

## FINDINGS AND RECOMMENDATION

### OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Petition of

TLC II INVESTORS

FILE NO. CC-82-009  
C.F. NO. 291561

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

Recommendation: The petition should be conditionally  
granted.

#### Introduction

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 Directors report, submitted by the Department of Construction and Land Use (DCLU), recommended that the petition be conditionally granted.

This matter was heard before the Hearing Examiner on September 13, 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 TLC II Investors requests reclassification of approximately 1.75 acres of property from Single Family 7200 to General Industrial.
2. The subject property is located generally south of the Highland Park Way S.W.-S.W. Michigan Street east-west pattern; and east of the Highland Park Way S.W. north-south route. Detroit Avenue S.W. is east adjacent to a portion of this irregularly shaped site. Roughly east parallel to Detroit Avenue S.W. is West Marginal Way S.W. Highland Park Way S.W. is a principal arterial. West Marginal Way S.W. is also a heavily travelled arterial.
3. The site of the proposed rezone includes a long strip, roughly 60.61 ft. wide, which widens at its eastern extremity. North of the strip is the King Supply Air Tec Building and property, which abuts a portion of Highland Park Way S.W. West of the Air Tec Building is an existing drive, proposed for access to the subject site.
4. The highest elevation of the subject property is approximately 100 ft. above the grade of Detroit Avenue S.W. The undeveloped portion of the hillside, for the most part, is thickly wooded.
5. The subject site is currently zoned Single Family. The north adjacent property, however, was rezoned from Single Family Medium Density to General Industrial in 1961, as was a 17 acre parcel south of the subject property which is generally bounded by S.W. Kenyon Street to the south and Detroit Avenue S.W. to its east. In 1967, another sector along Detroit S.W., north of the latter parcel, was rezoned to General Industrial.

6. The subject site abuts industrial development to the north and east, and is generally noisy. It is part of the West Duwamish Greenbelt.

7. A stable single family development is located in the SF 7200 parcel beginning approximately 450 ft. south of the subject site. The sites are further separated by 225 ft. of elevation and vegetation buffering. The site is not visible from the residences.

8. As part of the application, petitioner proposes to dedicate to the City of Seattle for permanent greenbelt buffering a 40 ft. wide strip of land along Detroit Avenue S.W. and along the most southeasterly of the site. Similarly, a 20 ft. wide area along the southern boundary of the east-west strip is proposed for dedication to the City of Seattle. A hold harmless section is acceptable to petitioner.

9. The Riverside Neighborhood Improvement Plan shows the site as suitable for manufacturing. The site and immediate environs have experienced no new single family construction.

10. The petitioner prefers the Duwamish area in general to Kent, for example, because among other things, the Seattle site is considered closer to railroad heads and to more trucking lines. Additionally, petitioner estimates a time savings for employees and customers with the industrial use located in the City of Seattle. The witness, Snorsky, also testified that there was minimal IG zoned space in the area to meet their need.

11. The north adjacent site experienced a landslide near the southwest corner of the Air Tec building in the 1970's. As a result, the site was evaluated by an engineering geologist with an eye to protecting the toe of the bank from further slipping. Part of the process involved excavating part of the south property, improving south wall drainage, and improving the walls. The geologist's statement that the project has been successful is unrefuted.

12. The geologist continued that the subject site was safer; and that the principal risk for slides is part since the fill, from the north adjacent site, has been in place for 8-10 years. The witness concluded that the subject site could be developed for safe warehousing.

13. For any construction on the subject parcel, the developer would be required to prevent any increase in the current peak rate of runoff, such as by on-site retention, which would also handle silt.

14. Petitioner has some plans to construct a one-story warehouse or similar building on site, with access through the paved Air Tec lot, and with off-street parking.

15. Opposition to the proposal centered on concerns with increases in surface drainage resulting from the development of this (uphill) parcel. A witness testified that east adjacent Detroit Avenue S.W. was washed out twice during recent winter rains; that substance appearing as topsoil was on Detroit Avenue. In general, the opposing witness's oppose development of the parcel, sub nom rezone, until the City presents an improved storm drainage control plan and implementation.

16. With regard to the action proposed in this application, a declaration of non-significance (DNS) has been prepared by the responsible official pursuant to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended, Chapter 25.04, Seattle Municipal Code, and is part of the record.

17. Filling of the subject site's swale began in 1971, and the site has continued to be used as a disposal area for soil debris. The Environmental Checklist continued that drainage has caused strength and consolidation to the material.

18. There is no present vehicle access to the site time from Detroit Avenue.

19. In noting no objection to the proposed rezone, the Department of Community Development opined that

...the reserved greenbelt will buffer both proposed and existing warehouse uses from traffic along Detroit Avenue and West Marginal Way, and from future residential development south of the proposed rezone.

20. The Seattle Water Department determined that as water service and public fire hydrant use were available, the application should be approved.

21. In its second response, the Department of Engineering recommended that the rezone, as contrary to the Urban Greenbelt Plan be denied

...unless the applicant dedicates a sufficient portion of the property to the City for greenbelt purposes to satisfy the spirit and intent of the Greenbelt Plan...If the rezone is granted and access to Detroit Avenue S.W. is permitted, this street should be improved to acceptable Engineering Department standards.

#### Conclusions

1. The site is not suitable for single family development. It is located in an area of industrial uses, adequately separated topographically and visually from the single family development to the south. In addition to the topographical (elevation) separation the hillside is wooded. Access to the site is proposed from Highland Park Way S.W., via the Air Tec site, already developed to accommodate access. Such access would militate against single family development of the site. The alternative access, from Detroit Avenue S.W., would suggest cutting into the hillside, increased paving and other activity which, given the area problems described, would be presently inappropriate. Further, the more specific criteria of Section 23.34.24 would suggest that as relating to the site there has been no trend toward single family development; the neighborhood plan designates the site for manufacturing; and that considering the topography, in fact, the area may be rezoned from Single Family.

2. Much of the immediate area is industrially zoned and developed, including the parcel north adjacent, and including areas along Detroit Avenue that have been rezoned to General Industrial. The need for the rezone is established in the record, as are circumstances justifying the reclassification. Parkridge v. Seattle, 89 Wn.2d 454 (1978).

3. On-site development should be consistent with the retention and other requirements of the Drainage Ordinance, such that peak water runoff from the site should not increase. It is also noted concerning runoff that not all of the site is treed; therefore, the degree of decreased absorption is less than would be otherwise present. Further, as stated by the Department of Community Development, the greenbelt setback offered by petitioner would assist in buffering proposed and existing uses. Such dedication also adequately addresses the concerns of the Engineering Department.

4. Sewer, water and other utilities are available to the subject property. The more general question of suspending area rezones pending area-wide sewer system improvements is deferred.

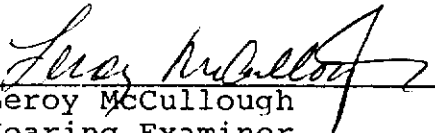
5. The DCLU note of clarification concerning the originating Short Plat 80-77 and the 1961 rezone is incorporated herein by reference.

Recommendation

The recommendation of the Hearing Examiner to the Seattle City Council is as follows:

The petition be GRANTED on the condition that petitioner permanently dedicate to the City of Seattle via instrument approved by the City Attorney land shown on the site plan for use as a greenbelt.

Entered this 27th day of September, 1982.

  
Leroy McCullough  
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.