

#3  
C.B.  
117994

**ORDINANCE \_\_\_\_\_**

AN ORDINANCE relating to land use and zoning; amending the Official Land Use Map to rezone properties located at 225 West Galer Street from Neighborhood Commercial 2 with a 30 foot height limit (NC2-30) to NC2 with a 40 foot height limit (NC2-40).

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

Section 1. This Ordinance affects the following legally described lots ("the Property") at 225 West Galer Street:

LOTS 11 AND 12, BLOCK 17, COMSTOCK ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 3 OF PLATS, PAGE 101, RECORDS OF KING COUNTY

Section 2. Page 99 of the Official Land Use Map, SMC 23.32.016, is amended to rezone the Property described above and shown in Exhibit A to this ordinance, from Neighborhood Commercial 2 with a 30 foot height limit (NC2-30) to NC2 with a 40 foot height limit (NC2-40). 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 hereby approved and accepted.

Section 4. The City Clerk is hereby 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



Michael Jenkins  
LEG 225 West Galer Street.  
May 8, 2013  
Version #1

1 Ordinance at the City Clerk's Office; and to deliver copies of the same to the Director of the  
2 Department of Planning and Development and to the King County Assessor's Office.

3 Section 5. This Ordinance, effectuating a quasi-judicial decision of the City Council  
4 and not subject to mayoral approval or disapproval, shall take effect and be in force thirty (30)  
5 days from and after its passage and approval by the City Council. The new zoning designation  
6 shall take effect as provided by SMC 23.76.058.

7  
8 Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2013, and  
9 signed by me in open session in authentication of its passage this  
10 \_\_\_\_ day of \_\_\_\_\_, 2013.

11  
12  
13 \_\_\_\_\_  
14 President \_\_\_\_\_ of the City Council

15 Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2013.

16  
17 \_\_\_\_\_  
18 City Clerk

19 (Seal)

20  
21  
22 Exhibit A: Rezone Map;

23 Exhibit B: Property Use and Development Agreement  
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28



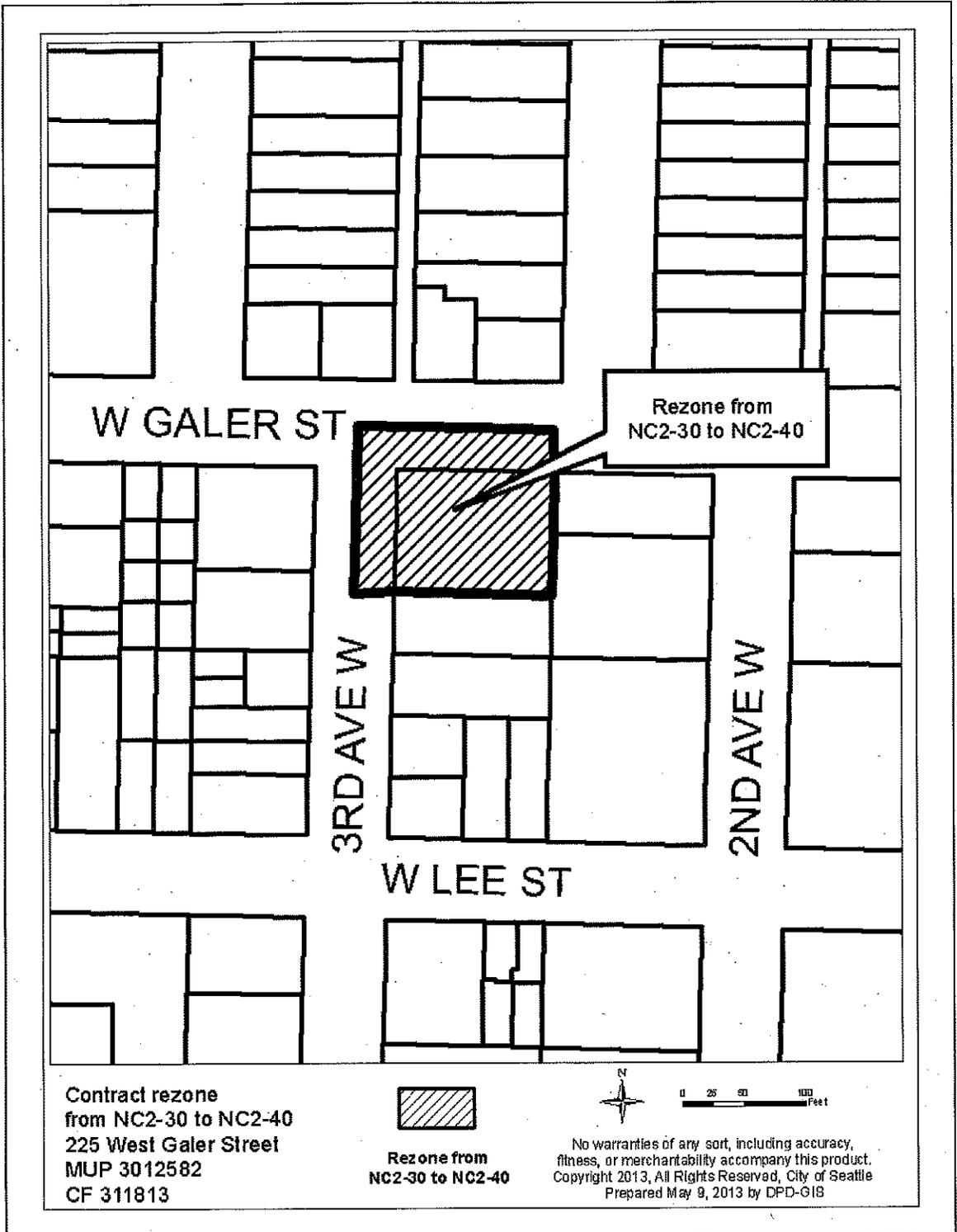


EXHIBIT A



When Recorded, Return to:  
**THE SEATTLE CITY CLERK**  
600 Fourth Ave, Floor 3  
PO Box 94728  
Seattle, WA 98124-4728

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**PROPERTY USE AND DEVELOPMENT AGREEMENT**

**Grantors:** ASC Queen Anne LLC

**Grantee:** The City of Seattle

**Legal Description:**

LOTS 11 AND 12, BLOCK 17, COMSTOCK ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 101, RECORDS OF KING COUNTY, WASHINGTON.

**Assessor's Tax Parcel ID#: 1731801125**

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT ("Agreement") is executed as of this 17<sup>th</sup> day of May, 2013, in favor to the CITY OF SEATTLE, a Washington municipal corporation (the "City"), by ASC QUEEN ANNE LLC (the "Owner").

**RECITALS**

**A.** ASC Queen Anne LLC is the owner of that certain real property legally described as Lots 11 and 12, Block 17, Comstock Addition to the City of Seattle, according to the Plat thereof recorded in Volume 3 of Plats, Page 101, in King County, Washington (the "Property"). The Property is located in the City of Seattle and is zoned Neighborhood Commercial 2 with a 30 foot height limit ("NC2-30") Exhibit 1 to this Agreement shows the location of the Property and the area to be rezoned.

**B.** On or around July 19, 2012, the Owner submitted to the City a request to rezone the Property from NC2-30 to Neighborhood Commercial 2 with a 40 foot height limit ("NC2-40"), as authorized under Seattle Municipal Code (SMC) Section 23.34 (the "Rezone"). The Rezone would allow proposed development at the Property that will include a four-story mixed use structure with 57 assisted living units, 21 below grade parking spaces and 507 square feet of ground floor retail, as reflected in Master Use Permit NO. 3012582.

**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 conditions in consideration of the Rezone:

- a. Future use and development of the Property shall be in substantial conformance with the approved plans for Master Use Permit number 3012582.
- b. The applicant shall provide on-site personnel to oversee backing maneuvers associated with the operation of the service dock, and to control adjacent traffic and pedestrians during such movements.

**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.

**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.

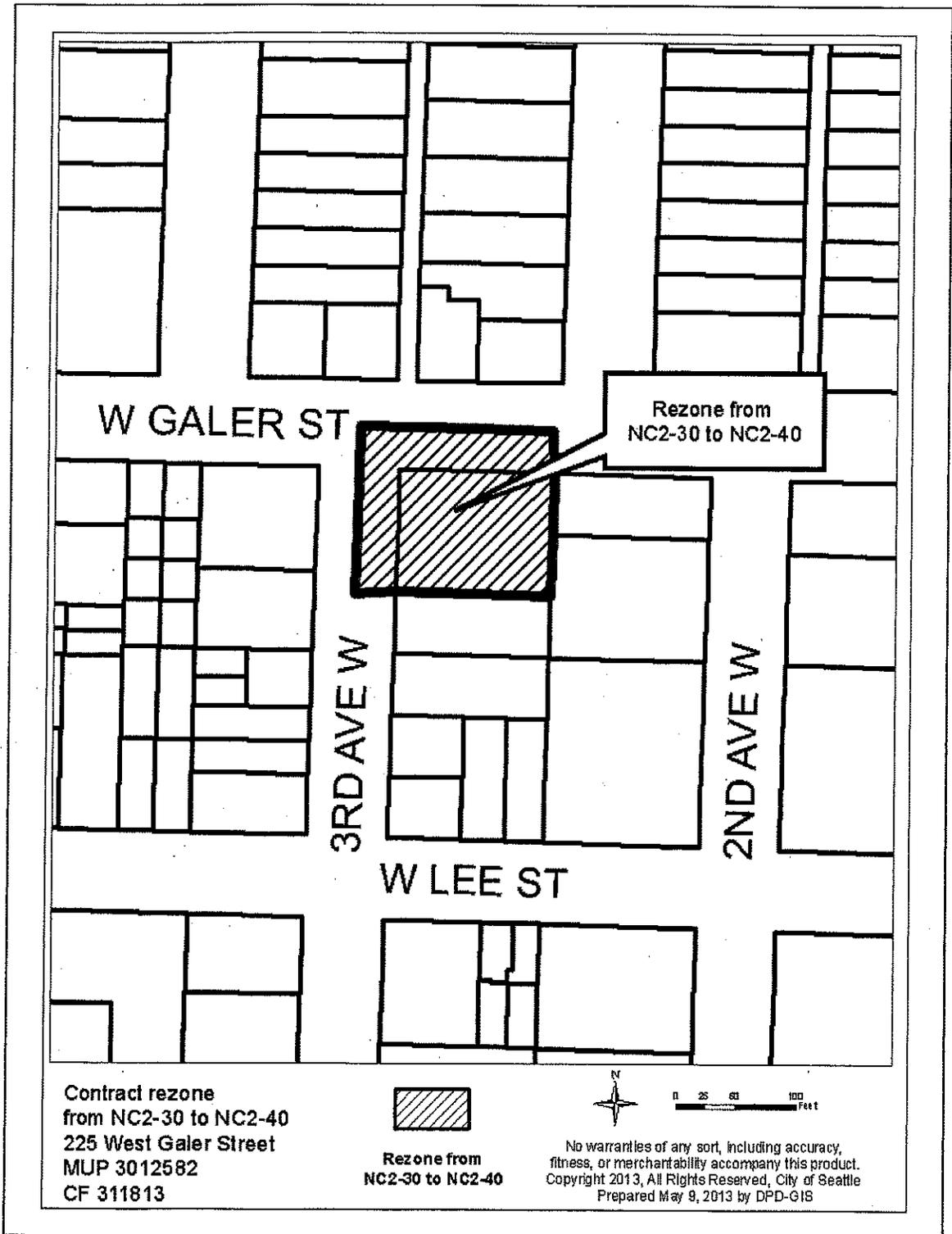
**7. Benefited.** This Agreement is made for the benefit of the City and for the benefit of the owners of property within 300 feet of the Property and either the City or any such property owners may institute and prosecute any proceeding at law or in equity to enforce this Agreement.

**8. Repeal as Additional Remedy.** Owner acknowledges that compliance with the conditions of this Agreement is a condition of the Rezone and that if Owner or its successor(s) avails itself of the benefits of the Rezone but then fails to comply with the conditions of this Agreement, in addition to pursuing any other remedy, the City may revoke the Rezone by





EXHIBIT 1



**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>DOF Analyst/Phone:</b>
Legislative	Michael Jenkins, 5-1674	NA

**Legislation Title:**

AN ORDINANCE relating to land use and zoning; amending the Official Land Use Map to rezone properties located at 225 West Galer Street from Neighborhood Commercial 2 with a 30 foot height limit (NC2-30) to NC2 with a 40 foot height limit (NC2-40).

**Summary of the Legislation:**

This legislation rezones the property at 225 West Galer Street in the Upper Queen Anne Residential Urban Village. The rezone would change the existing zoning at the properties from Neighborhood Commercial 2 with a 30 foot height limit (NC2-30) to NC2 with a 40 foot height limit (NC2-40).

**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 311813.

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.**

