

#6  
117179

**ORDINANCE**

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 102 of the Official Land Use Map to rezone property located at 711 Bellevue Avenue East from Lowrise 3 (LR3) to Midrise with a 60 foot height limit (MR-60), and accepting a Property Use and Development Agreement in connection therewith. (Petition by Lesley Bain, C.F. 310211, DPD Project 3010378)

**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 711 Bellevue Avenue East:

LOTS 1, 16, 17 AND 18, BLOCK 5, EAST PARK ADDITION TO THE CITY OF SEATTLE, ACCORDING THE PLAT THEREOF RECORDED IN VOLUME 8 OF PLATS, PAGE 83, IN KING COUNTY, WASHINGTON; EXCEPT THAT PORTION OF LOTS 16, 17 AND 18 CONVEYED TO THE STATE OF WASHINGTON FOR PRIMARY STATE HIGHWAY NO. 1, SEATTLE, FREEWAY, BY DEED RECORDED UNDER RECORDING NUMBER 5060053. SUBJECT TO ALL MATTERS OF RECORD.

AND

LOT 2, BLOCK 5, EAST PARK ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 8 OF PLATS, PAGE 83, IN KING COUNTY, WASHINGTON.

AND

THE SOUTH 40 FEET OF LOT 3, BLOCK 5, EAST PARK ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 8 OF PLATS, PAGE 83, IN KING COUNTY, WASHINGTON.

AND

SOUTH 20 FEET OF LOT 4 AND THE NORTH 20 FEET OF LOT 3, BLOCK 5, EAST PARK ADDITION TO THE CITY OF SEATTLE, ACCORDING THE PLAT THEREOF RECORDED IN VOLUME 8 OF PLATS, PAGE 83, IN KING COUNTY, WASHINGTON.

AND



1 NORTH 40 FEET OF LOT 4, BLOCK 5, EAST PARK ADDITION TO THE CITY OF SEATTLE,  
2 ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 8 OF PLATS, PAGE 83, IN KING  
3 COUNTY, WASHINGTON.

4 AND

5 THOSE PORTIONS OF BLOCK 5, EAST PARK ADDITION TO THE CITY OF SEATTLE,  
6 ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 8 OF PLATS, PAGE 83, IN KING  
7 COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

8 THE SOUTH 8 FEET OF LOT 5 OF SAID BLOCK; ALSO THAT PORTION OF LOT 14 OF SAID  
9 BLOCK 5, DESCRIBED AS FOLLOWS:

10 BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 14; THENCE WEST ALONG THE  
11 SOUTH LINE OF SAID LOT 85.30 FEET TO THE SOUTHWEST CORNER OF THE TRACT CONVEYED TO  
12 PERSIS A. LIVESLEY BY DEED DATED MAY 27, 1905 AND RECORDED UNDER RECORDING NUMBER  
13 341209;

14 THENCE NORTHEASTERLY ALONG THE WEST LINE OF SAID LIVESLEY TRACT TO ITS  
15 INTERSECTION WITH A LINE RUNNING WEST PARALLEL WITH THE SOUTH LINE OF SAID LOT  
16 FROM A POINT ON THE EAST LINE OF SAID LOT, 8 FEET NORTH OF THE SOUTHEAST CORNER  
17 THEREOF; THENCE EAST ALONG SAID PARALLEL LINE TO SAID POINT ON THE EAST LINE OF SAID  
18 LOT; THENCE SOUTH ALONG THE EAST LINE, 8 FEET TO THE POINT OF BEGINNING;

19 ALSO LOT 15 OF BLOCK 5; EXCEPT THAT PORTION DESCRIBED AS FOLLOWS:

20 BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 15; THENCE EAST ALONG THE  
21 NORTH LINE OF SAID LOT 87.21 FEET; THENCE IN A SOUTHWESTERLY DIRECTION 59.70 FEET TO A  
22 POINT 121.92 FEET WEST OF THE EASTERLY LINE AND 10 FEET NORH OF THE SOUTHERLY LINE OF  
23 SAID LOT 15;

24 THENCE WEST PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT 50 FEET TO A POINT  
25 ON THE WESTERLY LINE OF SAID LOT 15; THENCE NORTHERLY ALONG SAID WESTERLY LINE  
26 50.21 FEET TO THE POINT OF BEGINNING; AND EXCEPT THAT PORTION OF THE ABOVE DESCRIBED  
27



1 LOTS CONVEYED TO THE STATE OF WASHINGTON FOR PRIMARY STATE HIGHWAY NO. 1  
2 (SEATTLE FREEWAY) BY DEEDS RECORDED UNDER RECORDING NUMBERS 5094103 AND 5105999.

3 Section 2. The Official Land Use Map zone classification, established on page 102 of the  
4 Official Land Use Map, and adopted by Ordinance 110381 and last modified by Ordinance  
5 123589, is amended to rezone the Property from Lowrise 3 (LR3) to Midrise with a 60 foot  
6 height limit (MR-60), as shown in Exhibit A of this ordinance. The Official Land Use Map zone  
7 classification is conditioned upon performance and continued compliance with the conditions of  
8 the Property Use and Development Agreement referenced in Section 3 of this 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 rezone approval of the Property expires, pursuant to Section  
13 23.76.060.B of the Seattle Municipal Code, six years from the effective date of approval, unless,  
14 within the six year period, an application is filed for a Master Use Permit, which permit is  
15 subsequently issued. If the permit is subsequently issued, the rezone remains in effect unless  
16 revoked pursuant to Section 23.34.004.  
17

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



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

4 Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2011, and  
5 signed by me in open session in authentication of its passage this  
6 \_\_\_\_ day of \_\_\_\_\_, 2011.

7  
8  
9 \_\_\_\_\_  
10 President \_\_\_\_\_ of the City Council

11 Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2011.

12  
13 \_\_\_\_\_  
14  
15 Monica Martinez Simmons, City Clerk

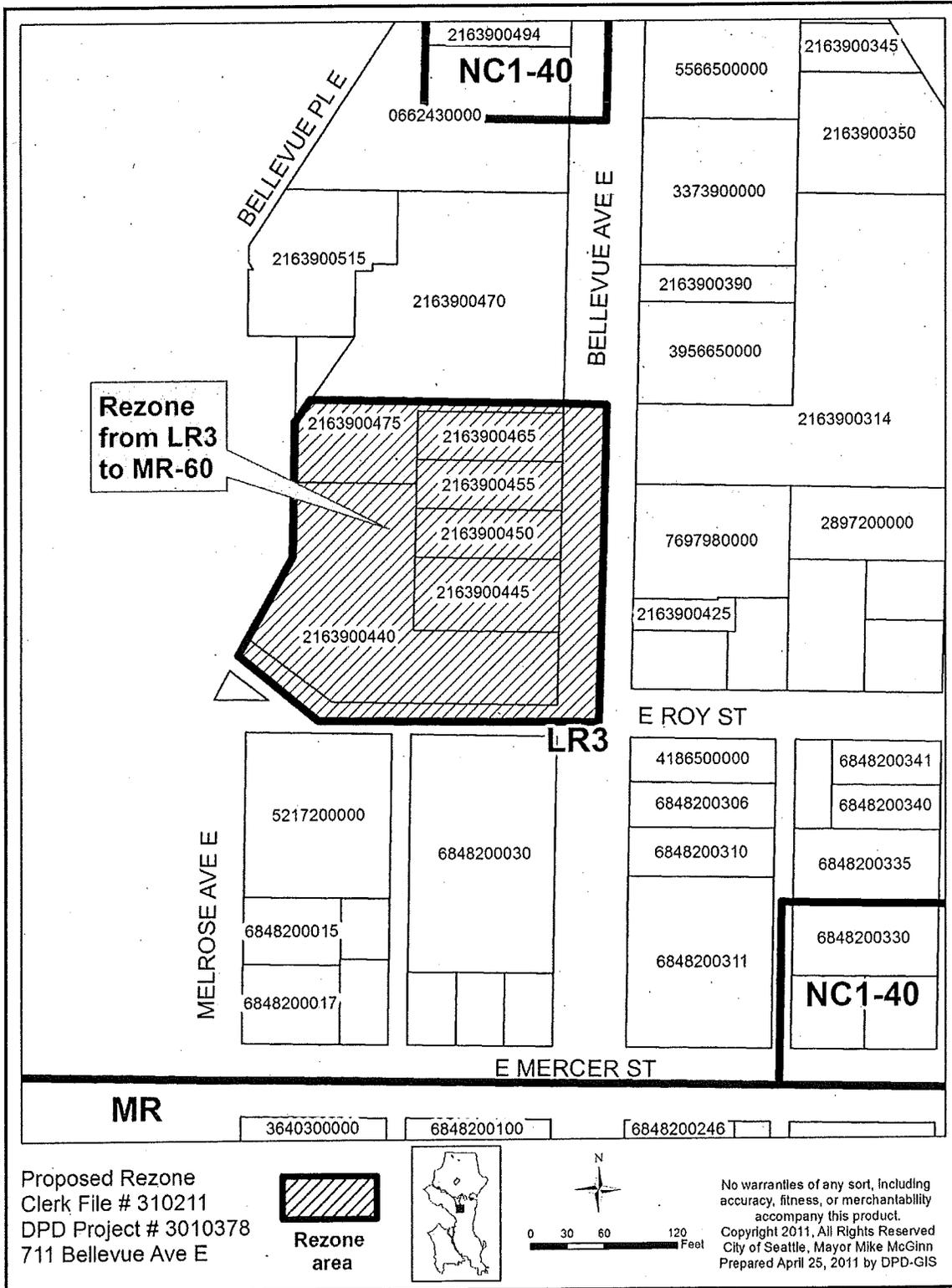
16 (Seal)

17  
18 Exhibit A: Rezone Map

19 Exhibit B: Property Use and Development Agreement  
20  
21  
22  
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24  
25  
26  
27  
28



**Exhibit A: Rezone Map for 711 Bellevue Avenue East**



EDS  
CITY  
CLERK

**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>Belroy Homes, 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 1-4, portions of Lots 5 and 14-18, Block 5, East Park Addition.</u>
<input checked="" type="checkbox"/> Additional on : <u>pp. 2-3</u>
<b>Assessor's Tax Parcel ID #:</b> <u>2163900440, 2163900445, 2163900450, 2163900455, 2163900465, 2163900475</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 \_\_\_\_\_, 2011, in favor of the CITY OF SEATTLE (the "City"), a Washington municipal corporation, by BELROY HOMES, LLC (the "Owners"), a Washington limited liability company.

**RECITALS**

A. Belroy Homes, LLC is the owner of that certain real property (the "Rezone Area") in the City of Seattle zoned Lowrise 3 (LR3) shown in Attachment A and described as:

LOTS 1, 16, 17 AND 18, BLOCK 5, EAST PARK ADDITION TO THE CITY OF SEATTLE, ACCORDING THE PLAT THEREOF RECORDED IN VOLUME 8 OF PLATS, PAGE 83, IN KING COUNTY, WASHINGTON; EXCEPT THAT PORTION OF LOTS 16, 17 AND 18 CONVEYED TO THE STATE OF WASHINGTON FOR PRIMARY STATE HIGHWAY NO. 1, SEATTLE, FREEWAY, BY DEED RECORDED UNDER RECORDING NUMBER 5060053. SUBJECT TO ALL MATTERS OF RECORD.

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THOSE PORTIONS OF BLOCK 5, EAST PARK ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 8 OF PLATS, PAGE 83, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

THE SOUTH 8 FEET OF LOT 5 OF SAID BLOCK; ALSO THAT PORTION OF LOT 14 OF SAID BLOCK 5, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 14; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 85.30 FEET TO THE SOUTHWEST CORNER OF THE TRACT

CONVEYED TO PERSIS A. LIVESLEY BY DEED DATED MAY 27, 1905 AND RECORDED UNDER RECORDING NUMBER 341209;

THENCE NORTHEASTERLY ALONG THE WEST LINE OF SAID LIVESLEY TRACT TO ITS INTERSECTION WITH A LINE RUNNING WEST PARALLEL WITH THE SOUTH LINE OF SAID LOT FROM A POINT ON THE EAST LINE OF SAID LOT, 8 FEET NORTH OF THE SOUTHEAST CORNER THEREOF; THENCE EAST ALONG SAID PARALLEL LINE TO SAID POINT ON THE EAST LINE OF SAID LOT; THENCE SOUTH ALONG THE EAST LINE, 8 FEET TO THE POINT OF BEGINNING;

ALSO LOT 15 OF BLOCK 5; EXCEPT THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 15; THENCE EAST ALONG THE NORTH LINE OF SAID LOT 87.21 FEET; THENCE IN A SOUTHWESTERLY DIRECTION 59.70 FEET TO A POINT 121.92 FEET WEST OF THE EASTERLY LINE AND 10 FEET NORH OF THE SOUTHERLY LINE OF SAID LOT 15;

THENCE WEST PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT 50 FEET TO A POINT ON THE WESTERLY LINE OF SAID LOT 15; THENCE NORTHERLY ALONG SAID WESTERLY LINE 50.21 FEET TO THE POINT OF BEGINNING; AND EXCEPT THAT PORTION OF THE ABOVE DESCRIBED LOTS CONVEYED TO THE STATE OF WASHINGTON FOR PRIMARY STATE HIGHWAY NO. 1 (SEATTLE FREEWAY) BY DEEDS RECORDED UNDER RECORDING NUMBERS 5094103 AND 5105999.

**B.** On December 17, 2009, the Owners submitted to the City of Seattle an application under Project No. 3010378 for a contract rezone of the Rezone Area from Lowrise 3 (LR3) to Midrise with a 60 foot height limit (MR-60). The purpose of the application is to allow the Rezone Area to be used for multifamily residential development and a small commercial space.

**C.** Seattle Municipal Code (SMC) Section 23.34.004 allows the City to approve a contract rezone subject to "self-imposed restrictions upon the use and development of the property in order to ameliorate adverse impacts which could occur from unrestricted use and development permitted in the zone."

NOW, THEREFORE, in consideration of the mutual agreements contained herein, the parties agree as follows:

## **AGREEMENT**

**Section 1. Agreement.** Pursuant to SMC Section 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 limitations and conditions in consideration of the rezone of the Rezone Area from Lowrise 3 (LR3) to Midrise with a 60 foot height limit (MR-60):

General conditions:

- 1) Approval of the rezone shall be conditioned upon the development of the proposed project in accordance with the final approved Master Use Permit drawings, dated June 9, 2010, which substantially conform to 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.

- 2) The operation of any form of “drinking establishment” (as that term is defined in SMC Section 23.84A.010) shall be prohibited on the site.

SEPA conditions – prior to issuance of any construction, shoring or grading permits:

- 3) The Owners shall provide to the DPD Land Use Planner for approval a Construction Management Plan that identifies construction worker parking and construction material staging areas; truck access routes to and from the site for excavation and construction phases; and sidewalk and street closures with neighborhood notice and posting procedures.
- 4) The Owners shall provide to the DPD Land Use Planner for approval a Construction Noise Management Plan. The Plan shall include a discussion on management of construction-related noise, efforts to mitigate noise impacts, and community outreach efforts to allow people within the immediate area of the project to have opportunities to contact the site to express concern about noise. Activities outside the above-stated restrictions may be authorized upon approval of the Plan to address mitigation of noise impacts resulting from all construction activities. Elements of noise mitigation may be incorporated into any Construction Management Plans required to mitigate any short-term transportation impacts that result from the project.

SEPA conditions – during construction:

- 5) The hours of construction activity shall be limited to non-holiday weekdays between the hours of 7:00 a.m. and 6:00 p.m. and between the hours of 9:00 a.m. and 6:00 p.m. on Saturdays (except that grading, delivery and pouring of cement and similar noisy activities shall be prohibited on Saturdays). This condition may be modified by DPD to allow work of an emergency nature. This condition may also be modified to permit low noise exterior work (e.g., installation of landscaping) after approval from DPD.
- 6) For the duration of the construction activity, the Owners/responsible party shall cause construction truck trips to cease during the hours between 4:00 p.m. and 6:00 p.m. on weekdays.

Design Review condition – prior to the issuance of any Certificate of Occupancy:

- 7) The Owners shall arrange for an inspection with the DPD Land Use Planner to verify that the construction of the buildings with siting, materials, and architectural details is substantially the same as those documented in the approved plans dated June 9, 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 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 six (6) years from the effective date of approval, unless, within the six (6) 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 Owners and the City; provided, such amendment agreement shall be approved by the legislative authority of the City by ordinance.

**Section 5. Exercise of Police Power.** Nothing in this Agreement shall prevent the City Council from making such further amendments to the Seattle Municipal Code or Land Use Code as it may deem necessary in the public interest.

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

**Section 7. Benefited.** This Agreement is made for the benefit of the City and for the benefit of the owners of property within 300 feet of the Rezone Area and either the City or any such property owners may institute and prosecute any proceeding at law or in equity to enforce this Agreement.

**Section 8. Repeal as Additional Remedy.** Owners 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 revoke the rezone by ordinance and require the use of the Rezone Area to conform to the requirements of the Lowrise 3 (LR3) zone.

SIGNED this 26<sup>th</sup> day of MAY, 2011.

Belroy Homes, LLC  
a Washington limited liability company

By: Wyckoff Investments, LLC

By: Dell R. Call  
Dell R. Call  
Its: Manager

STATE OF WASHINGTON

COUNTY OF KING

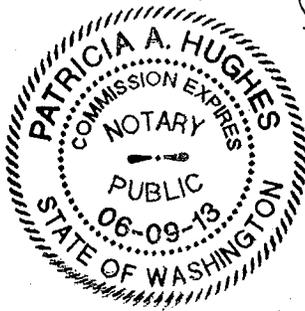


ss.

On this day personally appeared before me Dell R. Call, to me known to be the Manager of Wyckoff Investments, LLC, that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such corporation, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 26<sup>th</sup> day of MAY, 2011.

Patricia A. Hughes

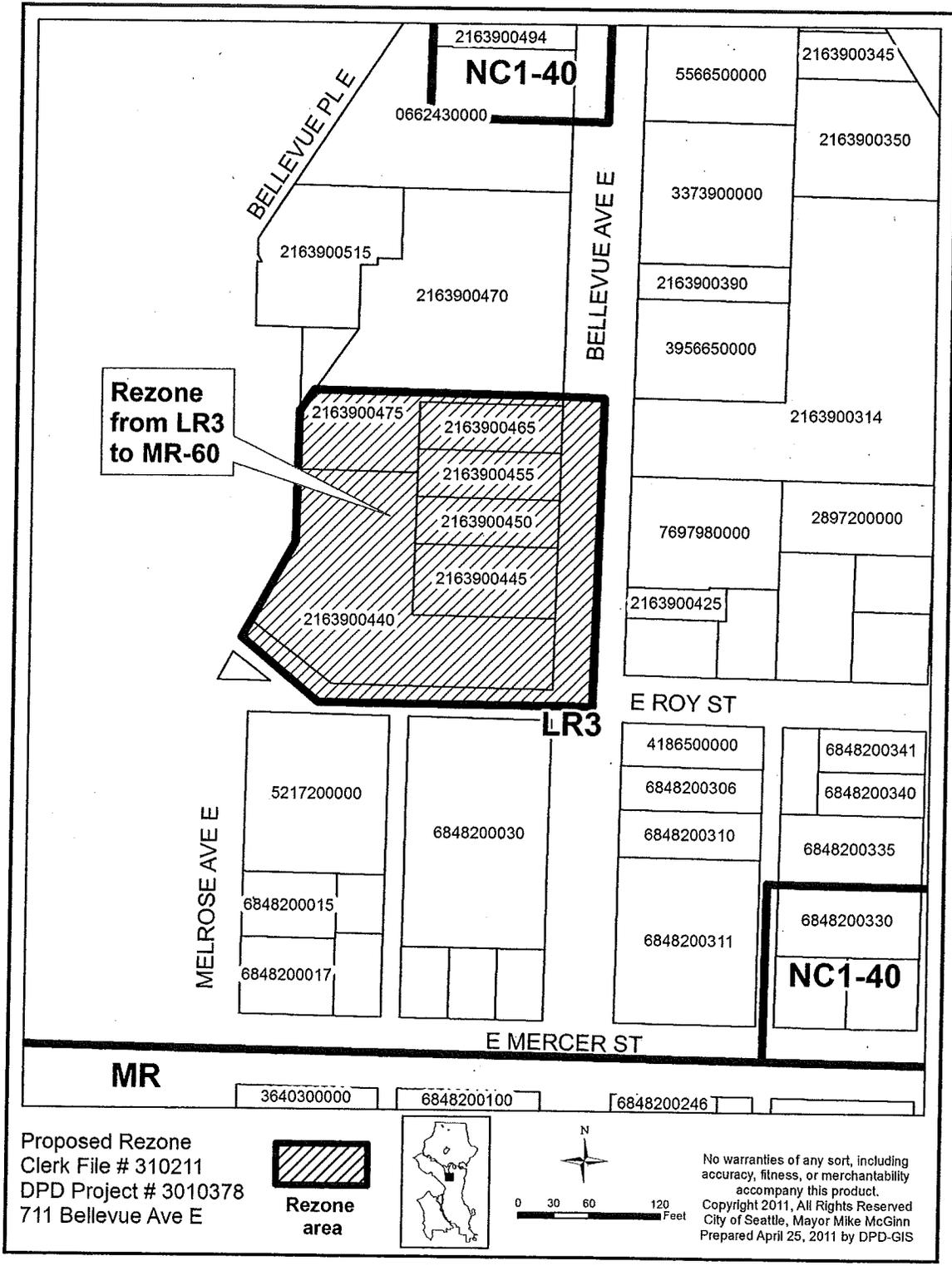


Printed Name  
PATRICIA A. HUGHES

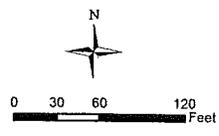
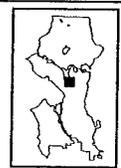
NOTARY PUBLIC in and for the State of  
Washington, residing at  
Edmond

My Commission Expires  
6/9/2013

# ATTACHMENT A



Proposed Rezone  
 Clerk File # 310211  
 DPD Project # 3010378  
 711 Bellevue Ave E



No warranties of any sort, including accuracy, fitness, or merchantability accompany this product.  
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 City of Seattle, Mayor Mike McGinn  
 Prepared April 25, 2011 by DPD-GIS

**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>CBO Analyst/Phone:</b>
Legislative	Sara Belz, 4-5382	NA

**Legislation Title:**

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 102 of the Official Land Use Map to rezone property located at 711 Bellevue Avenue East from Lowrise 3 (LR3) to Midrise with a 60 foot height limit (MR-60), and accepting a Property Use and Development Agreement in connection therewith. (Petition by Lesley Bain, C.F. 310211, DPD Project 3010378)

**Summary of the Legislation:**

This legislation effectuates a quasi-judicial rezone of six parcels located at 711 Bellevue Avenue East. The proposed rezone would change the zone designation of the parcels from LR3 to MR-60. A Property Use and Development Agreement is associated with this rezone petition.

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

The legislation is a petitioner-generated rezone subject to the Council's rules for quasi-judicial decisions. The original petition, Department of Planning and Development recommendation, Hearing Examiner's Findings and Recommendation, and record established by the Hearing Examiner are contained in Clerk File 310211.

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.)

