



SEATTLE CITY COUNCIL

Legislative Summary

CB 118784

Record No.: CB 118784

Type: Ordinance (Ord)

Status: Passed

Version: 1

Ord. no: Ord 125133

In Control: Planning, Land
Use, and Zoning
Committee

File Created: 08/22/2016

Final Action: 09/19/2016

Title: AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 60 of the Official Land Use Map to rezone property located at 5001 Brooklyn Ave NE from Lowrise 3 (LR3) to Neighborhood Commercial 3-65 (NC3-65), and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by Brooklyn 50 LLC, C.F. 314324, SDCI Project 3019997)

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 - Property Use and Development Agreement v2, Exhibit B - Property Use and Development Agreement v1

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	08/23/2016	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	09/01/2016	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	09/06/2016	referred	Planning, Land Use, and Zoning Committee			

- 1 Planning, Land Use, and Zoning Committee 09/09/2016 pass Pass

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

Notes:

In Favor: 2 Chair Johnson, Member Herbold

Opposed: 0

- 1 Full Council 09/19/2016 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 118784, Exhibit B, by substituting the executed Property Use and Development Agreement with the non-executed Property Use and Development Agreement.

ACTION 2:

Motion was made and duly seconded to pass Council Bill 118784 as amended.

In Favor: 9 Councilmember Bagshaw, Councilmember Burgess, Councilmember González , Council President Harrell, Councilmember Herbold, Councilmember Johnson, Councilmember Juarez, Councilmember O'Brien, Councilmember Sawant

Opposed: 0

- 1 City Clerk 09/19/2016 attested by City Clerk

Action Text: The Ordinance (Ord) was attested by City Clerk.

Notes:

CITY OF SEATTLE

ORDINANCE

125133

COUNCIL BILL

118784

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 60 of the Official Land Use Map to rezone property located at 5001 Brooklyn Ave NE from Lowrise 3 (LR3) to Neighborhood Commercial 3-65 (NC3-65), and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by Brooklyn 50 LLC, C.F. 314324, SDCI Project 3019997)

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. This ordinance rezones the following legally described property ("the Property") commonly known as 5001 Brooklyn Ave NE:

The South 10 feet of Lot(s) 9 and all of Lot 10, block 11, ASSESSOR'S PLAT OF UNIVERSITY HEIGHTS, according to the plat thereof recorded on Volume 16 of Plats, page(s) 70, records of King County, Washington.

SITUATE in the County of King, State of Washington.

Section 2. Page 60 of the Official Land Use Map, Seattle Municipal Code Section 23.32.016, is amended to rezone the Property described in Section 1 of this ordinance, and shown in Exhibit A to this ordinance, from Lowrise 3 (LR3) to Neighborhood Commercial 3 with a 65-foot height limit (NC3-65). Approval of this rezone is conditioned upon complying with the Property Use and Development Agreement (PUDA) approved in Section 4 of this ordinance.

Section 3. The zoning designation established by Section 2 of this ordinance shall remain in effect until the Property is rezoned by subsequent Council action.

Section 4. The PUDA attached to this ordinance as Exhibit B is approved and accepted.

1 Section 5. The City Clerk is authorized and directed to file the PUDA with the King
2 County Records and Elections Division; to file, upon return of the recorded PUDA from the King
3 County Records and Elections Division, the original PUDA along with this ordinance at the City
4 Clerk's Office; and to deliver copies of the PUDA and this ordinance to the Director of the
5 Seattle Department of Construction and Inspections and to the King County Assessor's Office.

Section 6. 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 19th day of September, 2016,
and signed by me in open session in authentication of its passage this 19th day of
September, 2016.



President _____ of the City Council

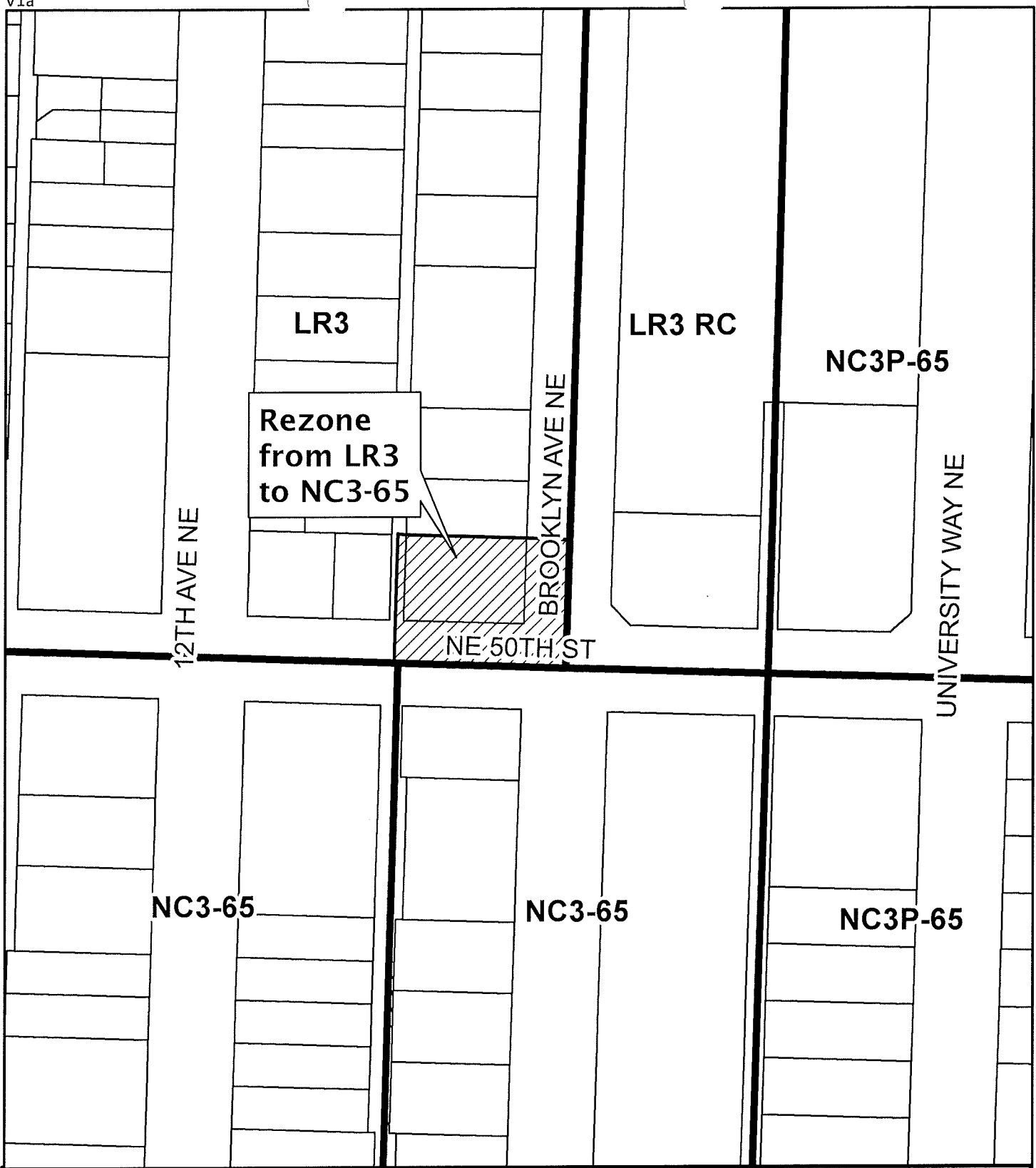
Filed by me this 19th day of September, 2016.



Monica Martinez Simmons, City Clerk

(Seal)

Exhibits:
Exhibit A – Rezone Map
Exhibit B – Property Use and Development Agreement



Proposed Rezone
Clerk File 314324
DPD Project No. 3019997
5001 Brooklyn Ave NE



Rezone Area

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0 100 Feet



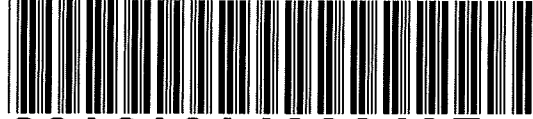
Return Address:

Seattle City Clerk's Office

600 4th Avenue, Floor 3

P O Box 94728

Seattle, WA 98124 - 4728



20161014000495

SEATTLE CITY C ORD
PAGE-001 OF 006
10/14/2016 10:56
KING COUNTY, WA

78.00

WASHINGTON STATE RECORDER'S Cover Sheet (RCW 65.04)

Please print or type information

Document Title(s) (or transaction contained therein):

Ordinance 125133

Grantor(s)

Brooklyn 50 LLC

Grantee(s) (Last name first, then first name and initials)

City of Seattle

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)

Additional legal on page ____ of document

The South 10 feet of Lot(s) (and all of Lot 10, Block 11, Assessors' Plat of University Heights

Assessor's Property Tax Parcel/Account Number

8817400180

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.

Signature of Requesting Party

FILED
CITY OF SEATTLE

2016 SEP 15 PM 3:25

CITY CLERK

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

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantor(s):	(1)	Brooklyn 50 LLC		
Grantee:	(1)	The City of Seattle		
Legal Description (abbreviated if necessary):	see <i>Recital A</i> , below			
Assessor's Tax Parcel ID #:	8817400180			
Reference Nos. of Documents Released or Assigned:	n/a			

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this 13 day of September, 2016, in favor of the CITY OF SEATTLE (the "City"), a Washington municipal corporation, by Brooklyn 50 LLC, a Washington limited company (the "Owner").

RECITALS

A. Brooklyn 50 LLC is the owner of that certain real property (the "Property") in the City of Seattle currently zoned Lowrise 3 (LR3), shown in Attachment A and legally described as:

The South 10 feet of Lot(s) 9 and all of Lot 10, block 11, ASSESSOR'S PLAT OF UNIVERSITY HEIGHTS, according to the plat thereof recorded on Volume 16 of Plats, page(s) 70, records of King County, Washington.

SITUATE in the County of King, State of Washington.

B. In August 2015, the Owner submitted to the City an application under Project No. 3019997 for a rezone of the Property from Lowrise 3 Multi-family Residential (LR3) to Neighborhood Commercial 3 with a 65 foot height limit (NC3-65).

C. Seattle Municipal Code Section 23.34.004 allows the City to approve a rezone subject to "self-imposed restrictions" upon the development of the property.

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 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 development of the Property is restricted to a project that complies with Master Use Permit (MUP) #3019997, once the Seattle Department of Construction and Inspections (SDCI) issues that MUP. Prior to issuing the MUP, SDCI must confirm that the drawings substantially comply with the conditions established during the design review process, including the structure design and location on the site, structure height, building materials, landscaping, street improvements, parking design, signage and site lighting.
- (b) A Construction/Noise Management Plan shall be submitted to and approved by SDOT prior to issuance of any demolition or construction permit.
- (c) The development pursuant to MUP #3019997 shall include four dwelling units affordable to households earning 40 percent of Area Median Income (AMI) (the "40% AMI Units").
- (d) The location and configuration of the 40% AMI Units shall be shown on the MUP plans and shall be subject to review and approval by the Office of Housing for consistency with the criteria set forth in SMC 23.58C.050.C.1 and 23.58C.050.C.2.
- (e) Prior to issuance of MUP #3019997, an executed and recorded agreement between the City and the owner of the Property shall be provided that specifies the following requirements:
 - The development shall include four dwelling units affordable to households earning 40 percent of Area Median Income (AMI).
 - The 40% AMI Units shall comply with the same requirements as are contained in the following provisions of the SMC, the substance of which requirements shall be stated in its entirety in the agreement:
 - 23.58C.050.B;
 - 23.58C.050.C.1;
 - 23.58C.050.C.2;
 - 23.58C.050.C.3;
 - 23.58C.050.C4; and
 - 23.58C.050.C6.

The agreement shall be recorded on the title of the Property. The agreement shall be enforceable by the City in Superior Court.

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 Owner, its heirs, successors and assigns, and shall apply to after-acquired title of the Owner.

Section 3. Amendment. This Agreement may be amended or modified by agreement between the Owner and the City; provided any amendments are approved by the City Council by ordinance.

Section 4. Exercise of Police Power. Nothing in this Agreement shall prevent the City Council from making 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 the Property and this Agreement is not intended to establish precedent for other rezones in the surrounding area.

Section 6. Repeal as Additional Remedy. Owner acknowledges that compliance with the conditions of this Agreement is a condition of the subject rezone and that if Owner avails itself of the benefits of this rezone but then fails 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 Property to conform to the requirements of the previous LR3 zoning designation or some other zoning designation imposed by the City Council; and
- b. Pursue specific performance of this Agreement.

[signature and acknowledgment on following page]

SIGNED this 13 day of September, 2016.

BROOKLYN 50 LLC

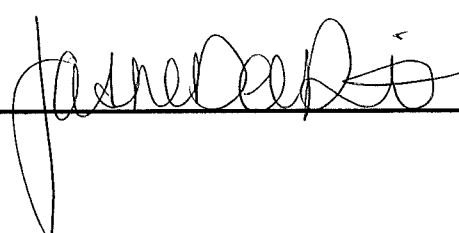
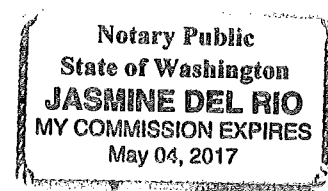
a Washington limited liability company

By: 

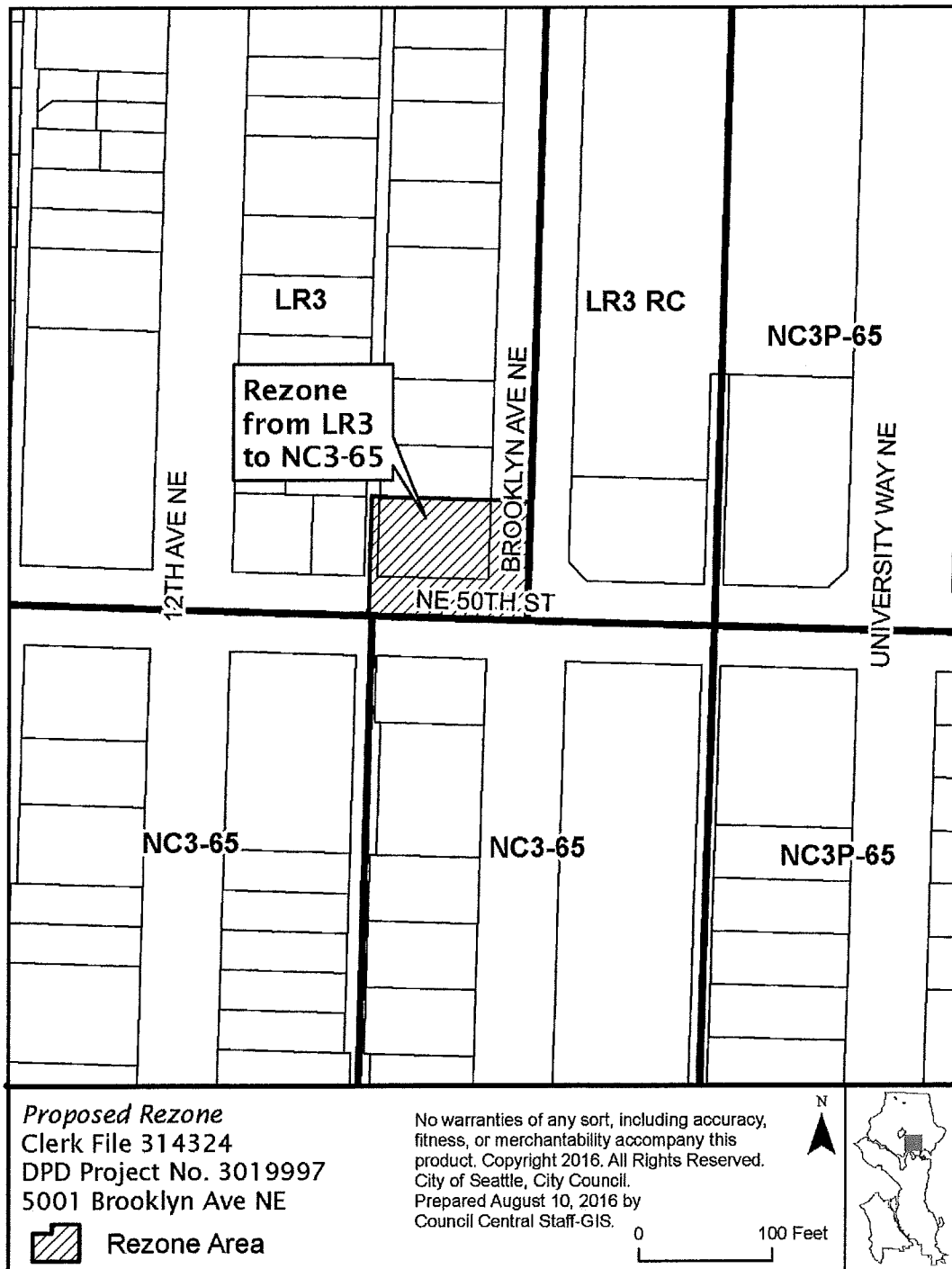
Tyson Alexander
Manager

On this day personally appeared before me Tyson Alexander, to me known to be the Managing Member, of Brooklyn 50 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 13 day of September, 2016.

		Printed Name <u>Jasmine Del Rio</u>
		NOTARY PUBLIC in and for the State of Washington, residing at <u>Seattle</u>
		My Commission Expires <u>May 04, 2017</u>
STATE OF WASHINGTON COUNTY OF KING	}	SS.

ATTACHMENT A
REZONE MAP



SUMMARY and FISCAL NOTE*

Department:	Contact Person/Phone:	Executive Contact/Phone:
Legislative	Aly Pennucci/4-8148	N/A

1. BILL SUMMARY

Legislation Title:

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 60 of the Official Land Use Map to rezone property located at 5001 Brooklyn Ave NE from Lowrise 3 (LR3) to Neighborhood Commercial 3-65 (NC3-65), and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by Brooklyn 50 LLC, C.F. 314324, SDCI Project 3019997)

Summary and background of the Legislation:

This Ordinance would rezone the parcel addressed as 5001 Brooklyn Ave NE from Lowrise 3 Multi-family Residential (LR3) to Neighborhood Commercial 3 with a 65 foot height limit (NC3 65) at the request of Brooklyn 50 LLC, for construction of a seven story building containing 60 residential units and 1,500 square feet of retail space at ground level.

2. CAPITAL IMPROVEMENT PROGRAM

☐ This legislation creates, funds, or amends a CIP Project.

3. SUMMARY OF FINANCIAL IMPLICATIONS

Please check one:

☐ This legislation has direct financial implications.

☒ This legislation does not have direct financial implications.

4. OTHER IMPLICATIONS

- a) Does the legislation have indirect or long-term financial impacts to the City of Seattle that are not reflected in the above?
No
- b) Is there financial cost or other impacts of not implementing the legislation?
No
- c) Does this legislation affect any departments besides the originating department?
No
- d) Is a public hearing required for this legislation?
The Seattle Hearing Examiner held a public hearing on July 18, 2016.

- e) **Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**
No
- f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
No
- g) **Does this legislation affect a piece of property?**
Yes, see Exhibit A.
- h) **Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities?**
Not applicable
- i) **If this legislation includes a new initiative or a major programmatic expansion: What are the long-term and measurable goals of the program? Please describe how this legislation would help achieve the program's desired goals.**
Not applicable
- j) **Other Issues:**

List attachments/exhibits below:

STATE OF WASHINGTON -- KING COUNTY

--SS.

342202

No.

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.

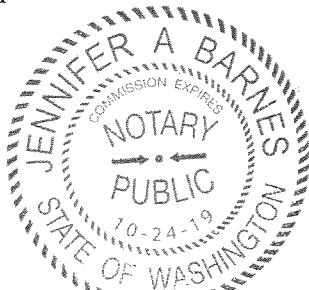
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:125133,135-137 TITLE

was published on

10/05/16

The amount of the fee charged for the foregoing publication is the sum of \$87.73 which amount has been paid in full.



Affidavit of Publication

Subscribed and sworn to before me on

10/05/2016

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

The full text of the following legislation, passed by the City Council on September 19, 2016, and published below by title only, will be mailed upon request, or can be accessed at <https://seattle.legistar.com/Legislation.aspx>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>. Contact: Office of the City Clerk at (206) 684-8344.

Ordinance 125133

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 60 of the Official Land Use Map to rezone property located at 5001 Brooklyn Ave NE from Lowrise 3 (LR3) to Neighborhood Commercial 3-65 (NCS-65), and accepting a Property Use and Development Agreement as a condition of rezoning approval. (Petition by Brooklyn 50 LLC, C.F. 314324, SDCI Project 3019997).

Ordinance 125135

AN ORDINANCE relating to employment in Seattle; adding a new Chapter 14.22 to the Seattle Municipal Code; establishing secure scheduling requirements for covered retail and food services establishments; prescribing remedies and enforcement procedures; amending Section 14.20.025 of the Seattle Municipal Code to add good faith estimates of work schedules to notice of employment information; amending Section 6.208.020 of the Seattle Municipal Code to condition business license registration on compliance with secure scheduling requirements; and amending Section 3.14.945 of the Seattle Municipal Code to add Chapter 14.22 to the list of ordinances administered and enforced by the Office of Labor Standards.

Ordinance 125136

AN ORDINANCE relating to the City Light Department; amending subsection 21.49.086.D of the Seattle Municipal Code to create Net Wholesale Revenue targets for 2017 and 2018 consistent with those assumed in the City Light 2017-2022 Strategic Plan adopted by Resolution 31678.

Ordinance 125137

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

Date of publication in the Seattle Daily Journal of Commerce, October 5, 2016.

10/5(342202)