

**Amended Property Use and Development Agreement**

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

**PROPERTY USE AND DEVELOPMENT AGREEMENT**

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

THIS AMENDED PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this \_\_\_\_ day of \_\_\_\_, 2019, in favor of the CITY OF SEATTLE (the "City"), a Washington municipal corporation, by 70<sup>th</sup> & Greenwood, LLC (the "Owner").

## RECITALS

A. 70<sup>th</sup> & Greenwood, 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. In August 2018, the Council passed Ordinance 125640 which amended the Official Land Use Map to rezone a property located at 7009 Greenwood Avenue from NC2 40 to NC2 55 (M) and accepted a Property Use and Development Agreement.

D. Those approvals were appealed through a land use petition (No. 18-2-21317-7) in King County Superior Court;

E. In March 2019, the Court remanded the decision to the Council "...to address compliance with SMC 23.34.009.D.2, which requires that '[a] gradual transition in height and scale and level of activity between zones shall be provided unless major physical buffers, as described in subsection [23.34.008.E.2], are present, in the area where the commercial Lot 287710- 4100 shares a rear boundary line with the single family residential Lot 287710- 4120 at 7010 Palatine Avenue North."

F. 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. Amended Condition.** Section 1 of the PUDA accepted by Ordinance 125640 is stricken and replaced with the following language:

**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 of a portion of the Property from NC2 40 to NC2 55 (M):

- (a) Before a building permit is issued, the Owner shall submit to, and obtain approval from, the Seattle Department of Construction and Inspections (SDCI) of revised landscape plans substantially similar to the plan shown on Attachment C.
- (b) 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 SDCI approves a revised MUP that conforms to the requirements of condition 1(a) of this Agreement. This includes maintaining as landscaped open space the area identified on Attachment A as Assessor's Parcel Number 287710-4127 and the eastern portion of 287710-4120 shown on Attachment C.
- (c) The provisions of Seattle Municipal Code Chapters 23.58B and 23.58C shall apply to the rezoned portion of Property. For purposes of applying 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.** All terms and conditions of the PUDA accepted by Ordinance 125640 that are not changed by this Agreement remain valid.

SIGNED this \_\_\_\_ day of \_\_\_\_, 2019.

70<sup>th</sup> & Greenwood,

a Washington limited liability company

By: OJD LLC, its Manager

By: \_\_\_\_\_

Chad Dale, its Manager

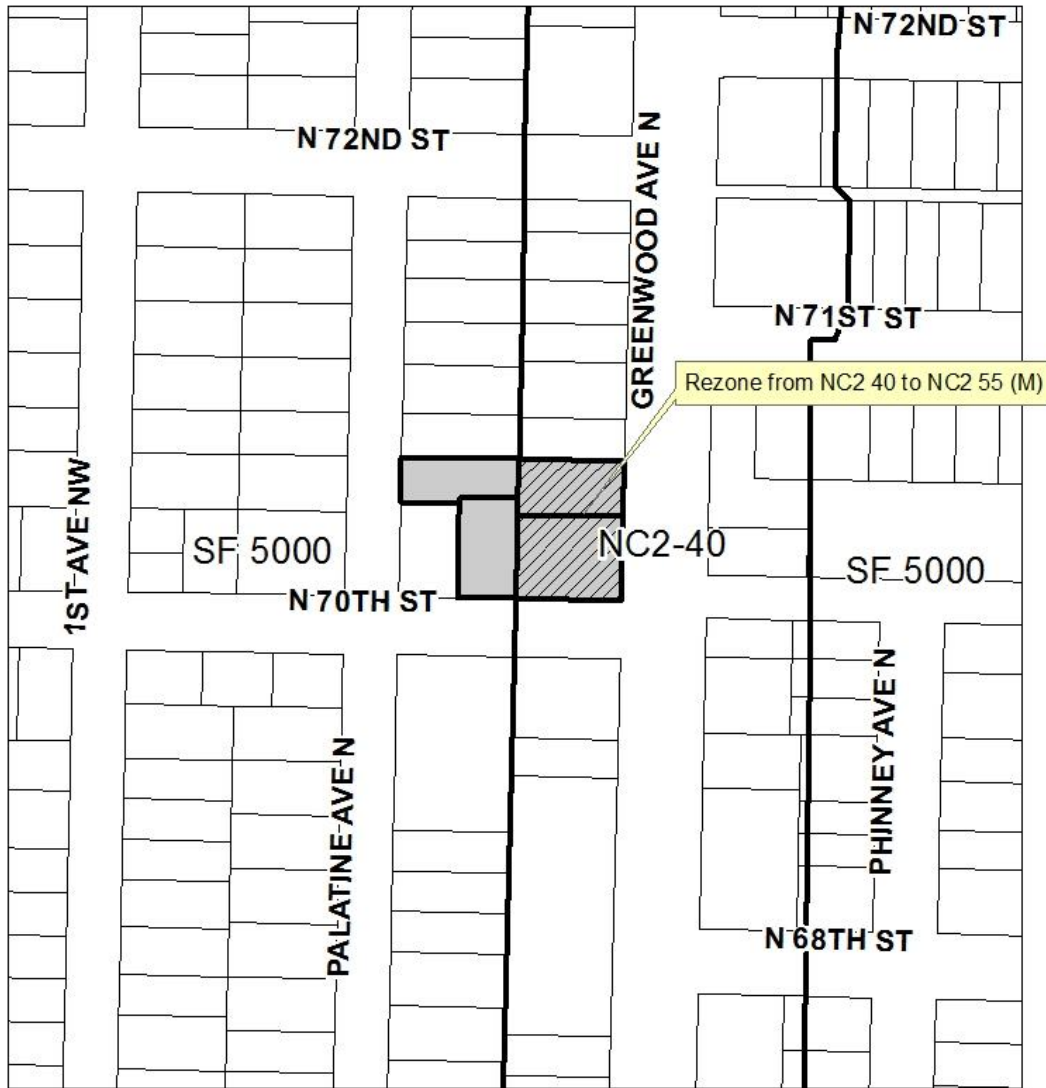
On this day personally appeared before me \_\_\_\_, to me known to be the Managing Member, of 70<sup>th</sup> & Greenwood Ave, a Washington limited liability company that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability 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 \_\_\_\_ day of \_\_\_\_, 2019.



		Printed Name _____
		NOTARY PUBLIC in and for the State of Washington, residing at _____
		My Commission Expires _____
STATE OF WASHINGTON	}	ss.
COUNTY OF KING		

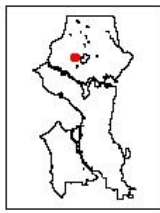
ATTACHMENT A

Assessor's Parcel Number	Legal Description
<p><b>287710-4100 And 287710-4085</b></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><b>287710-4127</b></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><b>287710-4120</b></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>



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

-  Rezone Area
-  Area Subject To PUDA



N

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

0 100 200 300 Feet

