



SEATTLE CITY COUNCIL

Legislative Summary

CB 119091

Record No.: CB 119091

Type: Ordinance (Ord)

Status: Passed

Version: 1

Ord. no: Ord 125433

In Control: City Clerk

File Created: 09/19/2017

Final Action: 10/09/2017

Title: AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at pages 113 and 114 of the Official Land Use Map to rezone property located at 1106 34th Avenue from Lowrise 2 to Neighborhood Commercial 1 with a 30-foot height limit and a Mandatory Housing Affordability suffix of (M), and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by Martin Liebowitz, C.F. 314325, SDCI Project 3020405)

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 - Executed Property Use and Development Agreement, Exhibit B - Unexecuted Property Use and Development Agreement

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	09/20/2017	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	09/21/2017	sent for review	Full Council			
	Action Text: The Council Bill (CB) was sent for review. to the Full Council Notes:						
1	Full Council	09/25/2017	referred	Full Council			
	Action Text: The Council Bill (CB) was referred. to the Full Council Notes:						

1 Full Council

10/09/2017 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 and duly seconded to pass Council Bill 119091.

ACTION 2:

Motion was made by Councilmember Johnson, duly seconded and carried, to amend Council Bill 119091, Exhibit B, by substituting the executed Property Use and Development Agreement for the unexecuted Property Use and Development Agreement.

ACTION 3:

Motion was made and duly seconded to pass Council Bill 119091 as amended.

In Favor: 8 Councilmember Bagshaw, Councilmember González, Councilmember Harris-Talley, Councilmember Herbold, Councilmember Johnson, Councilmember Juarez, Councilmember O'Brien, Councilmember Sawant

Opposed: 0

1 City Clerk

10/09/2017 attested by City Clerk

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

Notes:

CITY OF SEATTLE

ORDINANCE 125433

COUNCIL BILL 119091

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at pages 113 and 114 of the Official Land Use Map to rezone property located at 1106 34th Avenue from Lowrise 2 to Neighborhood Commercial 1 with a 30-foot height limit and a Mandatory Housing Affordability suffix of (M), and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by Martin Liebowitz, C.F. 314325, SDCI Project 3020405)

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 1106 34th Avenue:

THE SOUTH 25 FEET OF LOT 2 AND LOT 3, BLOCK 2, MARION HIGHLANDS ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 15 OF PLATS, PAGE 61, RECORDS OF KING COUNTY, WASHINGTON

Section 2. Pages 113 and 114 of the Official Land Use Map, Seattle Municipal Code Section 23.32.016, are amended to rezone the Property described in Section 1 of this ordinance, and shown in Exhibit A to this ordinance, from Lowrise 2 (LR2) to Neighborhood Commercial 1 with a 30-foot height limit and a Mandatory Housing Affordability suffix of (M), resulting in a new designation of NC1-30 (M). 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 B is approved and accepted.

Section 4. The City Clerk is authorized and directed to file the PUDA approved in Section 3 of this ordinance 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

Lish Whitson
LEG 1106 34th Avenue Rezone ORD
D2a

- 1 Director of the Seattle Department of Construction and Inspections and to the King County
- 2 Assessor's Office.

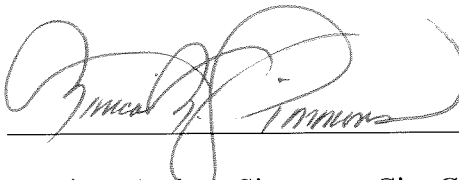
Section 5. This ordinance, effectuating a quasi-judicial decision of the City Council and not subject to mayoral approval or disapproval, shall take effect and be in force 30 days from and after its passage and approval by the City Council.

Passed by the City Council the 9th day of October, 2017,
and signed by me in open session in authentication of its passage this 9th day of
October, 2017.



President Pro Tem of the City Council

Filed by me this 9th day of OCTOBER, 2017.



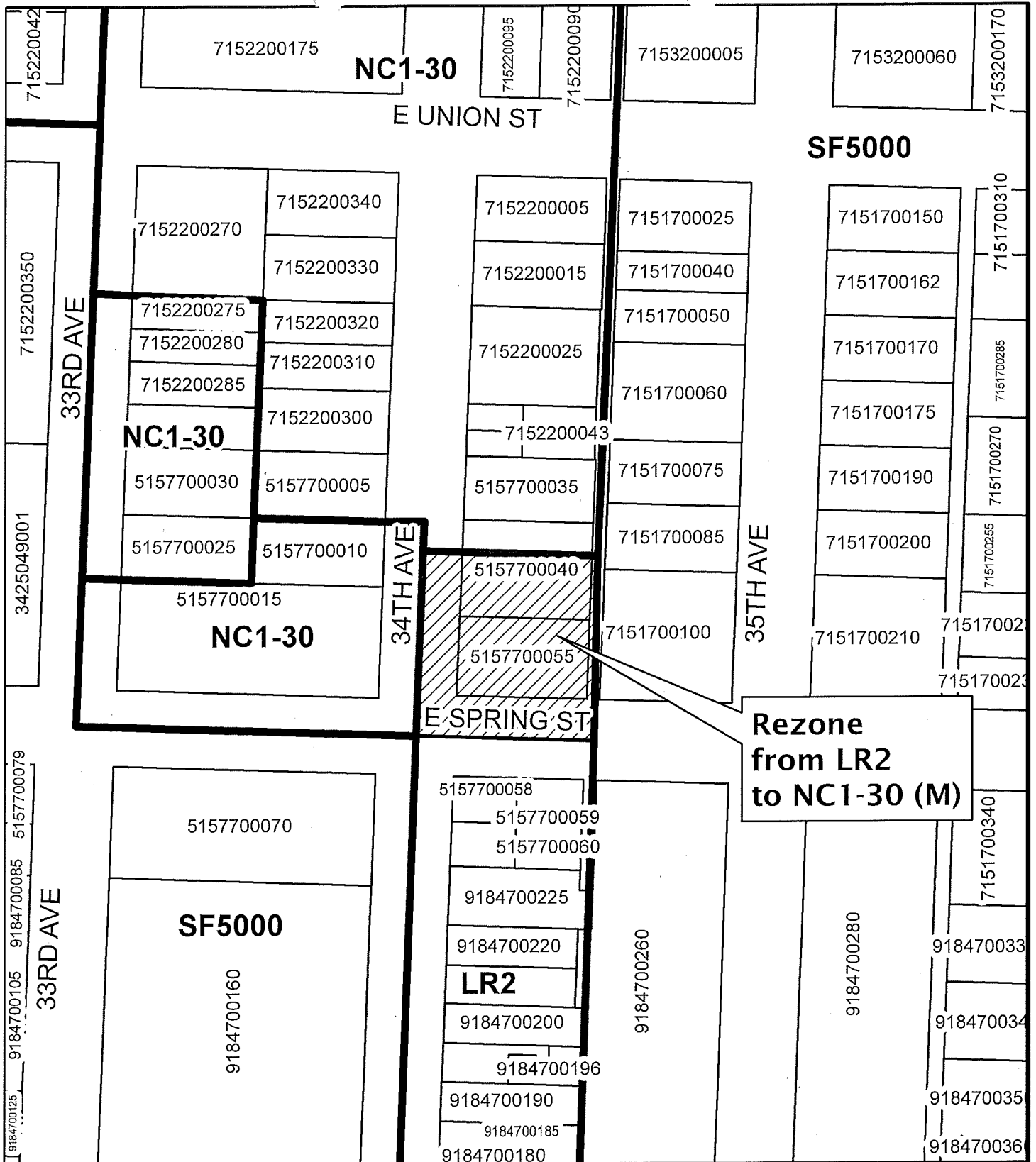
Monica Martinez Simmons, City Clerk

(Seal)

Exhibits:

Exhibit A – Rezone Map

Exhibit B – Property Use and Development Agreement



Proposed Rezone
 Clerk File 314325
 DPD Project No. 3020405
 1106 34th Avenue



Rezone Area

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0 50 100 200 Feet



FILED
CITY OF SEATTLE

August 19, 2017

2017 OCT -3 PM 12: 48

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) Martin Liebowitz	(2) 34th and Spring LLC
☐ Additional grantors on page _____		
Grantee:	(1) The City of Seattle	
☐ Additional on page _____		
Legal Description (abbreviated if necessary):	THE SOUTH 25 FEET OF LOT 2 AND LOT 3, BLOCK 2, MARION HIGHLANDS ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 15 OF PLATS, PAGE 61, RECORDS OF KING COUNTY, WASHINGTON	
☐ Additional legal description on page _____		
Assessor's Tax Parcel ID #:	5157700040 (part) and 5157700055	
Reference Nos. of Documents Released or Assigned:		

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this ____th day of September 2017, in favor of the CITY OF SEATTLE (the "City"), a Washington municipal corporation, by Martin Liebowitz and 34TH AND SPRING LLC, a Washington limited liability company (the "Owners").

RECITALS

A. The Owners are the owner of that certain real property (the "Rezone Area") in the City of Seattle zoned Lowrise 2 (LR2) shown in Attachment A and legally described as:

THE SOUTH 25 FEET OF LOT 2 AND LOT 3, BLOCK 2, MARION HIGHLANDS
ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF
RECORDED IN VOLUME 15 OF PLATS, PAGE 61, RECORDS OF KING COUNTY,
WASHINGTON

B. On December 10, 2016, the Owners submitted to the City of Seattle an application under Project No. 3020405 for a rezone of the Rezone Area from Lowrise 2 (LR2) to Neighborhood Commercial 1 with a 30 foot height limit (NC1-30). The purpose of the application is to allow the Rezone Area to accommodate commercial and residential uses, consistent with the adjacent zoning for the Madrona neighborhood commercial center north of Spring Street. No development proposal is associated with the rezone application.

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 Owners hereby covenant, bargain and agree, on behalf of themselves and their successors and assigns, that they will comply with the following conditions in consideration of the rezone of the Rezone Area from LR2 to NC1-30 (M):

Development of the Rezone Area shall be subject to the requirements of SMC Chapters 23.58.B and 23.58.C. For purposes of application of Chapter 23.58C, future development of the Rezone Area shall be subject to the following performance or payment requirements:

6% of units for the performance option or \$13.25 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 Owners, their heirs, successors and assigns, and shall apply to after- acquired title of the Owners of the Rezone Area.

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 Owners 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 the Rezone Area and this Agreement is not intended to establish precedent for other rezones in the surrounding area.

Section 8. Repeal as Additional Remedy. Owners acknowledge that compliance with the conditions of this Agreement is a condition of the subject rezone and that if Owners 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:

- a. revoke the rezone by ordinance and require the use of the Rezone Area to conform to the requirements of the previous LR2 zoning designation or some other zoning designation imposed by the City Council; and/or
- b. pursue specific performance of this Agreement.

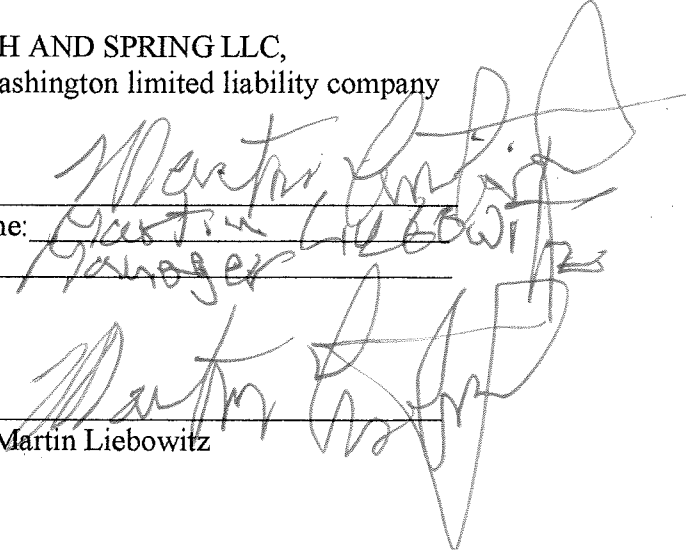
[Signature Pages Follow]

August 19 2017

SIGNED this 25th day of September, 2017.

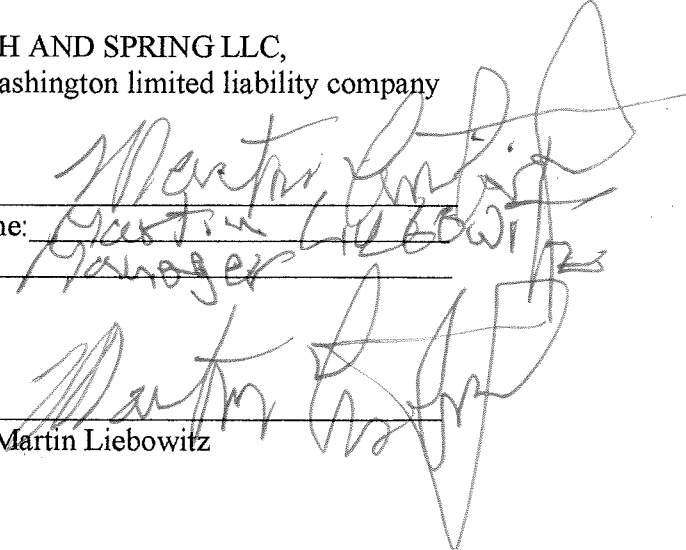
OWNERS:

34TH AND SPRING LLC,
a Washington limited liability company

By: 

Name: Martin Liebowitz

Its: Manager

By: 

Martin Liebowitz

August 19 2017

STATE OF WASHINGTON

} SS.

COUNTY OF KING

I certify that I know or have satisfactory evidence that Martina Liebowitz is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the Manager of 34th and Spring LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this day of, 2017, September 25th

Zulkifly Sa

Printed Name

Notary Public in and for the State of Washington,
residing at

My Commission Expires

STATE OF WASHINGTON

} SS.

COUNTY OF KING

I certify that I know or have satisfactory evidence that Martina Liebowitz is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Given under my hand and official seal this day of, 2017, September 25th

Zulkifly Sa

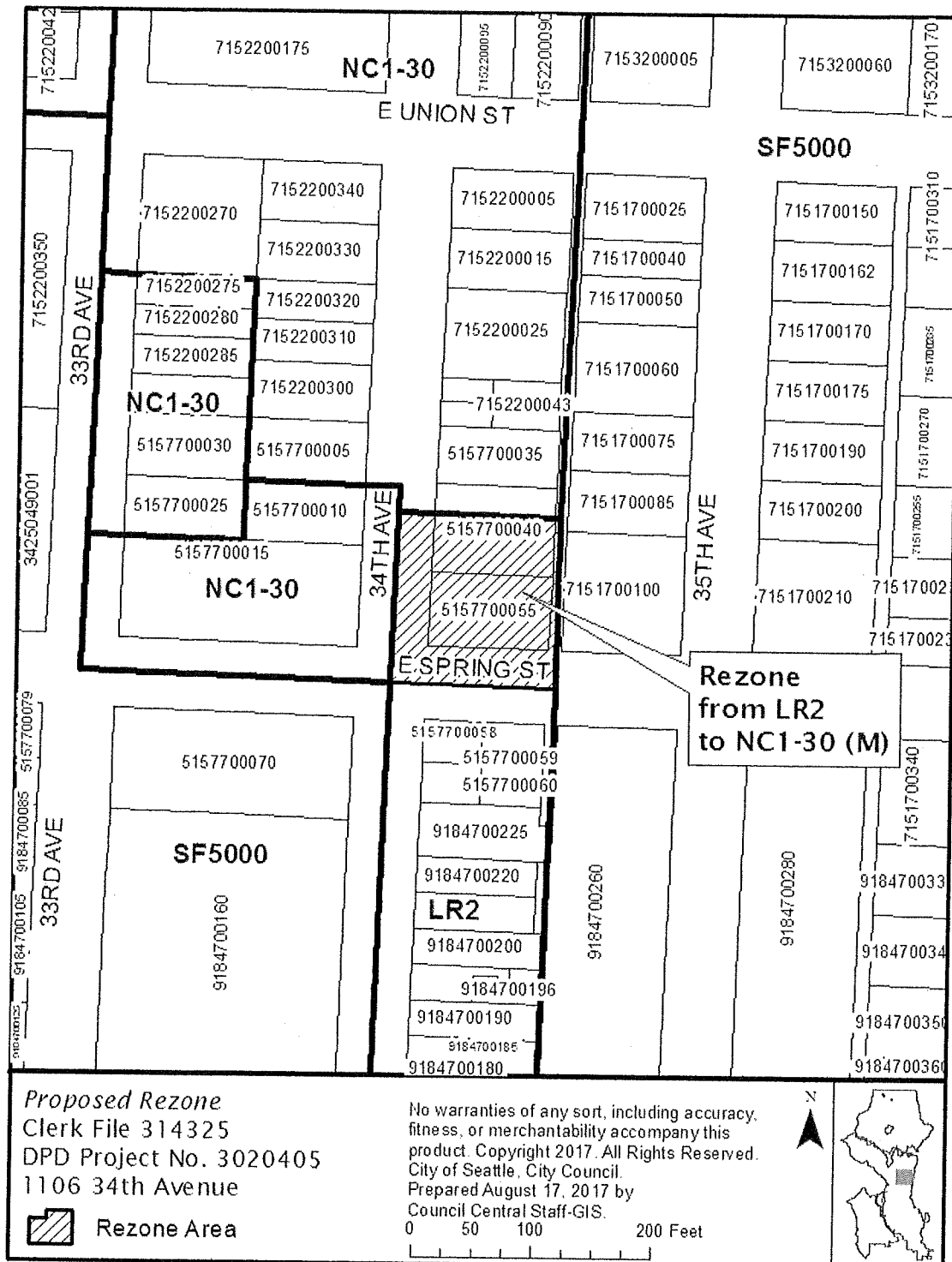
Printed Name

Notary Public in and for the State of Washington,
residing at

My Commission Expires

ATTACHMENT A

Attachment A: Rezone Map



STATE OF WASHINGTON -- KING COUNTY

--SS.

355045

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.

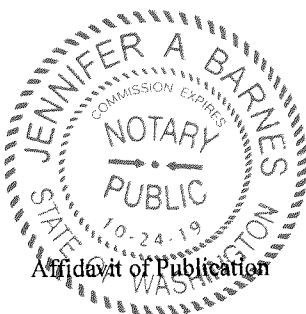
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:125433-125434 TITLE

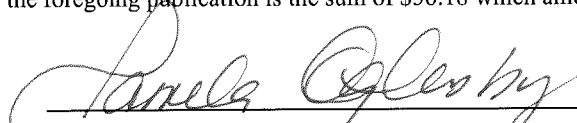
was published on

10/23/17

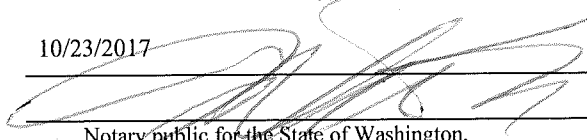
The amount of the fee charged for the foregoing publication is the sum of \$56.18 which amount has been paid in full.



Affidavit of Publication


Subscribed and sworn to before me on

10/23/2017


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 October 09, 2017, and published below by title only, will be mailed upon request, or can be accessed at <http://seattle.legistar.com>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>.

Ordinance 125433

Council Bill 119091

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at pages 113 and 114 of the Official Land Use Map to rezone property located at 1106 34th Avenue from Lowrise 2 to Neighborhood Commercial 1 with a 30-foot height limit and a Mandatory Housing Affordability suffix of (M), and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by Martin Liebowitz, C.F. 314825, SDCI Project 3020405)

Ordinance 125434

Council Bill 119095

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 23, 2017.
10/23(355045)