

FINDINGS, CONCLUSIONS, AND DECISION  
OF THE CITY COUNCIL OF THE CITY OF SEATTLE

In the matter of the Petition:	)	Clerk File 314359
Application of Matt Driscoll to	)	FINDINGS, CONCLUSIONS,
rezone an approximately 4,320	)	AND DECISION
square foot site located at 4730 15 <sup>th</sup>	)	
Avenue Northeast from Lowrise 3	)	
(LR3 (M)) multifamily residential	)	
to Neighborhood Commercial 2	)	
with a 65 foot height limit (NC2 65	)	
(M1)) (Project Number 3025193;	)	
Type IV)	)	
	)	
	)	

Introduction

This matter involves a petition by Matt Driscoll (the “Applicant”), to rezone approximately 4,320 square feet of land located at 4730 15<sup>th</sup> Avenue NE (the “Property”) from Lowrise 3 (M) (LR3 M) to Neighborhood Commercial 2-65 (M1) (NC2-65 M1). Attachment A shows the area to be rezoned.

On June 10, 2019, the Director of the Seattle Department of Construction and Inspections (SDCI) recommended approval of the proposed rezone, with conditions. SDCI also issued a design review decision.

The Hearing Examiner held an open record hearing on the rezone recommendation on July 10, 2019. On July 17, 2019, the Hearing Examiner issued Findings and Recommendation that recommended approval of the rezone, subject to conditions. On September 4, 2019, the Planning, Land Use and Zoning Committee of the Council reviewed the record and the recommendations by SDCI and the Hearing Examiner and recommended approval of the contract rezone to the Full Council.

### **Findings of Fact**

The Council hereby adopts the Hearing Examiner's Findings of Fact as stated in the Findings and Recommendation of the Hearing Examiner dated July 17, 2019, as amended below.

The Findings of Fact are amended as follows:

1. The development site is 12,960 square feet. The rezone applies to the northernmost ~~4,280~~ 4,320 square-foot parcel, which is presently zoned Lowrise 3 ("LR3 (M)"). The remainder of the site is Neighborhood Commercial 2 with a 75-foot height limit ("NC2-75 (M)"). The property to be rezoned is addressed as 47264730 15th Avenue NE. The site fronts 15th Avenue NE to the west and is bounded by NE 47th Street to the south and NE 50<sup>th</sup> Street to the north. An alley borders the site to the east.

\* \* \*

11. In 2019, the City implemented area-wide zoning map changes, expansions of some urban village boundaries, modifications to development standards and other actions to implement MHA requirements for multi-family and commercial development in certain areas. ~~The 2019 City rezones did not include a change to the zoning of the subject site.~~ The 2019 Citywide rezones included a change to the zoning of the subject site from LR3 to LR3 (M), applying a mandatory housing affordability requirement and increasing permitted heights on the site.

\* \* \*

13. The Applicant seeks a rezone from LR3 (M) to NC2-65 (M1), subject to a property use and development agreement ("PUDA"). The terms of the PUDA are not disclosed in the record before the Examiner. The Applicant plans to construct a seven-story apartment building containing 127 residential units above commercial space and underground parking. The rezone is subject to Chapter 23.58B and 23.58C, the Affordable Housing Mitigation Development Program for Commercial Development and the Mandatory Housing Affordability for Residential Development, through the terms of the PUDA containing self-imposed restrictions.
14. According to the Director's Report, ~~According to the staff report~~, a PUDA will be executed and recorded as a condition of the contract rezone from LR3 (M) to NC2-65 (M1) with the condition that the

development be in substantial conformance with the approved plans for Master Use Permit 3025193-LU. The recorded condition will facilitate the use of the MHA suffix and any associated development standards identified in the Code for NC2-65 (M1) zones.

\* \* \*

The Council also makes the following finding of fact:

24. The proposed rezone area was rezoned through Ordinance 125791 from LR3 to LR3 (M). According to Table A for 23.34.006, NC2-65 (M) is one category higher than the existing LR3(M). Seattle Municipal Code Section 23.34.006 B states:

B. When the Council approves a Type IV amendment to the Official Land Use Map in an area to which Chapters 23.58B and 23.58C have previously been applied through the use of a mandatory housing affordability suffix, the suffix for the new zone shall be determined as follows:

\* \* \*

2. If the rezone is to another zone that is one category higher than the existing zone according to Table A for 23.34.006, the new zone should:

a. Have a (M1) suffix if it currently has an (M) suffix; or

\* \* \*

### Conclusions

The Council hereby adopts the Hearing Examiner's Conclusions as stated in the Findings and Recommendation of the Hearing Examiner dated July 17, 2019, as amended below. The Council amends the conclusions as follows:

\* \* \*

5. The property is currently zoned LR3 (M). This parcel exists as an anomaly along this portion of 15<sup>th</sup> Avenue NE, as the parcels on the north and south side of this small lot (4,3804,320 square feet) are already zoned NC2-75 (M). The proposed rezone to NC2-65 (M1) will match the current zoning on the block. (The area was rezoned due to the citywide rezone approved by the City Council on April 19, 2019).
6. *Match Between Zone Type and Locational Criteria Conclusion.* This area, with its close proximity to light rail and urban series such as grocery and other retail, is ideal for increasing density and providing more housing within an urban center that is walkable and accessible to transit. The new proposed zone of NC2-65 (M1) matches the

characteristics of the area of the University District Urban Center better than any other zoning designation.

\* \* \*

8. The current zoning allows for a maximum height of 3050 feet with a floor area ratio of 2.02.3. The proposed zone of NC2-65 (M1) would allow for a maximum height of 65 feet with a floor area ratio of 4.75. The Applicant's building proposal has a floor area ratio of 4.72.

\* \* \*

15. In the case of development in an NC zone adjacent to a residential zone, the Land Use Code requires a standard "wedding cake" building form to lessen impacts. The first 13 feet of structure requires no setback; between 13 and 4065 feet, a 1510-foot setback is required; above 4065 feet, an additional ~~three feet~~ one foot of setback is required for every 10 feet above 4065 feet. SMC 23.47A.014.B. The Applicant has requested a Departure from building setback standards at the upper levels. In return for the added density above, the Applicant proposes to provide a courtyard area in the rear of the building allowing a deeper setback to break the building facade into three parts. Exhibit 10 at 51. The Board agreed with this Departure and determined that the Design Review process produced a design with strategies to reduce the perceived impacts of additional height, bulk and scale to the adjacent sites, including setbacks and modulation. The Director also approved the Departure.

16. The maximum height limitation of the LR3 (M) zone is 4050 feet for an apartment building in an urban center. The proposed zone would allow maximum heights of 65 feet in the NC2-65 (M1) zone with a 14-foot wide alley separating properties. The proposed rezone has partially mitigated height, bulk and scale through a sensitive building design that achieves a transition through a series of architectural setbacks, scale giving architectural elements, and landscaping. Exhibit 10 at 51.

\* \* \*

31. Function of the zone. Height limits are to be consistent with the type and scale of development intended for the zone classification. In addition, the demand for permitted goods and services and potential for displacement of preferred uses resulting from the proposed development are to be considered. The proposed rezone lies within the boundaries of the University District Urban Center, which permits increased density within its boundaries. The entire block face, with the exception of this one parcel of 4,2804,320 square feet, is zoned NC2-75 (M). The proposal's residential uses with commercial elements would be consistent with the type and scale of development in the vicinity and the proposed NC2-65 (M1) zoning, and would not change the variety and size of commercial uses that are presently allowed. There will be no displacement of preferred uses.

\* \* \*

35. Section 23.34.006 B.2.a requires that a rezone from LR3 (M) to a zone with a height limit greater than 55 feet and equal to or less than 95 feet have a (M1) suffix.

35.36. Weighing and balancing the applicable sections of Chapter 23.34.SMC together, the most appropriate zone designation for the subject site is NC2-65 (M1) with a PUDA.

**Decision**

The Council hereby **GRANTS** a rezone of the Property from LR3 (M) to NC2-65 (M1), as shown in Exhibit A. The rezone is subject to the execution of a Property Use and Development Agreement requiring the owner to comply with the following conditions, consisting of the conditions found in the Hearing Examiner's recommendation which are adopted by the Council.

Dated this 23<sup>rd</sup> day of September, 2019.

  
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City Council President

ATTACHMENT A

