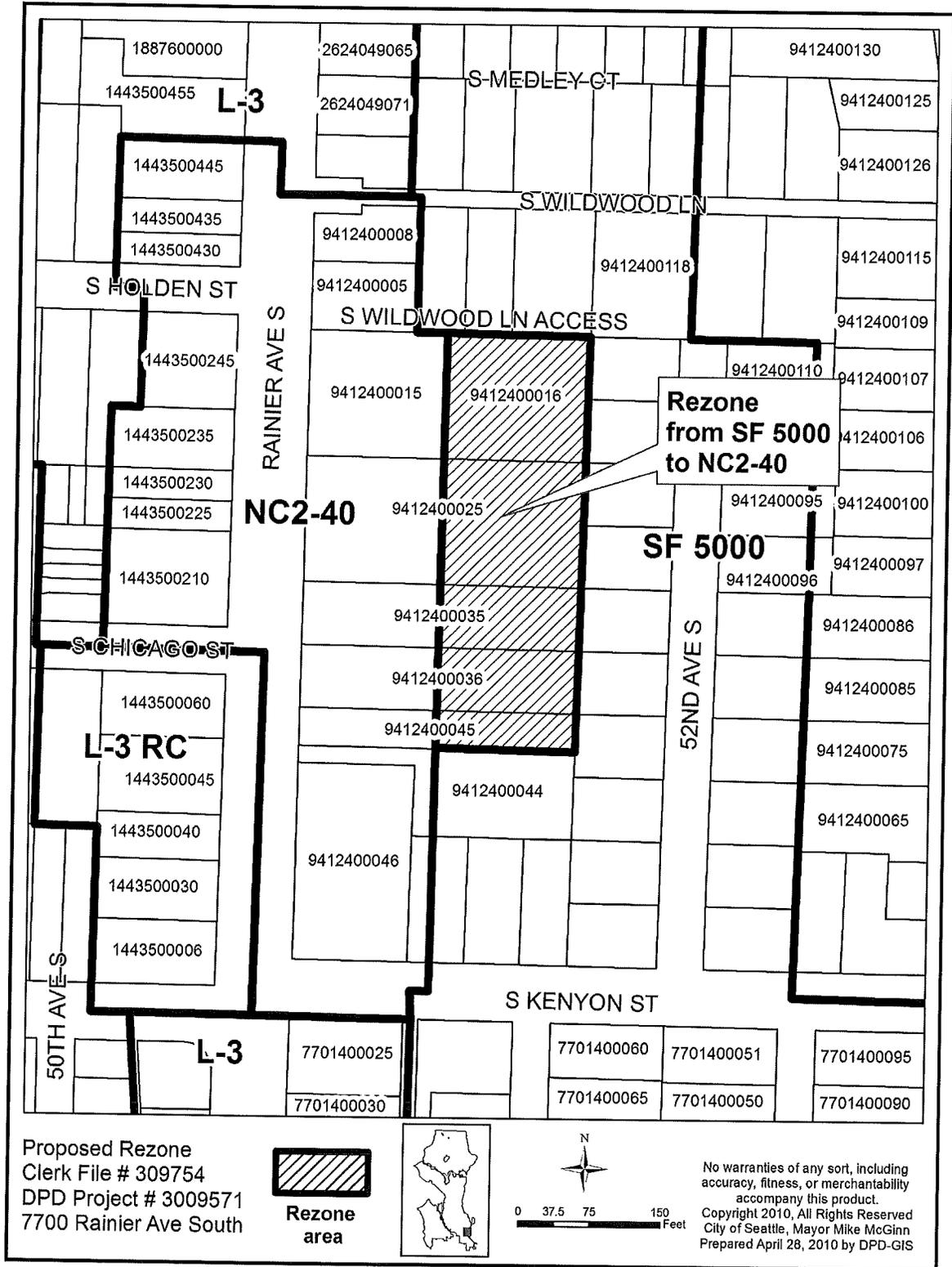
Seattle

My Commission Expires

07-17-12



ATTACHMENT A



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Legislative	Sara Belz, 4-5382	NA

Legislation Title:

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 175 of the Official Land Use Map to rezone property located at 7700 Rainier Avenue South from Single Family 5000 (SF 5000) to Neighborhood Commercial 2 with a 40 foot height limit (NC2-40), and accepting a Property Use and Development Agreement in connection therewith. (Petition by Kevin Sutton, C.F. 309754, DPD Project 3009571)

• **Summary of the Legislation:**

This legislation effectuates a quasi-judicial rezone of one full parcel and four half parcels located at 7700 Rainier Avenue South. The proposed rezone would change the zone designation of the parcels from SF 5000 to NC2-40. A Property Use and Development Agreement is associated with this rezone petition.

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

The legislation is a petitioner-generated rezone subject to the Council's rules for quasi-judicial decisions. The original petition, Department of Planning and Development recommendation, Hearing Examiner's Findings and Recommendation, and record established by the Hearing Examiner are contained in Clerk File 309754.

• *Please check one of the following:*

This legislation does not have any financial implications. *(Stop here and delete the remainder of this document prior to saving and printing.)*



Return Address:

Seattle City Clerk's Office

600 4th Avenue, Floor 3

P O Box 94728

Seattle, WA 98124 - 4728



20100525001147

SEATTLE CITY CLERK
PAGE-001 OF 009
05/25/2010 15:29
KING COUNTY, WA

WASHINGTON STATE RECORDER'S Cover Sheet (RCW 65.04)

Document Title(s) and corresponding number (or transaction contained therein)

1. Property Use and Development Agreement, Exhibit B to Ordinance 123305

Reference Number(s) of Documents assigned or released:

1.

Grantor(s)

1. Urban Impact

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

- 1. The City of Seattle
- 2. Additional names on page ___ of document

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

THE EAST 150 FEET OF TRACT 2, WILDWOOD, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY WASHINGTON.

and

TRACT 3, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

and

NORTH HALF OF TRACT 4, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

and

SOUTH HALF OF TRACT 4, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

and

NORTH 40 FEET OF TRACT 5, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

Additional reference #'s on page ___ of document

Assessor's Property Tax Parcel/Account Number

9412400016; 9412400025; 9412400035; 9412400036; 9412400045

Assessor Tax # not yet assigned.

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.

Signature of Requesting Party

FILED
CITY OF SEATTLE
10 JUN 22 AM 10:24
CITY CLERK

Exhibit B: Property Use and Development Agreement - v.1



When Recorded, Return to:

THE CITY CLERK
600 Fourth Avenue, Floor 3
PO Box 94728
Seattle, Washington 98124-4728

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantor:	1) <u>Urban Impact</u>	2) <u>Emerald City Bible Fellowship</u>
	<input type="checkbox"/> Additional on page _____	
Grantee:	1) <u>The City of Seattle</u>	2) _____
	<input type="checkbox"/> Additional on page _____	
Legal Description (abbreviated):	<p>THE EAST 150 FEET OF TRACT 2, WILDWOOD, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY WASHINGTON.</p> <p>and</p> <p>TRACT 3, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.</p> <p>and</p> <p>NORTH HALF OF TRACT 4, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.</p> <p>and</p> <p>SOUTH HALF OF TRACT 4, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.</p> <p>and</p> <p>NORTH 40 FEET OF TRACT 5, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.</p>	
	<input type="checkbox"/> Additional on : _____	
Assessor's Tax Parcel ID #:	<u>9412400016; 9412400025; 9412400035; 9412400036; 9412400045</u>	
Reference Nos. of Documents Released or Assigned:	_____	

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this 13th day of MAY, 2010, in favor of the **CITY OF SEATTLE** (the "City"), a Washington municipal corporation, by Urban Impact and Emerald City Bible Fellowship (the "Owners"), Washington nonprofit corporations.

RECITALS

A. Urban Impact and Emerald City Bible Fellowship are the owners of that certain real property (the "Rezone Area") in the City of Seattle zoned Single Family 5000 (SF 5000) shown in Attachment A and described as:

THE EAST 150 FEET OF TRACT 2, WILDWOOD, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY WASHINGTON.

and

TRACT 3, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

and

NORTH HALF OF TRACT 4, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

and

SOUTH HALF OF TRACT 4, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

and

NORTH 40 FEET OF TRACT 5, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

B. On June 19, 2009, the Owners submitted to the City of Seattle an application for a contract rezone of the Rezone Area from Single Family 5000 (SF 5000) to Neighborhood Commercial 2 with a 40 foot height limit (NC2-40). The purpose of the application is to allow the Rezone Area to be used for mixed-use, commercial and multi-family residential development of greater density.

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, the Owners 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 Rezone Area from Single Family 5000 (SF 5000) to Neighborhood Commercial 2 with a 40 foot height limit (NC2-40):

General Conditions

1. Development of the Impact Family Village structure on tax parcels 9412400015 and 9412400016 shall be governed by the height and bulk and setback requirements established by the Land Use Code and the Design Review process, and as shown on the plan set approved by DPD in the MUP decision.
2. Landscaping for the Impact Family Village structure on tax parcels 9412400015 and 9412400016 shall be governed by the Land Use Code, the Design Review process, and the landscape requirements shown on the plan set approved by DPD in the MUP decision.
3. The cluster of trees on tax parcels 9412400025, 9412400035 and 9412400036 east of the 60 foot topographic line, as shown on the site survey submitted for the MUP, will be preserved based on tree protections for a grove in Director's Rule 16-2008 and general tree protection regulations in SMC25.11.050B and E. Should the trees perish for any reason before or after construction, the area will be reforested at a one-to-one rate.
4. On tax parcels 9412400035, 9412400036 and 9412400045, all rear and side setbacks adjacent to a Single Family zone shall be increased from 15 to 25 feet for portions of buildings over 13 feet in height.

SEPA Conditions – During Construction

5. Condition(s) to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other weatherproofing material and shall remain in place for the duration of construction.
6. Grading, delivery and pouring of concrete and similar noisy activities will be prohibited on Saturdays and Sundays. In addition to the Noise Ordinance

requirements, to reduce the noise impact of construction on nearby residences, only the low noise impact work such as that listed below, will be permitted on Saturdays from 9:00 A.M. to 6:00 P.M.:

- A. Surveying and layout.
 - B. Testing and tensioning P. T. (post tensioned) cables, requiring only hydraulic equipment (no cable cutting allowed).
 - C. Other ancillary tasks to construction activities will include site security, surveillance, monitoring, and maintenance of weather protecting, water dams and heating equipment.
7. In addition to the Noise Ordinance requirements to reduce the noise impact of construction on nearby properties, all construction activities shall be limited to the following:
- A. on-holiday weekdays between 7:00 A.M and 6:00 P.M.
 - B. non-holiday weekdays between 6:00 P.M. and 8:00 P.M limited to quieter activities based on a DPD approved mitigation plan and public notice program outlined in the plan.
 - C. Saturdays between 9:00 A.M. and 6:00 P.M. limited to quieter activities based on a DPD approved mitigation plan and public notice program outlined in the plan.
 - D. Emergencies or work which must be done to coincide with street closures, utility interruptions or other similar necessary events, limited to quieter activities based on a DPD approved mitigation plan and public notice program outlined in the plan.
8. Non-noisy activities, such as site security, monitoring, weather protection shall not be limited by this condition.
9. Construction activities outside the above-stated restrictions may be authorized upon approval of a Construction Noise Management Plan to address mitigation of noise impacts resulting from all construction activities. The Plan shall include a discussion on management of construction related noise, efforts to mitigate noise impacts and community outreach efforts to allow people within the immediate area of the project to have opportunities to contact the site to express concern about noise. Elements of noise mitigation may be incorporated into any Construction Management Plans required to mitigate any short -term transportation impacts that result from the project.

Section 2. Agreement Runs With the Land. This Property Use and Development Agreement (hereinafter "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 land and shall be binding upon the Owner, their heirs, successors and assigns, and shall apply to after-acquired title of the Owners of the Property.

Section 3. Termination. The covenants herein and the rezone do not expire and remain in effect unless revoked pursuant to Section 23.34.004.

Section 4. Amendment. This Agreement may be amended or modified by agreement between Owners and the City; provided, such amendment agreement 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 Rezone Area 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. Owners acknowledges that compliance with the conditions of this Agreement is a condition of the subject rezone and that if Owners avail themselves of the benefits of this rezone but then fail 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 Rezone Area to conform to the requirements of the Single Family 5000 (SF 5000) zone.

SIGNED this 13 day of May, 2010.

Urban Impact
a Washington nonprofit corporation

By:

By: [Signature]
Steve Bury
Its: Executive Director

STATE OF WASHINGTON }
COUNTY OF KING } ss.

On this day personally appeared before me Steve Bury, to me known to be the Executive Director of Urban Impact 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 13th day of May, 2010.

Rebecca Sue Bicknell

Printed Name

[Signature]

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

Seattle

My Commission Expires

07-17-12



SIGNED this 13th day of May, 2010.

Emerald City Bible Fellowship
a Washington nonprofit corporation

By:

By: *Harvey Drake*
Harvey Drake
Its: President

STATE OF WASHINGTON }

COUNTY OF KING

ss.

On this day personally appeared before me Harvey Drake, to me known to be the President of Emerald City Bible Fellowship 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 13th day of May, 2010.

Rebecca Sue Bicknell

Printed Name

Rebecca Sue Bicknell

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

Seattle

My Commission Expires

07-17-12



State of Washington,
County of King

I, Linda Dibus certify that this is a true and correct

copy of Exhibit B / Ordinance 23305 on file in the records

of the City of Seattle, Office of the City Clerk



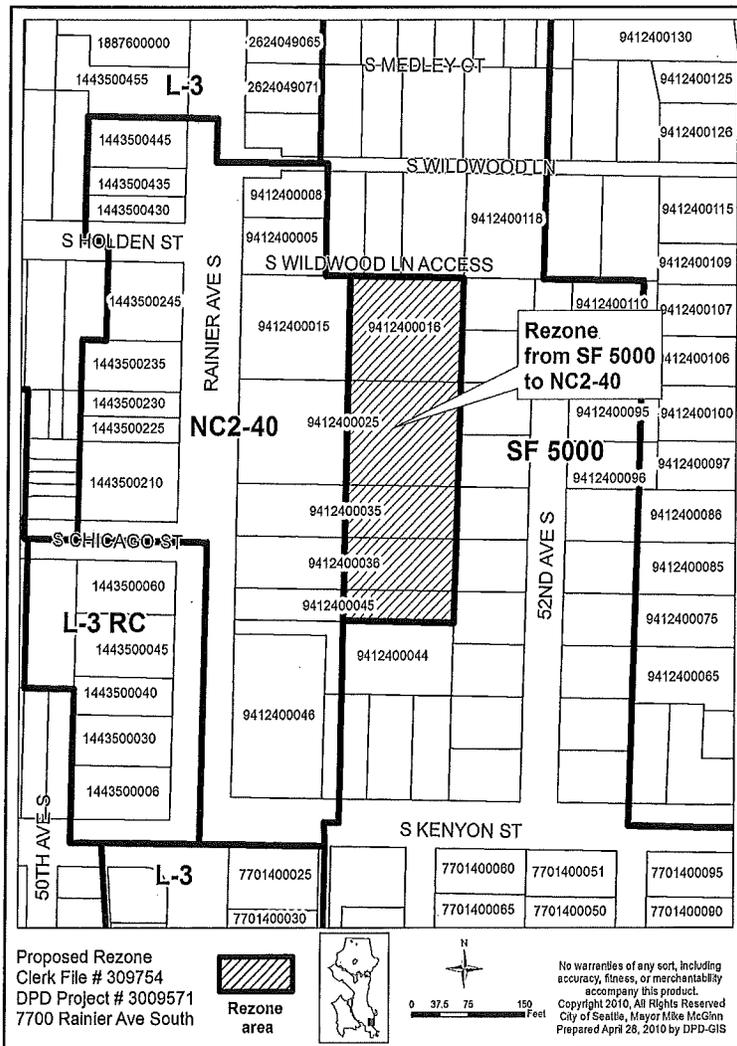
Signed by:

Signature: [Handwritten Signature]

Title: Office Supervisor

Date: 05-29-2010

ATTACHMENT A



STATE OF WASHINGTON – KING COUNTY

--SS.

255370
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 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

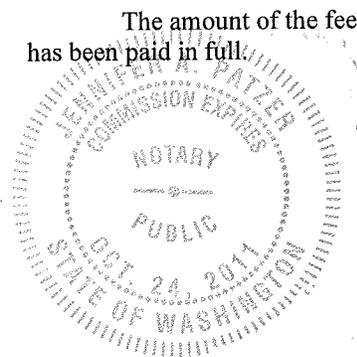
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:123305 ORDINANCE

was published on

05/28/10

The amount of the fee charged for the foregoing publication is the sum of \$ 143.33, which amount has been paid in full.



[Signature]
Subscribed and sworn to before me on

[Signature]
05/28/10

[Signature]
Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

State of Washington, King County

City of Seattle

ORDINANCE 123395

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 175 of the Official Land Use Map to rezone property located at 7700 Rainier Avenue South from Single Family 5000 (SF 5000) to Neighborhood Commercial 2 with a 40 foot height limit (NC2-40), and accepting a Property Use and Development Agreement in connection therewith. (Petition by Kevin Sutton, C.F. 309754, DPD Project 3009571)

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. This Ordinance affects the following legally described lots ("the Property") commonly known as 7700 Rainier Avenue South:

THE EAST 150 FEET OF TRACT 2, WILDWOOD, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY WASHINGTON.

and

TRACT 3, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

and

NORTH HALF OF TRACT 4, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

and

SOUTH HALF OF TRACT 4, WILDWOOD, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

and

NORTH 40 FEET OF TRACT 5, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 77, IN KING COUNTY, WASHINGTON.

Section 2. The Official Land Use Map zone classification, established on page 175 of the Official Land Use Map, and adopted by Ordinance 110381 and last modified by Ordinance 123282, is amended to rezone the Property from Single Family 5000 (SF 5000) to Neighborhood Commercial 2 with a 40 foot height limit (NC2-40), as shown in Exhibit A of this ordinance. The Official Land Use Map zone classification is conditioned upon performance and continued compliance with the conditions of the Property Use and Development Agreement referenced in Section 3 of this ordinance.

Section 3. The Property Use and Development Agreement, attached to this Ordinance as Exhibit B, is hereby approved and accepted.

Section 4. The rezone approval of the Property expires, pursuant to Section 23.76.060.B of the Seattle Municipal Code, two years from the effective date of approval, unless, within the two year period, an application is filed for a Master Use Permit, which permit is subsequently issued. If the permit is subsequently issued, the rezone remains in effect unless revoked pursuant to Section 23.34.004.

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 17th day of May, 2010, and signed by me in open session in authentication of its passage this 17th day of May, 2010.

Richard Conlitt

President of the City Council

Filed by me this 17th day of May, 2010.

Exhibit A: Rezone Map

Exhibit B: Property Use and Development Agreement

See City Clerk for Exhibits

Publication ordered by the City Clerk
Date of publication in the Seattle Daily Journal of Commerce, May 28, 2010.
5/28(255370)