

#2
CB 117403

ORDINANCE _____

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 60 and page 61 of the Official Land Use Map to rezone property located at 4715 - 4735 15th Avenue Northeast from Lowrise 3 Multifamily Residential to Neighborhood Commercial 2 with a 65 foot height limit, and approving and accepting a Property Use and Development Agreement in connection therewith. (C.F. 309434, DPD Project 3004384)

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. This Ordinance affects the following legally described property (collectively, the "Property"), which consists of real property separately owned by three owners (collectively, the "Owners"; individually, "Owner"):

Property Owned by the University Christian Church	LOTS 1-8, BLOCK 2, UNIVERSITY HEIGHTS ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 16 OF PLATS, PAGE 70, IN KING COUNTY, WASHINGTON.
And	
LOTS 24-30, BLOCK 15, UNIVERSITY PARK ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 13 OF PLATS, PAGE 85, IN KING COUNTY, WASHINGTON.	
Property Owned by the University Presbyterian Church	LOTS 16-22, BLOCK 15, UNIVERSITY PARK ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 13 OF PLATS, PAGE 85, IN KING COUNTY, WASHINGTON.
Property Owned by David and Anna Dong	LOT 23, BLOCK 15, UNIVERSITY PARK ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 13 OF PLATS, PAGE 85, IN KING COUNTY, WASHINGTON.

Section 2. Contingent on Section 3 of this Ordinance, the Official Land Use Map zone classification for the Property, established on page 60 and page 61 of the Official Land Use Map, as adopted by Ordinance 110381, is amended to rezone the portion of the Property currently



1 zoned Lowrise 3 Multifamily Residential to Neighborhood Commercial 2 with a 65 foot height
2 limit, all as shown in Exhibit A to this Ordinance.

3 Section 3. If any Owner fails to execute the Property Use and Development Agreement,
4 attached to this Ordinance as Exhibit B ("Agreement"), on or before the 30th day following the
5 effective date of this Ordinance, the rezone of that Owner's property will not take effect. If the
6 Agreement does not become effective by its terms, the rezone of the Property will not take effect.
7 To the extent the rezone takes effect, the rezone is conditioned upon performance and continued
8 compliance with the conditions of the Agreement.
9

10 Section 4. The Agreement is hereby approved and accepted.

11 Section 5. This rezone shall not expire and shall remain in full force and effect until
12 changed by future Council action.

13 Section 6. No sooner than the 31st day following the effective date of this Ordinance
14 and only if the Agreement is executed by at least one Owner, the City Clerk is hereby authorized
15 and directed to file the Agreement at the King County Records and Elections Division; to file,
16 upon return of the recorded agreement from the King County Records and Elections Division,
17 the original of said Agreement with this Ordinance at the City Clerk's Office; and to deliver
18 copies of the same to the Director of the Department of Planning and Development and to the
19 King County Assessor's Office.
20
21

22 Section 7. This Ordinance, effectuating a quasi-judicial decision of the City Council and
23 not subject to mayoral approval or disapproval, shall take effect and be in force thirty (30) days
24 from and after its passage and approval by the City Council.
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28



1 Passed by the City Council the ____ day of _____, 2012, and
2 signed by me in open session in authentication of its passage this
3 ____ day of _____, 2012.

4 _____
5 President _____ of the City Council

6 Filed by me this ____ day of _____, 2012.

7 _____
8 _____
9 City Clerk

10 (Seal)

11 **Exhibit A: Rezone Map**

12 **Exhibit B: Property Use and Development Agreement**



Exhibit A: Rezone Map

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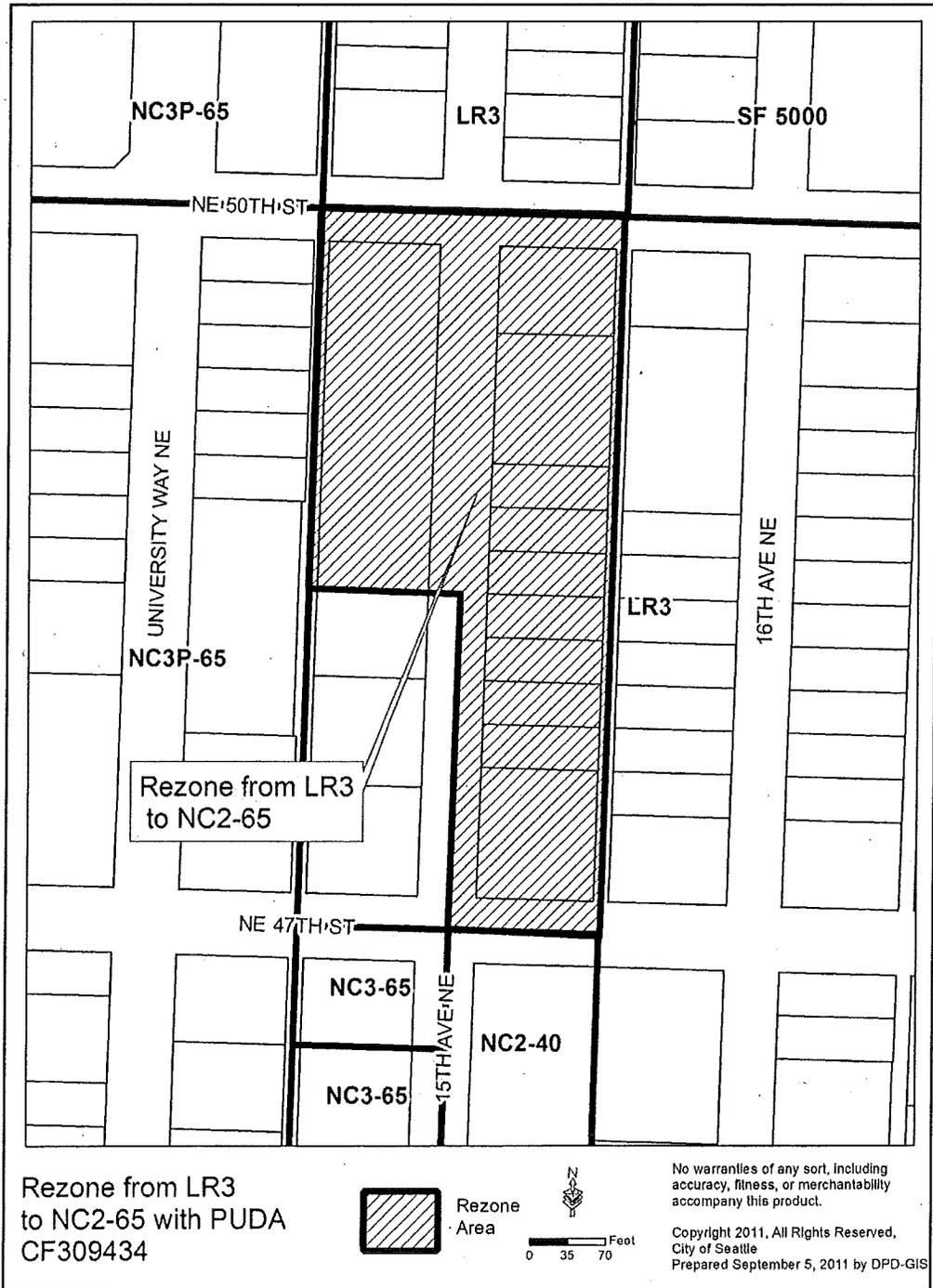


Exhibit B: Property Use and Development Agreement

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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>University Christian Church</u>	2) <u>University Presbyterian Church</u>
	3) <u>David and Anna Dong</u>	
	<input type="checkbox"/> Additional on page _____	
Grantee:	1) <u>The City of Seattle</u>	2) _____
	<input type="checkbox"/> Additional on page _____	
Legal Description (abbreviated):	LOTS 1-8, BLOCK 2, UNIVERSITY HEIGHTS ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 16 OF PLATS, PAGE 70, IN KING COUNTY, WASHINGTON.	
	And	
	LOTS 16-30, BLOCK 15, UNIVERSITY PARK ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 13 OF PLATS, PAGE 85, IN KING COUNTY, WASHINGTON.	
	<input type="checkbox"/> Additional on : _____	
Assessor's Tax Parcel ID #:	8816400210, 8823902200, 8823902185, 8823902180, 8823902175, 8823902170, 8823902165, 8823902160, 8823902155, 8823902150, 8823902135	
Reference Nos. of Documents Released or Assigned:	_____	

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed in favor of the CITY OF SEATTLE, a Washington municipal corporation (the "City"), by the University Christian Church, the University Presbyterian Church, and David and Anna Dong (collectively, the "Owners"; individually, "Owner").

RECITALS

A. Each Owner separately owns certain real property in the City of Seattle zoned Lowrise 3 (LR3) and legally described in Exhibit A attached hereto and incorporated herein by this reference. For purposes of this Agreement, that property is referred to collectively as the "Property."

B. In May 2008, the Owners submitted to the City an application, No. 3004384, to rezone the Property from LR3 to Neighborhood Commercial 3 with a 65 foot height limit. The purpose of the application is to allow the Property to be used for institutional, mixed-use, commercial and multi-family residential development of greater density.

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."

D. In February 2012 the Seattle City Council approved a rezone of the property to Neighborhood Commercial 2 with a 65 foot height limit (NC2 65), as shown in Exhibit B, subject to self-imposed restrictions set out in this Agreement.

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

AGREEMENT

Section 1. Agreement. Pursuant to SMC 23.34.004, the Owners hereby covenant, bargain and agree, on behalf of themselves and their successors and assigns, that, in the event that a master use permit application is made for any Property east of 15th Avenue NE, they will comply with the following limitations and conditions in consideration of the rezone of the Property from Lowrise 3 (LR 3) to Neighborhood Commercial 2 with a 65 foot height limit (NC2 65):

- a.** For commercial, mixed use or residential projects, all building elements above 13 feet shall be set back 30 feet from the east property line of parcels on the east side of 15th Avenue NE (Lots 16-30, Block 15, University Park Addition), provided that one-half the width of the abutting alley may be counted as part of the required setback. A development standard departure from the setback may be granted by the Department of Planning and Development through design review, as part of a master use permit, where it is found that any allowed reductions of this required setback adequately accomplish a sensitive and appropriate transition of height bulk and scale across the alley to the east.
- b.** Additional right-of-way setbacks and/or dedications shall be provided, pursuant to the Seattle Street Improvement Manual and the Seattle Municipal Code, for each element of redevelopment of the area rezoned without application of any exemption provisions thereof, including situations where the limited size of new construction would not otherwise require application of the provisions.
- c.** The first new project that is situated in whole or in part on Lots 24 - 30, Block 15, University Park Addition shall be limited to proposals that

include primarily residential uses and shall include no fewer than 29 affordable units. "Affordable unit" means a residential unit affordable to those with an annual household income that does not exceed 50% of the annual median family income for the Seattle area, as published from time to time by the US Department of Housing and Urban Development with adjustments according to household size as determined by the Director of the Department of Planning and Development. In the event that more than 145 residential units are proposed to be developed in the first new project that is situated in whole or in part on Lots 24 - 30, Block 15, University Park Addition, at least 20 percent of all residential units in that project shall be affordable units. The affordable-unit condition may be satisfied by the first new project on one or more of Lots 24-30 Block 15, University Park Addition, in which case no additional affordable units are required to be developed on the remainder of the lots. As an on-going condition of this Agreement, all affordable units required to be developed by this paragraph c must remain affordable to eligible households.

- d. Street-level commercial uses shall be limited to office space and support services for a religious facility-affiliated entity, or non-profit social or human service organization consistent with the mission of a religious facility-affiliated entity. Nothing shall preclude any such entity or non-profit organization from making limited retail sales of items or materials consistent with its goals and purposes including, without limitation, a religious facility-affiliated bookstore and religious facility-affiliated coffee shop.
- e. The Director of the Department of Planning and Development, as a Type I decision pursuant to Seattle Municipal Code Chapter 23.76, may grant relief from the restrictions of paragraph d on street-level commercial uses where it can be demonstrated that, despite best efforts, an owner has been unable to lease the ground floor commercial areas at reasonable rental rates for a period of nine months. However, with the exception of religious facility-related uses, uses that generally attract night-time crowds, or consistently generate a high demand for on-street parking, are prohibited.

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 Owners, their heirs, successors and assigns, and shall apply to after-acquired title of the Owners of the Property.

Section 3. Amendment. This Agreement may be amended or modified by written agreement between the Owners and the City; provided, such amendment shall be approved by the legislative authority of the City by ordinance.

Section 4. 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 5. 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 6. 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 7. Repeal as Additional Remedy. Owners acknowledges that compliance with the conditions of this Agreement is a condition of the rezone and that if the Owners or their successors 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 or take other appropriate action allowed by law.

Section 8. Effect of Non-Execution. If any Owner fails to execute this Agreement on or before the 30th day following the effective date of the ordinance accepting this Agreement: (a) the rezone of that Owner's property, described in Exhibit A, from LR 3 to NC2-65, as shown on Exhibit B, will not take effect; (b) the restrictions and limitations on use and development of that Owner's property set out in Section 1 of this Agreement will not apply to that Owner's property; and (c) that Owner will not be deemed a party to this Agreement and will cease to be deemed an "Owner" for all other purposes of this Agreement.

Section 9. Effective Date; Effect of No Execution. This Agreement shall be effective only if executed by at least one Owner and then upon the earlier of: (a) the date by which all three Owners have executed this Agreement; or (b) the 31st day following the effective date of the ordinance accepting this Agreement. If this Agreement does not become effective, the rezone of the Property will not take effect; and the restrictions and limitations on use and development of the Property set out in Section 1 of this Agreement will not apply to the Property.

SIGNED this 4 day of February, 2012.

The University Christian Church
a Washington Non-profit Corporation

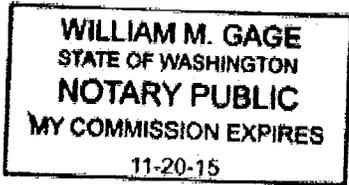
By: Shirley Towner, Moderator

By: Shirley A. Towner
Its: Moderator

STATE OF WASHINGTON }
COUNTY OF KING } ss.

On this day personally appeared before me Shirey Towner, to me known to be Moderator of University Christian Church, the non-profit corporation 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 4th day of February, 2012.



[Signature]
Printed Name William M. Gage

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

My Commission Expires
11-20-15

SIGNED this 3rd day of February, 2012.

The University Presbyterian Church
a Washington Non-profit Corporation

By: Lillian M. Runnion, its Trustee and

By: Lillian M. Runnion
Its: Trustee

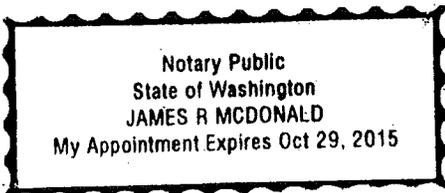
By: James J. Bernard, its Trustee

By: [Signature]
Its: Trustee

STATE OF WASHINGTON }
COUNTY OF KING } ss.

On this day personally appeared before me Lillian M. Runnion and James J. Bernard, to me known to be Trustees of the University Presbyterian Church, the Washington non-profit corporation 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 they were duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 3rd day of February, 2012.



James R McDonald
Printed Name
JAMES R MCDONALD

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

My Commission Expires
October 29, 2015

SIGNED this _____ day of _____, 2012.

David and Anna Dong

By: _____

STATE OF WASHINGTON }
COUNTY OF KING } ss.

On this day personally appeared before me _____, to me known to be the person that executed the foregoing instrument, and acknowledged such instrument to be a free and voluntary act and deed, 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 _____, 2012.

Printed Name

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

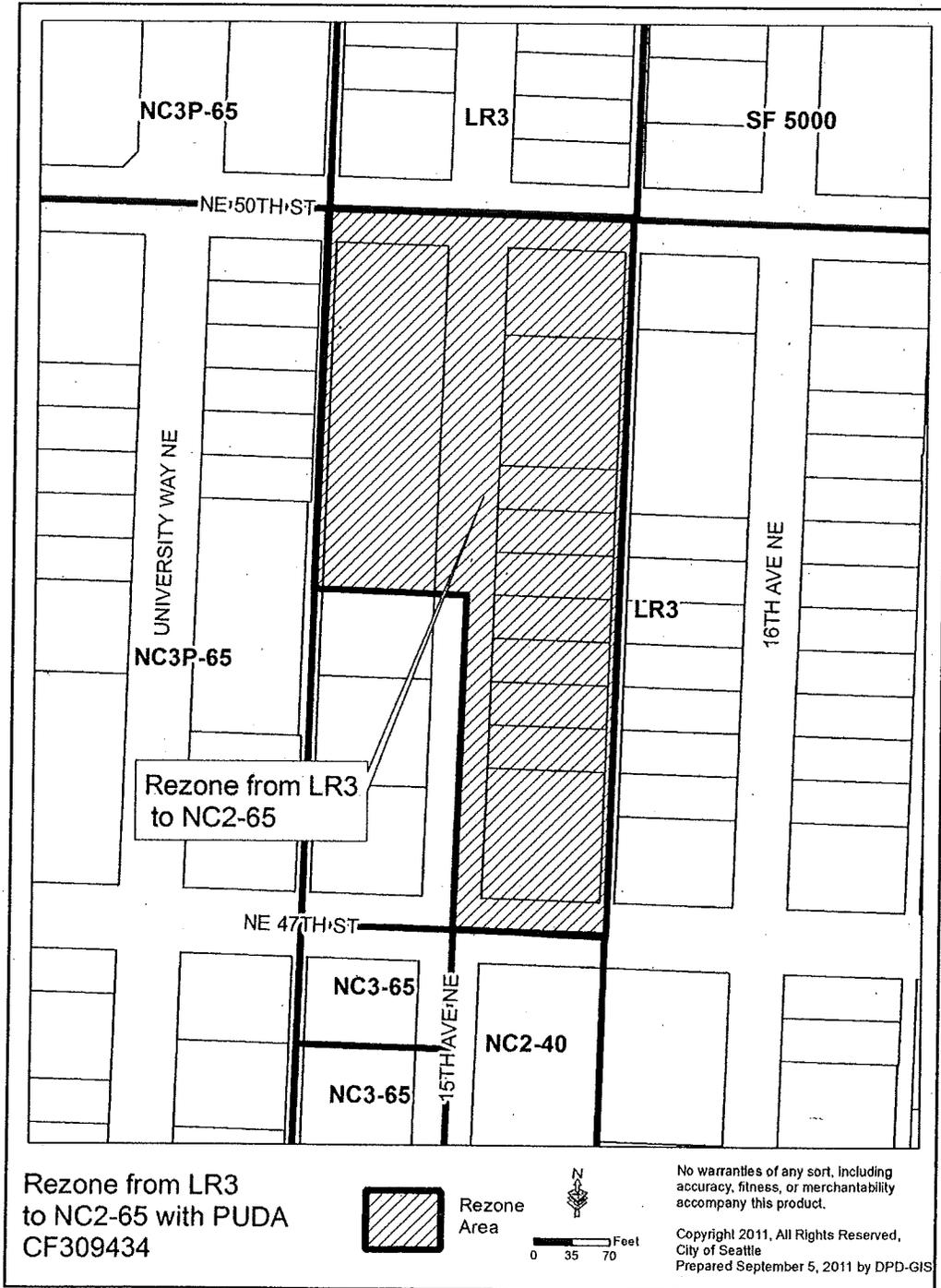
My Commission Expires

EXHIBIT A
Legal Description

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

Property Owned by the University Christian Church	LOTS 1-8, BLOCK 2, UNIVERSITY HEIGHTS ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 16 OF PLATS, PAGE 70, IN KING COUNTY, WASHINGTON.
And	
	LOTS 24-30, BLOCK 15, UNIVERSITY PARK ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 13 OF PLATS, PAGE 85, IN KING COUNTY, WASHINGTON.
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Property Owned by the University Presbyterian Church	LOTS 16-22, BLOCK 15, UNIVERSITY PARK ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 13 OF PLATS, PAGE 85, IN KING COUNTY, WASHINGTON.
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Property Owned by David and Anna Dong	LOT 23, BLOCK 15, UNIVERSITY PARK ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 13 OF PLATS, PAGE 85, IN KING COUNTY, WASHINGTON.
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EXHIBIT B



Rezone from LR3
to NC2-65 with PUDA
CF309434



Rezoned
Area



0 35 70 Feet

No warranties of any sort, including accuracy, fitness, or merchantability accompany this product.

Copyright 2011, All Rights Reserved,
City of Seattle
Prepared September 5, 2011 by DPD-GIS

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
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 60 and page 61 of the Official Land Use Map to rezone property located at 4715 - 4735 15th Avenue Northeast from Lowrise 3 Multifamily Residential to Neighborhood Commercial 2 with a 65 foot height limit, and approving and accepting a Property Use and Development Agreement in connection therewith. (C.F. 309434, DPD Project 3004384)

• **Summary of the Legislation:**

This legislation rezones portions of two block fronts located on 15th Avenue Northeast between Northeast 47th Street and Northeast 50th Street from Lowrise 3 to Neighborhood Commercial 2 with a 65 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 309434.

Rezone conditions are contained in the Findings, Conclusions and Decision. The conditions are recorded in a property use and development agreement for the rezone.

• *Please check one of the following:*

 X **This legislation does not have any financial implications.** *(Stop here and delete the remainder of this document prior to saving and printing.)*

