SEATTLE CITY COUNCIL

Legislative Summary

CB 118654

Record No.: CB 118654 **Type:** Council Bill (CB) **Status:** Passed at Full Council

125024

Version: 1 **In Control:** Planning, Land Use, and Zoning Committee

File Created: 03/17/2016

Final Action:

Title: AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 91 of the Official Land Use Map to rezone property located at 2203 and 2209 Eastlake Avenue E from Neighborhood Commercial 1 Pedestrian-30 (NC1P-30) and Lowrise 2 Residential Commercial (LR2 RC) to Neighborhood Commercial 2 Pedestrian-40 (NC2P-40), and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by Maria Barrientos, C.F. 314127, DPD Project 3016024)

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Johnson

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments: Exhibit A - Rezone Map, Exhibit B - Executed Property Use and Development Agreement, Exhibit B - Unexecuted Property Use and Development Agreement

Drafter: patrick.wigren@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File **Legal Notice Published:** ☐ Yes ☐ No

Ver-sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Clerk	03/22/2016	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
	Notes:						
1	Council President's Office	03/28/2016	sent for review	Planning, Land Use, and Zoning Committee			
	Action Text: The Council Bill (CB) was sent for review. to the Planning, Land Use, and Zoning Committee						
	Notes:						

1	Full Council	04/04/2016	referred	Planning, Land Use, and Zoning Committee	

Action Text: The Council Bill (CB) was referred. to the Planning, Land Use, and Zoning Committee

Notes:

1	Planning, Land Use, and Zoning Committee	04/05/2016	pass		Pass

Action Text: The Committee recommends that Full Council pass the Council Bill (CB).

In Favor: 4 Chair Johnson, Vice Chair O'Brien, Member Herbold, Alternate González

Opposed: 0

1	Full Council	04/11/2016	passed as amended		Pass

Action Text: The Motion carried, the Council Bill (CB) passed as amended by the following vote, and the President signed the Bill:

Notes: ACTION 1:

Motion was made by Councilmember Johnson, duly seconded and carried, to amend Council Bill 118654, Exhibit B, by substituting an executed Property Use and Development Agreement for the non-executed Property Use and Development Agreement.

ACTION 2:

Motion was made and duly seconded to pass Council Bill 118654 as amended.

In Favor: 8 Councilmember Bagshaw, Councilmember Burgess, Councilmember González , Council President Harrell, Councilmember Herbold, Councilmember Johnson, Councilmember Juarez, Councilmember O'Brien

Opposed: 0

Lish Whitson
LEG 2203 Eastlake ORD
D1b

CITY OF SEATTLE

ORDINANCE 125024

COUNCIL BILL 118654

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 91 of the Official Land Use Map to rezone property located at 2203 and 2209 Eastlake Avenue E from Neighborhood Commercial 1 Pedestrian-30 (NC1P-30) and Lowrise 2 Residential Commercial (LR2 RC) to Neighborhood Commercial 2 Pedestrian-40 (NC2P-40), and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by Maria Barrientos, C.F. 314127, DPD Project 3016024)

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 2203 and 2209 Eastlake Avenue East:

Lot 1 and 2, Block 8, Green's Addition to the City of Seattle, according to the Plat thereof recorded in volume 2 of Plats, page 73.

Section 2. Page 91 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 Neighborhood Commercial 1 Pedestrian with a 30-foot height limit (NC1P-30) and Lowrise 2 Residential Commercial (LR2 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 King County Records and Elections Division, the original of said PUDA with this ordinance at the City Clerk's Office; and to deliver copies of the same to the Director of the Seattle Department of Construction and Inspections and to the King County Assessor's Office.

Section 5. 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 30 days from and after its passage and approval by the City Council.

Passed by the City Council the 11th day of April, 2016, and signed by me in open session in authentication of its passage this 11th day of April, 2016.

President _____ of the City Council

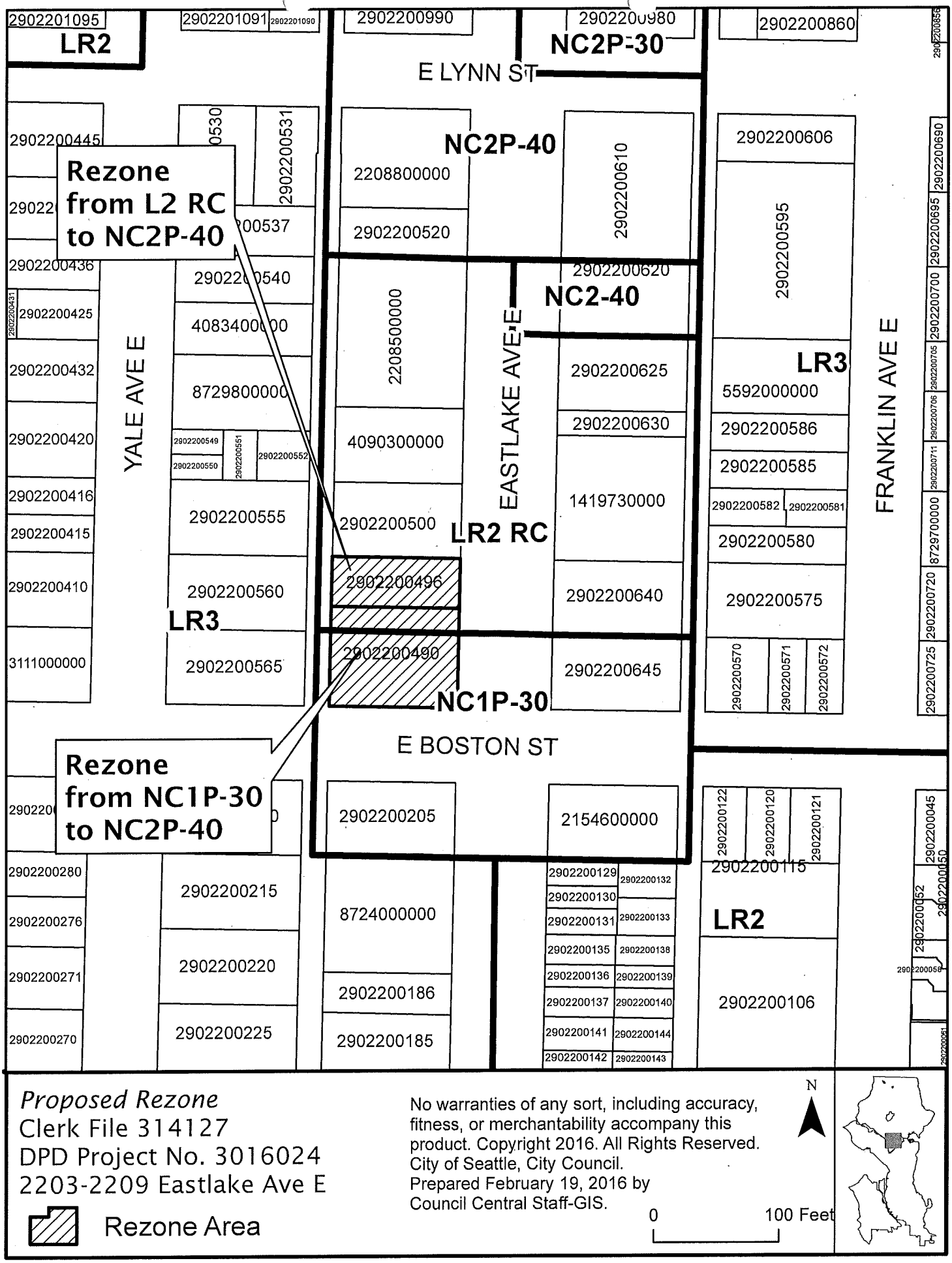
Filed by me this 11th day of April, 2016.

Monica Martinez Simmons, City Clerk

(Seal)

Attachments:
Exhibit A - Rezone Map
Exhibit B - Property Use and Development Agreement

Ex A - Rezone Map
V1a



Proposed Rezone
Clerk File 314127
DPD Project No. 3016024
2203-2209 Eastlake Ave E

Rezone Area

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Prepared February 19, 2016 by Council Central Staff-GIS.

N

0 100 Feet

Property Use and Development Agreement *[Template]*

When Recorded, Return to:	
THE CITY CLERK 600 Fourth Avenue, Floor 3 PO Box 94728 Seattle, Washington 98124-4728	

FILED
CITY OF SEATTLE
CITY CLERK
2016 APR -6 AM 11:39

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantor(s):	(1)	2203 Eastlake Ave East LLC	(2)	
☐ Additional grantors on page _____				
Grantee:	(1)	The City of Seattle		
☐ Additional on page _____				
Legal Description (*abbreviated if necessary*):		Lot 1 and Lot 2, Block 8, Green's Addition to the City of Seattle, according to the Plat thereof recorded in Volume 2 of Plats, page 73.		
☐ Additional legal description on page _____:				
Assessor's Tax Parcel ID #:		2902200496 and 2902200490		
Reference Nos. of Documents Released or Assigned:				

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this 5th day of April, 2016, in favor of the CITY OF SEATTLE (the "City"), a Washington municipal corporation, by 2203 Eastlake Ave East LLC, a Washington limited liability company (the "Owner").

RECITALS

A. 2203 Eastlake Ave East LLC is the owner of that certain real property (the "Rezone Site") in the City of Seattle split-zoned Neighborhood Commercial One with a Pedestrian Overlay (NC1P-30) and Lowrise Two multifamily with a Residential Commercial Overlay (LR2 RC) shown in Attachment A and described as:

> Lot 1 and Lot 2, Block 8, Green's Addition to the City of Seattle, according to the Plat thereof recorded in Volume 2 of Plats, page 73.

B. In January 2015, the Owner submitted to the City of Seattle an application under Project No. 3016024 for a rezone of the Rezone Site from Neighborhood Commercial One with a Pedestrian Overlay (NC1P-30) and Lowrise Two multifamily with a Residential Commercial Overlay (LR2 RC) to Neighborhood Commercial Two with a Pedestrian Overlay (NC2P-40). The purpose of the application is to allow the Rezone Site to accommodate the construction of a five-story structure containing 45 residential units and 3,423 square feet of commercial space at

ground level. Parking for 39 vehicles to be provided below grade. Existing structures to be demolished.

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 Owner(s) 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 Rezone Site from NC1P-30 and LR2 RC to NC2P-40:

Future development of the Rezone Site is restricted to a project that complies with Master Use Permit # 3016024, once the Seattle Department of Construction and Inspections (SDCI) issues that Master Use Permit. Prior to issuing the Master Use Permit, SDCI must confirm that the drawings substantially comply with the conditions established during the design review process, including the structure design, structure height, building materials, landscaping, street improvements, parking lot design and layout, signage, and site lighting.

Future development of the Rezone Site must conform to the conditions in the Hearing Examiner's recommendation, dated January 11, 2016:

- Prior to the Issuance of a Demolition, Grading, or Building Permit the applicant shall provide a copy of a Construction Haul Route, approved by Seattle Department of Transportation to SDCI; and
- A Construction Parking Plan, approved by the Land Use Planner, is required. The Plan shall demonstrate the location of the site, the peak number of construction workers on site during the construction, the location of nearby parking lots that are identified for potential pay parking for construction workers, the number of stalls per parking lot identified, and a plan to reduce the number of construction workers to the site.

Section 2. Agreement Runs With the Land. This Agreement shall be recorded in the records of King County by the City Clerk. The covenants contained in this Agreement shall attach to and run with the land and 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 of Zoning Designation.

As authorized by SMC 23.76.060.C.1, the new zoning designation and the covenants listed in Section 1 of this agreement shall expire seven years after the effective date of the ordinance approving this rezone, provided that if a Master Use Permit is issued, the rezone remains in effect as authorized by SMC 23.76.060.C.1.a.2. The seven-year period is to allow sufficient time

to construct all 45 dwelling units authorized under and described under Master Use Permit (MUP) #3016024.

Section 4. Termination of Conditions.

The conditions listed in Section 1 of this Agreement shall expire at such time as the Rezone expires or is revoked pursuant to SMC 23.34.004. If the rezone does not expire, these conditions shall remain in effect until amended or repealed.

Section 5. Amendment. This Agreement may be amended or modified by agreement between Owners and the City; provided, if such amendments are approved by the City Council by ordinance.

Section 6. 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 7. No Precedent. The conditions contained in this Agreement are based on the unique circumstances applicable to this Property and this Agreement are not intended to establish precedent for other rezones in the surrounding area.

Section 8. Repeal as Additional Remedy. Owners acknowledge 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:

a. revoke the rezone by ordinance and require the use of the Rezone Site to conform to the requirements of the previous NC1P-30 and LR2 RC zoning designation or some other zoning designation imposed by the City Council; and/or

b. pursue specific performance of this Agreement.

[signature and acknowledgment on following page]

SIGNED this 5th day of April, 2016.

2203 Eastlake Ave East LLC, a Washington limited liability company

By: John Links

Its: Manager

On this day personally appeared before me John Links, to me known to be the Manager of 2203 Eastlake Ave East 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.

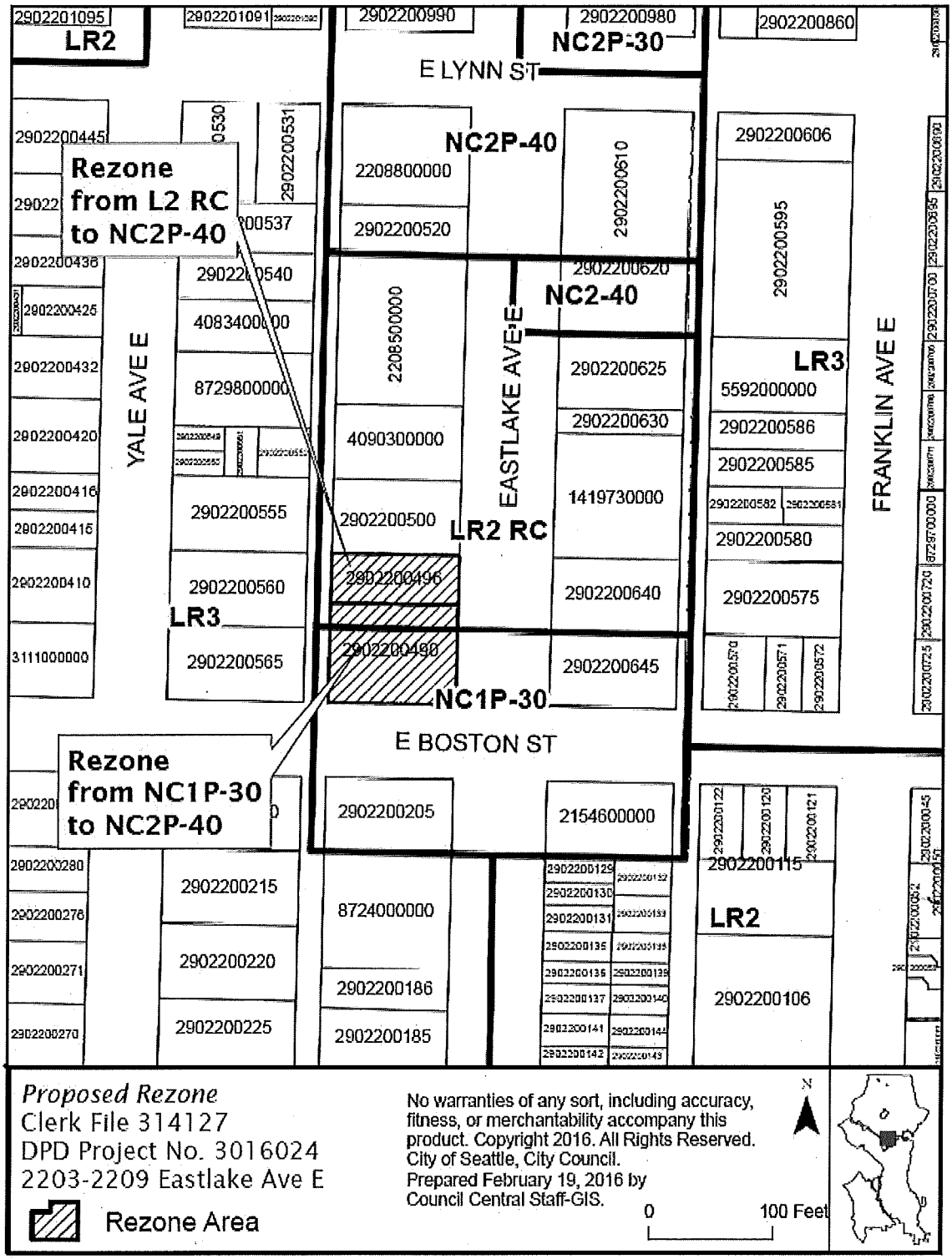
GIVEN UNDER MY HAND AND OFFICIAL SEAL this 5th day of April 2016.

	Printed Name John Patrick Bullinger
	NOTARY PUBLIC in and for the State of Washington, residing at Seattle
	My Commission Expires 8/16/16

STATE OF WASHINGTON COUNTY OF KING	}	ss.

JOHN PATRICK BULLINGER NOTARY PUBLIC COMMISSION EXPIRES 8-16-16 STATE OF WASHINGTON

ATTACHMENT A
REZONE MAP



STATE OF WASHINGTON -- KING COUNTY

--ss.

336480

No. 125021,022,023,024,025

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 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:TITLE ONLY ORDINANCES

was published on

04/22/16

The amount of the fee charged for the foregoing publication is the sum of $103.68 which amount has been paid in full.

JENNIFER A. BARNES NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES 10-24-19

Pamela Cole by

Subscribed and sworn to before me on

04/22/2016

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle
Title Only Ordinances

The full text of the following legislation, passed by the City Council on April 11, 2016, 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.

Ordinance 125021

AN ORDINANCE relating to historic preservation; imposing controls upon the Pioneer Sand and Gravel Company Building, a landmark designated by the Landmarks Preservation Board under Chapter 25.12 of the Seattle Municipal Code, and adding it to the Table of Historical Landmarks contained in Chapter 25.32 of the Seattle Municipal Code.

Ordinance 125022

AN ORDINANCE relating to historic preservation; imposing controls upon Fire Station No. 5, a landmark designated by the Landmarks Preservation Board under Chapter 25.12 of the Seattle Municipal Code, and adding it to the Table of Historical Landmarks contained in Chapter 25.32 of the Seattle Municipal Code.

Ordinance 125023

AN ORDINANCE granting Qwest Corporation, d.b.a. CenturyLink QC, permission to maintain and operate an at-grade fiber hut on the north side of Northwest 105th Street, east of 8th Avenue Northwest, and north of Alderbrook Place Northwest, for a ten-year term, renewable for two successive ten-year terms; specifying the conditions under which this permit is granted; providing for the acceptance of the permit and conditions; and ratifying and confirming certain prior acts.

Ordinance 125024

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 91 of the Official Land Use Map to rezone property located at 2203 and 2209 Eastlake Avenue E from Neighborhood Commercial 1 Pedestrian-30 (NC1P-30) and Lowrise 2 Residential Commercial (LR2 RC) to Neighborhood Commercial 2 Pedestrian-40 (NC2P-40), and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by Maria Barrientos, C.F. 314127, DPD Project 3016024)

Ordinance 125025

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

Date of publication in the Seattle Daily Journal of Commerce, April 22, 2016.

4/22(336480)