

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

In the Matter of the Petition of

H.L. CATS

FILE NO. CC-81-020  
C.F. NO. 291137

for an amendment to the Official  
Zoning Map pursuant to Title 24,  
Seattle Municipal Code (Ordinance  
86300, as amended)

Introduction

H.L. Cats, petitioner, requests reclassification of property at 12311 Roosevelt Way N.E. from RS 7200 to BN.

For purposes of this recommendation, all section numbers refer to the Seattle Municipal Code, Title 24, as amended (Ordinance 86300, as amended) unless otherwise indicated.

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

This matter was heard before the Hearing Examiner on February 26, 1982.

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. Petitioner requests reclassification of property at 12311 Roosevelt Way N.E. from Single Family Residence Medium Density (RS 7200) to Neighborhood Business (BN).

2. The subject property consists of an interior lot of about 16,300 sq. ft. with a 20 ft. wide leg, which is an access easement, to Roosevelt Way N.E. The legal description of the property appears to be as follows although the record contains several variations:

Lot 2, Block 45, of the H.E. Orr Park Division  
No. 4, except the east 140 ft. of the northern  
100 ft. thereof, also an undivided one-half  
interest in the south 20.19 ft. of the east 140  
ft. of Block 45, all in King County, Washington.

3. The property includes a single family house occupied as a dwelling unit by petitioner on one floor and his security business on another floor with rooms for a computer, printing, machines, radio equipment and bookkeeping. He has seven automobiles at the site.

4. The RS 7200 zone extends from the subject property south and west and is developed with single family homes. The lot adjoining the interior lot on the south is oriented to N.E. 123rd and that to the west has access from 8th Avenue N.E. The approximately 160 ft. long driveway to the subject interior lot passes a single family residence.

5. Property adjoining the subject site to the north is zoned Duplex Residence Medium Density (RD 7200) and consists of a large, interior lot developed with a single family residence.

6. Immediately east of the subject lot is property in a BN zone which extends south from N.E. 125th Street on both sides of Roosevelt. A small shopping center occupies the property on the west side of Roosevelt with a parking lot adjoining the subject site but at a lower elevation. The shopping center has a Chinese restaurant, among other uses. North of the shopping center is an apartment building.

7. Directly east of the leg of the subject property, across Roosevelt Way, is a small Multiple Residence Low Density (RM 800) zone with apartment buildings.

8. The subject property is at the same general elevation as the residential properties to the north, south and west. The topography drops 6-10 feet down at the eastern edge of the subject site to the business property below.

9. Petitioner proposes to move from the subject site and convert the remaining living space to his business use. The area in front of the house would be paved for parking and the access "leg" to the lot, in which petitioner has an undivided one-half interest, would be improved. Reasons he gives for his proposal is the need for expansion of space for his business and the smell from the Chinese restaurant which easterly winds bring to his home.

10. The BN zoning classification provides for small areas for neighborhood retail stores near the homes they serve. Uses permitted include retail businesses and services serving primarily residents of the neighborhood such as grocery stores, drug stores, and professional offices.

11. The adjacent BN zone was created when Roosevelt Way carried a more substantial amount of traffic. A service station and supermarket were established because of demand.

12. The subject site is not well suited for business or office use that requires visibility because of its location away from the street. Regrading to combine the subject property with the shopping center is a possibility.

13. The "old" Comprehensive Plan, being replaced by the land use policies, showed the site as appropriate for one and two family development. The Single Family Residential Policies intend to protect the edges of single family areas from intrusion of non-single family uses and limit the potential expansion or location of such uses in single family areas. The policies recommend considering natural features, traffic arterials and lot lines as boundaries. Land use policies have not yet been adopted for business areas.

14. Petitioner is willing to have restrictions placed on the use of the subject site so that should he sell it could not be used for retail business, no large signs could identify its use and the amount of parking could not exceed 15 spaces.

15. Petitioner believes the current market value of his property as residential property is \$125,00-150,00 and double that as business property.

16. A declaration of non-significance pursuant to SEPA was issued by the Director citing as potential effects the change in land use and loss of one housing unit, increased traffic, more demand for parking, increase in noise, light and population but concluding that with the small size there would be no significant adverse environmental effect requiring an environmental impact statement.

### Conclusions

1. The facts necessary to warrant a rezone have not been established. No change of conditions were shown which would support the rezone. Petitioner contends the odor from the restaurant has increased but this was disputed by another witness. The current market value figure given by petitioner indicates that the odor has not made residential use no longer acceptable.

2. The evidence indicates that the public welfare would be better served by retaining the residential zoning. The rezone would have the effect of making intrusion of business use into the residential area with attendant traffic and noise possible. The subject site is more closely related to the residential area because of the topography. Grading could change that but since a need for more business zoned property in this area was not shown that does not appear to be likely.

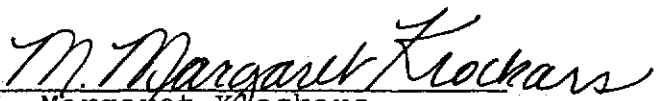
3. The restrictions offered by petitioner, while limiting to some extent the effects of business uses, would require additional administrative enforcement responsibilities. The uses and level of traffic possible even with those restrictions could still effect the quality of the adjacent residential community.

### Recommendation

For each of the above reasons, the recommendation of the Hearing Examiner to the City Council is as follows:

That the petition should be DENIED.

Entered this 12<sup>th</sup> day of March, 1982.

  
M. Margaret Klockars  
Deputy Hearing Examiner

### NOTICE OF RIGHT TO PETITION FOR FURTHER CONSIDERATION

Pursuant to 24.72.090, Seattle Municipal Code , as amended, (Section 27.51 of the Zoning Ordinance 86300, as amended) any party 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 fourteen days after the date of mailing the recommendation of the Hearing Examiner and addressed to: City Council, Land Use Committee, Municipal Building, Seattle, Washington 98104.

The petition should state clearly and concisely the reason(s) why further consideration is necessary, and should refer specifically to any errors alleged to exist in the Hearing Examiner's Findings and Conclusions. The City Council's consideration of the petition will be based upon the record of the Hearing Examiner's hearing, and new exhibits or other evidence in support of the petition should not be submitted. In its discretion the Council may allow oral or written arguments based on the record when it considers the petition.