

Ordinance No. 123488

Council Bill No. 117072

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 500 - 12th Avenue, from Neighborhood Commercial 2 with a Pedestrian overlay and a 40 foot height limit (NC2P-40) to Neighborhood Commercial 2 with a Pedestrian overlay and a 65 foot height limit (NC2P-65), and accepting a Property Use and Development Agreement in connection therewith. (Petition by Capitol Hill Housing, C.F. 310179, Department of Planning and Development Project 3009796).

Related Legislation File:

Date Introduced and Referred: <u>Dec. 6, 2010</u>	To: (committee): <u>Full Council</u>
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: <u>12-13-10</u>	Date Presented to Mayor: —
Date Signed by Mayor: —	Date Returned to City Clerk: <u>12-13-10</u>
Published by Title Only <input type="checkbox"/>	Date Vetoed by Mayor:
Published in Full Text <input checked="" type="checkbox"/>	Date Passed Over Veto:
Date Veto Published:	Date Returned Without Signature:

The City of Seattle – Legislative Department

Council Bill/Ordinance sponsored by: *Samy L...*

Committee Action:

Date	Recommendation	Vote

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

Full Council Action:

Date	Decision	Vote
<u>12-13-10</u>	<u>Passed</u>	<u>9-0</u>

Law Department

1
2 Section 3. The Property Use and Development Agreement attached to this Ordinance as
3 Exhibit B is hereby approved and accepted.

4 Section 4. The rezone approval of the Property expires, pursuant to Section 23.76.060
5 B of the Seattle Municipal Code, two (2) years from the effective date of approval, unless, within
6 the two (2) year period, an application is filed for a Master Use Permit, which permit is
7 subsequently issued. If the permit is subsequently issued, the rezone remains in effect unless
8 revoked pursuant to Section 23.34.004.

9
10 Section 5. The City Clerk is hereby authorized and directed to file said Property Use
11 and Development Agreement, attached to this ordinance as Exhibit B, at the King County
12 Records and Elections Division; to file, upon return of the recorded agreement from the King
13 County Records and Elections Division, the original of said Property Use and Development
14 Agreement with this Ordinance at the City Clerk's Office; and to deliver copies of the same to
15 the Director of the Department of Planning and Development and to the King County Assessor's
16 Office.
17



1
2 Section 6. This Ordinance, effectuating a quasi-judicial decision of the City Council and
3 not subject to mayoral approval or disapproval, shall take effect and be in force thirty (30) days
4 from and after its passage and approval by the City Council.
5

6 Passed by the City Council the 13th day of December, 2010, and
7 signed by me in open session in authentication of its passage this 13th day of
8 December, 2010.
9

10
11 
12 President _____ of the City Council

13 Filed by me this 13th day of December, 2010.
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15 
16 City Clerk

17 (Seal)
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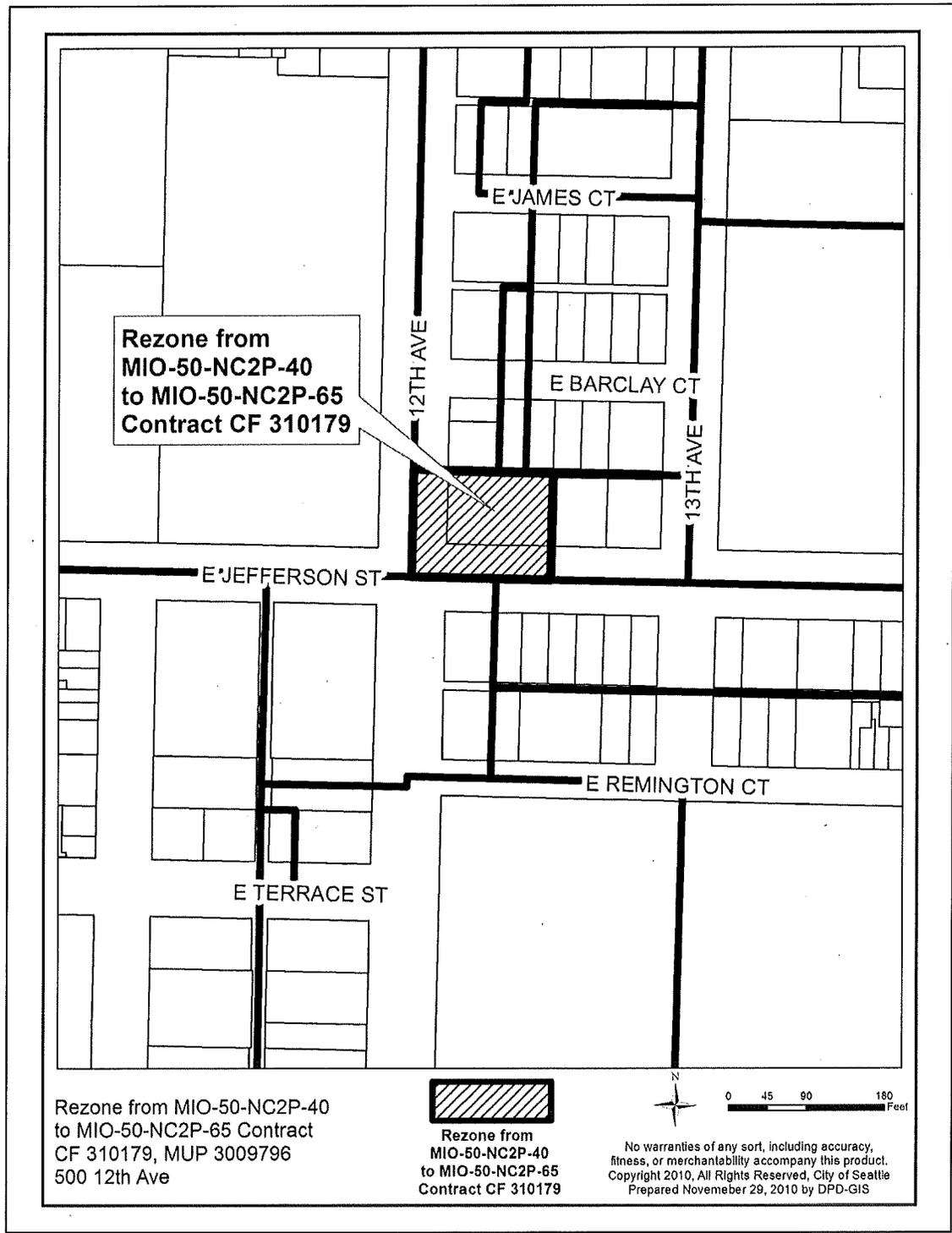
21 Exhibit A: Rezone Map

22 Exhibit B: Property Use and Development Agreement
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Exhibit A: Rezone Map

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Michael Jenkins
LEG 500 – 12th Avenue
December 2, 2010
Version #2

Exhibit B – Property Use and Development Agreement

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When Recorded, Return to:

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

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantors: 1) <u>City of Seattle Office of Housing</u> 2) _____ <input type="checkbox"/> Additional on page _____
Grantee: 1) <u>The City of Seattle</u> 2) _____ <input type="checkbox"/> Additional on page _____
Legal Description (abbreviated): <u>Lots A and B, City of Seattle Short Plat 80-148, recording number 8202030663</u> <input type="checkbox"/> Additional on : <u>EXHIBIT A</u>
Assessor's Tax Parcel ID #: <u>794830-0165-05</u>
Reference Nos. of Documents Released or Assigned: _____

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this 10th day of December, 2010, in favor of the CITY OF SEATTLE, a Washington municipal corporation (the "City"), by the Seattle Office of Housing, a Department of the City of Seattle, a Washington municipal corporation (the "Owner").

RECITALS

A. The Owner is the owner of that certain real property (the "Property") in the City of Seattle, legally described in Exhibit A attached hereto and incorporated herein by this reference.

B. On September 2, 2009, Capitol Hill Housing, the pending purchaser of the Property, submitted with the Owner's permission an application to the City for a Master Use Permit (MUP). This MUP, No. 3009796, proposes to rezone the Property from Neighborhood Commercial 2 Pedestrian Overlay (NC2P) with a 40-foot height limit, to NC2P with a 65-foot height limit. The purpose of the application is to facilitate the development of affordable housing on the Property.

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 Neighborhood Commercial 2 Pedestrian Overlay (NC2P) with a 40-foot height limit, to NC2P with a 65-foot height limit:

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. 3009796 dated September 7, 2010 and September 8, 2010, and included as Exhibit 19 in Council's record under Clerk's File 310179 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 described in Hearing Examiner's Exhibit 2, the Department of Planning and Development's recommendation dated September 16, 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

Exhibit A.

Legal Description

LOTS A AND B, CITY OF SEATTLE SHORT PLAT NUMBER 80-148, RECORDED UNDER RECORDING NUMBER 82020230663, SAID SHORT PLAT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOTS 13, 14, 15 AND 16, BLOCK "C", W.C. SQUIRE'S REPLAT OF BLOCK EIGHT OF SQUIRE PARK ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 18, IN KING COUNTY, WASHINGTON;

EXCEPT THAT PORTION OF SAID LOT 16 CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 61476 FOR WIDENING OF 12TH AVENUE, AS PROVIDED BY ORDINANCE NUMBER 17972 OF THE CITY OF SEATTLE.

Tax Account Number:
794830-0165-05

When Recorded, Return to:

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

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantors: 1) <u>City of Seattle Office of Housing</u> 2) _____ <input type="checkbox"/> Additional on page _____
Grantee: 1) <u>The City of Seattle</u> 2) _____ <input type="checkbox"/> Additional on page _____
Legal Description (abbreviated): <u>Lots A and B, City of Seattle Short Plat 80-148, recording number 8202030663</u> <input type="checkbox"/> Additional on : <u>EXHIBIT A</u>
Assessor's Tax Parcel ID #: <u>794830-0165-05</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, a Washington municipal corporation (the "City"), by the Seattle Office of Housing, a Department of the City of Seattle, a Washington municipal corporation (the "Owner").

RECITALS

A. The Owner is the owner of that certain real property (the "Property") in the City of Seattle, legally described in Exhibit A attached hereto and incorporated herein by this reference.

B. On September 2, 2009, the Owner submitted to the City an application for a Master Use Permit (MUP), MUP No. 3009796, to rezone the Property from Neighborhood Commercial 2 Pedestrian Overlay (NC2P) with a 40-foot height limit, to NC2P with a 65-foot height limit. The purpose of the application is to facilitate the development of affordable housing on the Property.

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."



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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 Neighborhood Commercial 2 Pedestrian Overlay (NC2P) with a 40-foot height limit.



SIGNED this _____ day of _____, 2010.

City of Seattle, Office of Housing,
a Washington Municipal Corporation.

By: OFFICE OF HOUSING

By: _____
OH

STATE OF WASHINGTON }
 } ss.
COUNTY OF KING

On this day, _____ personally appeared before me
_____, to me known to be the _____,
of the Seattle Office of Housing, the Washington Municipal Corporation that executed
the foregoing instrument, and acknowledged such instrument to be the free and voluntary
act and deed of such company, for the uses and purposes therein mentioned, and on oath
stated that she/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 _____,
residing at _____

My Commission Expires _____



Exhibit A.

Legal Description

LOTS A AND B, CITY OF SEATTLE SHORT PLAT NUMBER 80-148, RECORDED UNDER RECORDING NUMBER 82020230663, SAID SHORT PLAT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOTS 13, 14, 15 AND 16, BLOCK "C", W.C. SQUIRE'S REPLAT OF BLOCK EIGHT OF SQUIRE PARK ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 18, IN KING COUNTY, WASHINGTON;

EXCEPT THAT PORTION OF SAID LOT 16 CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 61476 FOR WIDENING OF 12TH AVENUE, AS PROVIDED BY ORDINANCE NUMBER 17972 OF THE CITY OF SEATTLE.

Tax Account Number:
794830-0165-05



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Legislative	Michael Jenkins, 5-1674	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 500 – 12th Avenue, from Neighborhood Commercial 2 with a Pedestrian overlay and a 40 foot height limit (NC2P-40) to Neighborhood Commercial 2 with a Pedestrian overlay and a 65 foot height limit (NC2P-65), and accepting a Property Use and Development Agreement in connection therewith. (Petition by Capitol Hill Housing, C.F. 310179, Department of Planning and Development Project 3009796).

Summary of the Legislation:

This legislation rezones a 9,799 square foot property located at 500 – 12th Avenue. The rezone would change the existing zoning from NC2P-40 to NC2P-65.

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 310179.

X This legislation does not have any financial implications.



Return Address:

Seattle City Clerk's Office

600 4th Avenue, Floor 3

P O Box 94728

Seattle, WA 98124 - 4728



20101220000583

SEATTLE CITY CLERK 66.00
PAGE-001 OF 005
12/20/2010 10:43
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. Property Use and Development Agreement authorized by City of Seattle Ordinance No. 123488

Grantor(s)

City of Seattle Office of Housing

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

City of Seattle

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

Lots A and B, City of Seattle Short Plat 80-148, recording number 8202030663
Additional legal on Exhibit A of document

FILED
CITY OF SEATTLE
2011 FEB 14 PM 2:48
CITY CLERK

Assessor's Property Tax Parcel/Account Number

794830-0165-05

Assessor Tax # not yet assigned.

N/A

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

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantors: 1) <u>City of Seattle Office of Housing</u> 2) _____ <input type="checkbox"/> Additional on page _____
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RECITALS

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B. On September 2, 2009, Capitol Hill Housing, the pending purchaser of the Property, submitted with the Owner's permission an application to the City for a Master Use Permit (MUP). This MUP, No. 3009796, proposes to rezone the Property from Neighborhood Commercial 2 Pedestrian Overlay (NC2P) with a 40-foot height limit, to NC2P with a 65-foot height limit. The purpose of the application is to facilitate the development of affordable housing on the Property.

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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

Exhibit A.

Legal Description

LOTS A AND B, CITY OF SEATTLE SHORT PLAT NUMBER 80-148, RECORDED UNDER RECORDING NUMBER 82020230663, SAID SHORT PLAT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOTS 13, 14, 15 AND 16, BLOCK "C", W.C. SQUIRE'S REPLAT OF BLOCK EIGHT OF SQUIRE PARK ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 18, IN KING COUNTY, WASHINGTON;

EXCEPT THAT PORTION OF SAID LOT 16 CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 61476 FOR WIDENING OF 12TH AVENUE, AS PROVIDED BY ORDINANCE NUMBER 17972 OF THE CITY OF SEATTLE.

Tax Account Number:
794830-0165-05

STATE OF WASHINGTON – KING COUNTY

--SS.

264927
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:123488 ORDINANCE

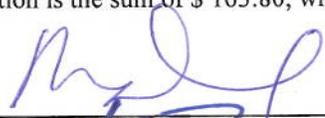
was published on

12/27/10

The amount of the fee charged for the foregoing publication is the sum of \$ 163.80, which amount has been paid in full.



Affidavit of Publication



Subscribed and sworn to before me on
12/27/10 

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

ORDINANCE 123488

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 500 -- 12th Avenue, From Neighborhood Commercial 2 with a Pedestrian overlay and a 40 foot height limit (NC2P-40) to Neighborhood Commercial 2 with a pedestrian overlay and a 65 foot height limit (NC2P-65, and accepting a Property Use and Development Agreement in connection therewith. (Petition by Capitol Hill Housing, C.F. 310179, Department of Planning and Development Project 3009796).

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 500 -- 12th Avenue:

LOTS A AND B, CITY OF SEATTLE SHORT PLAT NUMBER 80-148, RECORDED UNDER RECORDING NUMBER 82020230663, SAID SHORT PLAT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: LOTS 13, 14, 15 AND 16, BLOCK "C" WC SQUIRE'S REPLAT OF BLOCK EIGHT OF SQUIRE'S PARK ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOL. 10 OF PLATS, PAGE 18, IN KING COUNTY WASHINGTON; EXCEPT THAT PORTION OF SAID LOT 16 CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 61476 FOR WIDENING OF 12TH AVENUE, AS PROVIDED BY ORDINANCE NUMBER 17972 OF THE CITY OF SEATTLE.

Section 2. The Official Land Use Map zone classification for the Property, established on page 111 of the Official Land Use Map, which Map was adopted by Ordinance 110381 and last modified by Ordinance 123425, is amended to rezone the Property from Neighborhood Commercial 2 with a Pedestrian overlay and a 40 foot height limit (NC2P-40) to Neighborhood Commercial 2 with a Pedestrian overlay and a 65 foot height limit (NC2P-65) as shown in Exhibit A 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 (2) years from the effective date of approval, unless, within the two (2) 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 approved by the City Council.

Passed by the City Council the 13th day of December, 2010, and signed by me in open session in authentication of its passage this 13th day of December, 2010.

RICHARD CONLIN,
President of the City Council.

Filed by me this 13th day of December, 2010.

(Seal) MONICA MARTINEZ-SIMMONS,
City Clerk.

Exhibit A: Rezone Map.

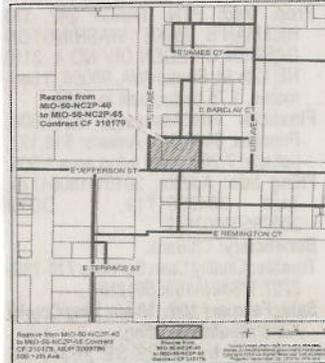


Exhibit B: Property Use and Development Agreement.

Date of publication in the Seattle Daily Journal of Commerce, December 27, 2010.
12/27/264927