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CB 117517

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantors: LR Columbus LLC

Grantee: The City of Seattle

Legal Description:

LOTS 230 TO 234, BLOCK 10, COLUMBIA ADDITION, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS, PAGE 97, IN KING COUNTY WASHINGTON.

Assessor's Tax Parcel ID#: 1702901220

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT ("Agreement") is executed as of this 16th day of July, 2012, in favor to the CITY OF SEATTLE, a Washington municipal corporation (the "City"), by LR COLUMBUS LLC (the "Owner").

RECITALS

A. LR Columbus LLC is the owner of that certain real property legally described as Lots 230 to 234, Block 10, Columbia Addition, according to the plat thereof recorded in volume 7 of plats, page 97, in King County, Washington (the "Property"). The Property is located in the City of Seattle and is zoned Lowrise 3 (LR3). Exhibit 1 to this Agreement shows the location of the Property and the area to be rezoned.

B. On or around July 8, 2011, the Owner submitted to the City a request to rezone a portion of the Property from LR3 to Lowrise 3 with a Residential-Commercial overlay zone (LR3-RC), as authorized under Seattle Municipal Code (SMC) Section 23.34 (the "Rezone"). The Rezone would allow proposed development at the Property that includes the conversion of an existing religious facility into a mixed use structure containing 5 dwelling units above 3 commercial spaces located at ground level, as reflected in the decision for Master Use Permit No. 3011960.

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:

1. Agreement. Pursuant to SMC 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 limitation and condition in consideration of the Rezone:

Future development of the Property is restricted to modification and reuse of an existing structure in substantial conformance with the final approved Master Use Permit decision with related plans dated July 6, 2011 (MUP #3011960), authorizing a change of use of a structure with 8 dwelling units to a structure with 5 dwelling units above 3 commercial spaces. The commercial spaces will be available for retail/commercial or live/work uses. Two of the entries to the commercial spaces are along 39th Avenue South, with a third entry from South Ferdinand Street.

2. Agreement Runs with the Land. This Agreement shall be recorded in the real property records of King County. 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 in the Property.

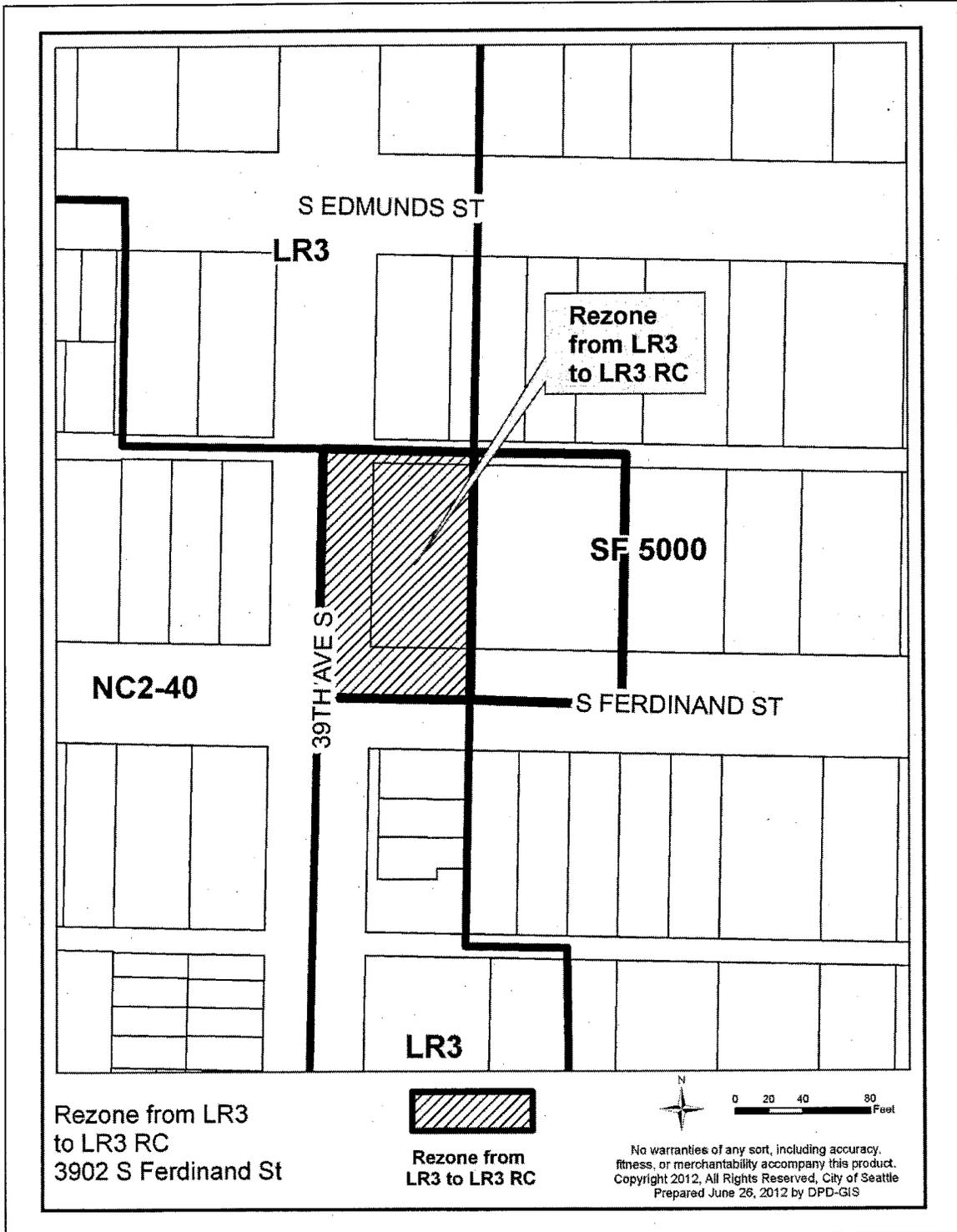
3. Termination. The covenants herein shall expire at such time as the Rezone expires or is revoked pursuant to SMC 23.34.004. If a Master Use Permit is issued pursuant to the final approved Master Use Permit decision with related plans dated July 6, 2011 (MUP #3011960), the covenants herein shall remain in effect until the Council changes the zoning designation for the Property, or amends development standards that apply to the LR3-RC zone, and a certificate of occupancy is issued for a new development of the Property that conforms to the zone designation and development standards that then apply to the Property and replaces the development described in Section 1.

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

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.

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.

EXHIBIT 1 – PUDA - 3902 S. FERDINAND



CITY OF SEATTLE
ORDINANCE _____
COUNCIL BILL 117517

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 159 of the Official Land Use Map to rezone property located at 3902 S. Ferdinand Street from Lowrise 3 (LR3) and Single Family 5000 (SF 5000) to Lowrise 3 with a Residential-Commercial overlay zone (LR3-RC) and SF 5000 (Application of Kevin Broderick , C.F. 311662, Project No. 3011960, Type IV).

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 3902 S. Ferdinand Street:

LOTS 230 TO 234, BLOCK 10, COLUMBIA ADDITION

Section 2. The Official Land Use Map zone classification for the Property, established on page 159 of the Official Land Use Map, and adopted by Ordinance 110381 and last modified by Ordinance 123853, is amended to rezone the Property from Lowrise 3 (LR3) and Single Family 5000 (SF 5000) to Lowrise 3 with a Residential-Commercial overlay zone (LR3-RC) and SF 5000, as shown in Exhibit A of this ordinance. Approval of this rezone is conditioned upon performance and continued compliance with the conditions of the Property Use and Development Agreement referenced in Section 3 of this ordinance.

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



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

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

16 Section 6. This Ordinance, effectuating a quasi-judicial decision of the City Council and
17 not subject to mayoral approval or disapproval, shall take effect and be in force thirty (30) days
18 from and after its passage and approval by the City Council.
19

20 Passed by the City Council the ____ day of _____, 2012, and
21 signed by me in open session in authentication of its passage this
22 ____ day of _____, 2012.
23

24
25 _____
26 President _____ of the City Council
27



Michael Jenkins
LEG 3902 S. Ferdinand Street
June 27, 2012
Version #2a

Filed by me this ____ day of _____, 2012.

Monica Martinez Simmons, City Clerk

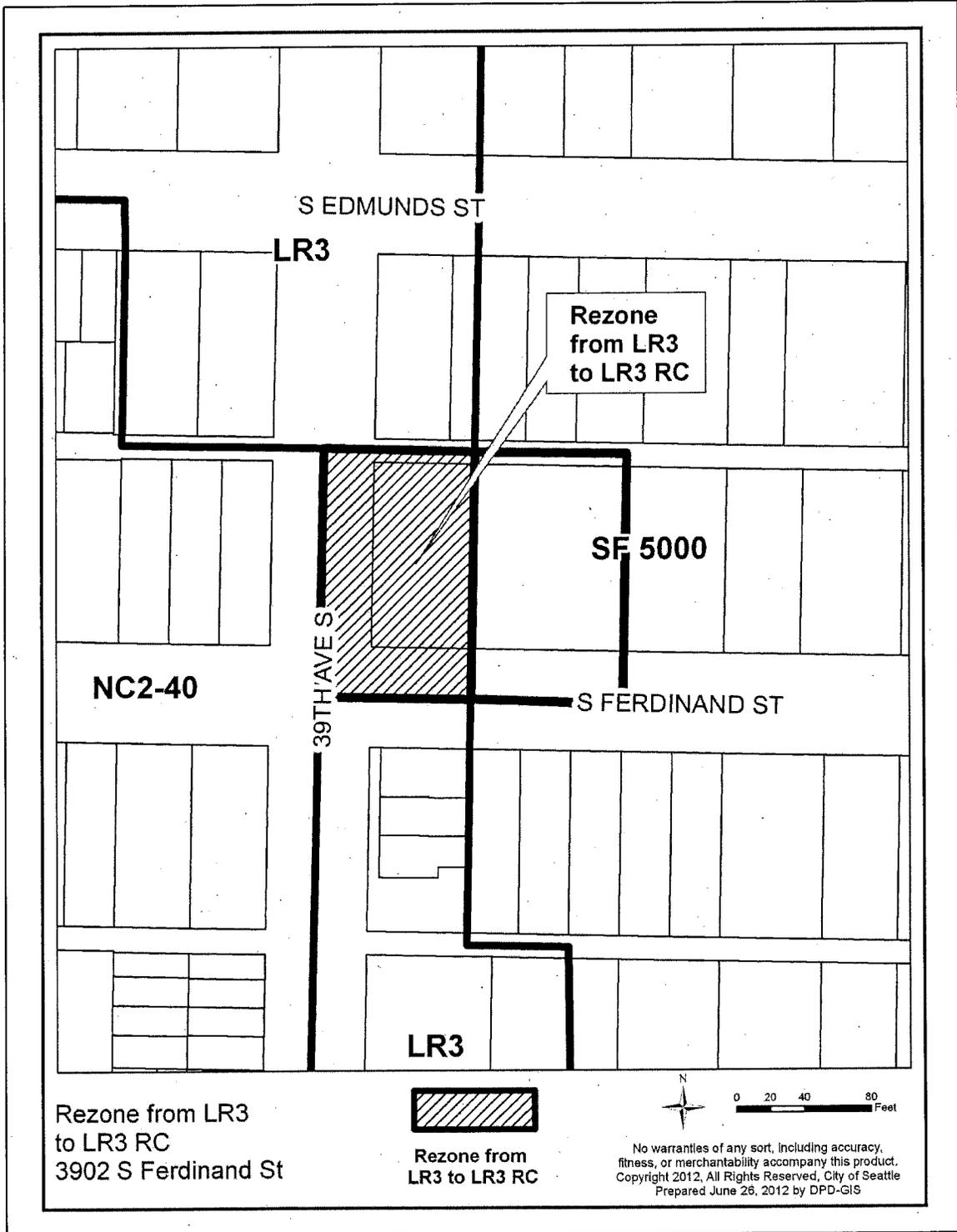
(Seal)

Exhibit A: Rezone Map

Exhibit B: Property Use and Development Agreement



EXHIBIT A – REZONE ORDINANCE – 3902 S. FERDINAND



Rezone from LR3
to LR3 RC
3902 S Ferdinand St



Rezone from
LR3 to LR3 RC



0 20 40 80
Feet

No warranties of any sort, including accuracy,
fitness, or merchantability accompany this product.
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Prepared June 26, 2012 by DPD-GIS



EXHIBIT B – PROPERTY USE AND DEVELOPMENT AGREEMENT

To be inserted by amendment



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 159 of the Official Land Use Map to rezone property located at 3902 S. Ferdinand Street from Lowrise 3 (LR3) and Single Family 5000 (SF 5000) to Lowrise 3 with a Residential-Commercial overlay zone (LR3-RC) and SF 5000 (Application of Kevin Broderick, C.F. 311662, Project No. 3011960, Type IV)

Summary of the Legislation:

This legislation rezones a site located at 3902 S. Ferdinand Street, in the Columbia City neighborhood of Southeast Seattle. The rezone would change the existing zoning at the site from Lowrise 3 (LR 3) and Single Family 5000 (SF 5000) to Lowrise 3 with a Residential Commercial overlay (LR3-RC) and SF 5000.

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 311662.

Rezone conditions are contained in the Findings, Conclusions and Decision. The conditions would be recorded in a consolidated Property Use and Development Agreement for the rezone. The rezone petitioner anticipates development of a mixed use project on the site.

- *Please check one of the following:*

X This legislation does not have any financial implications.

