

FILED
 CITY OF SEATTLE
 18 AUG -5 AM 11:27
 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)	70 th & Greenwood Ave, LLC	(2)	
<input type="checkbox"/> Additional grantors on page _____				
Grantee:	(1)	The City of Seattle		
<input type="checkbox"/> Additional on page _____				
Legal Description <i>(abbreviated if necessary):</i>	See Attachment A			
<input type="checkbox"/> Additional legal description on page:				
Assessor's Tax Parcel ID #:	287710-4100, 287710-4085, 287710-4127, 287710-4120			
Reference Nos. of Documents Released or Assigned:				

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this ____ day of August, 2018, in favor of the CITY OF SEATTLE (the "City"), a Washington municipal corporation, by 70th & Greenwood Ave, LLC (the "Owner").

RECITALS

A. 70th & Greenwood Ave, LLC is the owner of that certain real property (the "Property") in the City of Seattle zoned Single Family 5000 (SF 5000) and Neighborhood Commercial 2 with a 40-foot height limit (NC2 40), which is legally described in Attachment A.

B. In December 2016, the Owner submitted to the City of Seattle an application under Master Use Permit (MUP) No. 3023260 for a rezone of the commercially-zoned portion of the Property. In February of 2018, the Owner revised the application to seek a rezone from NC2 40 to Neighborhood Commercial 2 with a 55-foot height limit and M suffix (NC2 55 (M)). The purpose of the application is to develop the commercially-zoned portion of the property with a 35 unit mixed-use building with approximately 6,000 square feet of retail space and below-grade parking for 26 vehicles. A single-family house and detached structure on the SF 5000 portion of the Property would remain. The Property and rezone area are 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 NC2 40 to NC2 55 (M):

- (a) Future development of the Property, including the single-family-zoned portion, is restricted to a project that complies with Master Use Permit (MUP) No. 3023260, once the Seattle Department of Construction and Inspections (SDCI) issues that MUP. This includes maintaining as landscaped open space the area identified on Attachment A as Assessor's Parcel Number 287710-4127. 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 rezoned portion of Property. For purposes of application of those Chapters, future development of the rezoned portion of the Property shall be subject to the following performance or payment requirements:

- For Chapter 23.58B, 5% per square foot for the performance option or \$7.00 per square foot for the payment option; and
- For Chapter 23.58C, 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 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 Section 3 of this Agreement. If the rezone does not expire and is not revoked, these conditions shall remain in effect until the conditions are 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 NC2 40 zoning designation or some other zoning designation imposed by the City Council; and/or

b. pursue specific performance of this Agreement.

SIGNED this 6th day of August, 2018.

70th & Greenwood Ave, LLC,

a Washington limited liability company

By: OJD LLC, its Manager

By: 

Chad Dale, its Manager

On this day personally appeared before me Chad Dale, to me known to be the Manager of OJD LLC, the Manager of 70th & Greenwood Ave 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 6th day of August, 2018.

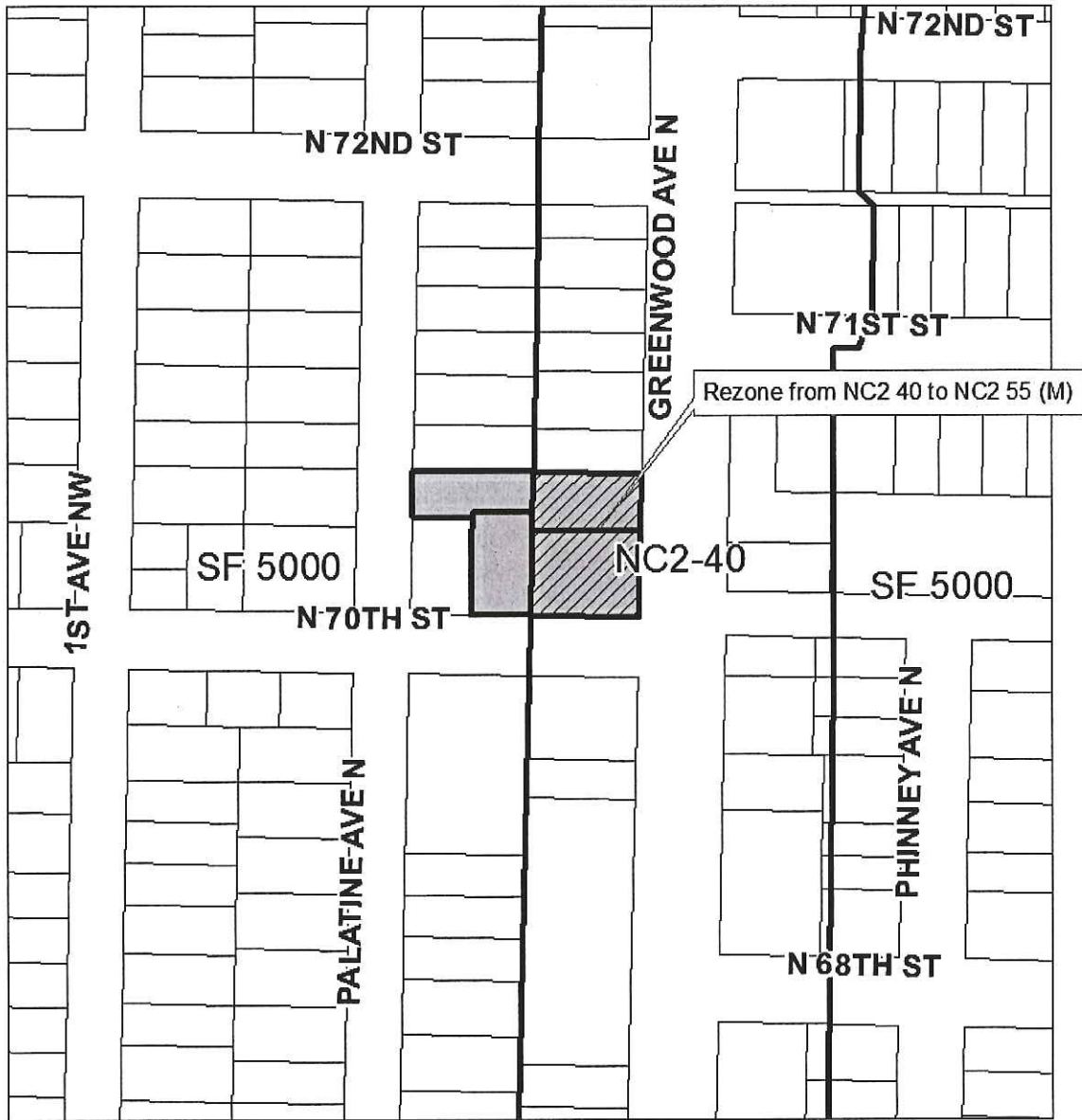
CHARLYN M COPP
Notary Public
State of Washington
My Commission Expires
July 19, 2021

<u>Charlyn M. Copp</u>	Printed Name <u>Charlyn M. Copp</u>
	NOTARY PUBLIC in and for the State of Washington, residing at <u>Seattle</u>
	My Commission Expires <u>7/19/21</u>
STATE OF WASHINGTON COUNTY OF KING	} ss.



ATTACHMENT A

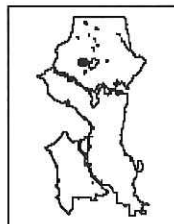
Assessor's Parcel Number	Legal Description
<p>287710-4100 And 287710-4085</p>	<p>LOTS 1, 2, 3, 4, AND 5, IN BLOCK 23 OF GREENLAKE CIRCLE RAILROAD ADDITION TO THE CITY OF SEATTLE, AS PER PLAT RECORDED IN VOLUME 2 OF PLATS ON PAGE 170, RECORDS OF KING COUNTY, WASHINGTON.</p> <p>EXCEPT FOR THE EAST 10 FEET THEREOF CONDEMNED FOR GREENWOOD AVENUE IN THE SUPERIOR COURT OF KING COUNTY CAUSE NO. 65489, UNDER PROVISIONS OF ORDINANCE NO. 19334.</p>
<p>287710-4127</p>	<p>THE SOUTH 15 FEET OF THE EAST 53 FEET OF LOT 9 AND THE EAST 53 FEET OF LOTS 10, 11, AND 12, IN BLOCK 23 OF GREENLAKE CIRCLE RAILROAD ADDITION TO THE CITY OF SEATTLE, AS PER RECORDED VOLUME 2 OF PLATS ON PAGE 170, RECORDS OF KING COUNTY, WASHINGTON.</p> <p>SITUATE IN THE CITY OF SEATTLE, COUNTY OF KING, STATE OF WASHINGTON.</p>
<p>287710-4120</p>	<p>LOTS 8 AND 9, BLOCK 23, GREEN LAKE CIRCLE RAILROAD ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2 OF PLATS, PAGE 170, RECORDS OF KING COUNTY, WASHINGTON;</p> <p>EXCEPT THE SOUTH 13.5 FEET OF THE EAST 53 FEET OF LOT 9;</p> <p>AND EXCEPT THE SOUTH 10 FEET OF THE WEST 54.5 FEET OF LOT 9.</p>

ATTACHMENT B



Rezone
 Clerk File 314356
 SDCI Project No. 3023260
 7009 Greenwood Ave N.

-  Rezone Area
-  Area Subject To PUDA



No warranties of any sort, including accuracy, fitness, or merchantability accompany this product.
 Copyright 2018, All Rights Reserved City of Seattle. Prepared July 6, 2018 by Council Central Staff.

