

January 27, 2020

## MEMORANDUM

**To:** Land Use & Neighborhoods Committee  
**From:** Yolanda Ho, Analyst  
**Subject:** Clerk File 314434 – Application of Barrientos Ryan LLC, to rezone an approximately 20,000 square foot parcel located at 4544, 4550, and 4600 Union Bay Pl NE from Commercial 2 with a 55 foot height limit and M Mandatory Housing Affordability (MHA) suffix (C2-55 (M)) to Commercial 2 with a 65 foot height limit and M1 MHA suffix (C2-65 (M1)) (Project No. 3030253, Type IV).

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On February 12, 2020, the Land Use & Neighborhoods Committee (Committee) will discuss an application to rezone the property located at 4544, 4550, and 4600 Union Bay Place NE from Commercial 2 with a 55 foot height limit and M Mandatory Housing Affordability (MHA) suffix (C2-55 (M)) to Commercial 2 with a 65 foot height limit and M1 MHA suffix (C2-65 (M1)) (Project No. 3030253, Type IV). This memorandum:

- (1) Provides an overview of the rezone application contained in [Clerk File \(CF 314434\)](#);
- (2) Describes proposed Council Findings, Conclusions, and Decision regarding the application, which would grant the rezone application;
- (3) Summarizes a bill, which would amend the Official Land Use Map, also known as the zoning map, to effectuate the rezone, and accept a Property Use and Development Agreement (PUDA) limiting future development; and
- (4) Describes the actions the Committee may take to adopt the rezone.

### Overview

Barrientos Ryan LLC (Applicant) has applied for a contract rezone for a 20,300 square foot site comprised of three parcels, addressed as 4544, 4550, and 4600 Union Bay Place NE. The Applicant plans to redevelop the site with a six-story, 98-unit apartment building with approximately 2,000 square feet of retail space and parking for 63 cars and 92 bicycles. Twenty percent of units are proposed to be affordable to households at 65 to 85 percent Area Median Income through the Multifamily Property Tax Exemption Program. The proposed structure height would be around 65 feet above average grade. The rezone would allow the Applicant to provide about 20 more units than would be allowed under current zoning.

The Applicant filed a rezone petition in February 2019. On November 12, 2019, the Director of the Seattle Department of Construction and Inspections (SDCI) issued an affirmative rezone recommendation, State Environmental Policy Act decision, and design review decision. The decision was not appealed. The Hearing Examiner held an open record public hearing on December 3, 2019, and issued a recommendation on December 13, 2019, to approve the rezone subject to a PUDA and the provisions of Seattle Municipal Code (SMC) [23.58B](#) and

[23.58C](#), and a requirement that development of the rezone area be consistent with the approved plans under SDCI [Project Number 3030253-LU](#). The Hearing Examiner's decision was not appealed. The Hearing Examiner's findings and recommendation are included as Attachment 1.

### **Type of Action and Materials**

This rezone petition is a quasi-judicial action. Quasi-judicial rezones are subject to the Appearance of Fairness Doctrine prohibiting ex-parte communication. Council decisions must be made on the record established by the Hearing Examiner.

The Hearing Examiner establishes the record at an open record hearing. The record contains the substance of the testimony provided at the Hearing Examiner's open record hearing and the exhibits entered into the record at that hearing. The entire record, including audio recordings of the Hearing Examiner's open record hearing are available for review in my office.

### **Committee Decision Documents**

To approve a contract rezone, the Committee must make recommendations to the City Council on two pieces of legislation: (1) a Council Findings, Conclusions and Decision that is added to the Clerk File and grants the rezone application, and (2) a Council Bill amending the zoning map and approving a PUDA.

### Findings, Conclusions and Decision

Attachment 2 is a draft of the proposed Council Findings, Conclusions and Decision, which:

1. Adopts the Hearing Examiner's findings and conclusions;
2. Adopts the Hearing Examiner's conditions; and
3. Grants the rezone subject to the recording of a PUDA requiring the owner to comply with the Hearing Examiner's conditions.

If the Committee agrees with the Findings, Conclusions and Decision document as drafted, it should vote to adopt the Findings, Conclusions and Decision, and vote to recommend that the City Council grant the rezone as modified subject to conditions.

### Council Bill and the PUDA

If the Committee is supportive of the proposed rezone with the conditions laid out in the draft Findings, Conclusions, and Decision, I will work to prepare a Council Bill for introduction and referral to the City Council that would amend the zoning map and approve the PUDA. I will also work with the Applicant to have the final PUDA recorded with King County that reflects the Committee's direction. The PUDA would incorporate the following conditions recommended by the Hearing Examiner:

1. Development of the site would be subject to requirements of SMC Chapters 23.58B and 23.58C; and
2. Development of the property must substantially conform with the approved Master Use Permit plans.

### **Next Steps**

Depending on Committee action, the Council Bill and PUDA could be introduced and referred to the City Council on February 24, and the Council may vote on March 2.

### **Attachments:**

1. Hearing Examiner's recommendation to approve the rezone; and
2. Proposed Council Findings, Conclusions and Decision.

cc: Kirstan Arestad, Executive Director  
Aly Pennucci, Supervising Analyst

**FINDINGS AND RECOMMENDATION  
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE**

In the Matter of the Application of

**CF 314434**

**MARIA BARRIENTOS,  
BARRIENTOS RYAN LLC**

Department Reference:  
3030253-LU

for approval of a rezone of property  
located at 4600 Union Bay Place NE

**Introduction**

Maria Barrientos, Barrientos Ryan LLC (“Applicant”), applied for a contract rezone of property located at 4600 Union Bay Place NE. The property is currently zoned Commercial 2 with a 55-foot height limit (“C2-55 (M)”), and the proposal is to rezone it to Commercial 2 with a 65-foot height (“C2-65(M1)”). The Director of the Department of Construction and Inspections (“Director”) issued a report recommending approval of the rezone. The Director’s report included a State Environmental Policy Act (“SEPA”) Determination of Non-Significance, design review approval, and an administrative conditional use permit, all of which were not appealed.

The public hearing on the rezone application was held on December 3, 2019 before the Deputy Hearing Examiner (“Examiner”). The Applicant was represented by Jessica Clawson, attorney-at-law, and the Director was represented by Carly Guillory, Senior Land Use Planner at the Department of Construction and Inspections (“Department”).

For purposes of this recommendation, all section numbers refer to the Seattle Municipal Code (“SMC” or “Code”) unless otherwise indicated. Having considered the evidence in the file, the Examiner enters the following findings of fact, conclusions and recommendation on the rezone application.

**Findings of Fact**

Site and Vicinity

1. The subject site is 20,300 square feet and consists of three parcels. It is addressed as 4544, 4550, and 4600 Union Bay Place NE. The site fronts Union Bay Place NE to the southwest and is bound on either side with commercial and industrial uses. The site generally slopes up from Union Bay Place NE to the alley in the rear. There is a brush-covered steep slope, gaining approximately 30 feet in elevation, directly to the east of the site, leading up to the Burke-Gilman Trail and the single-family neighborhood beyond. A portion of the steep slope is an unimproved alley with no access.

2. The subject site is presently developed with two one-story concrete structures and a surface parking lot. The surface parking lot was once occupied by Laurelhurst Oil Company. The Washington Department of Ecology had previously instituted a clean-up action for contaminants found on site. The Applicant obtained a “No Further Action” letter from Ecology, finding that the site had been sufficiently cleaned up to meet state standards.<sup>1</sup>
3. The existing development along Union Bay Place NE consists of a range of uses and development including warehouses, surface parking lots, swaths of large curb cuts and underdeveloped sidewalk conditions, and new mixed-use development with retail at grade. Swedish Primary Care, Safeway, and the University Village are examples of uses in proximity of the site. The height of development ranges from two to six stories. To the east of the site and up the hill is an unimproved alley, the Burke-Gilman Trail, and a single-family neighborhood beyond.
4. The subject site is located on Union Bay Place NE, a collector arterial street with direct access to NE 45th Street, a minor arterial street, and State Route 513. State Route 513 is a regional arterial and is removed from connection to the state and interstate highway system. Interstate 5 is approximately 1.4 miles away and State Route 520 is 1.3 miles away.
5. Properties to the immediate north and south of the proposal along Union Bay Place NE are zoned C2-55(M). Properties across the street to the west are C2-75(M), and properties up the hill are single family with 30-foot maximum building height (SF5000). Single-family zoning to the east is separated from the subject site via 125 linear feet, and a grade change of approximately 30 feet.
6. Transit is available nearby at the corner of Union Bay Place and NE 45<sup>th</sup> Street, approximately one block away. The transit routes with stops in the vicinity are King County Metro Routes 31, 32, 65, 67, 75, and 78. The routes service the following neighborhoods:
  - a. Route 32/32: Magnolia to Fremont to University District
  - b. Route 65: Jackson Park to Lake City to University District
  - c. Route 67: Northgate TC to University District to Children’s Hospital
  - d. Route 75: Northgate TC to Lake City to Sand Point to University District
  - e. Route 78: Children’s Hospital to UW Light Rail Station

#### Zoning History and Potential Zoning Changes

7. The subject site is not located within an urban center, urban village, or neighborhood plan. Historically, the street has contained small-scale commercial and industrial uses.

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<sup>1</sup> Exhibit 17.

8. The Housing Affordability and Livability Agenda (“HALA”) Advisory Committee delivered a set of recommendations to the Mayor and the City Council in 2015, that included mandatory housing affordability for residential (“MHA-R”) and commercial (“MHA-C”) development. Following the recommendations, the Seattle City Council adopted a city-wide rezone that took effect on April 19, 2019. The MHA legislation requires that commercial and multi-family residential developments either include affordable housing units in the building or pay into a fund to provide housing affordable to low-income households, in exchange for increases in development capacity.
9. The city-wide rezone included 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 subject site was included in these zone changes and received an up-zone from C2-40 to C2-55(M) effective on April 19, 2019. Because the site is not located in an urban village or urban center, it was not targeted for higher zoning densities.
10. The City Council anticipated the need for individual contract rezones, and therefore to provide a tool to allow more density where appropriate on a case-by-case basis. The MHA legislation provides a method for allowing up-zones of properties already possessing an (M) suffix in SMC 23.34.006. A rezone that otherwise meets rezone criteria could allow for increased density in exchange for additional MHA requirements.
11. The Applicant proposes a height change from 55 feet to 65 feet. Under SMC 23.34.006, such a change requires the (M) suffix to become (M1). Director’s Rule 14-2016 provides a detailed explanation of the requirement.
12. The project will provide 20 more units than would have been available under the current zoning, with four of the units classified as affordable housing. In total, 20% of the units are designated as affordable, meeting MHA requirements.

#### Neighborhood Plan

13. The site is not within the boundaries of an adopted neighborhood plan. The boundary of the Ravenna Bryant Neighborhood is approximately one block away.
14. The Applicant met with the Ravenna Bryant Community Association and discussed the goal of the plan to encourage pedestrian-scaled mixed-use development that provides neighborhood services. The proposal will incorporate retail use with a pedestrian plaza area, thereby increasing pedestrian interest and activity in the commercial node through the use of an engaging streetscape and density.

15. The site is located across the street and to the east of the University District Urban Center boundary, which has a growth target of 3,500 new housing units in the 2035 Comprehensive Plan.

Proposal

16. The Applicant seeks a rezone from C2-55(M) to C2-65(M1), with 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 six-story 98-unit apartment building with retail. Parking is proposed for 63 vehicles.
17. The existing structures on site are more than 50 years old. These structures were reviewed, for potential to meet historic landmark status, by the Department of Neighborhoods and found to be unlikely to qualify for historic landmark status.<sup>2</sup> The Applicant proposes that the existing single-story buildings be demolished, and the Department concurs with that recommendation.
18. Twenty percent of the units will be reserved as affordable, pursuant to MHA requirements. Those units will be priced at 60-80% of average mean income.
19. The proposed rezone would allow for a single story of additional height and will increase the unit yield by 20 units.
20. Existing vehicular access to the subject site is along Union Bay Place NE, and the proposal will continue to use the same access. The Seattle Department of Transportation (“SDOT”) granted the Applicant’s right-of-way improvement exception request to the requirement to dedicate land and improve the abutting alley. SDOT determined that it is impractical to open the right-of-way due to steep slope, disruption of drainage patterns, and destruction of significant trees.<sup>3</sup>
21. The design review packet submitted for the proposal was reviewed by the Northeast Design Review Board (“DRB”) at public meetings on March 26, 2018 (“Early Design Guidance”), and May 20, 2019 (“Recommendation”). The DRB considered massing, architectural concept, streetscape, and public realm. The Board was pleased with the development of the architectural concept from early design guidance. The Board approved the proposal subject to two Development Standard Departures, one concerning the width of blank walls and the other departure allowing a reduction of commercial depth from 30 feet to 28 feet and 8 inches. It recommended approval of the subject design and departures subject to conditions. The Director accepted the Design Review Board’s recommendations, and conditionally approved the proposed design and requested departures with conditions.

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<sup>2</sup> Exhibit 37.

<sup>3</sup> Exhibit 20.

22. The Applicant proposes 63 parking spaces for the 98-unit building. A traffic and parking analysis in May 2018 indicated a peak demand for approximately 88 vehicles from the proposed development, which would result in an on-street spillover of approximately 35 vehicles. The traffic consultant estimated the project's residential parking demand using the King County Right Size Parking model, an empirically-based regression model that provides estimates of peak parking demand for multi-family projects in King County. After the study for the project was completed, the County updated the Right Size Parking model, incorporating additional parking data. Using the updated model, the project is now forecast to have a peak parking demand of approximately 55 vehicles. The number of proposed parking spaces accommodates all of the anticipated parking demand, and no additional mitigation has been proposed by the department pursuant to SMC 25.05.675.M.<sup>4</sup>
23. The Traffic Impact Analysis indicated that the project is expected to generate a net total of 231 daily vehicle trips, with 22 net new PM Peak Hour trips and 18 new AM Peak Hour trips. The additional trips are expected to distribute on various roadways near the project site, including Union Bay Place NE, and would have minimal impact on levels of service at nearby intersections and on the overall transportation system. The SDCI Transportation Planner who reviewed the information determined that no mitigation is warranted per SMC 25.05.675.R.

#### Public Comment

24. Comments were received during the design review process for the proposal.<sup>5</sup> Comments received raised concerns related to height and bulk of the proposal, view impacts to the Burke Gilman Trail and the single-family neighborhood to the west, the need for sidewalk improvements on the entire street, and compatibility with the neighborhood character and zoning. There was also support for the project. Citizens commented that the proposal would provide needed housing near Seattle Children's Hospital, as well as better walkability and retail space along Union Bay Place NE.
25. No members of the public testified at the public hearing, and no additional public comments were received by the Hearing Examiner during the hearing process.

#### Director's Review

26. The Director's report, Exhibit 1, analyzes the proposed contract rezone and recommends that it be approved with conditions.
27. The Director analyzed the proposal's potential long-term and short-term environmental impacts, under the State Environmental Policy Act, and issued a

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<sup>4</sup> Exhibit 21 at p. 8.

<sup>5</sup> See a summary of public comment at Exhibit 1 at 3-4, & 6-7.



- Determination of Non-Significance. The threshold determination was not appealed.
28. The Director granted an administrative conditional use permit allowing residential development in a C2-65 (M1) zone. That permit approval was not appealed.
  29. The Director accepted the Design Review Board's recommendations, and conditionally approved the proposed design and the requested departures with conditions listed at the end of the Examiner's Findings and Recommendations.

#### Applicable Law

30. SMC 23.34.008 provides the general rezone criteria. The criteria address the zoned capacity and density for urban villages; the match between the zone criteria and area characteristics; the zoning history and precedential effect of the rezone; neighborhood plans that apply; zoning principles that address relative intensities of zones, buffers and boundaries; impacts of the rezone, both positive and negative; any relevant changed circumstances; the presence of overlay districts or critical areas; and whether the area is within an incentive zoning suffix.
31. SMC 23.34.007.C provides that compliance with the requirements of Chapter 23.34 SMC constitutes consistency with the Comprehensive Plan for purposes of reviewing proposed rezones, but the Comprehensive Plan may be considered where appropriate.
32. SMC 23.34.006 governs the application of MHA suffixes in Type IV rezones, including rezones in which the subject site already has an MHA suffix.<sup>6</sup>

#### **Conclusions**

1. The Hearing Examiner has jurisdiction to make a recommendation to the City Council on the proposed contract rezone pursuant to SMC 23.76.052.
2. SMC 23.34.007 provides that the applicable sections of Chapter 23.34 SMC are to be weighed and balanced together, to determine the most appropriate zone and height designation. "No single criterion ... shall be applied as an absolute requirement or test of the appropriateness of a zone designation ... unless a provision indicates the intent to constitute a requirement ...." SMC 23.34.007B. The general rezone criteria, including "zoning principles," are set forth in SMC 23.34.008.

#### Effect on Zoned Capacity

3. SMC 23.34.008 requires that, within an urban center or urban village, the zoned capacity, taken as a whole, is to be no less than 125 percent of the applicable

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<sup>6</sup> For more information, see Director's Report Exhibit 1 at 15-16.

adopted growth target, and not less than the density established in the Comprehensive Plan. The subject site is not within an urban village, however, so this criteria does not apply. The site is located across the street from the University District Urban Center boundary, to the west, which has a growth target of 3,500 housing units. The proposed rezone is consistent with SMC 23.34.008.A.

#### Match Between Zone Criteria and Area Characteristics

4. In this case, the proposal does not seek a change in the existing C2-zone designation. The C2 zone criteria in SMC 23.34.076 continues to match the characteristics of the area better than any other zone designation. This site is a one-block street and borders the University District Urban Center boundary.<sup>7</sup> The proposal does seek a change in height, which is addressed below.

#### Neighborhood Plan/Precedential Effect

5. The subject site is not located within the boundaries of any neighborhood plan.
6. The C2-65(M1) would allow a maximum height of 65-feet with a floor area ratio of 4.25. The proposal is consistent with development expectations for the area across the street, which is within the University District Urban Center. This proposal could have a precedential effect of increasing zoned heights on the same side of the street, outside the Urban Center boundary. With the height at 65 feet, the proposed zoning does serve as a transition between the single-family neighborhood perched 30 feet above the site and the C2-75(M) zone to the west.

#### Zoning Principles

7. The zoning principles listed in SMC 23.34.008.E are generally aimed at minimizing the impact of more intensive zones on less intensive zones, if possible. They express a preference for a gradual transition between zoning designations, including height limits, if possible, and potential physical buffers to provide an effective separation between different uses and intensities of development.
8. The predominant zoning pattern is C2-55(M) on the same side of the street as the proposal, and C2-75(M) for the opposite side of the street. To the west of Union Bay Place NE is University Village, a large urban shopping center. Essentially, the side of the street adjacent to the Burke Gilman Trail and outside of the urban center boundary acts as a transition to the single-family neighborhood above.
9. The subject site is in a transition area from the single-family neighborhood to the intense development of University Village. Several permanent features aid in that

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<sup>7</sup> Ex. 1 at 27.

transition. The grade of the single-family neighborhood sits approximately 30 feet above the grade of the subject site and is buffered by a park – the Burke Gilman Trail. The Trail is an old railway right-of-way and contains large trees and natural vegetation that provide an effective transition. In addition, the steep slope leading down to the site contains an unopened right-of-way, adding further distance between the single family residences and commercial development. Finally, the building across the street from the subject site will be 75 feet in height when completed. The 65-foot height of the proposal will step down from the 75-foot building.<sup>8</sup> In addition, the street layout will change from an industrial area without sidewalks, to a pedestrian-friendly environment with retail.

### Impact Evaluation

10. The proposed rezone would positively impact the housing supply, as it would add 98 new residential units with 20% as affordable units. The proposal would also have a positive effect by adding retail activity and pedestrian interest on a street that currently does not have any.
11. The proposal would create a minimal increase in the demand for public services. There is no evidence in the record that the demand would exceed service capacities. In particular, street access, transit service, and parking, were shown to be sufficient to serve the additional units that would be allowed by the rezone. The Director has evaluated impacts on public services and service capacities, as well as parking, height, bulk and scale, transportation and other environmental impacts, pursuant to SEPA, and has identified conditions to mitigate impacts that are not otherwise adequately addressed through existing regulations.
12. The project has obtained confirmation that adequate water, sewer, transit, storm water, and electrical services exist to serve the proposed project. The Preliminary Assessment report creates a record reflecting these adequacies.<sup>9</sup>
13. This project underwent Design Review, in which the Design Review Board and the Director considered height, bulk, and scale, transitions to lower zones, and response to existing context. The design that has been recommended by the Design Review Board, and approved by the Director, includes design strategies to address the project's height, bulk, and scale.
14. The site does not lie within a shoreline district, no public access is being impacted or removed with this proposal, and no existing recreational areas are being impacted or removed.

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<sup>8</sup> Ex. 1 at 19.

<sup>9</sup> Ex. 25.

Changed Circumstances

15. Changed circumstances are to be considered but are not required to demonstrate the appropriateness of a proposed rezone. There are no changed circumstances to be considered in reviewing the proposal. The rezone does not propose to change the property from the existing C2 classification but will allow a height increase which is addressed under the review of other criteria.

Overlay Districts/ Critical Areas

16. The subject property contains a mapped erosion hazard area along the eastern boundary. The project was granted relief from prohibition on development in the steep slope area of the site pursuant to SMC 25.09.090.B (construction permit number 6631858-CN, April 25, 2018). Because the steep slopes were created to develop the railroad right-of-way, the project qualifies for "Relief from the Prohibition on Development in the Steep Slope Buffer," as described in SMC 25.09.090.B.2.b. For this reason, no steep slope variance is required, and development may occur within the steep slope buffer. The rezone will not impact a critical area.

Height Limits

17. The proposed rezone would allow an additional 10 feet in zoned height. SMC 23.34.009 addresses the designation of height limits for proposed rezones. The issues to be considered include the function of the zone; the topography of the area and its surroundings, including public and private view blockage; height and scale of the area; compatibility with the surrounding area; and neighborhood plans.
18. 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 site abuts the C2 zoning designation to the north, south, and west with height limits of 55 and 75 feet. The proposal's multi-family residential uses with commercial elements is to be consistent with the type and scale of new development in the vicinity and the proposed C2-65(M1) zoning and would not change the variety and size of commercial uses that is presently allowed. There will be no displacement of preferred uses.
19. Topography of the area. Heights are to "reinforce the natural topography of the area and its surroundings, and the likelihood of view blockage" is to be considered. The proposed structure may impact territorial views from adjacent properties. To mitigate this potential, the roof has been designed to become the "fifth façade" of the structure and incorporates additional modulation and detailing. A "no-build" easement has been secured from the neighboring property

to the south to ensure there is a permanent view corridor between this property and any future development on the parcel to the south. View blockage is minimized by the topography of the area and existing vegetation, including significant trees along the Burke Gilman Trail.

The existing zoning transition pattern in this area generally reinforces the natural topography of the area. Zoning allowing taller buildings is located along the west side of Union Bay Place NE. The proposed rezone does not change this pattern.

20. Height and scale of the area. The height limits established by current zoning in the area are to be considered. In general, permitted height limits are to “be compatible with the predominant height and scale of existing development, particularly where existing development is a good measure of the area’s overall development potential.” SMC 23.34.009.C. The proposed development would be consistent with the predominant height and scale of nearby newer development, which is representative of the area’s overall development potential. Older mid-century buildings in the area are not representative of the development potential for zoning in this area. Height potential for this area is 55-75 feet, so this proposal fits into the height and scale of the area.
21. Compatibility with surrounding area. Height limits are to be compatible with actual and zoned heights in surrounding areas. In addition, a gradual transition in height, scale, and level of activity between zones is to be provided unless major physical buffers are present. The requested height limit of 65 feet, would be compatible with most of the potential zoned heights in the surrounding area. A large portion of the area to the west has a height limit of 75 feet. The proposed height of 65 feet is consistent with the transition of zoned heights and scale of development in the area. Moreover, there is a significant physical buffer between the single-family neighborhood and the subject site, which is approximately 125 linear feet in width and encompasses a 30-foot rise in height. It includes the unimproved alley, the Burke Gilman Trail, and NE Blakeley Street to the east of the Trail.
22. Weighing and balancing the applicable sections of Chapter 23.34 SMC together, the most appropriate zone designation for the subject site is C2-65(M1) with a PUDA.

### **Recommendation**

The Examiner recommends that the City Council **APPROVE** the requested rezone subject to a PUDA that incorporates the final approved Master Use Permit drawings for the proposal, with the following conditions:

1. *Prior to Issuance of a Master Use Permit*  
The rezoned property shall be subject to the applicable provisions of Chapters SMC 23.58B and 23.58C.

2. *Prior to Issuance of a Building Permit*

Development of the rezoned property shall be in substantial conformance with the approved plans for Master Use Permit number 3030253-LU.

The Director has recommended the following SEPA conditions:

3. *Prior to Issuance of Excavation/Shoring or Construction Permit*

Provide a Construction Management Plan that has been approved by SDOT. The submittal information and review process for Construction Management Plans are described on the SDOT website at:

<http://www.seattle.gov/transportation/cmp.htm>

The Director has imposed the following design review condition on the proposal:

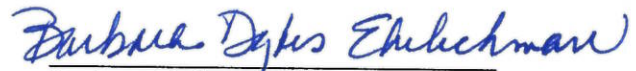
4. *Prior to Certificate of Occupancy*

The Land Use Planner shall inspect materials, colors, and design of the constructed project. All items shall be constructed and finished as shown at the design recommendation meeting and the subsequently updated Master Use Plan set. Any change to the proposed design, materials, or colors shall require prior approval by the Land Use Planner (Carly Guillory, [carly.guillory@seattle.gov](mailto:carly.guillory@seattle.gov)) or a Seattle DCI assigned Land Use Planner.

5. *For the Life of the Project*

The building and landscape design shall be substantially consistent with the materials represented at the Recommendation meeting and in the materials submitted after the Recommendation meeting, before the MUP issuance. Any change to the proposed design, including materials or colors, shall require prior approval by the Land Use Planner (Carly Guillory, [carly.guillory@seattle.gov](mailto:carly.guillory@seattle.gov)) or a Seattle DCI assigned Land Use Planner.

Entered this 12<sup>th</sup> day of December, 2019.



Barbara Dykes Ehrlichman  
Deputy Hearing Examiner

**CONCERNING FURTHER REVIEW**

NOTE: It is the responsibility of the person seeking to appeal a Hearing Examiner's recommendation to consult appropriate Code sections to determine applicable rights and responsibilities.

Pursuant to SMC 23.76.054, any person substantially affected by a recommendation of the Hearing Examiner may submit an appeal of the recommendation in writing to the City Council. The appeal must be submitted within fourteen (14) calendar days following the

date of the issuance of the recommendation of the Hearing Examiner, and be addressed to:

Seattle City Council  
Planning, Land Use and Neighborhoods Committee  
c/o Seattle City Clerk  
600 Fourth Avenue, Floor 3  
P.O. 94728  
Seattle, WA 98124-4728

The appeal shall clearly identify specific objections to the Hearing Examiner's recommendation and specify the relief sought. Consult the City Council committee named above for further information on the Council review process.

*Barbara D'Amico (Handwritten)*

*10/11/11 (Handwritten)*

**BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE**

**CERTIFICATE OF SERVICE**

I certify under penalty of perjury under the laws of the State of Washington that on this date I sent true and correct copies of the attached **Findings and Recommendation** to each person listed below, or on the attached mailing list, in the matter of **MARIA BARRIENTOS, BARRIENTOS RYAN LLC**. Council File: **CF 314434** in the manner indicated.

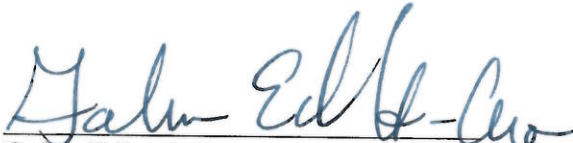
Party	Method of Service
<b>Applicant</b> Maria Barrientos Barrientos Ryan LLC maria@barrientosryan.com	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
<b>Applicant Legal Counsel</b> Jessica Clawson McCullough Hill Leary, PS jclawson@mhseattle.com	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
<b>Department</b> Carly Guillory SDCI carly.guillory@seattle.gov	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
<b>City Contacts</b> Nathan Torgelson Director, SDCI nathan.torgelson@seattle.gov  Roger Wynne City Attorney's Office roger.wynne@seattle.gov	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger



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<p><b>U.S. Mail</b> SUQUAMISH TRIBE PO BOX 498 SUQUAMISH, WA 98392</p> <p>DUWAMISH TRIBE 4705 W MARGINAL WAY SW SEATTLE, WA 98106</p>	<p><input checked="" type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger</p>

<p>KAREN WALTER  WATERSHEDS AND LAND USE TEAM  LEADER  MUCKLESHOOT INDIAN TRIBE FISHERIES  DIVISION HABITAT PROGRAM  39015 172ND AVE SE  AUBURN, WA 98092</p>	
<p><b>Inter-office Mail</b>  Public Review Documents  Quick Information Center  Seattle Public Library  LB-03-01</p>	<p><input type="checkbox"/> U.S. First Class Mail, postage prepaid  <input checked="" type="checkbox"/> Inter-office Mail  <input type="checkbox"/> E-mail  <input type="checkbox"/> Fax  <input type="checkbox"/> Hand Delivery  <input type="checkbox"/> Legal Messenger</p>

Dated: December 13, 2019

  
Galen Edlund-Cho  
Legal Assistant

**Attachment 2: Proposed Council Findings, Conclusions and Decision (CF 314434)**

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

In the matter of the Petition:	)	Clerk File 314434
Application of Barrientos Ryan	)	FINDINGS, CONCLUSIONS, AND DECISION
LLC, to rezone approximately	)	
20,000 square foot parcel located at	)	
4544, 4550, and 4600 Union Bay Pl	)	
NE from Commercial 2 with a 55	)	
foot height limit and M Mandatory	)	
Housing Affordability (MHA)	)	
suffix (C2 55 (M)) to Commercial 2	)	
with a 65 foot height limit and M1	)	
MHA suffix (C2 65 (M1)) (Project	)	
No. 3030253, Type IV).	)	

Introduction

This matter involves a petition by Barrientos Ryan LLC (the “Applicant”), to rezone approximately 20,000 square feet of land located at 4544, 4550, and 4600 Union Bay Place NE (the “Property”) from Commercial 2 with a 55 foot height limit (C2-55 (M)) to Commercial 2 with a 65 foot height limit (C2-65 (M1)). Attachment A shows the area to be rezoned.

On November 12, 2019, the Director of the Seattle Department of Construction and Inspections (SDCI) recommended approval of the proposed rezone, with conditions. SDCI also issued a State Environmental Policy Act (SEPA) decision and design review decision.

The Hearing Examiner held an open record hearing on the rezone recommendation on December 3, 2019. On December 13, 2019, the Hearing Examiner issued Findings and Recommendation that recommended approval of the rezone, subject to conditions. On February 12, 2020, the Land Use and Neighborhoods 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 December 13, 2019.

**Conclusions**

The Council hereby adopts the Hearing Examiner's Conclusions as stated in the Findings and Recommendation of the Hearing Examiner dated December 13, 2019.

**Decision**

The Council hereby **GRANTS** a rezone of the Property from C2-55 (M) to C2-65 (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 adopted by the Council.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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City Council President

ATTACHMENT A

