



SEATTLE CITY COUNCIL

Legislative Summary

CB 119059

Record No.: CB 119059

Type: Ordinance (Ord)

Status: Passed

Version: 1

Ord. no: Ord 125394

In Control: City Clerk

File Created: 08/09/2017

Final Action: 09/05/2017

Title: AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 117 of the Official Land Use Map to rezone property located at 1203 East Spruce Street from Lowrise 3 to Neighborhood Commercial 3 with a 65-foot height limit, and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by Capitol Hill Development, LLC, C.F. 314310, SDCI Project 3018576)

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Johnson

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments: Exhibit A - Legal Description, Exhibit B - Rezone Map, Exhibit C - Executed Property Use and Development Agreement (added; 9/6/17)

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	08/09/2017	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	08/10/2017	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	08/14/2017	referred	Planning, Land Use, and Zoning Committee			

- 1 Planning, Land Use, and Zoning Committee 08/15/2017 pass Pass

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

Notes:

In Favor: 3 Chair Johnson, Vice Chair O'Brien, Member Herbold

Opposed: 0

- 1 Full Council 09/05/2017 passed as amended Pass

Action Text: The Motion carried, the Council Bill (CB) was 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 119059, Exhibit C, by substituting the executed Property Use and Development Agreement for the unexecuted Property Use and Development Agreement.

ACTION 2:

Motion was made and duly seconded to pass Council Bill 119059 as amended.

In Favor: 8 Councilmember Bagshaw, Councilmember Burgess, Council President Harrell, Councilmember Herbold, Councilmember Johnson, Councilmember Juarez, Councilmember O'Brien, Councilmember Sawant

Opposed: 0

- 1 City Clerk 09/05/2017 attested by City Clerk

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

Notes:

CITY OF SEATTLE

ORDINANCE 125394

COUNCIL BILL 119059

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 117 of the Official Land Use Map to rezone property located at 1203 East Spruce Street from Lowrise 3 to Neighborhood Commercial 3 with a 65-foot height limit, and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by Capitol Hill Development, LLC, C.F. 314310, SDCI Project 3018576)

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. This ordinance rezones a portion of the property ("the Property") commonly known as 1203 East Spruce, which is legally described on Exhibit A to this ordinance.

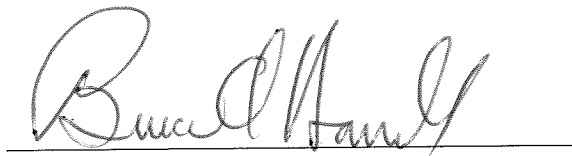
Section 2. Page 117 of the Official Land Use Map, Seattle Municipal Code Section 23.32.016 is amended to rezone the Property described in Section 1 of this ordinance, and shown in Exhibit B to this ordinance, from Lowrise 3 (LR3) to Neighborhood Commercial 3 with a 65-foot height limit (NC3 65). Approval of this rezone is conditioned upon complying with the Property Use and Development Agreement (PUDA) approved in Section 3 of this ordinance.

Section 3. The PUDA attached to this ordinance as Exhibit C is approved and accepted.

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

Section 5. 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 5th day of September, 2017,
and signed by me in open session in authentication of its passage this 5th day of
September, 2017.



President _____ of the City Council

Filed by me this 5th day of September, 2017.



Monica Martinez Simmons, City Clerk

(Seal)

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

EXHIBIT A

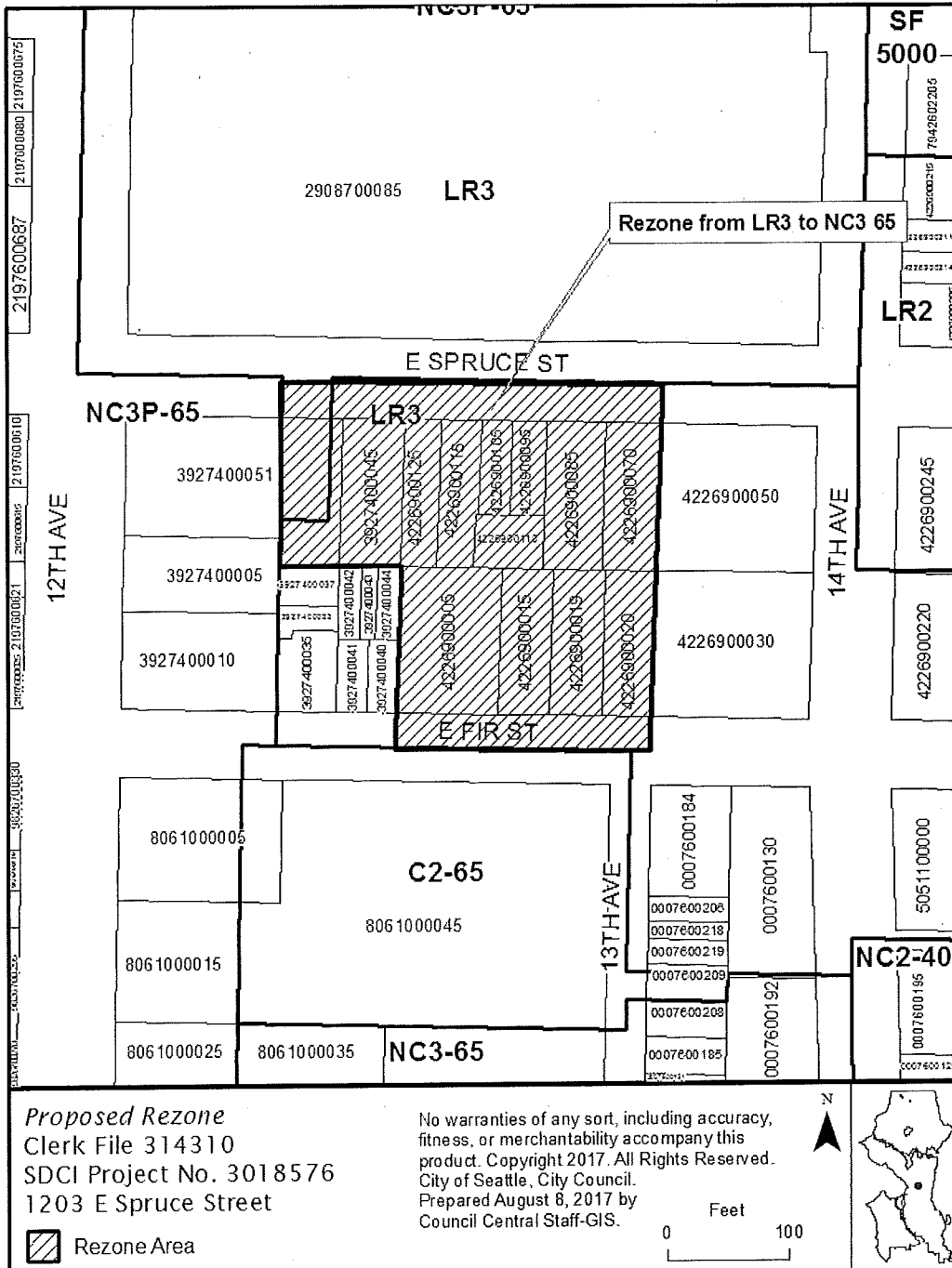
Legal Description

Assessor's Parcel Number	Legal Description
3927400051	KOLLOCKS ADD N 82.8 FT OF W 40 FT OF 8 & N 98.8 FT OF 9-10-11 LESS ST Plat Block: 1 Plat Lot: 8-9-10-11
3927400045	KOLLOCKS ADD Plat Block: 1 Plat Lot: 7
4226900125	LAWLERS ADD LOT 16 LESS ELY 12 FT THOF Plat Block: 1 Plat Lot: 16
4226900115	LAWLERS ADD WLY 18 FT OF 15 & ELY 12 FT OF 16 ALSO POR OF E 24 FT OF N 76 FT OF LOT 15 DAF BAAP ON N LN SD LOT 15 DIST 21 FT W OF NE COR TH W ALG SD N LN 3 FT TH S ALG W LN OF SD E 24 FT 76 FT TH E ALG S LN OF SD N 76 FT 2.37 FT TH NLY 76.1 FT M/L TO BEG Plat Block: 1 Plat Lot: 15-16
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4226900095	LAWLERS ADD POR BEG NXN OF N LN SD LOT 14 & C/L OF 4 FT CONCRETE WALKWAY WCH PT IS 28.5 FT M/L W OF NE COR OF W 33 FT OF SD LOT TH S ALG C/L OF WALKWAY 76 FT M/L TAP 44 FT N OF S LN OF SD LOT THE 28.5 FT M/L TO E LN OF W 33 FT OF SD LOT TH N 76 FT M/L TO NE COR OF W 33 FT

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4226900015	LAWLERS ADD Plat Block: 1 Plat Lot: 3
4226900019	LAWLERS ADD Plat Block: 1 Plat Lot: 4
4226900020	LAWLERS ADD W 40 FT Plat Block: 1 Plat Lot: 5

EXHIBIT B

Rezone Map



FILED
CITY OF SEATTLE

August 30, 2017

EXHIBIT C

2017 AUG 31 PM 1:42

CITY CLERK

Property Use and Development Agreement

<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)	Capitol Hill / First Hill Development, LLC	(2)	
☐ Additional grantors on page _____				
Grantee:	(1)	The City of Seattle		
☐ Additional on page _____				
Legal Description (abbreviated if necessary):	See Attachment A			
☐ Additional legal description on page: _____				
Assessor's Tax Parcel ID #:	3927400051, 3927400045, 4226900125, 4226900105, 4226900095, 4226900110, 4226900085, 4226900070, 4226900005, 4226900015, 4226900019, 4226900020			
Reference Nos. of Documents				

Released or Assigned:

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this 31st day of Aug, 2017, in favor of the CITY OF SEATTLE (the "City"), a Washington municipal corporation, by Capitol Hill / First Hill Development, LLC (the "Owner").

RECITALS

A. Capitol Hill / First Hill Development, LLC is the owner of that certain real property (the "Property") in the City of Seattle zoned Neighborhood Commercial 3 with a Pedestrian Designation and a 65-foot height limit (NC3P 65) and Lowrise 3 (LR3), which is legally described in Attachment A.

B. On January 15, 2016, the Owner submitted to the City of Seattle an application under Project No. 3018576 for a rezone of a portion of the Property from LR3 to Neighborhood Commercial 3 with a 65-foot height limit (NC3 65). The purpose of the application is to allow the Property to accommodate three six-story apartment buildings with 369 units, 18 live-work units and 8,777 square feet of commercial space. The rezone area of the Property is shown on Attachment B.

C. Seattle Municipal Code Section 23.34.004 allows the City to approve a 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" and restrictions applying the provisions of Chapters 23.58B and 23.58C to 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 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 of a portion of the Property from LR3 to NC3 65:

- (a) Future development of the Property is restricted to a project that complies with Master Use Permit (MUP) #3018576, 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) The provisions of Seattle Municipal Code Chapters 23.58B and 23.58C shall apply to the Property. For purposes of application of those Chapters, future development of the Property shall be subject to the following performance or payment requirements:

- For Chapter 23.58B, 8% per square foot for the performance option or \$12.75 per square foot for the payment option; and
- For Chapter 23.58C, 10% of units for the performance option or \$29.75 per square foot for the payment option.

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

Section 3. Termination of Zoning Designation.

The new zoning designation shall expire according to SMC 23.76.060.C, or if the rezone is revoked pursuant to SMC 23.34.004.

Section 4. Termination of Conditions.

The conditions listed in Section 1 of this agreement shall expire at such time as the rezone expires or is revoked pursuant to SMC 23.34.004. If the rezone does not expire, these conditions shall remain in effect until amended or repealed.

Section 5. Amendment. This Agreement may be amended or modified by agreement between the Owner and the City; provided, such amendments are approved by the City Council by ordinance.

Section 6. 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 7. 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 8. Repeal as Additional Remedy. Owner acknowledges that compliance with the conditions of this Agreement is a condition of the subject rezone and that if the 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 Rezone Site to conform to the requirements of the previous LR3 zoning designation or some other zoning designation imposed by the City Council; and/or
- b. pursue specific performance of this Agreement.

August 30, 2017

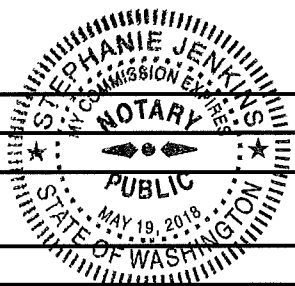
SIGNED this 31 day of August, 2017.Capitol Hill / First Hill Development, LLC

a Washington limited liability company

By:  HARM DEVELOPMENT LLCIts: Managing Member

On this day personally appeared before me ROBERT HARDY, to me known to be the Managing Member, of Capitol Hill / First Hill Development, 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 31st day of Aug, 2017.

		
		Printed Name <u>STEPHANIE JENKINS</u>
		NOTARY PUBLIC in and for the State of Washington, residing at <u>WNNWAD</u>
		My Commission Expires <u>5.19.2018</u>
STATE OF WASHINGTON	}	ss.
COUNTY OF KING		

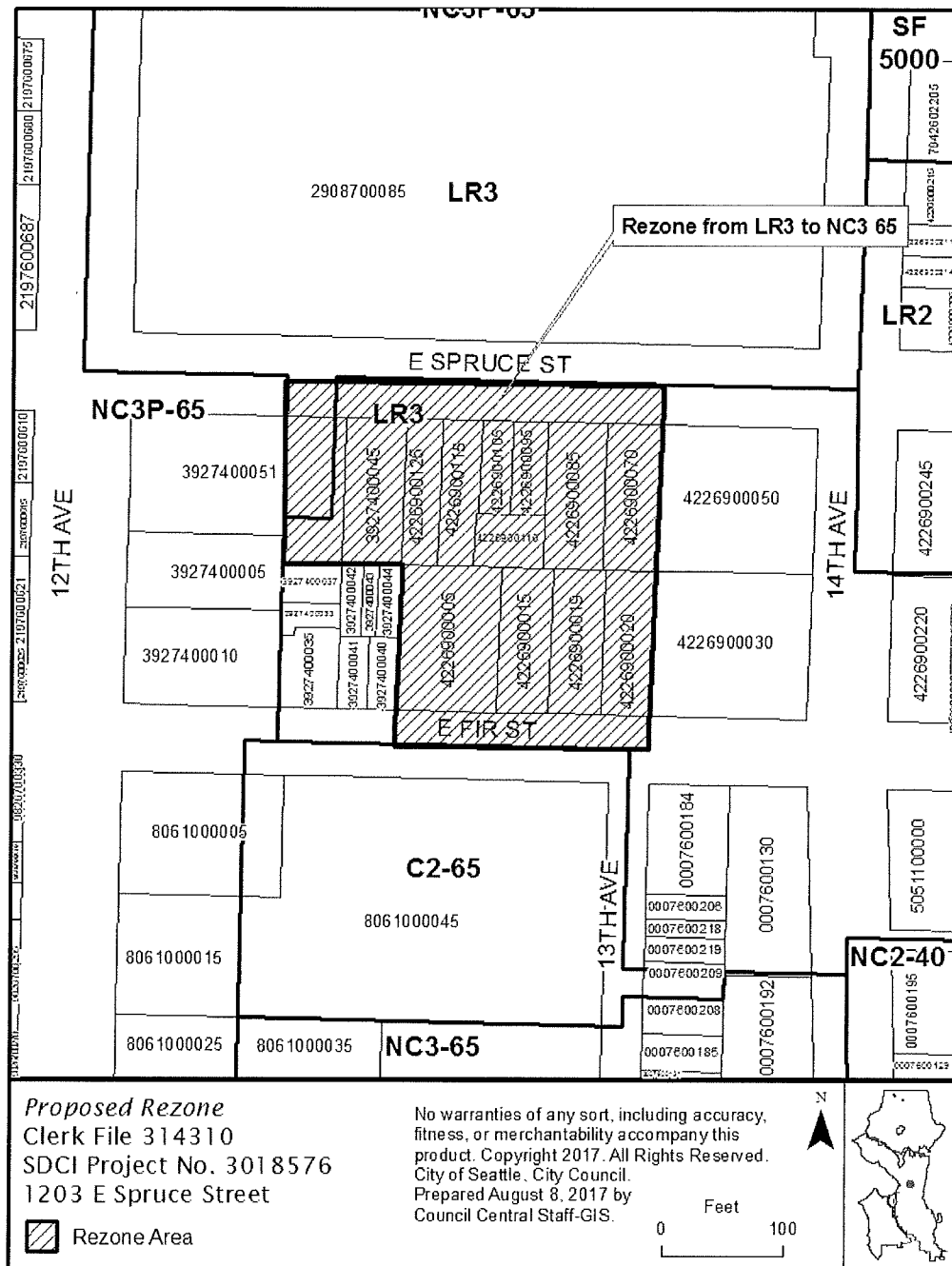
ATTACHMENT A

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ATTACHMENT B



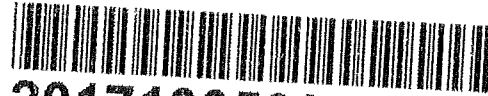
Return Address:

Seattle City Clerk's Office

600 4th Avenue, Floor 3

P O Box 94728

Seattle, WA 98124 - 4728



20171005000927

AGREEMENT Rec: \$82.00
10/5/2017 1:52 PM
KING COUNTY, WA

WASHINGTON STATE RECORDER'S Cover Sheet (RCW 65.04)

Please print or type information

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

Property Use and Development Agreement for 1203 E. Spruce St., authorized by City of Seattle Ordinance 125394

Grantor(s)

City of Seattle

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

Public

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

Additional legal on page Attachment A of document

Lots 7, 8, 9, 10, 11 and 16, Block 1, Kollocks Addn (see Attachment for details)

Lots 1, 2, 3, 4, 5, 12, 13, 14 and 15, Bloc, 1, Lawlers Add (see Attachment for details)

Assessor's Property Tax Parcel/Account Number

3927400051, 3927400045, 4226900125, 4226900105, 4226900095, 4226900110, 4226900085,
4226900070, 4226900005, 4226900015, 4226900019, 4226900020

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

August 30, 2017

EXHIBIT C

2017 AUG 31 PM 1:42

CITY CLERK

Property Use and Development Agreement

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August 30, 2017

SIGNED this 31 day of August, 2017.

Capitol Hill / First Hill Development, LLC

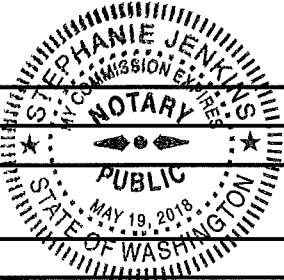
a Washington limited liability company

By: [Signature] HARM DEVELOPMENT LLC

Its: Managing Member

On this day personally appeared before me ROBERT HARDY, to me known to be the Managing Member, of Capitol Hill / First Hill Development, 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 31st day of Aug, 2017.

		<u>[Signature]</u>
		Printed Name <u>STEPHANIE JENKINS</u>
		NOTARY PUBLIC in and for the State of Washington, residing at <u>WNNWNO</u>
		My Commission Expires <u>5.19.2018</u>
STATE OF WASHINGTON	}	ss.
COUNTY OF KING		

ATTACHMENT A

Assessor's Parcel Number	Legal Description
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