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**Council Bill Number:** 117084

**Ordinance Number:** 123520

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AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 187 of the Official Land Use Map to rezone property located at 4204 S. Trenton Street from Single Family 5000 to Lowrise 2, and accepting a Property Use and Development Agreement in connection therewith. (Petition by Real Estate Investment Properties, C.F. 308906, DPD Project 3006045).

**Status:** Passed

**Note:** Originally referred to the Seattle Public Utilities Committee on 7/26/10

**Vote:** 9-0

**Date filed with the City Clerk:** 2011/01/10 ([about the signature date](#))

**Date introduced/referred to committee:** 2011/01/03

**Committee:** Full Council

**Sponsor:** CLARK

**Committee Recommendation:** Pass

**Index Terms:** CONTRACT-REZONES, SOUTH-BEACON-HILL

**Fiscal Note:** [Fiscal Note to Council Bill No. 117084](#)

**Electronic Copy:** [PDF scan of Ordinance No. 123520](#)

**Reference:** Related:~~[Clerk File 308906](#)

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**Text:**

ORDINANCE \_\_\_\_\_

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 187 of the Official Land Use Map to rezone property located at 4204 S. Trenton Street from Single Family 5000 to Lowrise 2, and accepting a Property Use and Development Agreement in connection therewith. (Petition by Real Estate Investment Properties, C.F. 308906, DPD Project 3006045).

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. This Ordinance affects the following legally described lots ("the Property") commonly known as 4204 S Trenton Street:

PARCELS A THROUGH I, CITY OF SEATTLE SHORT PLAT NUMBER 2008281, ACCORDING TO THE SHORT PLAT RECORDED UNDER KING COUNTY RECORDING NUMBER 20020211900002, RECORDS OF KING COUNTY, WASHINGTON, TOGETHER WITH THE SOUTH 60 FEET OF THE WEST 125 FEET OF SAID TRACT 9 OF LAKE DELL, AS PER PLAT RECORDED IN VOLUME 4 OF PLATS, PAGE 17, RECORDS OF KING COUNTY, LYING WESTERLY OF EMPIRE WAY; EXCEPT THAT PORTION OF SAID PARCEL A DEEDED TO THE CENTRAL PUGET SOUND TRANSIT AUTHORITY FOR STREET UNDER KING COUNTY RECORDING NUMBERS 20040802001529, 20041112000516, 20050127000001 AND 20050324000913; ALSO EXCEPT THAT PORTION DEEDED TO THE CITY OF SEATTLE UNDER KING COUNTY RECORDING NUMBERS 2008X1XXXXXXXXX AND 2008X2XXXXXXXX.

Section 2. The Official Land Use Map zone classification for the Property, established on page 187 of the Official Land Use Map, which Map was adopted by Ordinance 110381 and last modified by Ordinance 123490, is amended to rezone the Property from Single Family 5000 to Lowrise 2 as shown in Exhibit A of this ordinance.

Section 3. The Property Use and Development Agreement attached to this Ordinance as Exhibit B is hereby approved and accepted.

Section 4. As reflected in the Council's Findings, Conclusions and Decision on this rezone, Clerk's File 308906, and as authorized by Section 23.76.060 B of the Seattle Municipal Code, this rezone shall expire seven (7) years after the effective date of this ordinance, provided that if a Master Use Permit is issued, the rezone remains in effect until the Master Use Permit expires. The extended approval period is to allow sufficient time to construct all 67 dwelling units authorized under Master Use Permit No 3006045 and to provide adequate time to complete required right of way improvements as described in Master Use Permit 3006045 and the Hearing Examiner decision on the preliminary plat (Hearing Examiner File No. MUP-10-013).

Section 5. The City Clerk is hereby authorized and directed to file said Property Use and Development Agreement, attached to this ordinance as Exhibit B, at the King County Records and Elections Division; to file, upon return of the recorded agreement from the King County Records and Elections Division, the original of said Property Use and Development Agreement with this Ordinance at the City Clerk's Office; and to deliver copies of the same to the Director of the Department of Planning and Development and to the King County Assessor's Office.

Section 6. This Ordinance, effectuating a quasi-judicial decision of the City Council and not subject to mayoral approval or disapproval, shall take effect and be in force thirty (30) days from and after its passage and approval by the City Council.

Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2010, and signed by me in open session in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 2010.

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

Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
City Clerk

(Seal)

Exhibit A: Rezone Map

Exhibit B: Property Use and Development Agreement

Michael Jenkins LEG 4204 S Trenton St December 29, 2010 Version #4a

Form Last Revised on December 17, 2008 1

[Exhibit A: Rezone Map](#)

Exhibit B: Property Use and Development Agreement

When recorded, return to:

THE SEATTLE CITY CLERK

600 4th Avenue, Floor 3

P.O. Box 94728

Seattle, WA 98124-4728

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantor: 1) Real Estate Investment Properties, LLC

Grantee: 1) The City of Seattle

Legal Description:

See Exhibit A

Reference Nos. of Documents Released or Assigned: N/A

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this \_\_\_\_ day of \_\_\_\_\_, 2010, in favor of the CITY OF SEATTLE, a Washington charter city (the "City"), and REAL ESTATE INVESTMENT PROPERTIES, LLC, a Washington Limited Liability Company (the "Owner").

RECITALS

A. The Owner is the owner of that certain real property (the "Property") in the City of Seattle zoned Single Family 5000 ("SF 5000") legally described in Exhibit A attached hereto and incorporated herein by this reference.

B. On August 7, 2007, the Owner submitted to the City an application for a Contract Rezone, Master Use Permit, and Full Unit Lot Subdivision (MUP No. 3006045), to rezone the Property from SF 5000 to Lowrise 2 ("L2"). The purpose of the application is to allow a 67-unit multi-family townhouse project, with parking for 95 vehicles, to be developed on the Property.

C. Seattle Municipal Code ("SMC") Section 23.34.004 allows the City to approve a contract 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 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 limitations and conditions in consideration of the rezone of the Property from SF 5000 to L2:

A. Except as provided below, future development of the Property is restricted to a project that is developed in substantial accordance with the final approved Master Use Permit drawings for MUP Application No. 3006045 dated December 15, 2008 (Hearing Examiner's Exhibit 1, Clerk's File 308906)

B. As authorized under SMC 23.76.060.B, the contract rezone shall expire seven (7) years after the effective date of the ordinance approving this rezone, provided that if a Master Use Permit is issued, the rezone remains in effect until the Master Use Permit expires. The seven year period is to allow sufficient time to construct all 67 dwelling units

authorized under Master Use Permit (MUP) No. 3006045, and to provide sufficient time to complete required right-of-way improvements, as described in MUP No. 3006045 and the Hearing Examiner Decision on the preliminary plat (Hearing Examiner File No. MUP-10-013 (SD)).

C. The Owner shall construct on-site lighting and signage at each of the proposed trail connections to the Chief Sealth trail, as identified in the Master Use Permit drawings (Hearing Examiner's Exhibit 1). These improvements must be constructed and approved by the Department of Planning and Development prior to the issuance of any building permit for any dwelling unit.

D. Pursuant to Seattle Municipal Code Section 23.34.004B, the amount of required parking for the project is reduced from the 95 spaces proposed in the Master Use Permit No 3006045 to the amount required for multifamily developments in Lowrise 2 zones located within an urban village when the first application for a building permit for a dwelling unit is submitted to the City.

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 Property and shall be binding upon the Owner, its heirs, successors, and assigns, and shall apply to after-acquired title of the Owner of the Property.

Section 3. Amendment. This Agreement may be amended or modified by written agreement between the Owner and the City, provided that such amendment shall be approved following procedures outlined for amendments to Property Use and Development Agreements in Seattle Municipal Code Section 23.76.058.

Section 4. Exercise of Police Power. Nothing in this Agreement prevents the City Council from making further amendments to the Seattle Municipal Code or to the Land Use Code as it may deem necessary to the public interest.

Section 5. 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 any other rezone.

Section 6. Benefited. This Agreement is made for the benefit of the City, and the City may institute and prosecute any proceeding at law or in equity to enforce this Agreement.

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 this Agreement, but then fails to comply with the requirements of this Agreement, the City may revoke the rezone by ordinance and require the use of the Property to conform to the requirements of the SF 5000 zone.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

Real Estate Investment Properties, LLC

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

Steve Rauf

Its: Managing Partner

STATE OF WASHINGTON )

:ss.

COUNTY OF \_\_\_\_\_ )

I certify that I know or have satisfactory evidence that Steve Rauf is the person who appeared before me, and said person acknowledged that he signed this instrument, and on oath stated that he was authorized to execute the instrument

as Managing Partner of Real Estate Investment Properties, LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_ [Signature of Notary]

\_\_\_\_\_ [Print Name of Notary]

Notary Public in and for the State of Washington, residing at \_\_\_\_\_.

My commission expires \_\_\_\_\_.

Exhibit A -- Legal Description

PARCELS A THROUGH I, CITY OF SEATTLE SHORT PLAT NUMBER 2008281, ACCORDING TO THE SHORT PLAT RECORDED UNDER KING COUNTY RECORDING NUMBER 20020211900002, RECORDS OF KING COUNTY, WASHINGTON, TOGETHER WITH THE SOUTH 60 FEET OF THE WEST 125 FEET OF SAID TRACT 9 OF LAKE DELL, AS PER PLAT RECORDED IN VOLUME 4 OF PLATS, PAGE 17, RECORDS OF KING COUNTY, LYING WESTERLY OF EMPIRE WAY; EXCEPT THAT PORTION OF SAID PARCEL A DEEDED TO THE CENTRAL PUGET SOUND TRANSIT AUTHORITY FOR STREET UNDER KING COUNTY RECORDING NUMBERS 20040802001529, 20041112000516, 20050127000001 AND 20050324000913; ALSO EXCEPT THAT PORTION DEEDED TO THE CITY OF SEATTLE UNDER KING COUNTY RECORDING NUMBERS 2008X1XXXXXXXXX AND 2008X2XXXXXXXX.

Exhibit B - Property Use and Development Agreement