

Ordinance No. 123425

Council Bill No. 116939

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 111 of the Official Land Use Map to rezone property located at 412 Broadway from Midrise Multifamily Residential and Neighborhood Commercial 3 with a 65 foot height limit to Neighborhood Commercial 3 with an 85 foot height limit, and accepting a Property Use and Development Agreement in connection therewith. (C.F. 310090, DPD Project 3010211)

Related Legislation File: \_\_\_\_\_

Date Introduced and Referred: <u>August 9, 2010</u>	To: (committee): <u>Full Council</u>
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: <u>10.4.10</u>	Date Presented to Mayor: <del>10.5.10</del>
Date Signed by Mayor: <del>10.4.10</del>	Date Returned to City Clerk: <u>10.4.10</u>
Published by Title Only _____	Date Vetoed by Mayor:
Published in Full Text <u>X</u>	Date Passed Over Veto:
Date Veto Published:	Date Returned Without Signature:
Date Veto Sustained:	

# The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Clark

## Committee Action:

Date	Recommendation	Vote

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

## Full Council Action:

Date	Decision	Vote
<u>10.4.10</u>	<u>Passed</u>	<u>9-0</u>

*Law Department*  
*Law Department*

**ORDINANCE** 123425

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AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 111 of the Official Land Use Map to rezone property located at 412 Broadway from Midrise Multifamily Residential and Neighborhood Commercial 3 with a 65 foot height limit to Neighborhood Commercial 3 with an 85 foot height limit, and accepting a Property Use and Development Agreement in connection therewith. (Petition by, C.F. 310090, DPD Project 3010211)

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

Section 1. This Ordinance affects the following legally described property (the "Property"), commonly known as 412 Broadway:

PARCEL A:

LOT 5, BLOCK 4, EASTERN ADDITION TO THE TOWN OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 43, RECORDS OF KING COUNTY, WASHINGTON.

PARCEL B:

LOT A, CITY OF SEATTLE SHORT SUBDIVISION NO. 9504330 RECORDED OCTOBER 26, 1995 UNDER RECORDING NO. 9510260354 IN KING COUNTY, WASHINGTON, AND REVISED UNDER INSTRUMENT RECORDED JULY 3, 1997 UNDER RECORDING NO. 9707039004 IN KING COUNTY, WASHINGTON.

PARCEL C:

LOT B, CITY OF SEATTLE SHORT PLAT NO. 9504330, AS RECORDED JULY 3, 1997 UNDER KING COUNTY RECORDING NO. 9707039004, SAID SHORT PLAT BEING A REVISION OF CITY OF SEATTLE SHORT PLAT NO. 9504330, AS RECORDED OCTOBER 26, 1995 UNDER KING COUNTY RECORDING NO. 9510260354, SAID SHORT PLAT BEING DESCRIBED AS FOLLOWS: LOT 4, BLOCK 4, EASTERN ADDITION, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME I OF PLATS, PAGE 43, RECORDS OF KING COUNTY, WASHINGTON.

PARCEL D:

LOT 3, BLOCK 4, EASTERN ADDITION TO THE TOWN OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 43, RECORDS OF KING COUNTY, WASHINGTON.



1 Section 2. The Official Land Use Map zone classification for the Property, established  
2 on page 111 of the Official Land Use Map, as adopted by Ordinance 110381, is amended to  
3 rezone the portion of the Property currently zoned Midrise Multifamily Residential and  
4 Neighborhood Commercial 3 with a 65 foot height limit to Neighborhood Commercial 3 with an  
5 85 foot height limit, all as shown in Exhibit A to this Ordinance. The Official Land Use Map  
6 zone classification is conditioned upon performance and continued compliance with the  
7 conditions of the Property Use and Development Agreement referenced in Section 3 of this  
8 ordinance.  
9

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

12 Section 4. The covenants herein and the rezone shall expire two years from the issuance  
13 of a Master Use Permit or as provided in Seattle Municipal Code Section 23.76.032. If the  
14 Master Use Permit is issued and the Owner has received a certificate of occupancy for the  
15 permitted structure prior to expiration of the Master Use Permit, the rezone remains in effect  
16 unless revoked pursuant to Section 23.34.004.  
17

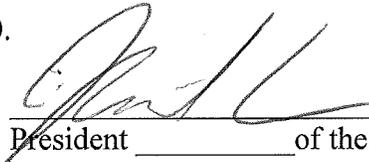
18 Section 5. The City Clerk is hereby authorized and directed to file said Property Use  
19 and Development Agreement, attached to this ordinance as Exhibit B, at the King County  
20 Records and Elections Division; to file, upon return of the recorded agreement from the King  
21 County Records and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



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

5 Passed by the City Council the 4<sup>th</sup> day of October, 2010, and  
6 signed by me in open session in authentication of its passage this

7 4<sup>th</sup> day of October, 2010.

8   
9 \_\_\_\_\_  
10 President \_\_\_\_\_ of the City Council

11 Filed by me this 4<sup>th</sup> day of October, 2010.

12   
13 \_\_\_\_\_  
14 City Clerk

15 (Seal)

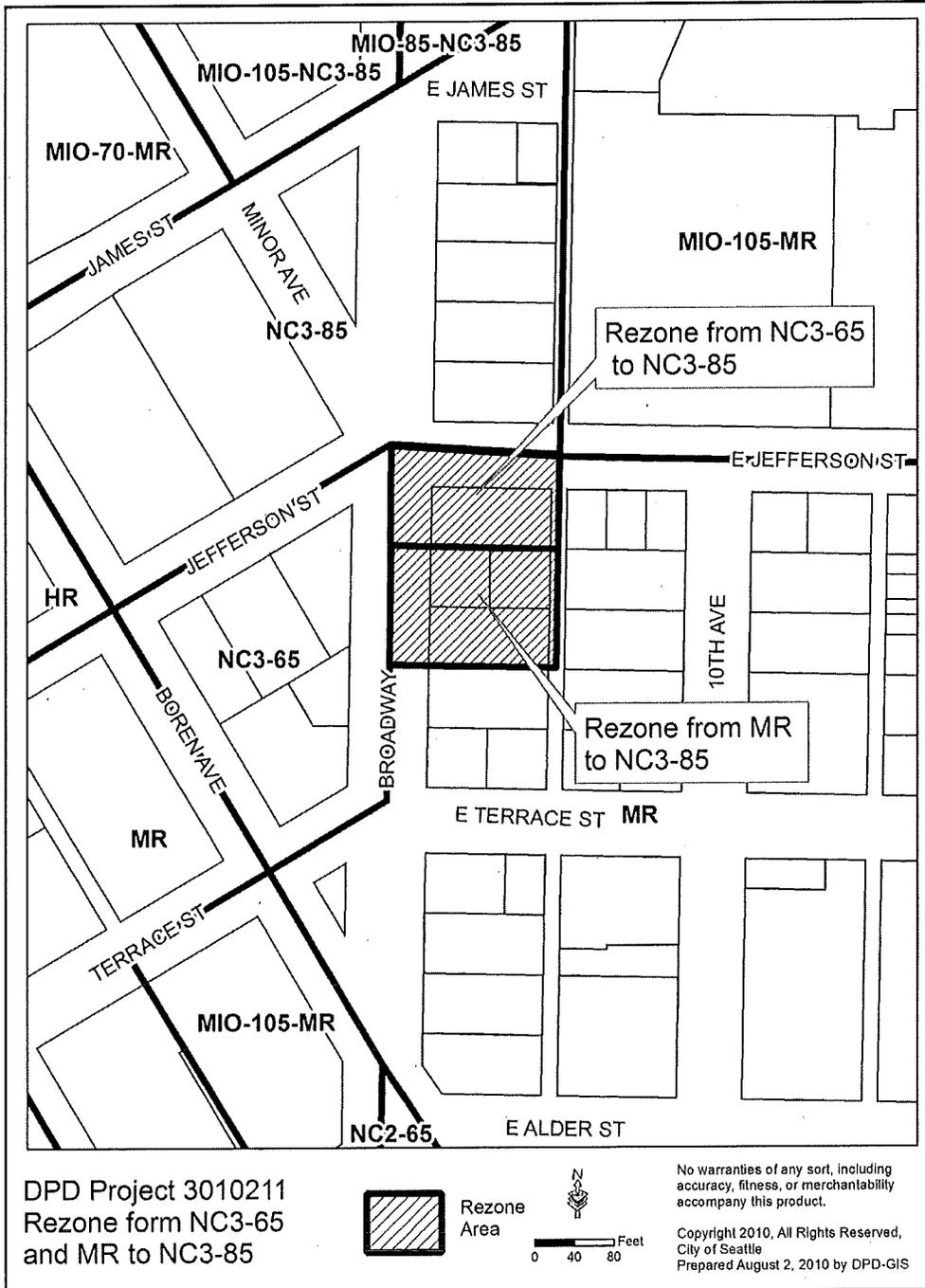
16 **Exhibit A:** Rezone Map

17 **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**



When Recorded, Return to:

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

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## PROPERTY USE AND DEVELOPMENT AGREEMENT

<b>Grantors:</b> 1) <u>Broadway-Jefferson Acquisition GP I, LLC</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> <u>LOTS 3, 4, 5, BLK 4, EASTERN ADDITION</u> <input type="checkbox"/> Additional on : <u>EXHIBIT A</u>
<b>Assessor's Tax Parcel ID #:</b> <u>219760-0195-01, 219760-188-00, 219760-190-06, 219760-185-03</u>
<b>Reference Nos. of Documents Released or Assigned:</b> _____

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this \_\_\_\_\_ day of \_\_\_\_\_, 2010, in favor of the CITY OF SEATTLE, a Washington municipal corporation (the "City"), and Broadway-Jefferson Acquisition GP I, LLC, a Texas limited liability company (the "Owner").

### RECITALS

**A.** The Owner is the owner of that certain real property (the "Property") in the City of Seattle zoned Neighborhood Commercial 3 with a 65 foot height limit (NC3 65) and Midrise (MR) legally described in Exhibit A attached hereto and incorporated herein by this reference.

**B.** On September 4, 2009, the Owner submitted to the City an application for a Master Use Permit (MUP), MUP No. 3010211, to rezone the Property from Midrise (MR) and Neighborhood Commercial 3 with a 65 foot height limit (NC3 65) to Neighborhood Commercial 3 with an 85 foot height limit (NC3 85). The purpose of the application is to allow the Property to be used for mixed-use, commercial and 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 that could occur from unrestricted use and development permitted by development regulations otherwise applicable after the rezone."

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 Owner hereby covenants, bargains and agrees, on behalf of itself and its successors and assigns, that it will comply with the following limitations and conditions in consideration of the rezone of the Property from Midrise (MR) and Neighborhood Commercial 3 with a 65 foot height limit (NC3 65) to Neighborhood Commercial 3 with an 85 foot height limit (NC3 85):

Future development of the Property is restricted to a project developed in substantial accordance with the final approved Master Use Permit drawings for MUP Application No. 3010211 dated January 26, 2010, and included as Exhibit 19 in Council's record under Clerk's File 310090, as modified by design review conditions including but not limited to structure design, structure height, building materials, landscaping, street improvements, parking design and layout, signage and site lighting that are indicated in Hearing Examiner's Exhibit 2, the Department of Planning and Development's recommendation dated May 3, 2010.

**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 Owner, 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 two years from the issuance of a Master Use Permit or as provided in Seattle Municipal Code Section 23.76.032. If the Master Use permit is issued and the Owner has received a certificate of occupancy for the permitted structure prior to expiration of the Master Use Permit, the rezone remains in effect unless revoked pursuant to Section 23.34.004.

**Section 4. Amendment.** This Agreement may be amended or modified by written agreement between the Owner 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 prevents 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 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 Midrise (MR) and Neighborhood Commercial 3 with a 65 foot height limit (NC3 65).





general partner of Valencia Capital Management, L.P., a Delaware limited partnership, the sole member of Valencia GP, LLC, a Texas limited liability company, the general partner of Next Block Medical I GP, LP, a Texas limited partnership, the general partner of Next Block Medical I, LP, a Delaware limited partnership, the sole member of Broadway-Jefferson Acquisition GP I, LLC, a Texas limited liability company, the limited liability company that executed the within and foregoing instrument, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
[Signature of Notary]

\_\_\_\_\_  
[Print Name of Notary]

Notary Public in and for the State of  
Washington, residing at

\_\_\_\_\_  
\_\_\_\_\_

My commission expires:



EXHIBIT A  
Legal Description

Real property in the City of Seattle, County of King, State of Washington, described as follows:

PARCEL A:

LOT 5, BLOCK 4, EASTERN ADDITION TO THE TOWN OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 43, RECORDS OF KING COUNTY, WASHINGTON.

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LOT A, CITY OF SEATTLE SHORT SUBDIVISION NO. 9504330 RECORDED OCTOBER 26, 1995 UNDER RECORDING NO. 9510260354 IN KING COUNTY, WASHINGTON, AND REVISED UNDER INSTRUMENT RECORDED JULY 3, 1997 UNDER RECORDING NO. 9707039004 IN KING COUNTY, WASHINGTON.

PARCEL C:

LOT B, CITY OF SEATTLE SHORT PLAT NO. 9504330, AS RECORDED JULY 3, 1997 UNDER KING COUNTY RECORDING NO. 9707039004, SAID SHORT PLAT BEING A REVISION OF CITY OF SEATTLE SHORT PLAT NO. 9504330, AS RECORDED OCTOBER 26, 1995 UNDER KING COUNTY RECORDING NO. 9510260354, SAID SHORT PLAT BEING DESCRIBED AS FOLLOWS: LOT 4, BLOCK 4, EASTERN ADDITION, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME I OF PLATS, PAGE 43, RECORDS OF KING COUNTY, WASHINGTON.

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LOT 3, BLOCK 4, EASTERN ADDITION TO THE TOWN OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 43, RECORDS OF KING COUNTY, WASHINGTON.



**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 111 of the Official Land Use Map to rezone property located at 412 Broadway from Midrise Multifamily Residential and Neighborhood Commercial 3 with a 65 foot height limit to Neighborhood Commercial 3 with an 85 foot height limit, and accepting a Property Use and Development Agreement in connection therewith. (Petition by, C.F. 310090, DPD Project 3010211)

• **Summary of the Legislation:**

This legislation rezones a site located at the southeast corner of E. Jefferson Street and Broadway from Midrise Multifamily Residential and Neighborhood Commercial 3 with a 65-foot height limit to Neighborhood Commercial 3 with an 85-foot height limit and accepts a property use and development agreement in connection with the rezone.

• **Background:**

This bill approves 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, record established by the Hearing Examiner and Council's Findings, Conclusions and Decision are contained in Clerk's File 310090.

Rezone conditions are contained in the Findings, Conclusions and Decision. The conditions are recorded in a property use and development agreement for the rezone. The rezone petitioner anticipates development of a mixed use project on the site.

• *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.)*



When Recorded, Return to:

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

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## PROPERTY USE AND DEVELOPMENT AGREEMENT

<b>Grantors:</b> 1) <u>Broadway-Jefferson Acquisition I, L.P.</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> <u>LOTS 3, 4, 5, BLK 4, EASTERN ADDITION</u> <input type="checkbox"/> Additional on : <u>EXHIBIT A</u>
<b>Assessor's Tax Parcel ID #:</b> <u>219760-0195-01, 219760-188-00, 219760-190-06, 219760-185-03</u>
<b>Reference Nos. of Documents Released or Assigned:</b> _____

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this 20 day of September, 2010, in favor of the CITY OF SEATTLE, a Washington municipal corporation (the "City"), and Broadway-Jefferson Acquisition I, L.P., a Delaware limited partnership (the "Owner").

### RECITALS

**A.** The Owner is the owner of that certain real property (the "Property") in the City of Seattle zoned Neighborhood Commercial 3 with a 65 foot height limit (NC3 65) and Midrise (MR) legally described in Exhibit A attached hereto and incorporated herein by this reference.

**B.** On September 4, 2009, the Owner submitted to the City an application for a Master Use Permit (MUP), MUP No. 3010211, to rezone the Property from Midrise (MR) and Neighborhood Commercial 3 with a 65 foot height limit (NC3 65) to Neighborhood Commercial 3 with an 85 foot height limit (NC3 85). The purpose of the application is to allow the Property to be used for mixed-use, commercial and 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 that could occur from unrestricted use and development permitted by development regulations otherwise applicable after the rezone.”

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 Owner hereby covenants, bargains and agrees, on behalf of itself and its successors and assigns, that it will comply with the following limitations and conditions in consideration of the rezone of the Property from Midrise (MR) and Neighborhood Commercial 3 with a 65 foot height limit (NC3 65) to Neighborhood Commercial 3 with an 85 foot height limit (NC3 85):

Future development of the Property is restricted to a project developed in substantial accordance with the final approved Master Use Permit drawings for MUP Application No. 3010211 dated January 26, 2010, and included as Exhibit 19 in Council’s record under Clerk’s File 310090, as modified by design review conditions including but not limited to structure design, structure height, building materials, landscaping, street improvements, parking design and layout, signage and site lighting that are indicated in Hearing Examiner’s Exhibit 2, the Department of Planning and Development’s recommendation dated May 3, 2010.

**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 Owner, 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 two years from the issuance of a Master Use Permit or as provided in Seattle Municipal Code Section 23.76.032. If the Master Use permit is issued and the Owner has received a certificate of occupancy for the permitted structure prior to expiration of the Master Use Permit, the rezone remains in effect unless revoked pursuant to Section 23.34.004.

**Section 4. Amendment.** This Agreement may be amended or modified by written agreement between the Owner 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 prevents 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.

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**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 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 Midrise (MR) and Neighborhood Commercial 3 with a 65 foot height limit (NC3 65).

**BROADWAY-JEFFERSON ACQUISITION I, L.P.,**  
a Delaware limited partnership

By: Broadway-Jefferson Acquisition GP I, LLC,  
a Texas limited liability company,  
its general partner

By: Next Block Medical I, LP,  
a Delaware limited partnership,  
its sole member

By: Next Block Medical I GP, LP,  
a Texas limited partnership,  
its general partner

By: Valencia GP, LLC,  
a Texas limited liability company,  
its general partner

By: Valencia Capital Management, L.P.,  
a Delaware limited partnership,  
its sole member

By: HRC Valencia GP, LLC, a Texas  
limited liability company,  
its general partner

By:   
Collin Comer, Vice President

STATE OF TEXAS )

: ss.

COUNTY OF DALLAS )

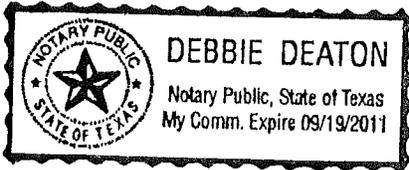
I certify that I know or have satisfactory evidence that Collin Comer is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Vice President of HRC Valencia GP, LLC, a Texas limited liability company, the general partner of Valencia Capital Management, L.P., a Delaware limited partnership, the sole member of Valencia GP, LLC, a Texas limited liability company, the general partner of Next Block Medical I GP, LP, a Texas limited partnership, the general partner of Next Block Medical I, LP, a Delaware limited partnership, the sole member of Broadway-Jefferson Acquisition GP I, LLC, a Texas limited liability company, the general partner of Broadway – Jefferson Acquisition I, L.P., the Delaware limited partnership that executed the within and foregoing instrument, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 20<sup>th</sup> day of September, 2010.

Debbie Deaton

[Signature of Notary]

[Print Name of Notary]



Notary Public in and for the State of Texas,  
residing at Garland, TX.

My commission expires: 9-19-2011.

EXHIBIT A  
Legal Description

Real property in the City of Seattle, County of King, State of Washington, described as follows:

PARCEL A:

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**Return Address:**

Seattle City Clerk's Office

600 4th Avenue, Floor 3

P O Box 94728

Seattle, WA 98124 - 4728



**20101021001220**

SEATTLE CITY CLERK  
PAGE-001 OF 007  
10/21/2010 15:05  
KING COUNTY, WA 68.00

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. Property Use and Development Agreement

**Grantor(s)**

1. Broadway-Jefferson Acquisition I, L.P.

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

1. City of Seattle

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

Lots 3, 4, 5, blk 4, Eastern Addition

Additional legal on **Exhibit A** of document

FILED  
CITY OF SEATTLE  
10 NOV 17 AM 9:37  
CITY CLERK

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

# 219760-0195-01, 219760-188-00, 219760-190-06, 219760-185-03

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

When Recorded, Return to:

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

FILED  
CITY OF SEATTLE  
10 NOV 17 AM 9:37  
CITY CLERK

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## PROPERTY USE AND DEVELOPMENT AGREEMENT

<b>Grantors:</b> 1) <u>Broadway-Jefferson Acquisition I, L.P.</u> 2) _____ <input type="checkbox"/> Additional on page _____
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<b>Assessor's Tax Parcel ID #:</b> <u>219760-0195-01, 219760-188-00, 219760-190-06, 219760-185-03</u>
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### AGREEMENT

**Section 1. Agreement.** Pursuant to 23.34.004, the Owner hereby covenants, bargains and agrees, on behalf of itself and its successors and assigns, that it will comply with the following limitations and conditions in consideration of the rezone of the Property from Midrise (MR) and Neighborhood Commercial 3 with a 65 foot height limit (NC3 65) to Neighborhood Commercial 3 with an 85 foot height limit (NC3 85):

Future development of the Property is restricted to a project developed in substantial accordance with the final approved Master Use Permit drawings for MUP Application No. 3010211 dated January 26, 2010, and included as Exhibit 19 in Council’s record under Clerk’s File 310090, as modified by design review conditions including but not limited to structure design, structure height, building materials, landscaping, street improvements, parking design and layout, signage and site lighting that are indicated in Hearing Examiner’s Exhibit 2, the Department of Planning and Development’s recommendation dated May 3, 2010.

**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 Owner, 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 two years from the issuance of a Master Use Permit or as provided in Seattle Municipal Code Section 23.76.032. If the Master Use permit is issued and the Owner has received a certificate of occupancy for the permitted structure prior to expiration of the Master Use Permit, the rezone remains in effect unless revoked pursuant to Section 23.34.004.

**Section 4. Amendment.** This Agreement may be amended or modified by written agreement between the Owner 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 prevents 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 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 Midrise (MR) and Neighborhood Commercial 3 with a 65 foot height limit (NC3 65).

**BROADWAY-JEFFERSON ACQUISITION I, L.P.,**  
a Delaware limited partnership

By: Broadway-Jefferson Acquisition GP I, LLC,  
a Texas limited liability company,  
its general partner

By: Next Block Medical I, LP,  
a Delaware limited partnership,  
its sole member

By: Next Block Medical I GP, LP,  
a Texas limited partnership,  
its general partner

By: Valencia GP, LLC,  
a Texas limited liability company,  
its general partner

By: Valencia Capital Management, L.P.,  
a Delaware limited partnership,  
its sole member

By: HRC Valencia GP, LLC, a Texas  
limited liability company,  
its general partner

By:   
Collin Comer, Vice President

STATE OF TEXAS )

: ss.

COUNTY OF DALLAS )

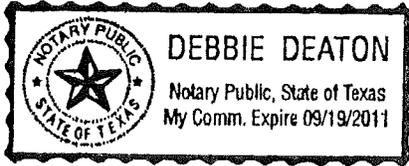
I certify that I know or have satisfactory evidence that Collin Comer is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Vice President of HRC Valencia GP, LLC, a Texas limited liability company, the general partner of Valencia Capital Management, L.P., a Delaware limited partnership, the sole member of Valencia GP, LLC, a Texas limited liability company, the general partner of Next Block Medical I GP, LP, a Texas limited partnership, the general partner of Next Block Medical I, LP, a Delaware limited partnership, the sole member of Broadway-Jefferson Acquisition GP I, LLC, a Texas limited liability company, the general partner of Broadway – Jefferson Acquisition I, L.P., the Delaware limited partnership that executed the within and foregoing instrument, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 20<sup>th</sup> day of September, 2010.

Debbie Deaton

\_\_\_\_\_  
[Signature of Notary]

\_\_\_\_\_  
[Print Name of Notary]



Notary Public in and for the State of Texas,  
residing at Farland, TX.

My commission expires: 9-19-2011.

EXHIBIT A  
Legal Description

Real property in the City of Seattle, County of King, State of Washington, described as follows:

PARCEL A:

LOT 5, BLOCK 4, EASTERN ADDITION TO THE TOWN OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 43, RECORDS OF KING COUNTY, WASHINGTON.

PARCEL B:

LOT A, CITY OF SEATTLE SHORT SUBDIVISION NO. 9504330 RECORDED OCTOBER 26, 1995 UNDER RECORDING NO. 9510260354 IN KING COUNTY, WASHINGTON, AND REVISED UNDER INSTRUMENT RECORDED JULY 3, 1997 UNDER RECORDING NO. 9707039004 IN KING COUNTY, WASHINGTON.

PARCEL C:

LOT B, CITY OF SEATTLE SHORT PLAT NO. 9504330, AS RECORDED JULY 3, 1997 UNDER KING COUNTY RECORDING NO. 9707039004, SAID SHORT PLAT BEING A REVISION OF CITY OF SEATTLE SHORT PLAT NO. 9504330, AS RECORDED OCTOBER 26, 1995 UNDER KING COUNTY RECORDING NO. 9510260354, SAID SHORT PLAT BEING DESCRIBED AS FOLLOWS: LOT 4, BLOCK 4, EASTERN ADDITION, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME I OF PLATS, PAGE 43, RECORDS OF KING COUNTY, WASHINGTON.

PARCEL D:

LOT 3, BLOCK 4, EASTERN ADDITION TO THE TOWN OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 43, RECORDS OF KING COUNTY, WASHINGTON.

**STATE OF WASHINGTON – KING COUNTY**

--SS.

261955  
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.

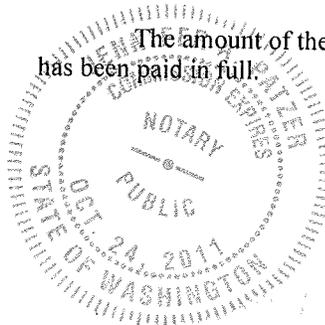
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:123425 ORDINANCE

was published on

10/20/10

The amount of the fee charged for the foregoing publication is the sum of \$ 530.00, which amount has been paid in full.



*[Signature]*  
Subscribed and sworn to before me on  
10/20/10  
*[Signature]*

Notary public for the State of Washington,  
residing in Seattle

Affidavit of Publication

# State of Washington, King County

TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 43, RECORDS OF KING COUNTY, WASHINGTON.

Section 2. The Official Land Use Map zone classification for the Property, established on page 111 of the Official Land Use Map, as adopted by Ordinance 110381, is amended to rezone the portion of the Property currently zoned Midrise Multifamily Residential and Neighborhood Commercial 3 with a 65 foot height limit to Neighborhood Commercial 3 with an 85 foot height limit, all as shown in Exhibit A to 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 covenants herein and the rezone shall expire two years from the issuance of a Master Use Permit or as provided in Seattle Municipal Code Section 23.76.032. If the Master Use Permit is issued and the Owner has received a certificate of occupancy for the permitted structure prior to expiration of the Master Use Permit, 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 4th day of October, 2010, and signed by me in open session in authentication of its passage this 4th day of October, 2010.

Richard Conlin  
President of the City Council

Filed by me this 4th day of October, 2010.

Publication ordered by the City Clerk

Exhibit A: Rezone Map

Exhibit B: Property Use and Development Agreement

## City of Seattle

### ORDINANCE 123425

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 111 of the Official Land Use Map to rezone property located at 412 Broadway from Midrise Multifamily Residential and Neighborhood Commercial 3 with a 65 foot height limit to Neighborhood Commercial 3 with an 85 foot height limit, and accepting a Property Use and Development Agreement in connection therewith. (Petition by, C.F. 310090, DPD Project 3010211)

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. This Ordinance affects the following legally described property (the "Property"), commonly known as 412 Broadway:

#### PARCEL A:

LOT 5, BLOCK 4, EASTERN ADDITION TO THE TOWN OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 43, RECORDS OF KING COUNTY, WASHINGTON.

#### PARCEL B:

LOT A, CITY OF SEATTLE SHORT SUBDIVISION NO. 9504330 RECORDED OCTOBER 26, 1995 UNDER RECORDING NO. 9510260354 IN KING COUNTY, WASHINGTON, AND REVISED UNDER INSTRUMENT RECORDED JULY 3, 1997 UNDER RECORDING NO. 9707039004 IN KING COUNTY, WASHINGTON.

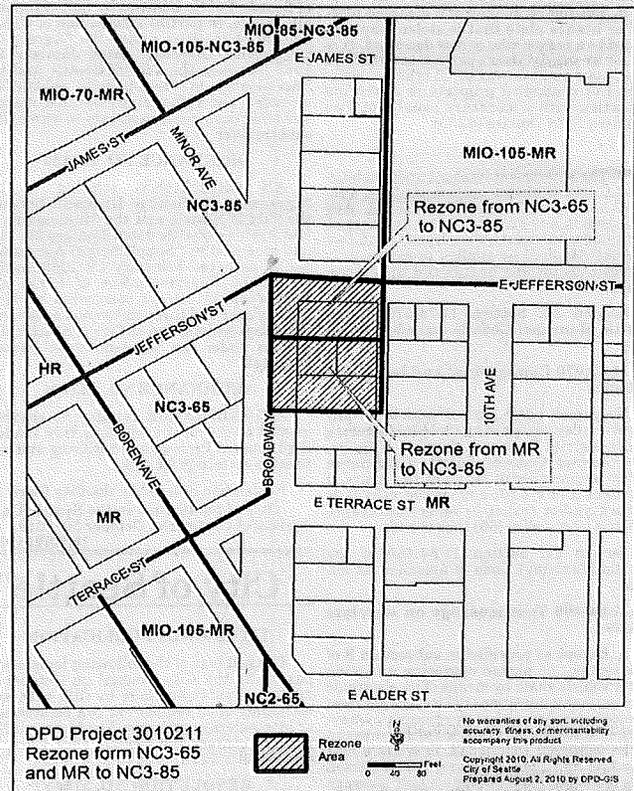
#### PARCEL C:

LOT B, CITY OF SEATTLE SHORT PLAT NO. 9504330, AS RECORDED JULY 3, 1997 UNDER KING COUNTY RECORDING NO. 9707039004, SAID SHORT PLAT BEING A REVISION OF CITY OF SEATTLE SHORT PLAT NO. 9504330, AS RECORDED OCTOBER 26, 1995 UNDER KING COUNTY RECORDING NO. 9510260354, SAID SHORT PLAT BEING DESCRIBED AS FOLLOWS: LOT 4, BLOCK 4, EASTERN ADDITION, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 43, RECORDS OF KING COUNTY, WASHINGTON.

#### PARCEL D:

LOT 3, BLOCK 4, EASTERN ADDITION TO THE TOWN OF SEATTLE, ACCORDING

Exhibit A: Rezone Map



Date of publication in the Seattle Daily Journal of Commerce, October 20, 2010.

10/20(261955)