



# SEATTLE CITY COUNCIL

## Legislative Summary

CB 119147

Record No.: CB 119147

Type: Ordinance (Ord)

Status: Passed

Version: 1

Ord. no: Ord 125481

In Control: Full Council

File Created: 11/16/2017

Final Action: 12/04/2017

**Title:** AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 150 of the Official Land Use Map to rezone property located at 5911 42nd Avenue Southwest from Single Family 5000 to Lowrise 1, and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by David Neiman, C.F. 314343, SDCI Project 3016200)

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 (PUDA), Exhibit B - Unexecuted Property Use and Development Agreement (PUDA)

**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	11/21/2017	sent for review	Council President's Office			
	<b>Action Text:</b>		The Council Bill (CB) was sent for review. to the Council President's Office				
	<b>Notes:</b>						
1	Council President's Office	11/21/2017	sent for review	Full Council			
	<b>Action Text:</b>	The Council Bill (CB) was sent for review. to the Full Council					
	<b>Notes:</b>						
1	Full Council	11/27/2017	referred	Full Council			
	<b>Action Text:</b>	The Council Bill (CB) was referred. to the Full Council					
	<b>Notes:</b>						
1	Full Council	12/04/2017	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 119147.

ACTION 2:

Motion was made by Councilmember Johnson, duly seconded and carried, to amend Council Bill 119147, 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 119147 as amended.

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

Opposed: 0

1 City Clerk 12/04/2017 attested by City Clerk

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

Notes:

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**CITY OF SEATTLE**

**ORDINANCE** 125481

**COUNCIL BILL** 119147

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 150 of the Official Land Use Map to rezone property located at 5911 42nd Avenue Southwest from Single Family 5000 to Lowrise 1, and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by David Neiman, C.F. 314343, SDCI Project 3016200)

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

Section 1. This ordinance rezones the following legally described property ("the Rezone Area") commonly known as 5911 42nd Avenue SW:

Lots 3, 4 and 5, Block 28, Sea View Park Addition, according to the plat thereof recorded in Volume 13 of Plats, Page 80, records of King County, WA.

Except that portion of Lot 3, said Block 28 being more particularly described as follows:

Beginning at the N.E. corner of said Lot 3; thence S 01°08'37" W, along the east line of said Lot 3 for a distance of 1.17 ft.; thence N 88°50'08" W, 59.06 ft.; thence N 01°08'37" E, 1.12 ft. to the north line of said Lot 3; thence S 88°52'51" E, 59.06 ft. to the Point of Beginning.

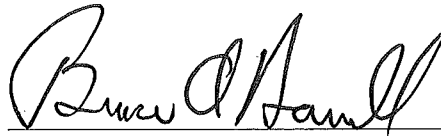
Section 2. Page 150 of the Official Land Use Map, Seattle Municipal Code Section 23.32.016, is amended to rezone the Rezone Area described in Section 1 of this ordinance, and shown in Exhibit A to this ordinance, from Single Family 5000 to Lowrise 1. Approval of this rezone is conditioned upon compliance 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.

1           Section 4. The City Clerk is authorized and directed to file the PUDA with the King  
2 County Recorder's Office; to file, upon return of the recorded PUDA from the King County  
3 Recorder's Office, the original PUDA along with this ordinance at the City Clerk's Office; and to  
4 deliver copies of the PUDA and this ordinance to the Director of the Seattle Department of  
5 Construction and Inspections and to the King County Assessor's Office.

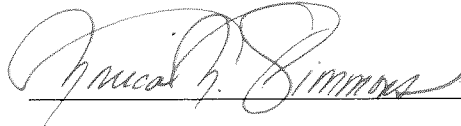
1 Section 5. This ordinance, effectuating a quasi-judicial decision of the City Council and  
2 not subject to mayoral approval or disapproval, shall take effect and be in force 30 days from and  
3 after its passage and approval by the City Council.

4 Passed by the City Council the 4<sup>th</sup> day of December, 2017,  
5 and signed by me in open session in authentication of its passage this 4<sup>th</sup> day of  
6 December, 2017.

7 

8 President \_\_\_\_\_ of the City Council

9 Filed by me this 4<sup>th</sup> day of December, 2017.

10 

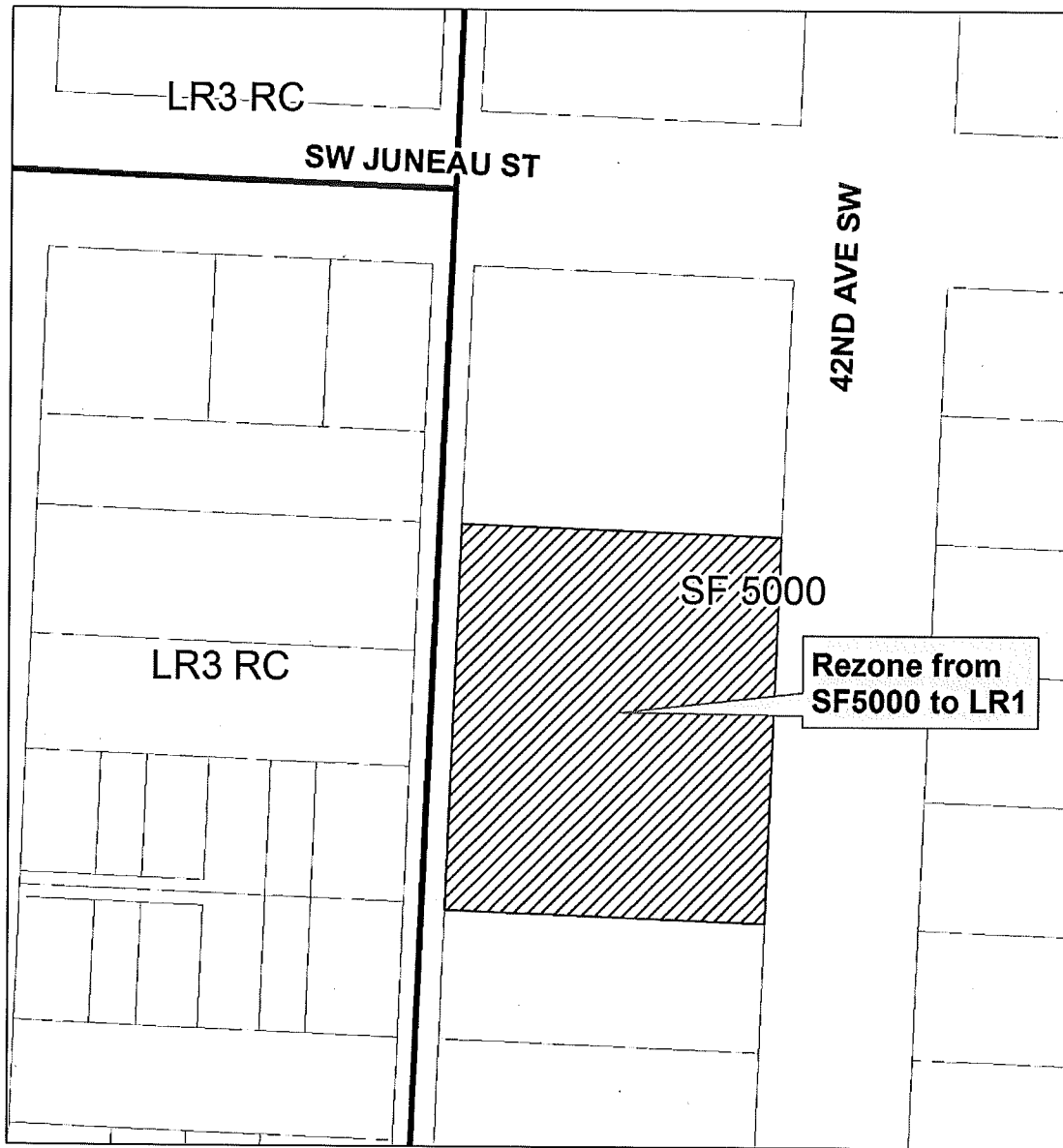
11 Monica Martinez Simmons, City Clerk

12 (Seal)

13 Attachments:

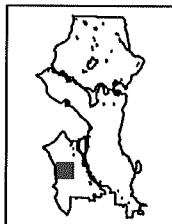
14 Exhibit A – Rezone Map

15 Exhibit B – Property Use and Development Agreement



Proposed Rezone  
SDCI Project No. 3016200  
5911 42nd Avenue SW

 Parcels selection



No warranties of any sort, including accuracy, fitness, or merchantability accompany this product.  
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City of Seattle. Prepared 11/03/2017  
by Council Central Staff

0 100  
Feet



A horizontal scale bar with a black line and the numbers 0 and 100, with the word 'Feet' below it.

**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)	West Seattle Church of the Nazarene	(2)	n/a
<input type="checkbox"/> Additional grantors on page <u>n/a</u>				
<b>Grantee:</b>	(1)	The City of Seattle		
<input type="checkbox"/> Additional on page <u>n/a</u>				
<b>Legal Description</b> <i>(abbreviated if necessary):</i>	See below.			
<input type="checkbox"/> Additional legal description on page <u>n/a</u> :				
<b>Assessor's Tax Parcel ID #:</b>	762570-2370			
<b>Reference Nos. of Documents Released or Assigned:</b>	n/a			

FILED  
 CITY OF SEATTLE  
 17 NOV 30 PM 3:58  
 CITY CLERK

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this 30th day of Nov, 2017, in favor of the CITY OF SEATTLE (the "City"), a Washington municipal corporation, by WEST SEATTLE CHURCH OF THE NAZARENE (the "Owner").

**RECITALS**

A. WEST SEATTLE CHURCH OF THE NAZARENE is the owner of that certain real property (the "Rezone Site") in the City of Seattle zoned Single-Family 5000 (SF5000) shown in Attachment A and legally described as:

Lots 3, 4 and 5, Block 28, Sea View Park Addition, according to the plat thereof recorded in Volume 13 of Plats, Page 80, records of King County, WA.

Except that portion of Lot 3, said Block 28 being more particularly described as follows:

Beginning at the N.E. corner of said Lot 3; thence S 01°08'37" W, along the east line of said Lot 3 for a distance of 1.17 ft.; thence N 88°50'08" W, 59.06 ft.; thence N 01°08'37" E, 1.12 ft. to the north line of said Lot 3; thence S 88°52'51" E, 59.06 ft. to the Point of Beginning.

B. On August 25, 2016, the Owner submitted to the City of Seattle a complete application under Project No. 3016200 for a rezone of the Rezone Site from SF5000 to Lowrise 1 (LR1). The application was deemed complete on August 31, 2016. The purpose of the application is to allow the Rezone Site to accommodate three townhouse structures with a total of six units, and an open space community park area with various amenities. The proposal includes parking for 12 vehicles within attached garages.

C. Per SMC 23.58C.015, the requirements of Chapter 23.58C apply where the provisions of the zone refer to that Chapter or through the terms of a contract rezone according to SMC 23.34.004.

D. Seattle Municipal Code Section 23.34.004 allows the City to approve a rezone subject to execution, delivery and recording of a PUDA containing "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 Chapter 23.58C to the property.

E. SDCI Director's Rule 14-2016 (April 6, 2017) determines the performance and payment requirements that shall be applied under SMC 23.58C in a contract rezone like the one sought by Owner.

F. The project for which the contract rezone is sought contains no commercial use so no requirements under Chapter 23.58B would apply.

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 the Rezone Site from Single Family 5000 (SF5000) to Lowrise 1 (LR1) (the "Rezone"):

- a) Development of the Rezone Site is restricted to a project developed in substantial conformance with the final approved plans for Master Use Permit number 3016200.
- b) The provisions of Seattle Municipal Code Chapter 23.58C shall apply to the Rezone Site. For purposes of application of Chapter 23.58C, development of the Rezone Site shall be subject to the following performance or payment requirements: 9% of units for the performance option or \$20.00 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 Owner of the Rezone Site.



**Section 3. Termination of Conditions.**

The conditions listed in Section 1 of this Agreement shall expire if the Rezone expires according to SMC 23.76.060.C, or if the Rezone is revoked pursuant to SMC 23.34.004.

**Section 4. Amendment.** This Agreement may be amended or modified by agreement between Owner and the City, if such amendments are approved by the City Council by ordinance.

**Section 5. 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 6. No Precedent.** The conditions contained in this Agreement are based on the unique circumstances applicable to the Rezone Site and this Agreement is not intended to establish precedent for other rezones in the surrounding area.

**Section 7. Repeal as Additional Remedy.** Owner acknowledges that compliance with the conditions of this Agreement is a condition of the Rezone and that if Owner avails itself of the benefits of the Rezone but then fails to comply with the conditions of this Agreement, 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 SF5000 zoning designation or some other zoning designation imposed by the City Council; and/or
- b. pursue specific performance of this Agreement.

Ex B – Property Use and Development Agreement  
 V1

SIGNED this 30 day of Nov, 2017.

West Seattle Church of the Nazarene

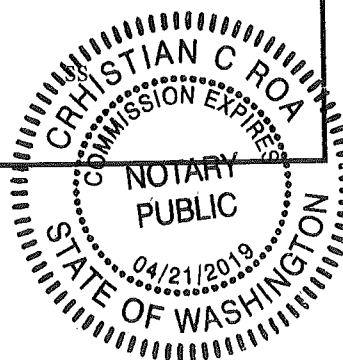
By: 

Shaun Mattson

Its: Lead Pastor

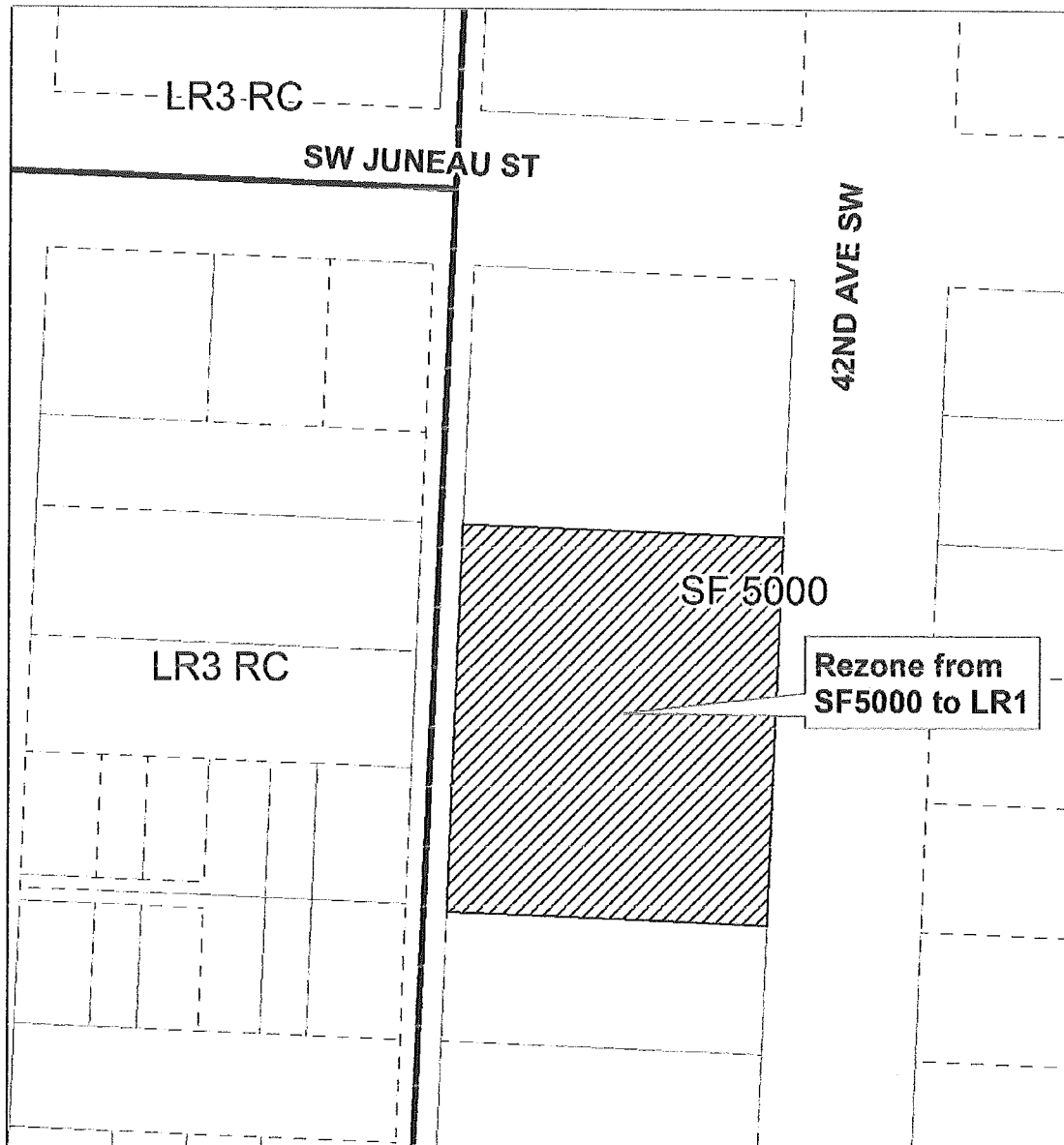
On this day personally appeared before me Shaun Mattson, to me known to be the Lead Pastor of West Seattle Church of the Nazarene that executed the foregoing instrument, and acknowledged such instrument to be a free and voluntary act and deed of such Church, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 30<sup>th</sup> day of Nov, 2017.


		Printed Name <u>Christian C Roa</u>
		NOTARY PUBLIC in and for the State of Washington, residing at <u>Seattle</u>
		My Commission Expires <u>04.21.2019</u>
STATE OF WASHINGTON	}	
COUNTY OF KING	<u>King</u>	

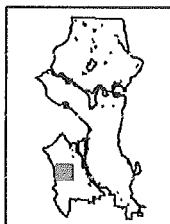
Ex B – Property Use and Development Agreement  
V1

Attachment A: Rezone Map



Proposed Rezone  
SDCI Project No. 3016200  
5911 42nd Avenue SW

 Parcels selection



No warranties of any sort, including accuracy, fitness, or merchantability accompany this product.  
Copyright 2017, All Rights Reserved  
City of Seattle. Prepared 11/03/2017  
by Council Central Staff

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Feet

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STATE OF WASHINGTON -- KING COUNTY

--SS.

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356756

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 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

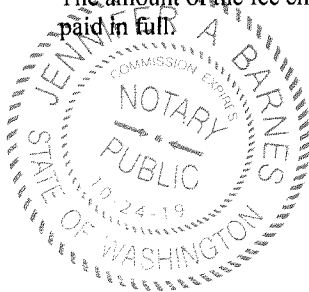
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:125480-486 TITLE ONLY

was published on

12/20/17

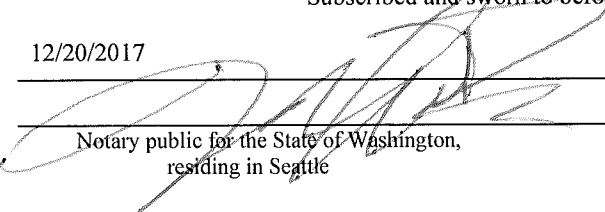
The amount of the fee charged for the foregoing publication is the sum of \$136.43 which amount has been paid in full.



Affidavit of Publication

  
Subscribed and sworn to before me on

12/20/2017

  
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 December 4, 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 125480**

#### **Council Bill 119088**

AN ORDINANCE related to KeyArena; authorizing the Mayor to execute a memorandum of understanding with Oak View Group, LLC, regarding the redevelopment of KeyArena into a world-class, multi-purpose sports and entertainment arena at Seattle Center, including its design, construction, lease, financing and future operation; exempting the redevelopment and future operation of the Arena from the requirements of Chapter 20.47 of the Seattle Municipal Code; and ratifying and confirming certain prior acts.

### **Ordinance 125481**

#### **Council Bill 119147**

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 150 of the Official Land Use Map to rezone property located at 5911 42nd Avenue Southwest from Single Family 5000 to Lowrise 1, and accepting a Property Use and Development Agreement as a condition of rezoning approval. (Petition by David Neiman, C.F. 314343, SDCI Project 3016200)

### **Ordinance 125482**

#### **Council Bill 119148**

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

### **Ordinance 125483**

#### **Council Bill 119082**

AN ORDINANCE relating to short-term rental uses and bed and breakfast uses; amending Sections 22.214.030, 23.44.051, 23.45.545, 23.84A.024, 23.84A.030, and 23.84A.036 of the Seattle Municipal Code (SMC); and adding a new Section 23.42.060 to the SMC.

### **Ordinance 125484**

#### **Council Bill 119144**

AN ORDINANCE relating to City employment; amending Sections 4.24.005, 4.24.010, 4.24.030, 4.24.035, and 4.24.040 of the Seattle Municipal Code (SMC); and repealing Section 4.24.050 of the SMC; authorizing a memorandum of understanding between The City of Seattle and City labor unions; and ratifying and confirming certain prior acts.

### **Ordinance 125485**

#### **Council Bill 119142**

AN ORDINANCE relating to Seattle Public Utilities; amending provisions related to adjustments to the wastewater volume charge due to water leaks; and amending Section 21.28.100 of the Seattle Municipal Code.

### **Ordinance 125486**

#### **Council Bill 119141**

AN ORDINANCE relating to historic preservation; imposing controls upon the Campbell Building, a landmark designated by the Landmarks Preservation Board under Chapter 25.12 of the Seattle Municipal Code, and adding it to the Table of Historical Landmarks contained in Chapter 25.32 of the Seattle Municipal Code.

Date of publication in the Seattle Daily Journal of Commerce, December 20, 2017.

12/20(356756)

**Return Address:**

Seattle City Clerk's Office

600 4th Avenue, Floor 3

P O Box 94728

Seattle, WA 98124 - 4728



**20180109001284**

MISCELLANEOUS  
1/9/2018 2:11 PM  
KING COUNTY, WA

Rec: \$79.00

WASHINGTON STATE RECORDER'S Cover Sheet (RCW 65.04)

Please print or type information

**Document Title(s)** (or transaction contained therein):

Property Use and Development (PUDA) to rezone property located at 5911 42<sup>nd</sup> Avenue Southwest from Single Family 5000 to Lowrise 1 approved by Ordinance 125481.

**Grantor(s)**

West Seattle Church of the Nazarene

**Grantee(s)** (Last name first, then first name and initials)

City of Seattle

**Legal description** (abbreviated: i.e. lot, block, plat or section, township, range)

Additional legal on page 1 of document

Lots 3, 4, and 5, Block 28, Sea View Addition, according to the plat thereof recorded in Volume 13 of Plats, Page 80, records of King County, WA.

**Assessor's Property Tax Parcel/Account Number**

# 762570-2370

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.

Signature of Requesting Party

**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)	West Seattle Church of the Nazarene	(2)	n/a
<input type="checkbox"/> Additional grantors on page <u>n/a</u>				
<b>Grantee:</b>	(1)	The City of Seattle		
<input type="checkbox"/> Additional on page <u>n/a</u>				
<b>Legal Description</b> <i>(abbreviated if necessary):</i>	See below.			
<input type="checkbox"/> Additional legal description on page <u>n/a</u> :				
<b>Assessor's Tax Parcel ID #:</b>	762570-2370			
<b>Reference Nos. of Documents Released or Assigned:</b>	n/a			

FILED  
 CITY OF SEATTLE  
 17 NOV 30 PM 3:58  
 CITY CLERK

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**RECITALS**

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E. SDCI Director's Rule 14-2016 (April 6, 2017) determines the performance and payment requirements that shall be applied under SMC 23.58C in a contract rezone like the one sought by Owner.

F. The project for which the contract rezone is sought contains no commercial use so no requirements under Chapter 23.58B would apply.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, the parties agree as follows:

#### AGREEMENT

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**Section 3. Termination of Conditions.**

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- a. revoke the Rezone by ordinance and require the use of the Rezone Site to conform to the requirements of the previous SF5000 zoning designation or some other zoning designation imposed by the City Council; and/or
- b. pursue specific performance of this Agreement.

SIGNED this 30 day of Nov, 2017.

West Seattle Church of the Nazarene

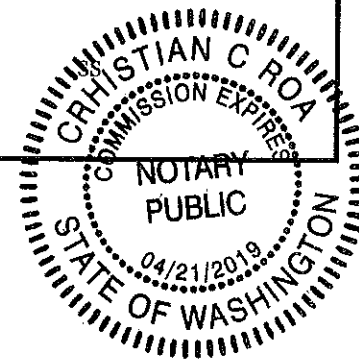
By: 

Shaun Mattson

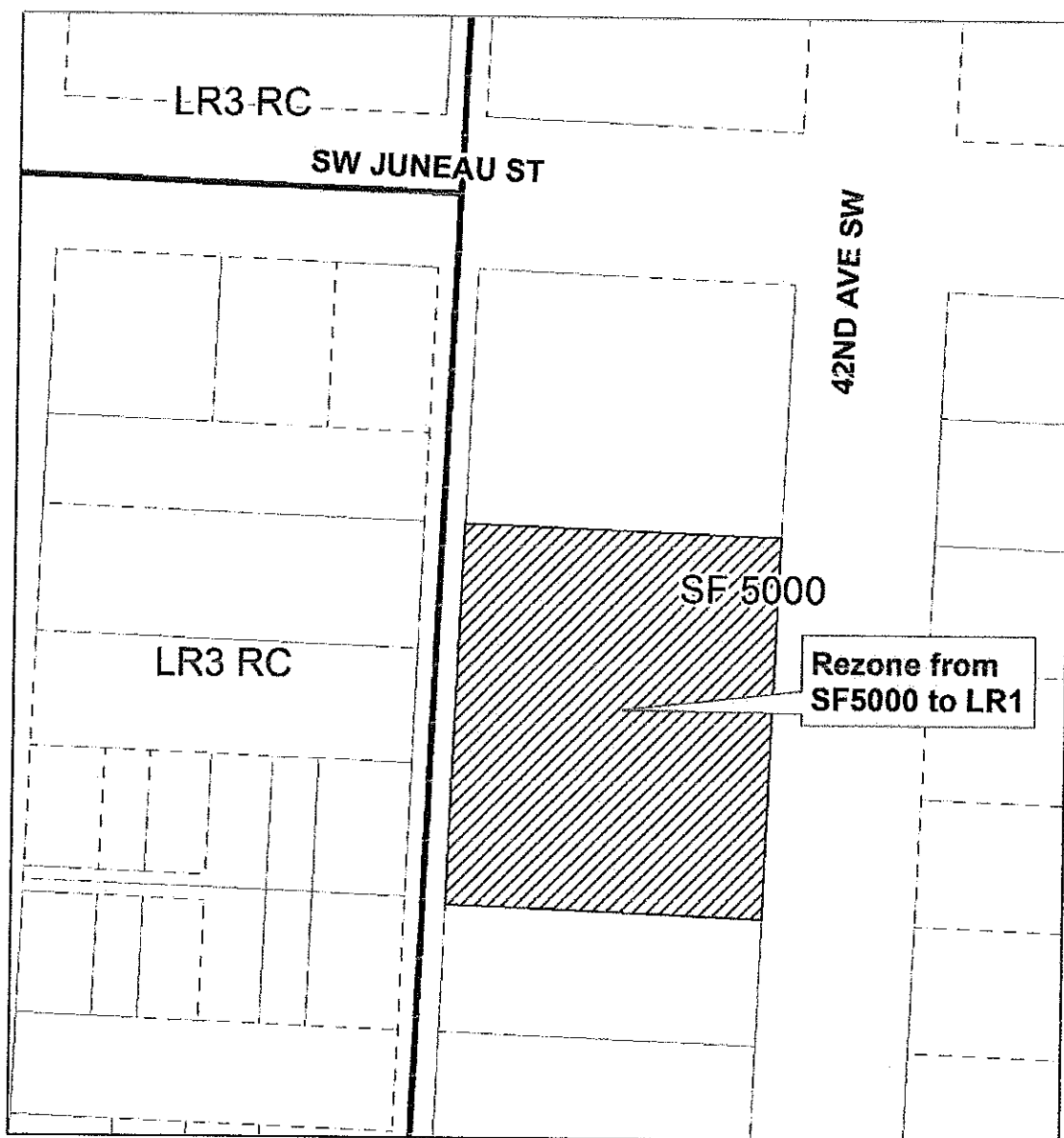
Its: Lead Pastor

On this day personally appeared before me Shaun Mattson, to me known to be the Lead Pastor of West Seattle Church of the Nazarene that executed the foregoing instrument, and acknowledged such instrument to be a free and voluntary act and deed of such Church, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

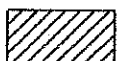
GIVEN UNDER MY HAND AND OFFICIAL SEAL this 30<sup>th</sup> day of Nov, 2017.

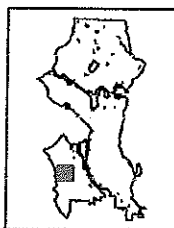
		Printed Name <u>CHRISTIAN C BOA</u>
		NOTARY PUBLIC in and for the State of Washington, residing at <u>Seattle</u>
		My Commission Expires <u>04.21.2019</u>
STATE OF WASHINGTON	}	
COUNTY OF KING	<u>King</u>	

Attachment A: Rezone Map



Proposed Rezone  
SDCI Project No. 3016200  
5911 42nd Avenue SW

 Parcels selection



No warranties of any sort, including accuracy, fitness, or merchantability accompany this product.  
Copyright 2017, All Rights Reserved  
City of Seattle. Prepared 11/03/2017  
by Council Central Staff

0 100  
Feet

