

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

In the Matter of the Petition of

CARDWELL/THOMAS AND ASSOCIATES FOR
ON BROADWAY JOINT VENTURE

FILE NO. CC-8505454
C.F. NO. 294394

for an amendment to the Official
Zoning Map

Introduction

Petitioner requests the rezoning of the half block bounded by Harvard Avenue East and East Republican and East Harrison Streets from Midrise (MR) to Community Business (BC) or Neighborhood Commercial 3 (NC3) subject to contract restrictions.

For purposes of this recommendation, all section numbers refer to the Seattle Municipal Code, unless otherwise indicated.

The Director's report, submitted by the Department of Construction and Land Use (DCLU), recommended that the petition be granted subject to conditions.

This matter was heard before the Hearing Examiner on May 14, 1986.

After due consideration of the evidence presented by the Petitioner, the information provided by the Director's report and all evidence elicited during the public hearing, the following findings of fact and conclusions shall constitute the recommendation of the Hearing Examiner on this petition.

Findings of Fact

1. The subject of the rezone petition is the westerly half of the block bounded by Broadway Avenue E. on the east, E. Harrison Street on the south, Harvard Avenue E. on the west and E. Republican Street on the north.

2. The subject property is now zoned MR and is used as a 105 space parking lot both accessory to the Fred Meyer store and for principal use available to the public. The easterly half of the block is developed with the one story, 30,000 sq. ft. building occupied by Fred Meyer as a retail store. The easterly half is zoned BC.

3. The shopping district along Broadway, north and south of the subject block, is zoned BC and features mostly one and two story buildings for small retail and service establishments except for the large QFC store on the block immediately north of the subject block.

4. To the east of the BC zone is an L-3 zone; to the west, the MR zone of which the subject site is a part.

5. Development on the west side of Harvard Avenue E., across from the subject site, includes a library and several low and midrise apartment buildings including an Anhalt designed apartment building with courtyard.

6. Development on the south side of Harrison includes three and four story apartment buildings and small commercial buildings.

7. The subject site was zoned Second Residence from 1923 to 1957. Then it was zoned Multiple Residence-High Density (RMH) until 1982 when it received the Midrise (MR) designation.

8. A proposed designation for the subject site under the Land Use Code is MR/RC which would allow larger-sized commercial establishments at the ground floor than permitted under MR.

9. The BC zoned area along Broadway, including the subject site, is designated as a pedestrian-oriented business district.

10. Petitioner proposes a contract rezone to BC to accommodate a two-phase redevelopment of the entire block with the following components:

Phase I. Rehabilitation of the existing 30,000 sq. ft. building and the addition of a 17,600 sq. ft. second story. The first floor would contain retail and service establishments fronting on Broadway, Harrison and Republican. The second floor would be set back from the first floor facade with trees, shrubs and a pedestrian walkway in the setback and would house offices and/or retail or service uses. The main entrances to the building would be off Broadway into corridors leading toward the center of the building.

Phase II. Construction of a 4-story, 170,000 sq. ft. mixed use building on the west half, the subject property. The building will have a 230 space, 2-level underground garage with access and egress at E. Harrison; a ground level floor of about 36,000 sq. ft. to be occupied by Fred Meyer; a 30,000 sq. ft. second floor for retail and several cinemas with a total of 690 seats; and two upper floors with 30 units of rental housing. Shop frontages and entrances would be on Harrison and Republican, access to the cinemas would be from the corner of Harrison and Harvard and access to the apartment units would be through a courtyard on Harvard.

11. The building on the subject property (Phase II building) would be no higher than 55 ft. and have no commercial access on Harvard. The fourth level would be set back 10 ft. from the Harvard frontage.

12. A determination of nonsignificance pursuant to SEPA was issued by the Director for the proposal subject to a series of conditions proposed or agreed to by petitioner to reduce potentially significant impacts. Those impacts relating to the rezone are those that are different from or greater than those that would occur from potential development under the existing MR zoning. Included are greater traffic generation and parking demand. The proposed height is less than the maximum permitted under the MR designation so shadow, bulk and scale impacts may be less. Conditions imposed relating to traffic and parking impacts are as follows:

Prior to Occupancy of Parking Garage:

1. The developers shall implement a parking validation and parking management program with other willing merchants in the Broadway District to be operational upon opening the parking garage.

Prior to Occupancy of Phase II:

1. The developers shall work with SED and the Board of Public Works to secure approval of, and install, a right-turn lane in E. Harrison Street at Broadway.
2. The developers shall begin work with SED on a signal timing plan for Broadway. SED will require the developers to provide data for use in its TRANSIT-7F computer software package.

Such data will include: future traffic volumes and patterns, manual traffic counts taken after the development is at least 75 percent occupied, and all volume and physical characteristic data into TRANSIT-7F format.

3. The developers shall have worked with SED in securing approval for and install the traffic island at Harvard Avenue E. and E. Thomas Street.

After Occupancy/Permanent:

2. The developers shall provide all employees of the development a 50 percent Metro transit subsidy.
3. The developers shall encourage on-site merchants to join the Metro Pass-Plus program to encourage customer transit ridership.

13. A transportation report was prepared for the environmental checklist by TDA. The report shows that on-street parking in the area is heavily used and at times exceeds capacity (illegal parking); existing levels of service at intersections in the area are quite high; that the level of service at Broadway and Republican and at Broadway and Harrison would decrease with the new uses on the site; that demand for parking at noon and between 5:00 to 6:00 p.m. could exceed the capacity of the parking garage by as much as 70-100 at noon and 15-40 spaces at 5:00-6:00 p.m.

14. The conditions imposed by the Director in the SEPA determination are designed to avoid or reduce the level of service deterioration and reduce the demand for parking to avoid the spill-over onto residential streets.

15. A portion of the existing lot would be available for parking during Phase I. After Phase II is commenced, parking on-site will be unavailable for at least a four month period while the garage levels are being constructed.

16. The Director's representative reviewed the Neighborhood Commercial Areas zoning classifications to be effective June 9, 1986, and determined that NC3 is the zone designation corresponding to BC.

17. The MR designation allows a residential building up to 60 ft. in height with retail and service uses on the ground floor facing Harvard.

18. The Capitol Hill Business District Study identifies the subject property as a "critical edge" because of the parking lot use abutting residential use. The study recommends giving special attention to the site with the goal of reducing incompatibilities.

19. The Director recommends that the contract rezone to BC or NC3 be granted. She recommends that the following provisions be included in the property use and development agreement:

1. Any building on site be limited to 55 feet in height.
2. No commercial frontage or access shall be provided along Harvard Avenue E. except at its corners. Emergency egress from commercial establishments shall be allowed on Harvard Avenue E., but shall be strictly limited to emergency use only.

3. An approximately 1,600 square foot courtyard, landscaped with trees, shrubs and groundcover, shall be incorporated in the Harvard Avenue building facade at approximately mid-block.
4. Any building on the subject half-block shall be limited to two levels of commercial uses. Additional levels shall be occupied by residential units.
5. Vehicular access to the parking garage shall be limited to E. Harrison Street. Service-vehicle loading shall be limited to E. Republican Street.
6. Existing street trees along Harvard Avenue E. shall be retained.
7. No illuminated, commercial or advertising signage shall be erected on the Harvard Avenue frontage.

20. Petitioner worked extensively with the community to create a proposal that would gain community acceptance. Several of the use and design features represent community desires. Several letters opposing the rezone were received, one concerned with the possible loss of the Fred Meyer store, one regarding the proposal as spot zoning and one addressing overcrowding of businesses and parking. Letters were also received in support of the proposal and business leaders testified in support.

Conclusions

1. The Land Use Code requires that the factors set forth in Section 23.34.008 be considered in evaluating a request for zoning change. The Hearing Examiner agrees with the Director as to the results of those considerations.

2. The first factor is whether there is a match between the locational criteria for the proposed classification and the characteristics of the area. Since there are no locational criteria for the BC zone designation and since NC3 is the corresponding zone, the criteria for commercial area designation and the NC3 classification will be examined.

3. The proposed rezone and the site would meet a number of the goals of the Neighborhood Commercial Area Land Use Policies. The Director's analysis lists all the goals which would be forwarded such as "(e)ncourage residential development in combination with new business structures in existing business districts"; "(e)ncourage landscaping and quality design in the development of commercial areas in order to create a 'pedestrian-friendly' streetscape"; and "(p)rovide for a transition in scale and use between residential and commercial areas from the impacts of heavier commercial uses, wherever possible." A majority of the goals would be advanced by the proponent.

4. The new locational criteria for NC3 zones, Section 23.34.078, effective June 9, 1986, fairly closely reflect the characteristics of the subject site and area and the proposed use of the site. The desired characteristics for an area to be zoned NC3 are:

- a. Variety of retail businesses at street level.
- b. Continuous storefronts built to the property line.
- c. Intense pedestrian activity.
- d. Shoppers can drive to the area, but will walk around from store to store.
- e. Cycling and transit are important means of access.

These characteristics describe the proposal.

5. The physical conditions favoring designation as NC3 are:

1. Served by a principal arterial.
2. Separated from low density residential areas by physical edges, less intense commercial areas or more intense residential areas.
3. Highly accessible for large numbers of people (considering present and anticipated congestion) so that intense activity of a major node can be accommodated.
4. Circulation system accommodates commercial traffic without drawing traffic through residential streets.
5. Excellent transit service.
6. Presence of large, perhaps shared, off-street parking lots; land available for additional parking, or other means to accommodate parking demand.

Section 23.34.078C. Again these characteristics describe the subject site. It is concluded that the locational criteria for NC3 and the area characteristics match.

6. The second consideration required is the history of the zoning of the site and any precedential effect the zoning might have. While the history shows residential zoning of the site up to the present, the contract rezone would have the effect of providing for some residential use of the site, which hasn't occurred in recent history, while limiting some of the impacts on the neighborhood more than if the current zoning was maintained. With prohibition of any commercial frontage on residential Harvard any precedent set by rezoning the subject site to a commercial designation would not be negative.

7. The next exercise is to consider those zoning principles relating to land use patterns, etc. Here, the proposal with its contract provisions, would maximize compatibility with its surroundings through the orientation of residential use toward residential use and commercial toward commercial and its scale and design.

8. The main long term impacts to be expected which would exceed or be different from those caused by development allowed under current zoning, are from traffic, parking demand and noise generation. The SEPA conditions imposed by the Director are designed to mitigate these impacts. Even with those conditions it is probable that the residual impacts would be greater than those normally expected from MR development.

9. The neighborhood planning effort applicable to the subject site, the Capitol Hill Business District Study, directs special attention to the site because of the incompatibility of the present use with the residential uses facing it. As noted by the Director, the effect of the proposal is to reduce the existing incompatibility through an architecturally complementary design and residential frontage on Harvard Avenue E.

10. The petitioner is not relying on changed circumstances as justification for the rezone.

11. The proposal is consistent with the intent of the Pedestrian-oriented Business District because of the nature of the proposed uses and design features incorporated into the proposal.

12. The City's Greenbelt Plan does not apply to the subject site.

13. A review of the results of the various considerations above shows that the rezone, as proposed with contractual restrictions, on balance, would benefit the public interest. Therefore, it should be granted.

Recommendation

The rezone to BC (or NC3) should be granted subject to the following conditions incorporated into a property use and development agreement.

1. Any building on-site shall be limited to 55 ft. in height.
2. No commercial frontage or access shall be provided along Harvard Avenue E. except at the north and south corners of the frontage. Emergency egress from commercial establishments shall be allowed on Harvard Avenue E. but shall be strictly limited to emergency use only.
3. A courtyard of approximately 1,600 sq. ft., landscaped with trees, shrubs and groundcover, shall be incorporated in the Harvard Avenue Building facade at approximately mid-block.
4. Any building on the subject site (westerly half-block) shall be limited to two levels of commercial uses. Additional levels shall be occupied by residential units.
5. Vehicular access to the parking garage shall be limited to E. Harrison Street. Service vehicle loading shall be limited to E. Republican Street.
6. Existing street trees along Harvard Avenue E. shall be retained.
7. No illuminated, commercial or advertising signage shall be erected on the Harvard Avenue frontage.

Entered this 28th day of May, 1986.


M. Margaret Klockars
Deputy Hearing Examiner

Notice of Right to Petition For Further Consideration

Pursuant to Seattle Municipal Code Section 23.76.054, as amended, any person substantially affected by a recommendation of the Hearing Examiner may submit a petition in writing to the City Council requesting further consideration. The petition must be submitted within fifteen days after the date of mailing the recommendation of the Hearing Examiner and addressed to: City Council, Urban Redevelopment Committee, Municipal Building, Seattle, Washington 98104. The request for further consideration shall clearly identify specific objections to the Hearing Examiner's recommendation, facts missing from the record, and the relief sought.

Pursuant to Seattle Municipal Code Section 23.76.054(D), if there is no request for further consideration Council action shall be based on the record established by the Hearing Examiner.

The City Council Urban Redevelopment Committee should be consulted for further information on the Council review process.