



# SEATTLE CITY COUNCIL

## Legislative Summary

CB 118928

Record No.: CB 118928

Type: Ordinance (Ord)

Status: Passed

Version: 1

Ord. no: Ord 125277

In Control: City Clerk

File Created: 02/22/2017

Final Action: 03/17/2017

Title: AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 75 of the Official Land Use Map to rezone property located at 743 N 35th Street from Neighborhood Commercial 3 Pedestrian-40 (NC3P-40) to Neighborhood Commercial 3 Pedestrian-65 (NC3P-65), and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by Bradley Khouri, B9 Architects, C.F. 314115, SDCI Project 3016369)

### 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, Mayor's Letter on Returning Bill Unsigned

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	02/28/2017	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	03/02/2017	sent for review	Full Council			
	Action Text:	The Council Bill (CB) was sent for review. to the Full Council					
	Notes:						
1	Full Council	03/06/2017	referred	Full Council			
	Action Text:	The Council Bill (CB) was referred. to the Full Council					
	Notes:						
1	Full Council	03/13/2017	passed				Pass

**Action Text:** The Motion carried, the Council Bill (CB) was passed by the following vote, and the President signed the Bill:

**Notes:** Motion was made and duly seconded to pass Council Bill 118928.

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

Opposed: 0

1 City Clerk 03/15/2017 submitted for Mayor  
Mayor's signature

1 Mayor 03/17/2017 returned City Clerk

**Action Text:** The Council Bill (CB) was returned. to the City Clerk

**Notes:** Council Bill 118928, a Type IV Council land use decision, was returned without the Mayor's signature. Pursuant to Seattle Municipal Code 23.76.056.G, Type IV Council land use decisions are quasi-judicial decisions of the City Council and are not subject to mayoral approval or disapproval.

1 City Clerk 03/17/2017 attested by City Clerk

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

**Notes:**

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# City of Seattle

Mayor Edward B. Murray

March 17, 2017

Monica Martinez Simmons  
Seattle City Clerk  
600 4<sup>th</sup> Avenue, 3<sup>rd</sup> Floor  
Seattle, WA 98124

Dear Ms. Martinez Simmons,

I am returning Council Bill 118928 without my signature, as I do not have authority to sign this type of legislation.

This legislation amends the Official Land Use Map to rezone a specific parcel in the city. Seattle Municipal Code (SMC) 23.76.036.A1 classifies such legislation as a "Type IV Council land use decision." According to SMC 23.76.056.G, "Type IV Council land use decisions are quasi-judicial decisions of the City Council and are not subject to mayoral approval or disapproval."

I understand that the addition of a signature line for this legislation was an unintentional drafting error. I also understand that the rezone will become law without my signature.

Sincerely,

Edward B. Murray  
Mayor of Seattle

**CITY OF SEATTLE**

**ORDINANCE** 125277

**COUNCIL BILL** 118928

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 75 of the Official Land Use Map to rezone property located at 743 N 35<sup>th</sup> Street from Neighborhood Commercial 3 Pedstrian-40 (NC3P-40) to Neighborhood Commercial 3 Pedestrian-65 (NC3P-65), and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by Bradley Khouri, B9 Architects, C.F. 314115, SDCI Project 3016369)

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

Section 1. This ordinance rezones the following legally described property ("the Property") commonly known as 743 N 35<sup>th</sup> Street:

PARCEL B, CITY OF SEATTLE SHORT PLAT NUMBER 80-119, RECORDED UNDER RECORDING NUMBER 8010300856 AND REVISED UNDER RECORDING NUMBER 8112280216, IN KING COUNTY, WASHINGTON.

Section 2. Page 75 of the Official Land Use Map, Seattle Municipal Code Section 23.32.016 is amended to rezone the Property described in Section 1 of this ordinance, and shown in Exhibit A to this ordinance, from Neighborhood Commercial 3 Pedestrian with a 40 foot height limit (NC3P-40) to Neighborhood Commercial 3 Pedestrian with a 65 foot height limit (NC3P-65). Approval of this rezone is conditioned upon complying with the Property Use and Development Agreement (PUDA) approved in Section 4 of this ordinance.

Section 3. The zoning designation established by Section 2 of this ordinance shall remain in effect until the Property is rezoned by subsequent Council action.


Section 4. The PUDA attached to this ordinance as Exhibit B is approved and accepted.

Section 5. The City Clerk is authorized and directed to file the PUDA approved in Section 4 with the King County Records and Elections Division; to file, upon return of the

1 recorded PUDA from the King County Records and Elections Division, the original PUDA along  
2 with this ordinance at the City Clerk's Office; and to deliver copies of the PUDA and this  
3 ordinance to the Director of the Seattle Department of Construction and Inspections and to the  
4 King County Assessor's Office.

Section 6. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 13<sup>th</sup> day of March, 2017,  
and signed by me in open session in authentication of its passage this 13<sup>th</sup> day of  
March, 2017.

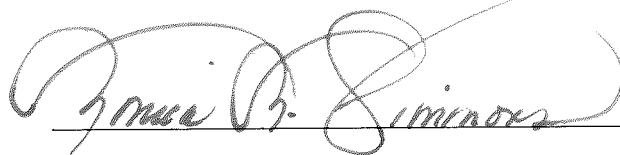


President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Edward B. Murray, Mayor

Filed by me this 17<sup>th</sup> day of MARCH, 2017.

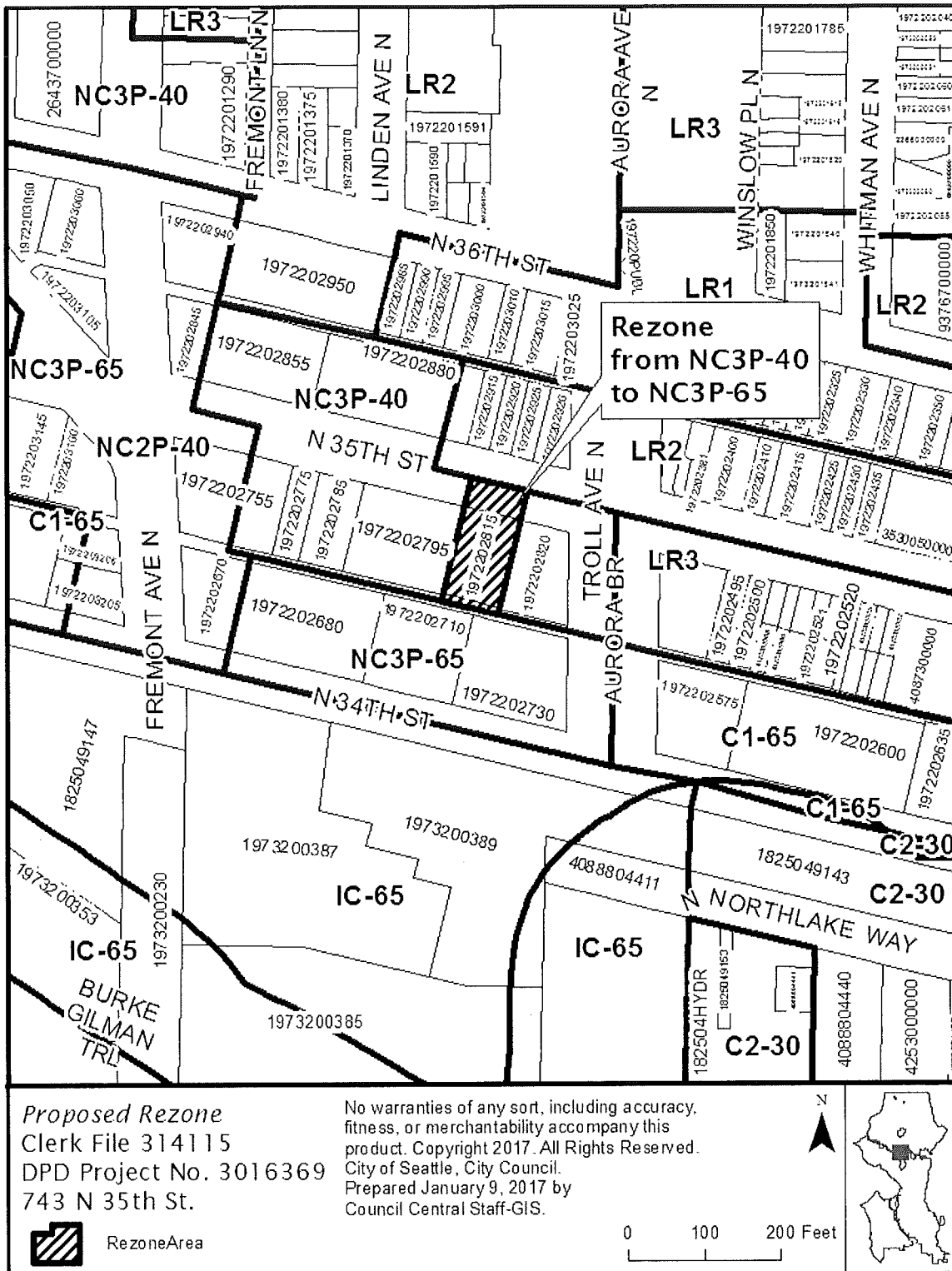


Monica Martinez Simmons, City Clerk

(Seal)

Exhibits:  
Exhibit A – Rezone Map  
Exhibit B – Property Use and Development Agreement

# Rezone Map



**Return Address:**

The City Clerk

600 Fourth Avenue, Floor 3

PO Box 94728

Seattle, WA 98124-4728

**20170301000933**VERIS LAW GROUP AG  
PAGE-001 OF 006  
03/01/2017 12:27  
KING COUNTY, WA

128.00

Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)**Document Title(s)** (or transactions contained therein): (all areas applicable to your document must be filled in)

1. Property Use and Development Agreement
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

**Reference Number(s) of Documents assigned or released:**

Additional reference #'s on page \_\_\_\_\_ of document

**Grantor(s)** (Last name, first name, initials)

1. Fremont Apartments LLC
2. \_\_\_\_\_

Additional names on page \_\_\_\_\_ of document.

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

1. The City of Seattle
2. \_\_\_\_\_

Additional names on page \_\_\_\_\_ of document.

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

PARCEL B, CITY OF SEATTLE SHORT PLAT NUMBER 80-119, RECORDED UNDER RECORDING NUMBER

8010300856 AND REVISED UNDER RECORDING NUMBER 8112280216, IN KING COUNTY, WASHINGTON.

Additional legal is on page \_\_\_\_\_ of document.

**Assessor's Property Tax Parcel/Account Number**☐ Assessor Tax # not yet

assigned

1972202815

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

FILED  
CITY OF SEATTLE  
2017 MAR -2 PM 12:34  
CITY CLERK



## 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)	Fremont Apartments 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> (abbreviated if necessary):		PARCEL B, CITY OF SEATTLE SHORT PLAT NUMBER 80-119, RECORDED UNDER RECORDING NUMBER 8010300856 AND REVISED UNDER RECORDING NUMBER 8112280216, IN KING COUNTY, WASHINGTON.		
<input type="checkbox"/> Additional legal description on page _____:				
<b>Assessor's Tax Parcel ID #:</b>		1972202815		
<b>Reference Nos. of Documents Released or Assigned:</b>				

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this 27<sup>th</sup> day of February, 2017, in favor of the CITY OF SEATTLE (the "City"), a Washington municipal corporation, by Fremont Apartments LLC, a Washington limited liability company (the "Owners").

### RECITALS

A. Fremont Apartments LLC is the owner of that certain real property (the "Rezone Site") in the City of Seattle zoned Neighborhood Commercial 3 Pedestrian-40 (NC3P-40) shown in Attachment A and described as:

PARCEL B, CITY OF SEATTLE SHORT PLAT NUMBER 80-119, RECORDED UNDER RECORDING NUMBER 8010300856 AND REVISED UNDER RECORDING NUMBER 8112280216, IN KING COUNTY, WASHINGTON.

B. On September 25, 2014, the Owner(s) submitted to the City of Seattle an application under Project No. 3016369 for a rezone of the Rezone Site from Neighborhood Commercial 3 Pedestrian-40 (NC3P-65) to Neighborhood Commercial 3 Pedestrian-65 (NC3P-65). The

purpose of the application is to allow the Rezone Site to accommodate a five-story structure containing 54 residential units and commercial space at ground level.

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."

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(s) hereby covenant, bargain and agree, on behalf of themselves and their successors and assigns, that they will comply with the following conditions in consideration of the rezone of the Rezone Site from NC3P-40 to NC3P-65:

### Prior to Issuance of a Master Use Permit

Development of the rezoned property shall be subject to the requirements of SMC Chapters 23.58B and 23.58C. The PUDA shall specify the payment and performance calculation amounts for purposes of applying Chapter 23.58C. For purposes of applying SMC 23.58C.040.A, the payment amount per square foot shall be \$13.25, and for purposes of applying SMC 23.58C.050.A, the percentage set aside shall be 6 percent; and

### Prior to Issuance of a Building Permit

Future development of the Rezone Site is restricted to a project that complies with Master Use Permit #3016369, once that Master Use Permit is issued by the Seattle Department of Construction and Inspections (SDCI), after SDCI confirms that the drawings substantially comply with the conditions established during the design review process and through review pursuant to the State Environmental Policy Act, including the structure design, structure height, setbacks, building materials and colors, landscaping, street improvements, parking garage design and layout, bicycle parking, signage, and site lighting.

**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 Owners, their 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 Owners and the City; provided, if 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.** Owners acknowledge that compliance with the conditions of this Agreement is a condition of the subject rezone and that if Owners avail themselves of the benefits of this rezone but then fail 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 NC3P-40 zoning designation or some other zoning designation imposed by the City Council; and/or
- b. pursue specific performance of this Agreement.

SIGNED this 27 day of February, 2017.

Fremont Apartments LLC

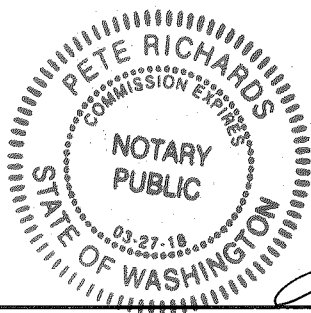
a Washington limited liability company

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

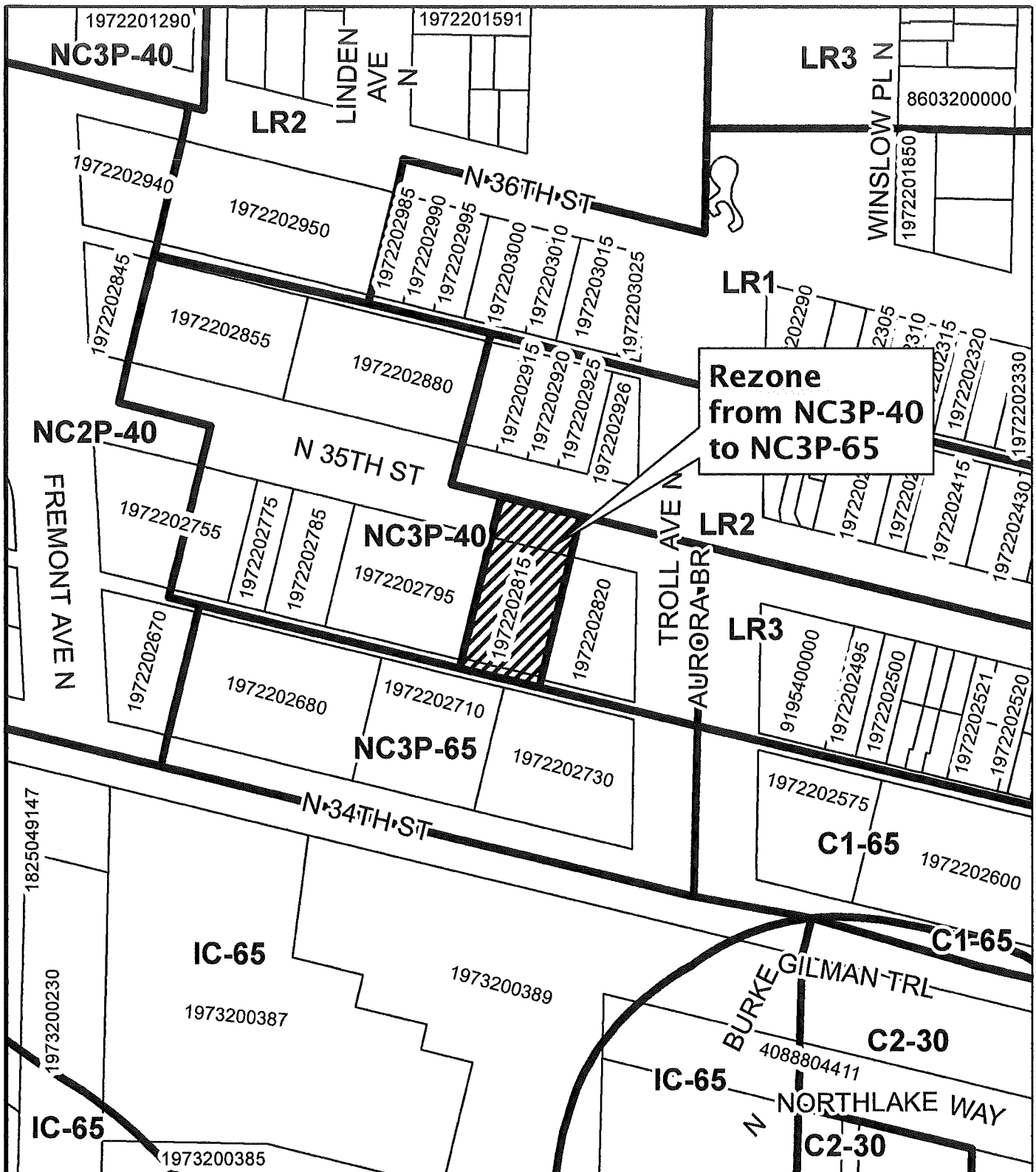
Its: Managing Member

On this day personally appeared before me Elliott Severson, to me known to be the Managing Member, of Fremont Apartments 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 27 day of February, 2017.



		Printed Name <u>Pete Richards</u>
		NOTARY PUBLIC in and for the State of Washington, residing at <u>Bellevue</u>
		My Commission Expires <u>3/27/18</u>
STATE OF WASHINGTON	}	SS.
COUNTY OF KING		



### Proposed Rezone

Clerk File 314115

DPD Project No. 3016369

743 N 35th St.



RezoneArea

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0 100 200 Feet