

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)	
<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 #:	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.

SIGNED this 31 day of August, 2017.

Capitol Hill / First Hill Development, LLC

a Washington limited liability company


By:  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.





	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

Assessor's Parcel Number	Legal Description
3927400051 Plat Lot: 8-9-10-11	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 at Block: 1
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
4226900105	LAWLERS ADD POR BEG C/L OF 4 FT CONCRETE WALKWAY 28.5 FT M/L W OF NE COR OF W 33 FT OF LOT 14 TH S ALG SD C/L 75 FT M/L TAP 44 FT N OF S LN OF SD LOT 14 TH W 28.5 FT M/L TO W LN OF E 24 FT OF SD LOT 15 TH N 76 FT M/L TO N LN OF SD LOT 15 TH E ALG N LN OF LOTS 15-14 DIST 28.5 FT M/L TO BEG LESS BEG AT NE COR OF ABOVE TRACT TH W ALG N LN THOF 25.5 FT TO TPOB TH CONTG W 3 FT TO NW COR THOF TH S ALG W LN SD TRACT 76 FT TO SW COR THOF TH E ALG S LN SD TRACT 2.37 FT TH NLY 76.1 FT M/L TO TPOB Plat Block: 1

	Plat Lot: 14-15
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 OF SD LOT TH W ALG SD N LN 28.5 FT M/L TO BEG Plat Block: 1 Plat Lot: 14
4226900110	LAWLERS ADD S 44 FT OF W 33 FT OF 14 & S 44 FT OF E 24 FT OF 15 Plat Block: 1 Plat Lot: 14-15
4226900085	LAWLERS ADD W 39 FT OF 13 & E 9 FT 14 Plat Block: 1 Plat Lot: 13-14
4226900070	LAWLERS ADD LOT 12 TGW E 3 FT OF 13 Plat Block: 1 Plat Lot: 12-13
4226900005	LAWLERS ADD Plat Block: 1 Plat Lot: 1-2
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

ATTACHMENT B

