



# 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-<br>sion: | Acting Body:                                                                                                                           | Date:      | Action:              | Sent To:                      | Due Date: | Return<br>Date: | Result: |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------|------------|----------------------|-------------------------------|-----------|-----------------|---------|
| 1             | City Clerk                                                                                                                             | 10/01/2019 | sent for review      | Council<br>President's Office |           |                 |         |
|               | Action Text: 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<br>amended |                               |           |                 | Pass    |
|               | Action Text: The Motion carried, the Council Bill (CB) was passed as amended by the following vote, and the President signed the Bill: |            |                      |                               |           |                 |         |
|               | Notes: <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

the City Clerk's Office; and to deliver copies of the PUDA and this ordinance to the Director of the Seattle Department of Construction and Inspections 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 30 days from and after its passage and approval by the City Council.

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



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

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

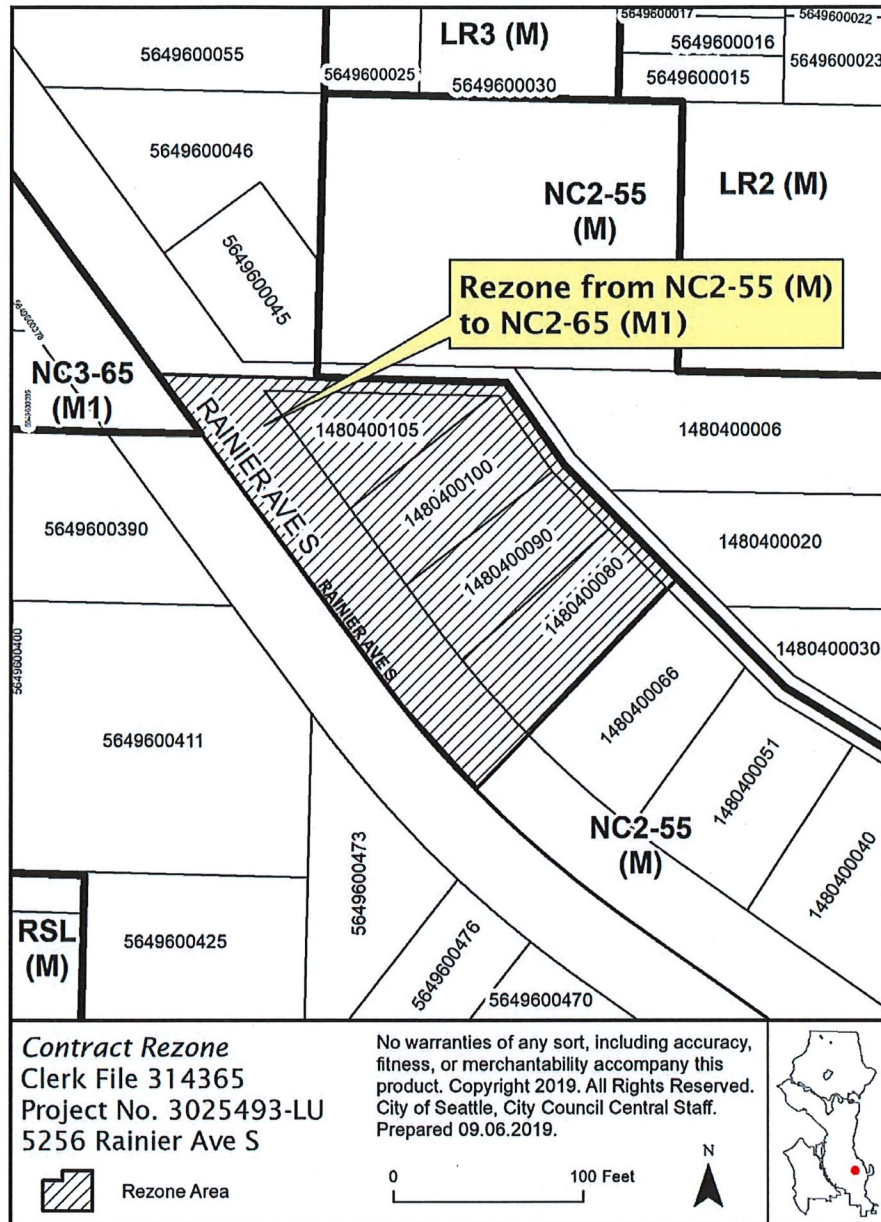


Monica Martinez Simmons, City Clerk

(Seal)

Attachments:  
Exhibit A – Rezone Map  
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><br>600 Fourth Avenue, Floor 3<br>PO Box 94728<br>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><br><i>(abbreviated if necessary):</i> | see <i>Recital A</i> , below                          |                     |  |  |
| <b>Assessor's Tax Parcel ID #:</b>                             | 1480400105, 1480400100, 1480400090 and<br>1480400080, |                     |  |  |
| <b>Reference Nos. of Documents<br/>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

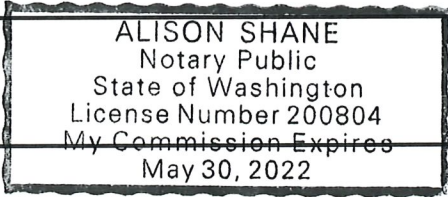
Title

Ben Rutkowski, Manager

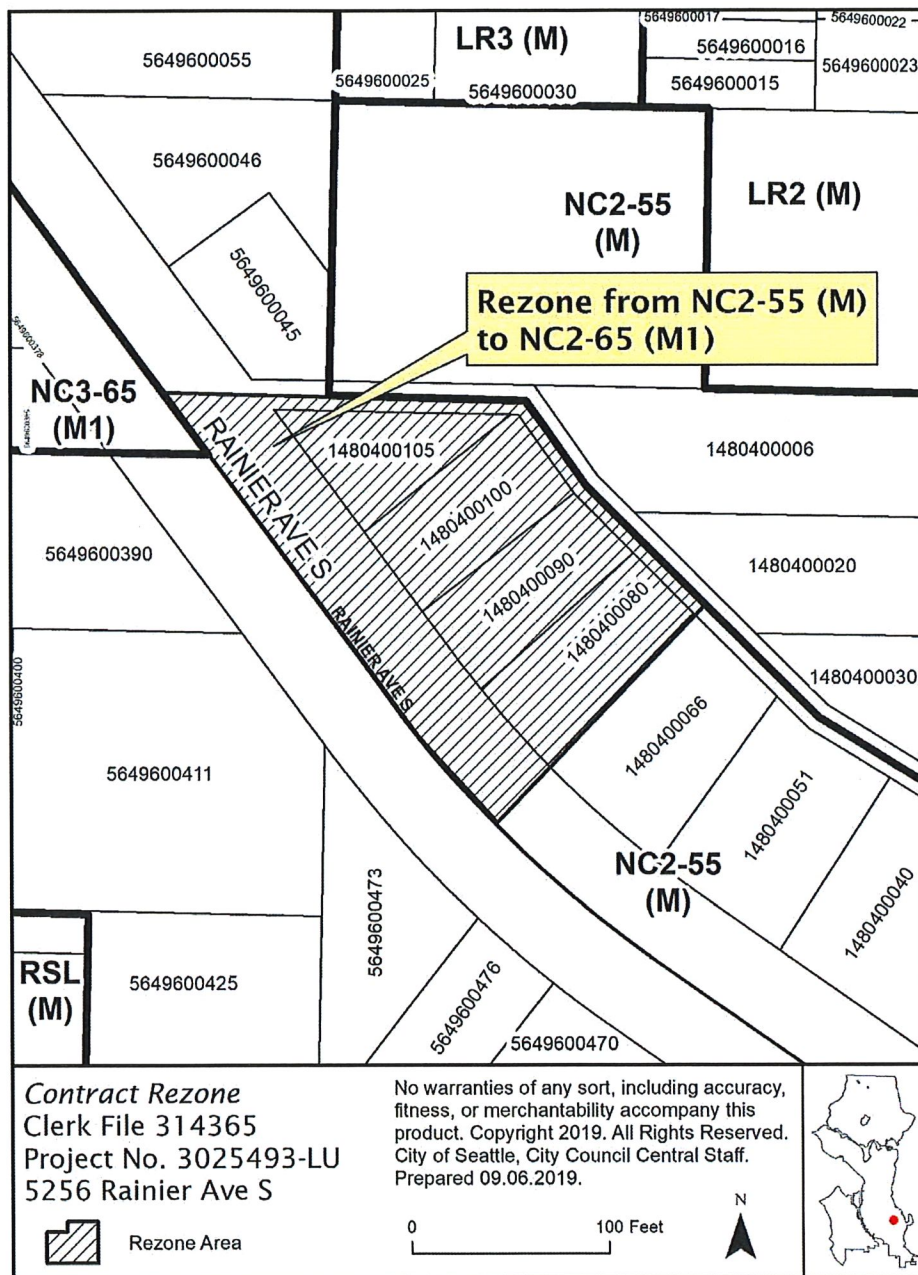
PSW Real Estate, LLC

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

ATTACHMENT A  
REZONE MAP



Record Date:11/12/2019 8:35 AM

Electronically Recorded King County, WA

**Return Address:**

Seattle City Clerk's Office

600 4th Avenue, Floor 3

P O Box 94728

Seattle, WA 98124 - 4728

WASHINGTON STATE RECORDER'S Cover Sheet (RCW 65.04)

Please print or type information

**Document Title(s)** (or transaction contained therein):

Property Use and Development Agreement (PUDA) – 5256 Rainier Avenue South - Rezone / Ordinance 125962

**Grantor(s)**

5250 Rainier LP

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

The City of Seattle

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

Additional legal on page \_\_1\_\_ of document

Lots 15-22, Central Addition to Columbia, according to the Plat thereof recorded in Volume 14 of Plats, page 14, in King County, Washington.

**Assessor's Property Tax Parcel/Account Number**

# 1480400105, 1480400100, 1480400090, 1480400080

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

Eric McConaghy  
LEG 5256 Rainier Ave S ORD  
D1a

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)

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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.

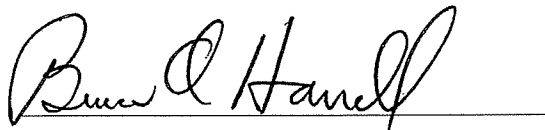
Section 5. The City Clerk is authorized and directed to file the PUDA with the King County Records and Licensing Services (RALS) Division; to file, upon return of the recorded PUDA from the King County RALS Division, the original PUDA along with this ordinance at

Eric McConaghy  
LEG 5256 Rainier Ave S ORD  
D1a

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

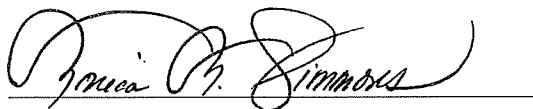
Section 6. This ordinance, effectuating a quasi-judicial decision of the City Council and not subject to mayoral approval or disapproval, shall take effect and be in force 30 days from and after its passage and approval by the City Council.

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



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

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



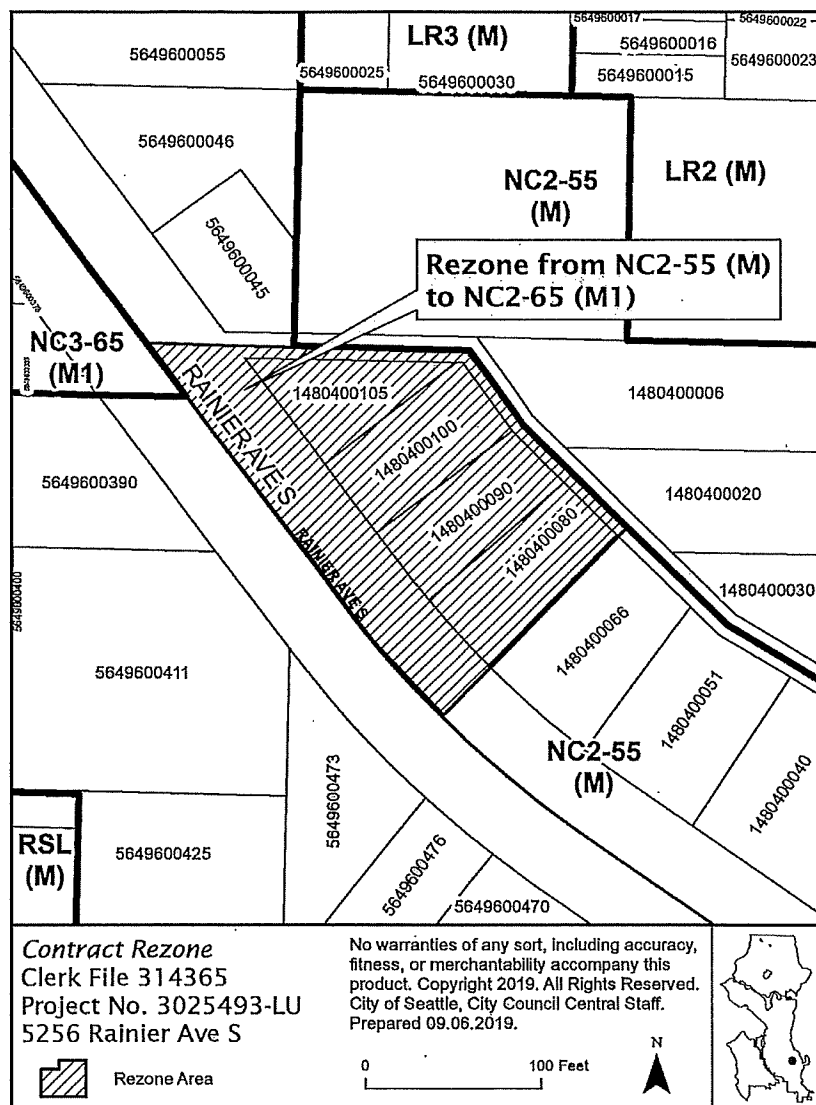
Monica Martinez Simmons, City Clerk

(Seal)

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

Ex A – Rezone Map  
VI

### Exhibit A – Rezone Map



Ex B – Property Use and Development Agreement  
V1

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><br>600 Fourth Avenue, Floor 3<br>PO Box 94728<br>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><br><i>(abbreviated if necessary):</i>     | see <i>Recital A</i> , below                          |                     |  |  |
| <b>Assessor's Tax Parcel ID #:</b>                                 | 1480400105, 1480400100, 1480400090 and<br>1480400080, |                     |  |  |
| <b>Reference Nos. of Documents</b><br><b>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**

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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.

Ex B – Property Use and Development Agreement  
V1

NOW, THEREFORE, in consideration of the mutual agreements contained herein, the parties agree as follows:

## **AGREEMENT**

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**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.

Ex B - Property Use and Development Agreement  
V1

SIGNED this 4 day of October 2019.

5250 Rainier LP

a Washington limited partnership

By: [Signature]

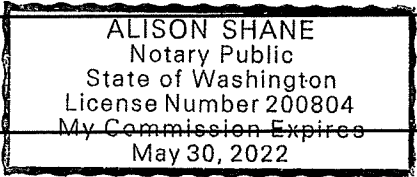
Name  
Title

Ben Rutkowski, Manager

PSW Real Estate, LLC

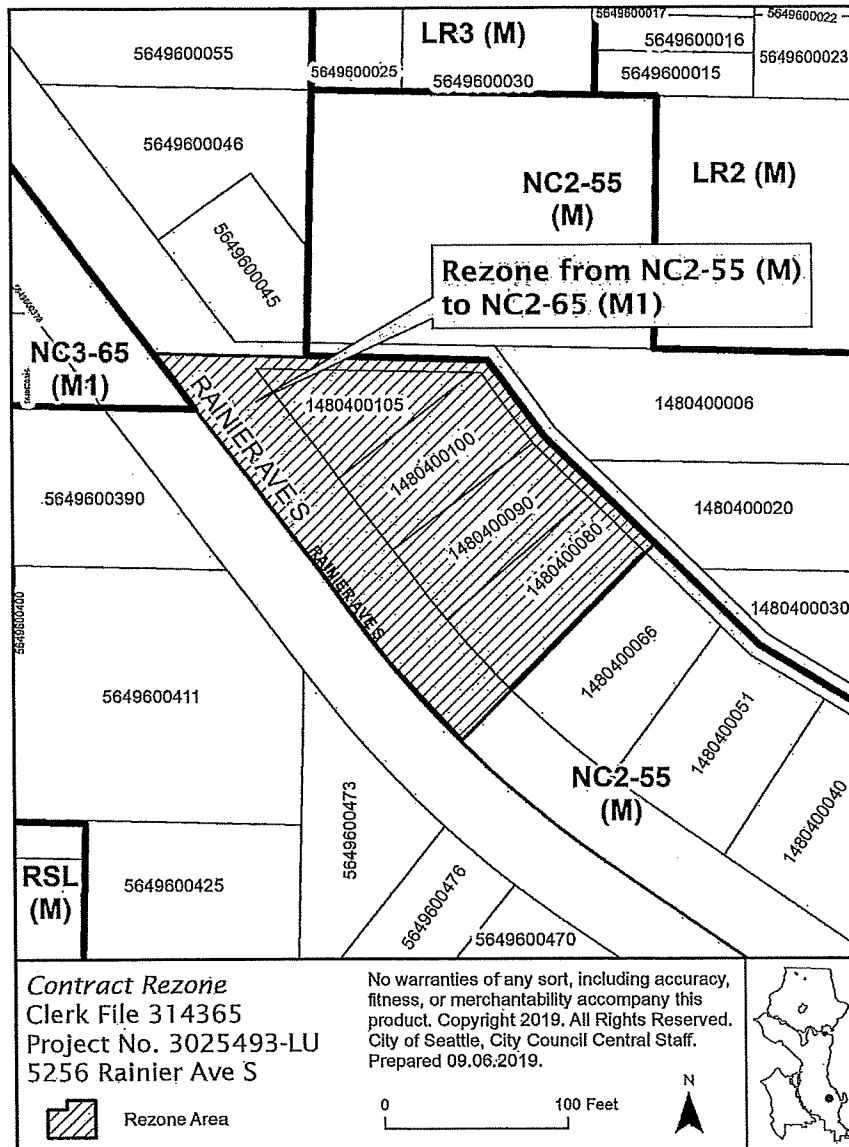
On this day personally appeared before me Ben Rutkowski, to me known to be the 4<sup>th</sup>, of PSW a Washington limited liability company that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses 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<br><u>Alison Shane</u>                                                 |
|                                                                                     |   | NOTARY PUBLIC in and for the State of Washington, residing at<br><u>King County</u> |
|                                                                                     |   | My Commission Expires<br><u>May 30, 2022</u>                                        |
| STATE OF WASHINGTON<br><br>COUNTY OF KING                                           | } | SS. <u>A Shane</u>                                                                  |

Ex B – Property Use and Development Agreement  
V1

ATTACHMENT A  
REZONE MAP



---

STATE OF WASHINGTON -- KING COUNTY

--SS.

---

379301

No.

CITY OF SEATTLE, CLERKS OFFICE

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

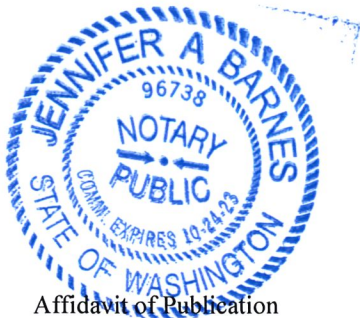
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:125962,965-966 TITLE

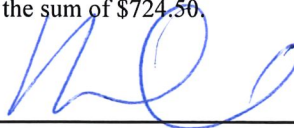
was published on

11/07/19

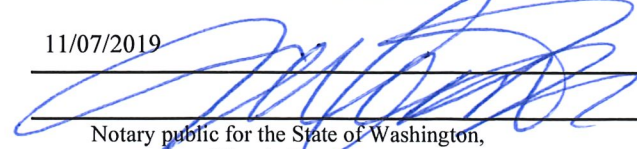
The amount of the fee charged for the foregoing publication is the sum of \$724.50.



Affidavit of Publication

  
Subscribed and sworn to before me on

11/07/2019

  
Notary public for the State of Washington,  
residing in Seattle

# State of Washington, King County

## City of Seattle

The full text of the following legislation, passed by the City Council on October 14, 2019, and published below by title only, will be mailed upon request, or can be accessed at <http://seattle.legistar.com>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>.

### **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 rezoning approval. (Petition by Kathleen Justice, C.F. 314365, SDCI Project 3025493-LU)

### **Ordinance 125965**

#### **Council Bill 119665**

AN ORDINANCE appropriating money to pay certain audited claims for the week of September 30, 2019 through October 4, 2019 and ordering the payment thereof.

### **Ordinance 125966**

#### **Council Bill 119663**

AN ORDINANCE relating to City employment; authorizing execution of a collective bargaining agreement between The City of Seattle and the International Brotherhood of Electrical Workers Local No. 77 Construction Maintenance Equipment Operator (CMEO) Unit; and ratifying and confirming certain prior acts.

Date of publication in the Seattle Daily Journal of Commerce, November 7, 2019.  
11/7(379301)