



# SEATTLE CITY COUNCIL

## Legislative Summary

CB 119664

**Record No.:** CB 119664

**Type:** Ordinance (Ord)

**Status:** Passed

**Version:** 1

**Ord. no:** Ord 125962

**In Control:** City Clerk

**File Created:** 09/30/2019

**Final Action:** 10/14/2019

**Title:** AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 159 of the Official Land Use Map to rezone property located at 5256 Rainier Avenue S from Neighborhood Commercial 2-55 (M) (NC2-55 (M)) to Neighborhood Commercial 2-65 (M1) (NC2-65 (M1)); and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by Kathleen Justice, C.F. 314365, SDCI Project 3025493-LU)

Date

**Notes:**

**Filed with City Clerk:**

**Mayor's Signature:**

**Sponsors:** Pacheco

**Vetoed by Mayor:**

**Veto Overridden:**

**Veto Sustained:**

**Attachments:** Ex A - Rezone Map, Ex B - Executed Property Use and Development Agreement

**Drafter:** Emilia.Sanchez@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	10/01/2019	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					
1	City Council	10/07/2019	referred	City Council			
1	City Council	10/14/2019	passed as amended				Pass
	<b>Action Text:</b>	The Motion carried, the Council Bill (CB) was passed as amended by the following vote, and the President signed the Bill:					
	<b>Notes:</b>	<u>ACTION 1:</u>					

Motion was made and duly seconded to pass Council Bill 119664.

ACTION 2:

Motion was made by Councilmember Pacheco, duly seconded and carried, to amend Council Bill 119664, Exhibit B, by substituting an 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 119664 as amended

In Favor: 7 Councilmember Bagshaw, Councilmember González , Council  
President Harrell, Councilmember Herbold, Councilmember Juarez,  
Councilmember Pacheco, Councilmember Sawant

Opposed: 0

1 City Clerk 10/14/2019 attested by City Clerk

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

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CITY OF SEATTLE

ORDINANCE

125962

COUNCIL BILL

119664

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 159 of the Official Land Use Map to rezone property located at 5256 Rainier Avenue S from Neighborhood Commercial 2-55 (M) (NC2-55 (M)) to Neighborhood Commercial 2-65 (M1) (NC2-65 (M1)); and accepting a Property Use and Development Agreement as a condition of rezone approval. (Petition by Kathleen Justice, C.F. 314365, SDCI Project 3025493-LU)

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

Section 1. This ordinance rezones the following legally described property (“Property”), commonly known as 5256 Rainier Avenue South:

LOTS 15-22, CENTRAL ADDITION TO COLUMBIA, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 14 OF PLATS, PAGE(S) 14, IN KING COUNTY, WASHINGTON

Section 2. Page 159 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 2-55 (M) (NC2-55 (M)) to Neighborhood Commercial 2-65 (M1) (NC2-65 (M1)). Approval of this rezone is conditioned upon compliance with the Property Use and Development Agreement (PUDA) approved in Section 4 of this ordinance.

Section 3. The zoning designations 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 with the King County Records and Licensing Services (RALS) Division; to file, upon return of the recorded PUDA from the King County RALS Division, the original PUDA along with this ordinance at

1 the City Clerk's Office; and to deliver copies of the PUDA and this ordinance to the Director of  
2 the Seattle Department of Construction and Inspections and to the King County Assessor's  
3 Office.

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

7 Passed by the City Council the 14<sup>th</sup> day of OCTOBER, 2019,  
8 and signed by me in open session in authentication of its passage this 14<sup>th</sup> day of  
9 OCTOBER, 2019.

10 

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

12 Filed by me this 14<sup>th</sup> day of OCTOBER, 2019.

13 

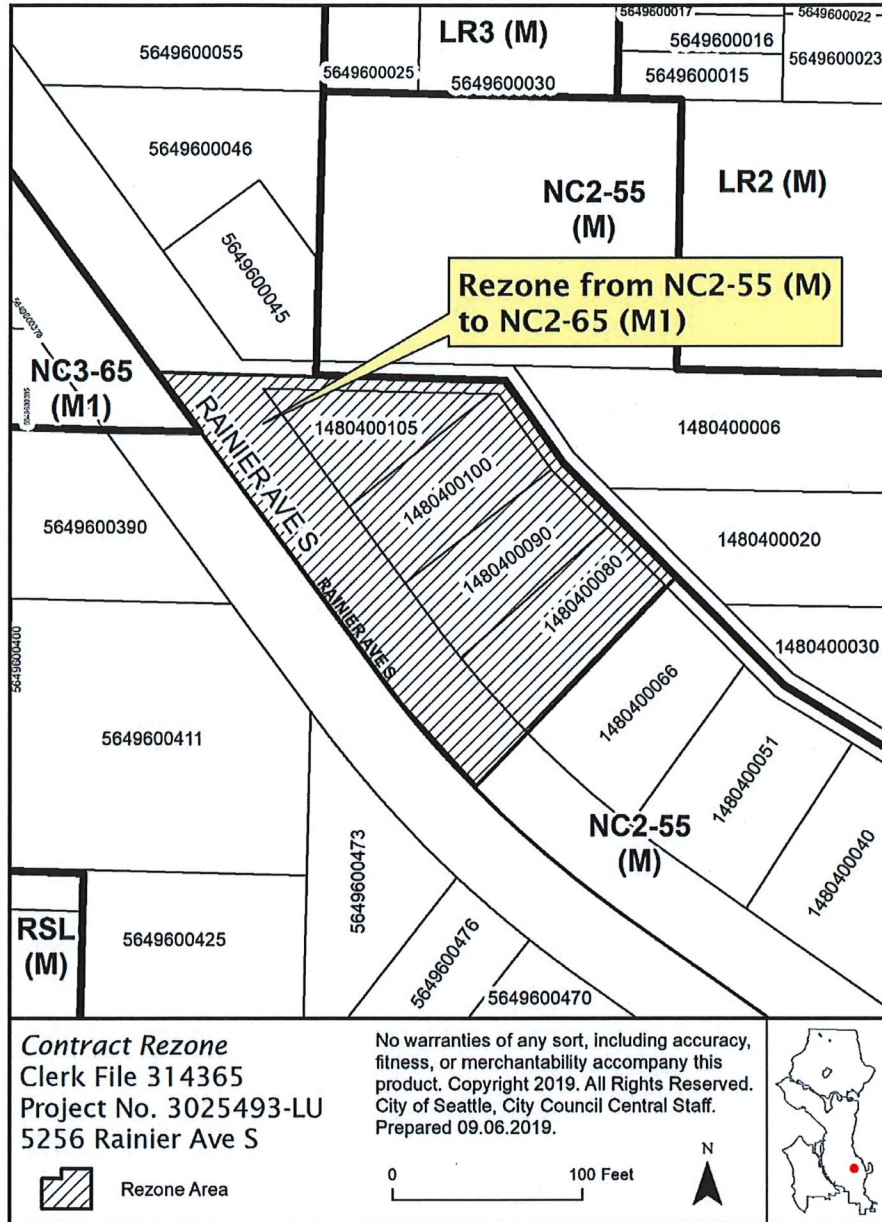
14 Monica Martinez Simmons, City Clerk

15 (Seal)

16 Attachments:  
17 Exhibit A – Rezone Map  
18 Exhibit B – Property Use and Development Agreement



### Exhibit A – Rezone Map



FILED  
CITY OF SEATTLE  
19 OCT -7 PM 2:45  
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)	5250 Rainier LP		
<b>Grantee:</b>	(1)	The City of Seattle		
<b>Legal Description</b> <i>(abbreviated if necessary):</i>	see <i>Recital A</i> , below			
<b>Assessor's Tax Parcel ID #:</b>	1480400105, 1480400100, 1480400090 and 1480400080,			
<b>Reference Nos. of Documents Released or Assigned:</b>	n/a			

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this \_\_\_ day of \_\_\_\_\_, 2019, in favor of the CITY OF SEATTLE (the "City"), a Washington municipal corporation, by 5250 Rainier LP (the "Owner").

**RECITALS**

A. 5250 Rainier LP is the owner of that certain real property (the "Property") in the City of Seattle currently zoned Neighborhood Commercial 2 with a height limit of fifty-five feet and a (M) mandatory housing affordability suffix (NC2-55 (M)) shown in Attachment A and legally described as:

LOTS 15-22, CENTRAL ADDITION TO COLUMBIA, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 14 OF PLATS, PAGE(S) 14, IN KING COUNTY, WASHINGTON

B. In April 2017, the Owner submitted to the City an application under Project No. 3025493 for a rezone of the Property from Neighborhood Commercial 2 with a height limit of forty feet (NC2-40) to Neighborhood Commercial 2 with a height limit of sixty-five feet (NC2-65).

C. Seattle Municipal Code Section 23.34.004 allows the City to approve a rezone subject to "self-imposed restrictions" upon the development of the property.

D. Since the Owner submitted the application for the rezone, the City has rezoned the Property from Neighborhood Commercial 2 with a height limit of forty feet (NC2-40) to Neighborhood Commercial 2 with a height limit of fifty-five feet and a (M) mandatory housing affordability suffix (NC2-55 (M)), Ordinance 125791.

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 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 from Neighborhood Commercial 2 with a height limit of fifty-five feet and a (M) mandatory housing affordability suffix (NC2-55 (M)) to Neighborhood Commercial 2 with a height limit of sixty-five feet and a (M1) mandatory housing affordability suffix (NC2-65 (M1)):

- (a) Future development of the Property is restricted to a project developed in substantial conformance with the final approved plans for Master Use Permit (MUP) #3025493, once the Seattle Department of Construction and Inspections (SDCI) issues that MUP.

**Section 2. Agreement Runs With the Land.** This Agreement shall be recorded in the records of King County by the City Clerk. The covenants contained in this Agreement shall attach to and run with the land and be binding upon the Owner, its heirs, successors and assigns, and shall apply to after-acquired title of the Owner.

**Section 3. Amendment.** This Agreement may be amended or modified by agreement between the Owner and the City; provided any amendments are approved by the City Council by ordinance.

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

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

**Section 6. Repeal as Additional Remedy.** Owner acknowledges that compliance with the conditions of this Agreement is a condition of the subject rezone and that if Owner avails itself of the benefits of this rezone but then fails 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 Property to conform to the requirements of the previous zoning designation or some other zoning designation imposed by the City Council; and
- b. Pursue specific performance of this Agreement.

SIGNED this 4 day of October, 2019.

5250 Rainier LP

a Washington limited partnership

By: [Signature]

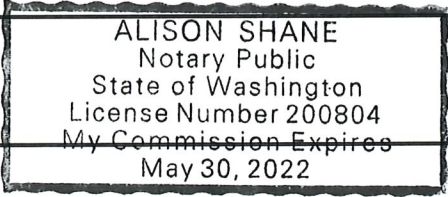
Name  
Title

Ben Rutkowski, Manager

PSW Real Estate, LLC

On this day personally appeared before me Ben Rutkowski, to me known to be the 4<sup>th</sup>, of October, 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 4<sup>th</sup> day of October, 2019.

		Printed Name <u>Alison Shane</u>
		NOTARY PUBLIC in and for the State of Washington, residing at <u>King County</u>
		My Commission Expires <u>May 30, 2022</u>
STATE OF WASHINGTON  COUNTY OF KING	}	ss. <u>[Signature]</u>



ATTACHMENT A  
REZONE MAP

