

FINDINGS AND RECOMMENDATION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Petition of

LAKE CITY ASSOCIATES

FILE NO. CC-82-019
C.F. NO. 292050

for an amendment to the Official
Zoning Map pursuant to Title 23,
Seattle Municipal Code (Ordinance
86300, as amended)

Introduction

Petitioner seeks to reclassify property southwest of the intersection of N.E. 145th Street and 30th Avenue N.E. to Lowrise 3 for the northern portion and Lowrise 1 for the southern portion.

For purposes of this recommendation, all section numbers refer to the Seattle Municipal Code, Title 23, 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 conditionally granted.

This matter was heard before the Hearing Examiner on February 17, 1983.

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 decision of the Hearing Examiner on this petition.

Findings of Fact

1. The subject property is located near the southwest corner of N.E. 145th Street and 30th Avenue N.E. The legal description appears in the application of record and is incorporated herein by reference.

2. Measuring 308 by 239 ft. the site contains 73,732 sq. ft. or approximately 1.67 acres.

3. At the west end of the parcel, N.E. 145th Street is 15-20 ft. above the site. Also due to its topography this site receives storm water runoff from adjoining properties to the west and south.

4. The northern Seattle City limit border is heavily traveled N.E. 145th Street. Transit service is available on both 30th N.E. and on N.E. 145th Street.

5. The King County zoned property north of the subject site, across N.E. 145th, is developed with a two to three story nursing home. The development east of the nursing home includes small offices and small multifamily structures.

6. East of the subject site, beyond 30th Avenue N.E., is a five story building of low income and elderly tenants developed under planned unit approval.

7. Properties south and west of the subject property are developed almost exclusively with single family structures. See Attachment A, Kroll 21E. Most of these structures are oriented away from the subject site such that their abutting lot lines are the rear lot lines. A west adjacent structure, elevated above the subject property, has an abutting (eastern) side lot line. That property fronts on N.E. 145th. There is little or no topographical break between the other single family structures and the subject property. The single family development is stable.

8. In 1980, the subject site the was subject of a contract rezone (C.F. 288960, X-79-537) from single family (RS) 7200 to RM 800. The proposal was for a maximum of 32 apartment units north center of the site and four single family structures along the southerly 70 or 80 ft. The single units were proposed as a buffer between the multifamily development and the neighboring single family structures. In 1957, the area west of 32nd Avenue N.E., including the subject site, was zoned single family. To 1967, multifamily zoning expanded westward to 30th N.E. The contract rezone of the subject property broke the pattern of zoning classification stability.

9. In September, 1981, the developer requested an amendment to the contract rezone based on the assessment that the original plan would yield a cramped development; and on the informal opinions of neighbors that an open greenbelt buffer would be preferred to the four single family houses. A 33 unit condominium was suggested in substitution.

10. The Hearing Examiner finds that the two year contract has lapsed. The expiration date is uncertain. On October 11, 1982, however, this petition was filed, noting RM 800 as the "present zoning classification".

11. Petitioner here proposes to reclassify the southern 90 ft. of the site to Lowrise 1 (L-1) with contract provisions that development be limited to townhouses; that building height be limited to 30 ft.; and that setbacks shall be at least 20 ft. on the east, 15 ft. on the west and 20 ft. on the south. The northern 149 ft. would be classified Lowrise 3 (L-3).

12. The locational criteria for L-1 include considerations of consistently low height and small bulk "...such as a mix of single family dwellings and small scale ground-related housing". Seattle Municipal Code, Section 23.34.36.

13. In considering the reclassification of an area to L-3, that area should be viewed as to its variety of scale patterns, separation by and close proximity to arterials and other items. Section 23.34.40.

14. No public opposition has been given to the requested rezone. An owner of property west adjacent to the southerly proposed L-3 section did request that he also have the 15 ft. setback guaranteed to the single family neighbors west adjacent to the proposed L-1 section.

15. The original RM 800 design would have placed an L shaped multifamily structure on soft ground, and closer to N.E. 145th Street; with the first and second floor units (undesirably) below the street level.

16. The current proposal is for driveway access, orientation and the front yard to 30th Avenue N.E.

17. 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.

18. The property is not included in any neighborhood plan, designated greenbelt or overlay district.

19. Project approvals have been given by the Departments of Engineering and Water.

Conclusions

1. Preliminarily it should be clarified whether the subject site is currently zoned RM 800 or SF 7200.

2. It appears that the RM 800 rezone "contract" expired during the negotiation of this rezone petition, and that no extension of said "contract" was secured. It is therefore concluded as noted in the Department report that the RM 800 contract status "technically lapsed"; and further, that for purposes of this analysis, the property's current zoning is SF 7200 pursuant to the implementation of the Land Use Code. Based on the neighborhood participation in the planning of and absence of public opposition to the previous or present proposal, it does not appear that the public hearing notice of the rezone, stating "from RM 800" is fatal to this consideration; and no such challenge was raised. However, Council action in favor of this petition should await an opinion from the City Attorney on this issue.

3. Section 23.34.24.A provides that single family zoned properties in the square footage of petitioner's may be reclassified only if "applicant can demonstrate that the area does not meet the criteria for single family designation".

4. Relevant single family criteria are found at Section 23.34.32.A.

- areas which consist of blocks with at least 70 percent of the existing structures in single family residential use, or
- areas which are designated by an adopted neighborhood plan as appropriate for single family use
- areas of blocks with less than 70 percent of existing structures in single family residential use but in which an increasing trend toward single family use can be demonstrated.

5. In establishing boundaries for single family zones, platted lot lines, traffic arterials and other elements should be considered. Section 23.34.32.B.

6. At first blush the proposal does not appear to meet the hard and fast application of the 23.34.24.A criteria. Practically all of the structures in the relevant area west of 30th Avenue are single family although argument could be made that development would not equal 70 percent, depending on the characterization of the "blocks". See Attachment A, Kroll 21E; Section 23.84.04"B", definition of block. On the other hand, platted lot lines are to be considered in establishing boundaries for single family zones, as are natural features such as ravines. The applicant's west lot line, the elevation differential between the (north) west adjacent property owner, and the south lot line can therefore be considered as appropriate single family zone boundary indicators.

7. The more general rezone criteria are more easily met by this proposal. Section 23.34.28. The section proposed for L-3 zoning is adjacent to heavily traveled N.E. 145th Street. The classification would allow three to four story construction, which would be consistent with neighboring east and north development. Section 23.34.40. Similarly, the L-1 classification would allow development compatible with the single family development pattern south and west of the subject site. Section 23.34.36. The proposal thus appears developmentally compatible and sound. As to precedential effect, the single family zone and pattern are established. The impacts expected to be associated with the project are not significant. Since the 1957 zoning there has been westward expansion to 30th Avenue N.E. of multifamily zoning and development, bringing the same in closer proximity to the subject property. The property has been classified as RM 800. These changes appear sufficient to justify the reclassification.

8. The petition should therefore be granted on the conditions recommended by the Department of Construction and Land Use that

- The rezone shall be subject to a contract limitation requiring setbacks on the south side of 20 feet, on the east side of L-1 zone of 20 feet, and on the west side of the L-1 zone of 15 feet. Averaging of these setbacks shall not be allowed. Additionally, the Hearing Examiner recommends that the 15 ft. west setback be extended 122 feet north of applicant's south property line.
- Building permits shall provide landscaping plans consistent with the Department's Landscape Standard. Such plans shall be reviewed and approved by the Land Use Division.

Recommendation

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

The petition should be CONDITIONALLY GRANTED.

Entered this 15th day of March, 1983.

Leroy McCullough
Leroy McCullough
Hearing Examiner *by Margaret Clark*

NOTICE OF RIGHT TO PETITION
FOR FURTHER CONSIDERATION

Pursuant to Section 23.80.10.E, Seattle Municipal Code, any person substantially affected by or interested in this recommendation may submit a petition in writing to the City Council requesting further consideration. The petition must be filed with the Council within fourteen days of the date of this recommendation and should be addressed to the City Council, Land Use Committee, Municipal Building, Seattle, Washington, 98104.

The petition should clearly identify specific objections to this recommendation and the relief sought; however, the petitioner should not include any additional evidence or exhibits as the Council's consideration will be based upon the record of the Hearing Examiner's hearing. If the Council determines that a factual error exists in the record or that important information is missing, the Council may have the record supplemented pursuant to Section 23.80.10.E.3 or 23.80.10.E.4. At its public meeting the Council may allow oral or written arguments based on the record.