



SEATTLE CITY COUNCIL

Legislative Summary

CB 119511

Record No.: CB 119511

Type: Ordinance (Ord)

Status: Passed

Version: 1

Ord. no: Ord 125820

In Control: City Clerk

File Created: 04/30/2019

Final Action: 05/20/2019

Title: AN ORDINANCE relating to land use and zoning; affirming the rezone approved through Ordinance 125640; and accepting an amended Property Use and Development Agreement as a condition of rezone approval. (Remand of the approval granted through C.F. 314356 of a rezone application by 70th & Greenwood Ave, LLC, C.F. 314425, SDCI Project 3023260)

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Pacheco

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments: Ex A – Executed Amended Property Use and Development Agreement

Drafter: patrick.wigren@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

☐ Yes

☐ No

| Version: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|----------|--|------------|-------------------|----------------------------|-----------|--------------|---------|
| 1 | City Clerk | 04/30/2019 | 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 | 05/02/2019 | sent for review | City Council | | | |
| | Action Text: The Council Bill (CB) was sent for review. to the City Council | | | | | | |
| | Notes: | | | | | | |
| 1 | City Council | 05/06/2019 | referred | City Council | | | |
| | Action Text: The Council Bill (CB) was referred. to the City Council | | | | | | |
| 1 | City Council | 05/20/2019 | 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 Harrell and duly seconded to pass Council Bill 119511.

ACTION 2:

Motion was made by Councilmember O'Brien, duly seconded and carried, to amend Council Bill 119511, Exhibit A, by substituting an executed Amended Property Use and Development Agreement for the unexecuted Amended Property Use and Development Agreement.

ACTION 3:

Motion was made and duly seconded to pass Council Bill 119511 as amended.

In Favor: 8 Councilmember González , Council President Harrell, Councilmember Herbold, Councilmember Juarez, Councilmember Mosqueda, Councilmember O'Brien, Councilmember Pacheco, Councilmember Sawant

Opposed: 0

1 City Clerk 05/20/2019 attested by City Clerk
Action Text: The Ordinance (Ord) was attested by City Clerk.

CITY OF SEATTLE

ORDINANCE 125820

COUNCIL BILL 119511

AN ORDINANCE relating to land use and zoning; affirming the rezone approved through Ordinance 125640; and accepting an amended Property Use and Development Agreement as a condition of rezone approval. (Remand of the approval granted through C.F. 314356 of a rezone application by 70th & Greenwood Ave, LLC, C.F. 314425, SDCI Project 3023260)

WHEREAS, in August 2018, the City Council (“Council”) passed Ordinance 125640, which amended the Official Land Use Map to rezone a property located at 7009 Greenwood Avenue North from Neighborhood Commercial 2 with a 40-foot height limit (NC2 40) to Neighborhood Commercial 2 with a 55-foot height limit and mandatory housing affordability suffix (NC2 55 (M)) and accepted a Property Use and Development Agreement; and

WHEREAS, Bob Morgan and Irene Wall (“Appellants”) filed a land use petition (No. 18-2-21317-7) in King County Superior Court alleging multiple errors in the Council’s rezone decision; and

WHEREAS, in March 2019, the Superior Court remanded the decision to the Council “to address compliance with [Seattle Municipal Code subsection] 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”; and

1 WHEREAS, on April 17, 2019, the Council's Planning, Land Use and Zoning Committee heard
2 oral argument from the Appellants and the rezone applicant on the remanded issue and
3 recommended additional conditions in the area where the commercial Lot 287710-4100
4 shares a rear boundary line with the single-family residential Lot 287710-4120 to secure
5 a gradual transition and physical buffer; and

6 WHEREAS, Council decisions related to contract rezone applications have no precedential
7 effect; NOW, THEREFORE,

8 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

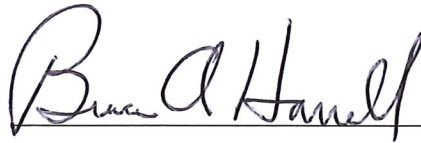
9 Section 1. The City Council affirms the amendment to the Official Land Use Map made
10 by Section 2 of Ordinance 125640.

11 Section 2. The amended Property Use and Development Agreement (PUDA) attached to
12 this ordinance as Exhibit A is approved and accepted.

13 Section 3. The City Clerk is authorized and directed to take the following actions: (1) file
14 the PUDA approved in Section 2 of this ordinance with the King County Recorder's Office;
15 (2) upon return of the recorded PUDA from the King County Recorder's Office, file the original
16 PUDA along with this ordinance at the City Clerk's Office; and (3) deliver copies of the PUDA
17 and this ordinance to the Director of the Seattle Department of Construction and Inspections and
18 to the King County Assessor's Office.

Section 4. This ordinance, effectuating a quasi-judicial decision of the City Council and not subject to mayoral approval or disapproval, shall take effect 30 days from its approval by the City Council.

Passed by the City Council the 20th day of MAY, 2019,
and signed by me in open session in authentication of its passage this 20th day of MAY, 2019.



President _____ of the City Council

Filed by me this 20th day of MAY, 2019.



Monica Martinez Simmons, City Clerk

(Seal)

Attachments:
Exhibit A – Amended Property Use and Development Agreement

FILED
CITY OF SEATTLE
15 PM 3:16/19
19 MAY 18 AM 11:54
CITY CLERK

Amended 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 (abbreviated if necessary): | 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 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 70th & Greenwood, LLC (the "Owner").

RECITALS

A. 70th & 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 13th day of May, 2019.

70th & Greenwood,

a Washington limited liability company

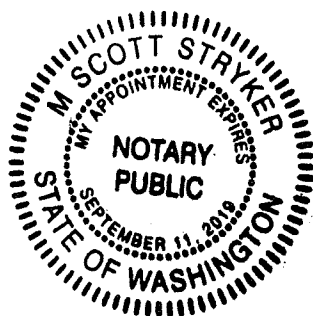
By: OJD LLC, its Manager

By: [Signature]

Chad Dale, its Manager

On this day personally appeared before me Chad Dale, to me known to be the Managing Member, of 70th & 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 13 day of May, 2019.

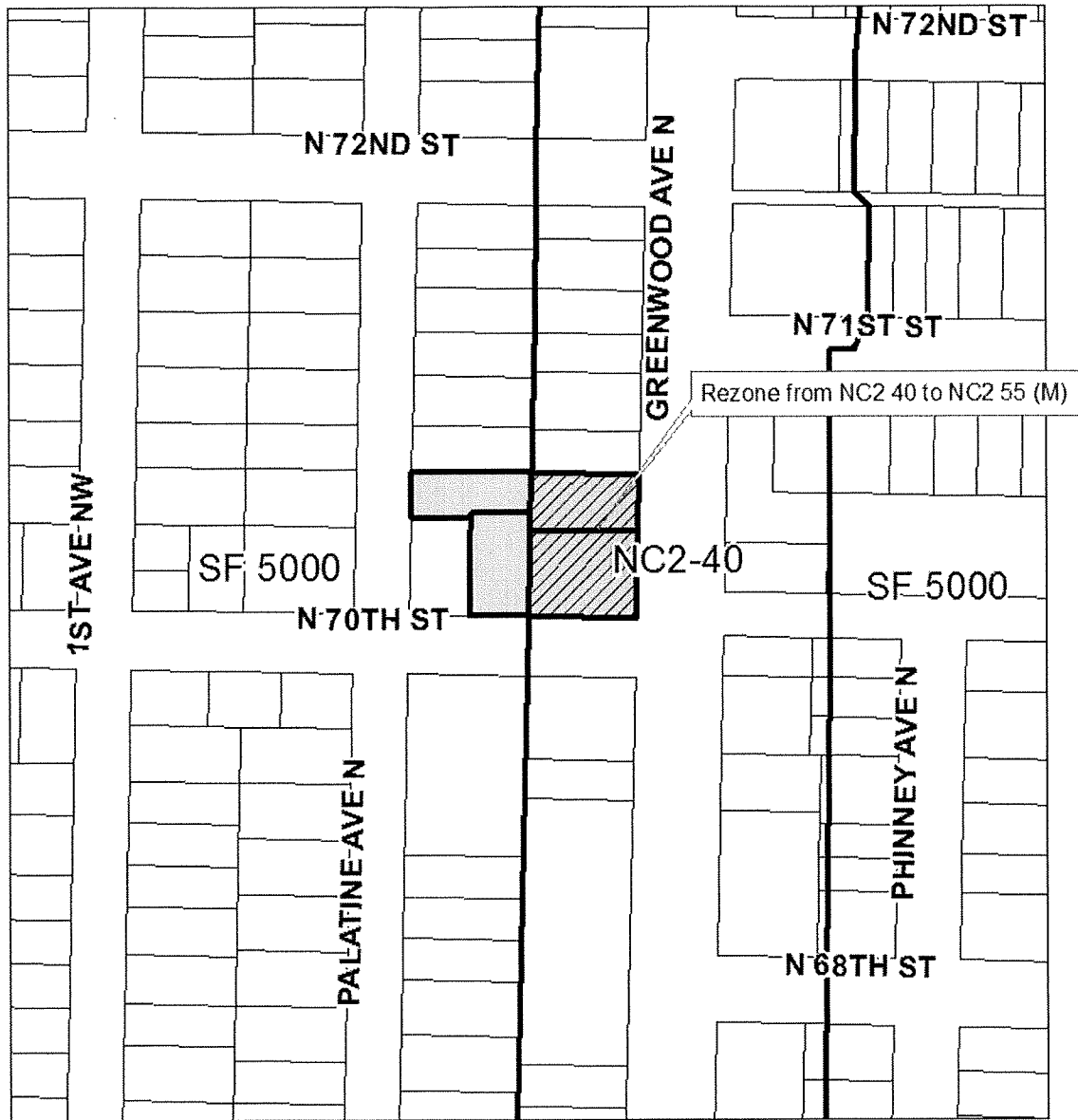


| | | |
|---------------------|---|--|
| | | Printed Name <u>M Scott Stryker</u> |
| | | NOTARY PUBLIC in and for the State of Washington, residing at <u>3837 Stone Way Ave. N.</u> |
| | | My Commission Expires <u>September 11, 2019</u> <u>Seattle, 98103</u> |
| STATE OF WASHINGTON | } | SS. |
| COUNTY OF KING | | |



ATTACHMENT A

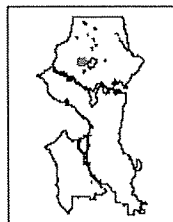
| Assessor's Parcel Number | Legal Description |
|--------------------------------|--|
| 287710-4100 And 287710-4085 | <p>LOTS 1, 2, 3, 4, AND 5, IN BLOCK 23 OF GREENLAKE CIRCLE RAILROAD ADDITION TO THE CITY OF SEATTLE, AS PER PLAT RECORDED IN VOLUME 2 OF PLATS ON PAGE 170, RECORDS OF KING COUNTY, WASHINGTON.</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> |
| 287710-4127 | <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> |
| 287710-4120 | <p>LOTS 8 AND 9, BLOCK 23, GREEN LAKE CIRCLE RAILROAD ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORED 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.

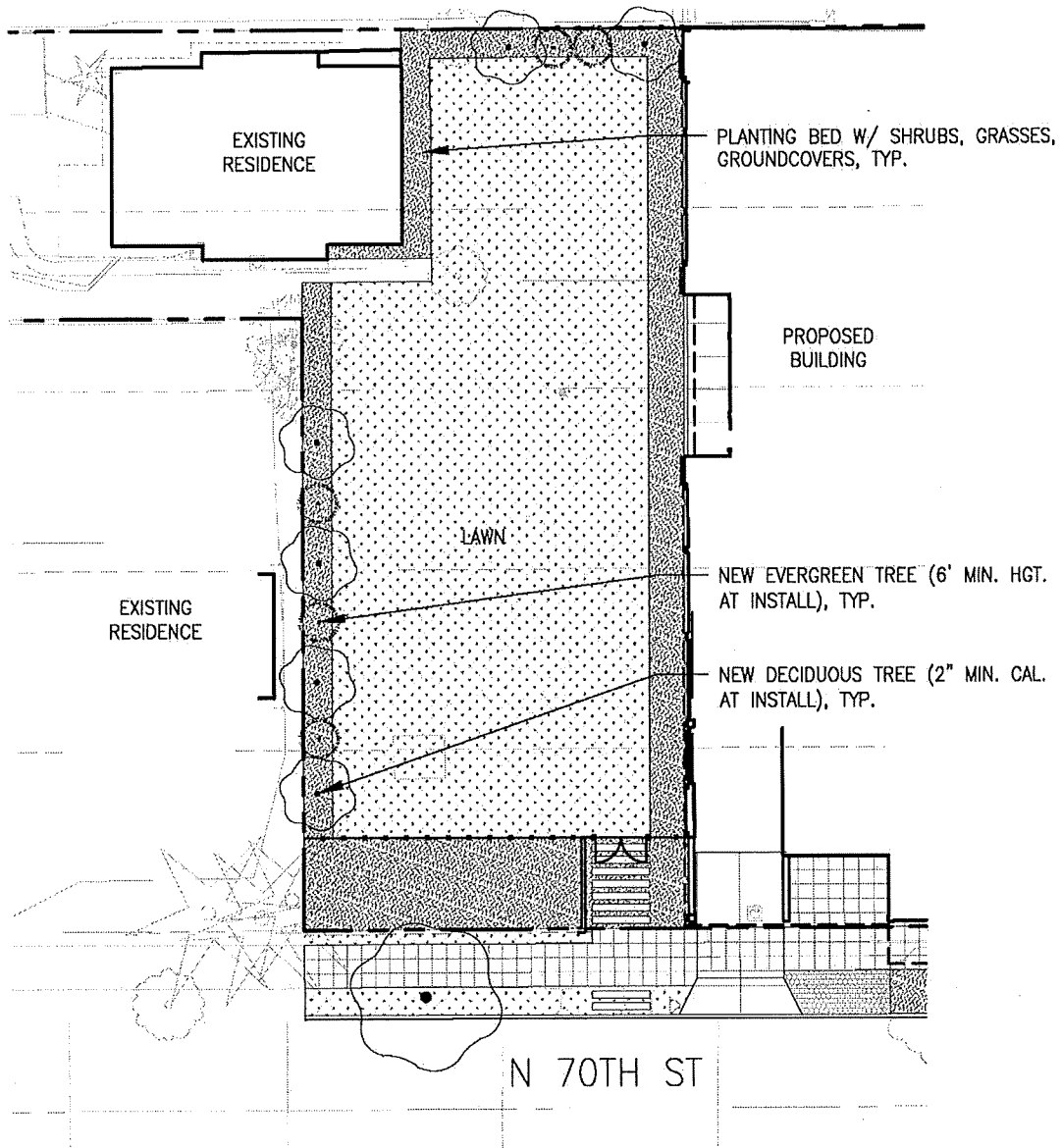
-  Rezone Area
-  Area Subject To PUDA



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.

0 100 200 300
Feet

ATTACHMENT C



LANDSCAPE PLAN

SHARED ROOF
7009 GREENWOOD AVE N

1"=20'-0"

