

Ordinance No. ~~118082~~ 124469

Council Bill No. 118082

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 76 of the Official Land Use Map to rezone property located at 1321 N. 45<sup>th</sup> Street from Lowrise 3 Residential Commercial (LR3 RC) to Neighborhood Commercial 2 Pedestrian with a 40 foot height limit (NC2P-40), and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by Lee Wan Properties LLC, C.F. 312670, DPD Project 3014098)

Related Legislation File:

Date Introduced and Referred: 5/5/14	To: (committee): Planning, Land Use, and Sustainability
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: 5/12/14	Date Presented to Mayor:
Date Signed by Mayor:	Date Returned to City Clerk: 5/12/14
Published by Title Only <input checked="" type="checkbox"/>	Date Vetoed by Mayor:
Published in Full Text <input type="checkbox"/>	Date Passed Over Veto:
Date Veto Published:	Date Returned Without Signature:

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: ADD

Committee Action:

Date	Recommendation	Vote
5/6/14	PASS Approve	(3-0) MOB, TB, WZ

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

Full Council Action:

Date	Decision	Vote
5/12/14	Passed as Amended	9-0

Law Department

**CITY OF SEATTLE**  
**ORDINANCE** 124469  
**COUNCIL BILL** 118082

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 76 of the Official Land Use Map to rezone property located at 1321 N. 45<sup>th</sup> Street from Lowrise 3 Residential Commercial (LR3 RC) to Neighborhood Commercial 2 Pedestrian with a 40 foot height limit (NC2P-40), and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by Lee Wan Properties LLC, C.F. 312670, DPD Project 3014098)

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

Section 1. This ordinance rezones the following legally described lots (“the Property”) commonly known as 1321 N. 45<sup>th</sup> Street:

SMITH & BURNS ADD LESS ST, PLAT BLOCK: 2, PLAT LOT: 1-2

AND

SMITH & BURNS ADD LESS ST, PLAT BLOCK: 2, PLAT LOT: 3-4

AND

SMITH & BURNS ADD LESS ST, PLAT BLOCK: 2, PLAT LOT: 5-6

AND

SMITH & BURNS ADD 7 & E 7 FT 8 LESS ST, PLAT BLOCK: 2, PLAT LOT: 7-8.

Section 2. Page 76 of the Official Land Use Map, Seattle Municipal Code 23.32.016, is amended to rezone the Property described above and shown in Exhibit A to this ordinance from Lowrise 3 Residential Commercial (LR3 RC) to Neighborhood Commercial 2 Pedestrian with a 40 foot height limit (NC2P-40). Approval of this rezone is conditioned upon compliance with the Property Use and Development Agreement (PUDA) approved in Section 3 of this ordinance.

Section 3. The PUDA attached to this ordinance as Exhibit B is approved and accepted.

Section 4. The City Clerk is authorized and directed to file said PUDA at the King County Records and Elections Division; to file, upon return of the recorded agreement from the



1 King County Records and Elections Division, the original of said PUDA with this ordinance at  
2 the City Clerk's Office; and to deliver copies of the same to the Director of the Department of  
3 Planning and Development and to the King County Assessor's Office.

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

7 Passed by the City Council the 12<sup>th</sup> day of May, 2014, and  
8 signed by me in open session in authentication of its passage this  
9 12<sup>th</sup> day of May, 2014.

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

13  
14 Filed by me this 12<sup>th</sup> day of May, 2014.

15   
16 \_\_\_\_\_  
17 Monica Martinez Simmons, City Clerk

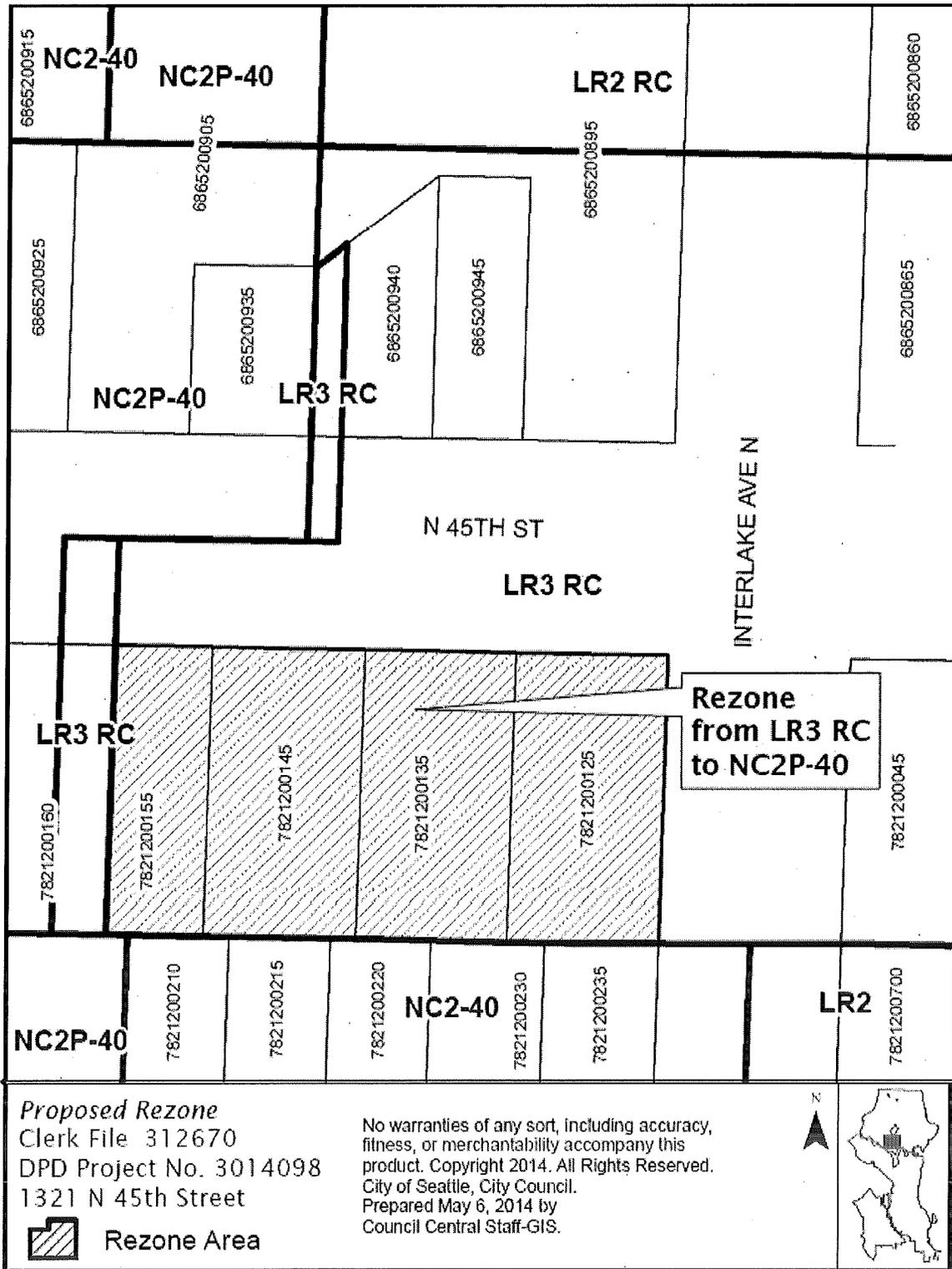
18 (Seal)

19  
20  
21 Exhibit A: Rezone Map

22 Exhibit B: Property Use and Development Agreement  
23  
24  
25  
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27  
28



**Exhibit A: Rezone Map**



**Exhibit B: Property Use and Development Agreement – v.2**

*When Recorded, Return to:*

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

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**PROPERTY USE AND DEVELOPMENT AGREEMENT**

<b>Grantor:</b> 1) <u>Lee Wan Properties 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> SMITH & BURNS ADD LESS ST, PLAT BLOCK: 2, PLAT LOT: 1-2  and  SMITH & BURNS ADD LESS ST, PLAT BLOCK: 2, PLAT LOT: 3-4  and  SMITH & BURNS ADD LESS ST, PLAT BLOCK: 2, PLAT LOT: 5-6  and  SMITH & BURNS ADD 7 & E 7 FT 8 LESS ST, PLAT BLOCK: 2, PLAT LOT: 7-8
<input type="checkbox"/> Additional on : _____
<b>Assessor's Tax Parcel ID #:</b> <u>7821200125, 7821200135, 7821200145 and 7821200155</u>
<b>Reference Nos. of Documents Released or Assigned:</b> <u>Not applicable.</u>

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this \_\_\_\_ day of \_\_\_\_\_, 2014, in favor of the CITY OF SEATTLE (the "City"), a Washington municipal corporation, by Lee Wan Properties LLC, a Washington limited liability company (the "Owners").

### RECITALS

**A.** Lee Wan Properties LLC is the owner of that certain real property (the "Property") in the City of Seattle zoned Lowrise 3 Residential Commercial ("LR3 RC") shown in Attachment A and described as:

SMITH & BURNS ADD LESS ST, PLAT BLOCK: 2, PLAT LOT: 1-2

AND

SMITH & BURNS ADD LESS ST, PLAT BLOCK: 2, PLAT LOT: 3-4

AND

SMITH & BURNS ADD LESS ST, PLAT BLOCK: 2, PLAT LOT: 5-6

AND

SMITH & BURNS ADD 7 & E 7 FT 8 LESS ST, PLAT BLOCK: 2, PLAT LOT: 7-8.

**B.** On November 21, 2012, the Owners submitted to the City of Seattle an application under Project No. 3014098 for a rezone of the Property from LR3 RC to Neighborhood Commercial 2 Pedestrian with a 40 foot height limit ("NC2P-40"). The purpose of the application is to allow the Property to accommodate residential and commercial mixed-use development of greater density.

**C.** Seattle Municipal Code Section 23.34.004 allows the City to approve a 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 Seattle Municipal Code Section ("SMC") 23.34.004, the Owners hereby covenant, bargain and agree, on behalf of themselves and their successors and assigns, that they will comply with the following conditions in consideration of the rezone of the Property from LR3 RC to NC2P-40:

Approval of this rezone requires the development of the proposed project to be in substantial conformance with the approved plans for Department of Planning and Development Master Use Permit No. 3014098, dated December 6, 2013, and with all other requirements and conditions of that permit.

**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 land and shall be binding upon the Owners, 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 shall expire three (3) years from the effective date of approval, unless, within the three (3) year period, an application is filed for a Master Use Permit, which permit is subsequently issued. The rezone remains in effect during this period unless revoked pursuant to SMC Section 23.34.004.

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

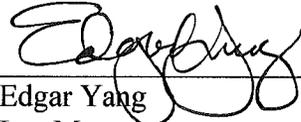
**Section 6. No Precedent.** The conditions contained in this Agreement are based on the unique circumstances applicable to this Property and this Agreement is not intended to establish precedent for other rezones in the surrounding area.

**Section 7. Benefited.** This Agreement is made for the benefit of the City and for the benefit of the owners of the 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.** The Owners acknowledge that compliance with the conditions of this Agreement is a condition of the subject rezone and that if the Owners fail to comply with the conditions of this Agreement the City may, in addition to pursuing any other remedy, revoke the rezone by ordinance and require the use of the Property to conform to the requirements of the previously existing zone.

SIGNED this 7<sup>th</sup> day of MAY, 2014.

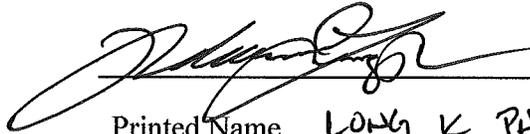
Lee Wan Properties LLC  
a Washington limited liability company

By:   
Edgar Yang  
Its: Manager

STATE OF WASHINGTON }  
COUNTY OF KING } ss.

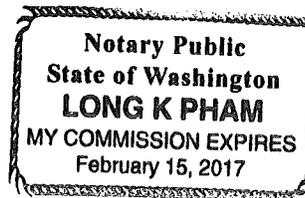
On this day personally appeared before me Edgar Yang, to me known to be the Manager, of Lee Wan Properties LLC, a Washington limited liability company that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, 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 7<sup>th</sup> day of MAY, 2014.

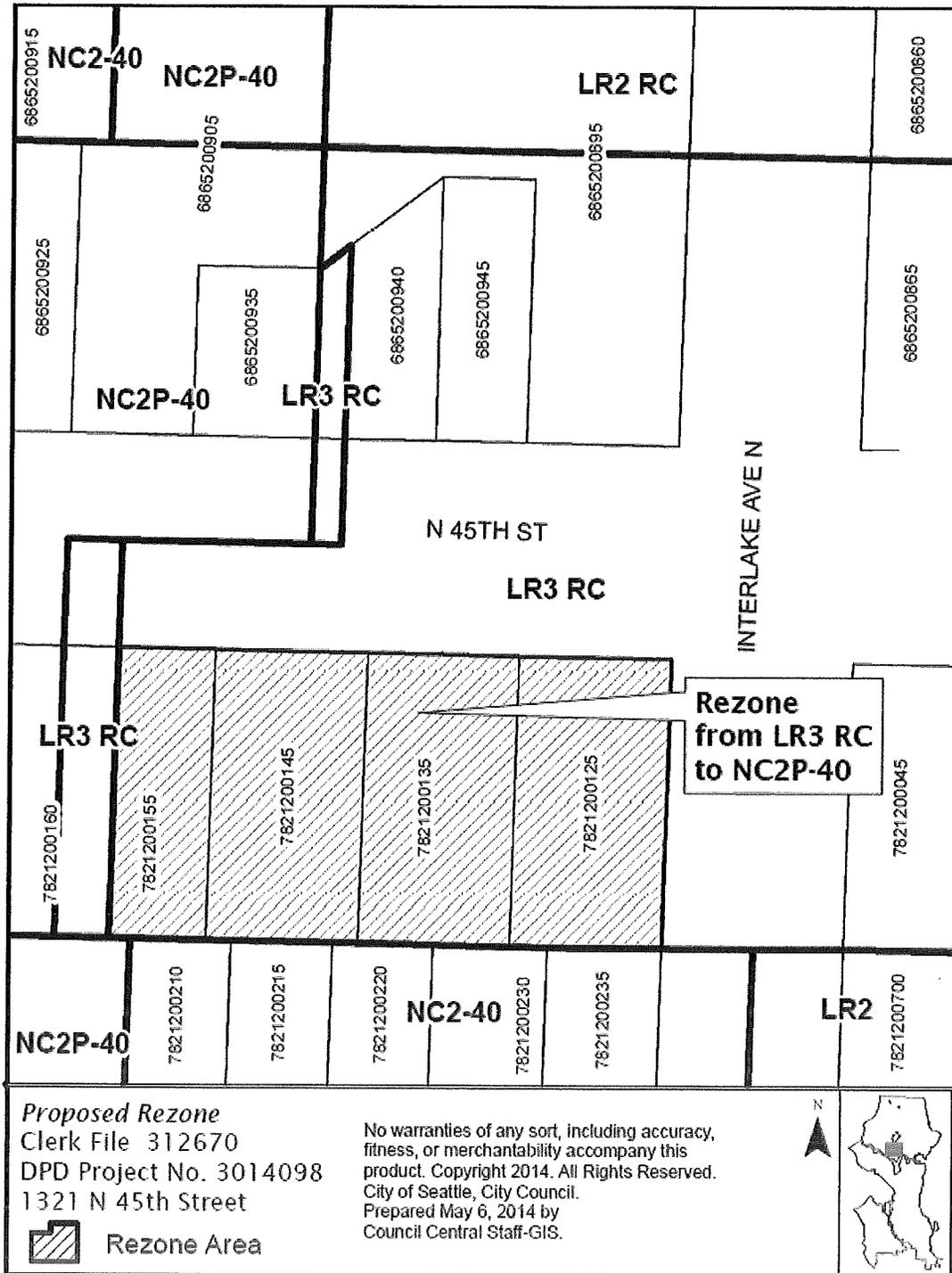
  
Printed Name LONG K PHAM

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

My Commission Expires FEBRUARY 15, 2017



**ATTACHMENT A**



*Proposed Rezone*  
 Clerk File 312670  
 DPD Project No. 3014098  
 1321 N 45th Street



**Rezone Area**

No warranties of any sort, including accuracy, fitness, or merchantability accompany this product. Copyright 2014. All Rights Reserved. City of Seattle, City Council. Prepared May 6, 2014 by Council Central Staff-GIS.

N



**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>CBO Analyst/Phone:</b>
Legislative	Sara Belz / 4-5382	Not Applicable

**Legislation Title:**

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 76 of the Official Land Use Map to rezone property located at 1321 N. 45<sup>th</sup> Street from Lowrise 3 Residential Commercial (LR3 RC) to Neighborhood Commercial 2 Pedestrian with a 40 foot height limit (NC2P-40), and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by Lee Wan Properties LLC, C.F. 312670, DPD Project 3014098)

**Summary of the Legislation:**

This legislation would rezone four parcels located at 1321 N. 45<sup>th</sup> Street. The proposed rezone would change the zone designation of the parcels from LR3 RC to NC2P-40. A Property Use and Development Agreement is associated with the rezone petition.

**Background:**

The legislation concerns a petitioner-generated rezone proposal that is 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 312670.

Please check one of the following:

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

**This legislation has financial implications.**



**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

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**PROPERTY USE AND DEVELOPMENT AGREEMENT**

<b>Grantor:</b> 1) <u>Lee Wan Properties LLC</u> 2) _____ <input type="checkbox"/> Additional on page _____
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<input type="checkbox"/> Additional on : _____
<b>Assessor's Tax Parcel ID #:</b> <u>7821200125, 7821200135, 7821200145 and 7821200155</u>
<b>Reference Nos. of Documents Released or Assigned:</b> <u>Not applicable.</u>

**THIS VERSION IS NOT ADOPTED**



THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this \_\_\_\_\_ day of \_\_\_\_\_, 2014, in favor of the CITY OF SEATTLE (the "City"), a Washington municipal corporation, by Lee Wan Properties LLC, a Washington limited liability company (the "Owners").

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SMITH & BURNS ADD LESS ST, PLAT BLOCK: 2, PLAT LOT: 3-4

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SMITH & BURNS ADD 7 & E 7 FT 8 LESS ST, PLAT BLOCK: 2, PLAT LOT: 7-8.

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THIS VERSION IS NOT ADOPTED



Approval of this rezone requires the development of the proposed project to be in substantial conformance with the approved plans for Department of Planning and Development Master Use Permit No. 3014098, dated December 6, 2013, and with all other requirements and conditions of that permit.

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THIS VERSION IS NOT ADOPTED



SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Lee Wan Properties LLC  
a Washington limited liability company

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

Edgar Yang  
Its: Manager

STATE OF WASHINGTON

COUNTY OF KING

}

ss.

On this day personally appeared before me Edgar Yang, to me known to be the Manager, of Lee Wan Properties LLC, a Washington limited liability company that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, 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 \_\_\_\_\_, 2014.

\_\_\_\_\_  
Printed Name \_\_\_\_\_

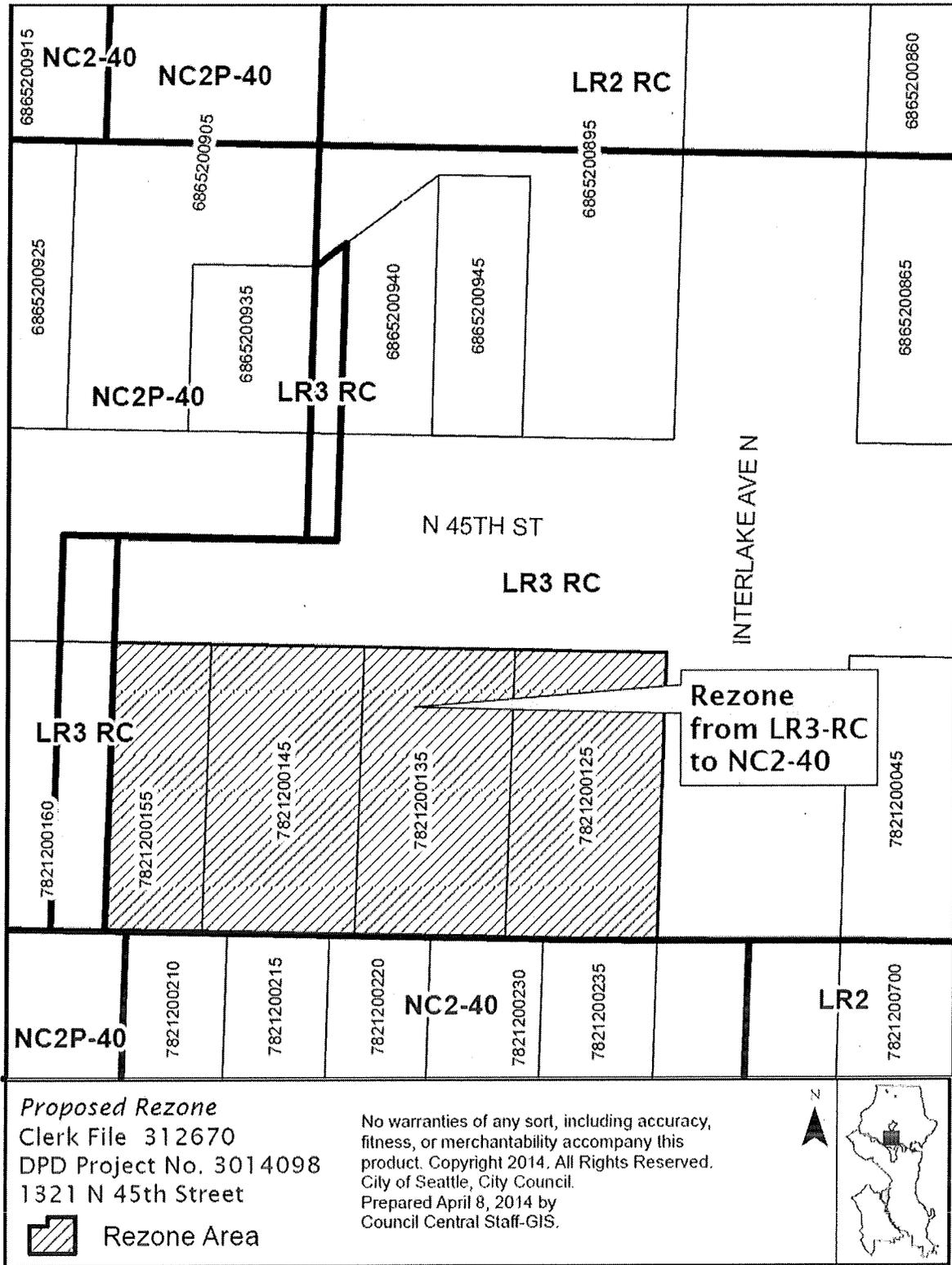
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_

My Commission Expires \_\_\_\_\_

THIS VERSION IS NOT ADOPTED



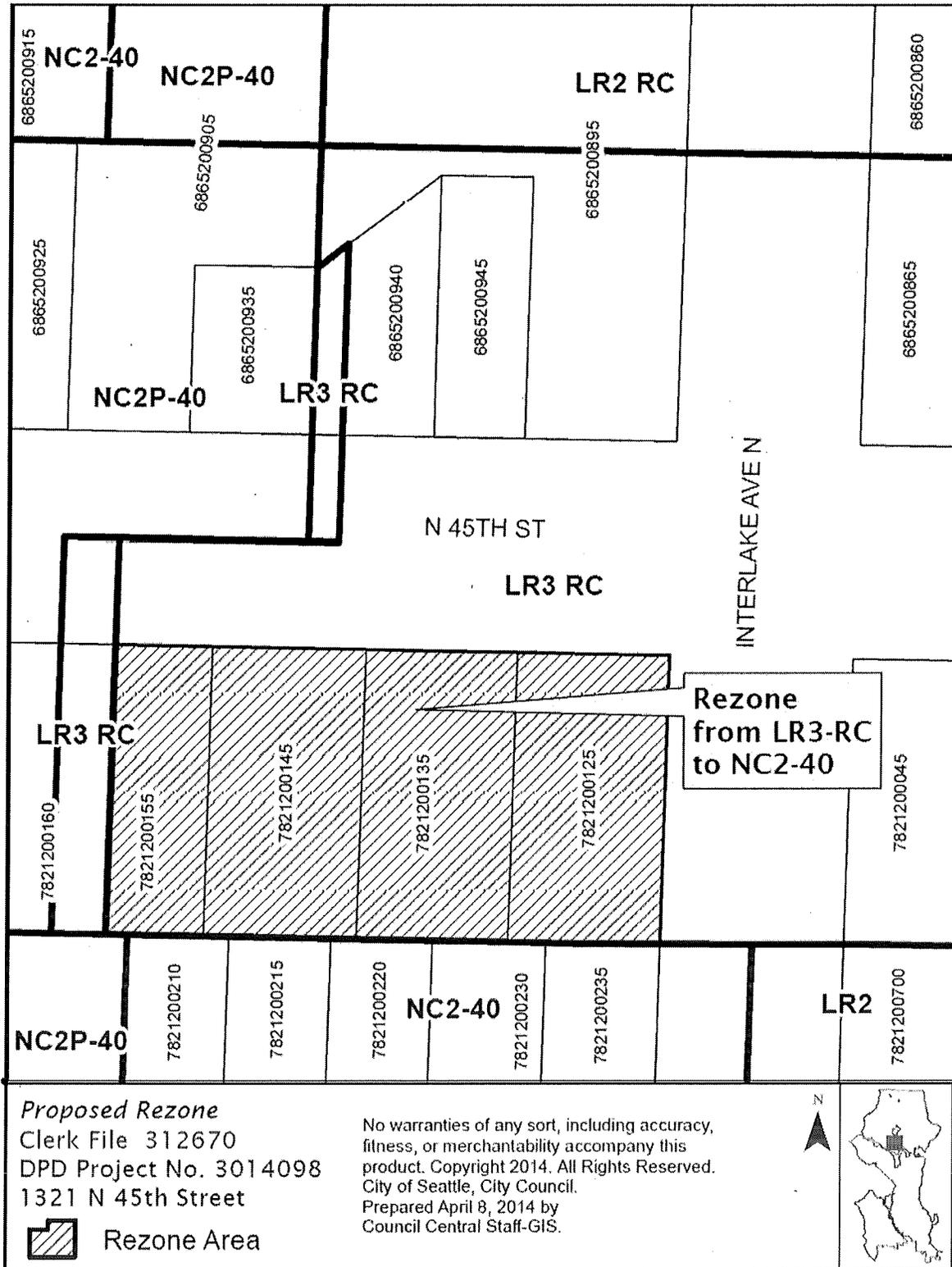
ATTACHMENT A



THIS VERSION IS NOT ADOPTED



**Exhibit A: Rezone Map**



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STATE OF WASHINGTON -- KING COUNTY

--SS.

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311964

No. TITLE ONLY

CITY OF SEATTLE, CLERKS OFFICE

**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.

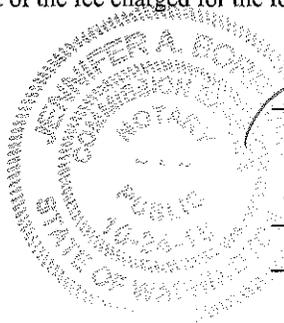
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:124469-70,72-74

was published on

06/06/14

The amount of the fee charged for the foregoing publication is the sum of \$82.23 which amount has been paid in full.



06/06/2014

*Paula Colebrook*  
Subscribed and sworn to before me on

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

Affidavit of Publication

## State of Washington, King County

### City of Seattle

The full text of the following legislation, passed by the City Council on May 12, 2014, and published below by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>. Contact: Office of the City Clerk at (206) 684-8344.

#### ORDINANCE NO. 124469

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 76 of the Official Land Use Code at page 76 of the Map to rezone property located at 1321 N. 45th Street from Lowrise 3 Residential Commercial (LR3 RC) to Neighborhood Commercial 2 Pedestrian with a 40 foot height limit (NC2P-40), and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by Lee Wan Properties LLC, C.F. 312670, DPD Project 3014098)

#### ORDINANCE NO. 124470

An ORDINANCE approving an amendment of the Property Use and Development Agreement approved by Ordinance 121961 for property located at 419 N.E. 71st Street.

#### ORDINANCE NO. 124472

AN ORDINANCE related to indigent public defense legal services; authorizing an alternative to the method under Ordinance 122602 for selecting providers of public defense legal services; authorizing an inter-local agreement with King County for public defense legal services; and superseding the provisions of Ordinance 122602, as amended, to the extent it is inconsistent with the provisions of this ordinance.

#### ORDINANCE NO. 124473

AN ORDINANCE relating to Hearing Examiner filing fees, amending Section 3.02.125 to add exceptions for cases brought to enforce Chapter 14.17 (Use of Criminal History in Employment Decisions) and Subchapter III of Chapter 4.20 (Whistleblower Protection Code).

#### ORDINANCE NO. 124474

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

Date of publication in the Seattle Daily Journal of Commerce, June 6, 2014.

6/6(311964)