

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

In the Matter of the Petition of

RICHARD HURLEN, HUGH KARZARA, ET AL.

FILE NO. 8503675
C.F. NO. 294353

for an amendment to the Official
Zoning Map pursuant to Title 23,
Seattle Municipal Code

Introduction

Petitioners seek a reclassification of property located on the east side of 15th Avenue N.E. between N.E. 127th and 130th Streets from SF 7200 to Lowrise 1 subject to contract restriction to no greater density than three units on each lot.

For purposes of this recommendation, all section numbers refer the Seattle Municipal Code, Title 23, 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 January 10, 1989.

After due consideration of the evidence presented by the Petitioner, the information provided by the Director's report, 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. Petitioners Richard Hurlen, Hugh Kazara, David Denini, and Robert Phinney, owners of the subject property, seek reclassification the property from SF 7200 to Lowrise 1. They agree to have the use and development of the property limited to a maximum of three units on each lot.

2. The subject property consists of approximately 76,000 sq. ft. of land located on the east side of 15th Avenue N.E., north of N.E. 127th Street and south of N.E. 130th Street. (See attached map) It is described as: Lots 9 through 12 (inclusive), Block 3, Brockman's Tracts. At this time seven lots comprise the site, one having been short platted since the date of application.

3. Petitioners' initial request was for a rezone to Lowrise 2 which was based on the recommendation of their consultant. That request was amended November 7, 1987, to more closely reflect petitioners' intention for the property's development.

4. The subject property is part of a very large SF 7200 zone extending north, east and west. The southernmost lot of the subject property abuts a C1 40' zone. Lots north, east and northwest are single family developed and generally are larger than 7200 sq. ft. West of the site, across 15th Avenue N.E., is a large parcel devoted to a church, school and its associated grounds. The adjacent development in the commercial corridor to the south is a 73 unit, four-story building for low income elderly people.

5. Five of the seven lots within the subject property are developed with single family residences.

6. The subject property and the surrounding single family zoned property was zoned for single family at the time of its

annexation to the City and at all times since.

7. Fifteenth Avenue N.E. in this area is a four-lane principal arterial-residential and major transit street. It is heavily traveled. Mr. Kazara reported that traffic often exceeds the speed limit. This statement was uncontroverted.

8. Fifteenth Avenue N.E. is a Metro bus route. There are bus stops on both sides of the street near the subject site.

9. The area has good access to shopping opportunities.

10. A rock retaining wall along the church property which rises to 15 ft. at the north end of that property reflects traffic noise to the subject property.

11. On-street parking in the area is very limited and, as of October, 1985, was prohibited on the west side of 15th Avenue N.E. and restricted during the p.m. peak hours on the east side. The Engineering Department had initially requested that a parking analysis be done but, with the proposed limits on development, withdrew that request.

12. No neighborhood plan has been adopted for the area.

13. The number of single family homes on 15th Avenue N.E. has been static. Some development of single family residences has taken place on 17th N.E. due to the subdivision of lots.

14. The Director's staff found three different approaches to the determination of the percentage of single family uses on the block. One strictly follows the language of the code and includes lots on the east side of the street from N.E. Brockman Place to N.E. 125th and on the west side from N.E. 130th to N.E. 127th. Seventeen structures are in this block and 58 percent are single family. A second approach which avoids the code definitions of "block" and includes all lots facing between N.E. 125th and N.E. Brockman Place even though the west "block front" would end midblock. Though not calculated by staff, that approach appears to yield a single family percentage of around 50 percent. A third approach used by staff adds lots without street frontage to the first, also not included within the code's definition of block. With the structures on those lots the single family percentage rises to 70.58 percent. The staff concluded that the block analysis was inconclusive.

15. There is a slight topographical break between the subject site and the single family properties to the east making those properties lower than the subject property.

16. Traffic generated by the potential 24 units is estimated to be 146 trip ends less the 50 trip ends from the existing residences for an addition of 96 trip ends to the existing traffic. The function of the street would be unaffected by this addition.

17. A determination of nonsignificance was issued for the proposed rezone itself. Subsequent development could be subject to environmental review. The SEPA analysis was based upon the demolition of the existing structures and construction of 18 apartment units. The contract rezone would allow as many as 24 units (three per lot) to be constructed or through conversion if the remaining undivided lot is subdivided.

18. The decision approving conditional use for the low income elderly housing project provided for extra setback, landscaping, etc., on the development's north side to provide for transition between that multifamily building and the single family structures to the north.

19. Petitions opposing the proposed rezone to Lowrise 2 were filed with the Department of Construction and Land Use in 1986 with over 100 names along with one letter. No letters of opposition to the Lowrise 1 proposal were received by the Office of Hearing Examiner and no community member testified in

opposition. One of the petitioners explained that he sent a description of the proposed development of the area to his neighbors.

20. Petitioner Kazara believes that only part of the lots would be affected by the rezone. Two are vacant and he expects that a duplex or triplex will be built on each. A small, one bedroom house is likely to be replaced by a duplex or triplex. He believes the others will be unaffected or, at most, converted to duplex or triplex.

21. Petitioner Kazara sees a need for smaller, low maintenance residences for people whose families are raised but still want to own their own residence in the City. He believes that duplexes or triplexes would meet that need.

22. Kazara has lived in one of the houses on the subject property and he testified that it is not an appropriate location to raise children because of the heavy traffic. He believes that duplexes and triplexes would attract people without children.

23. To the north of the subject property there is single family development on both sides of the street unlike the subject property which faces the church/school property. The lots to the north are generally somewhat smaller, the houses are larger and mostly owner-occupied. More of the houses on the subject site are tenant-occupied. The house on the southernmost lot in the rezone site is large and is used as a group home.

Conclusions

1. Section 23.34.010 provides that areas zoned single family may be changed to another zoning classification only if the petitioners show that the area does not meet the locational criteria for single family designation. The first of these criteria is: "blocks with at least seventy percent (70%) of the existing structures in single family residential use." Using the strict definition of "blocks", this criterion is not met. The second criterion is designation for single family use in an adopted neighborhood plan. That criterion for single family classification is not met. The third criterion is an increasing trend toward single family use shown by increased proportion of construction of single family structures versus the total new structures or increasing number of improvements or rehabilitation of single family structures or a stable number of single family uses or a location that is topographically and environmentally suitable for single family development. While not literally an "increasing trend", the number of single family units in the area appears to have been stable. There is nothing about the topography that makes the area unsuitable for single family use and the environment, that is the location on a heavily traveled arterial, makes it less desirable for single family but not unsuitable. Therefore, the area does marginally meet the locational criteria for single family designation.

2. The proposed rezone would change the boundary for the single family zone from a platted lot line separating it from C1 zone to platted lot lines separating L1 from single family. The new zone would be elevated in relation to the single family zone to the east. The new boundary would be comparable to the existing boundary. However, the Single Family Residential Areas Policies provide for protection of edges of single family zones from encroachment by other uses. The proposed rezone would erode that existing edge.

3. Section 23.34.14 provides criteria to be considered for evaluating a proposed rezone to L1. The first is areas where the pattern of development is low height and small bulk. Section 23.34.14A. That is true for development to the north and east. To the south is a taller, bulkier structure and to the west are the large church-related buildings. The second criterion is whether it is a area which borders on a single family zone where no transition in scale is desirable and which lacks physical edges to otherwise provide transition. Section 23.34.14B. The

subject site is an area bordering on a single family zone. The only edge which would not be single family is at the south and there does not appear to be a need for transition in scale. The third and fourth criteria address limiting heights to retain views which is not applicable here. Subsection E is consideration of whether the area is served by an arterial or whether the traffic generated would go through a single family area. The area is served by an arterial which, itself, goes through the single family zone. The final criterion is whether it is an area with poor access to services and transit. It has good access to services and transit.

4. Application of the L1 criteria is to determine whether L1 or a more intensive multifamily classification is appropriate. The analysis would allow a designation more intense than L1 but L1 would not be inappropriate under this analysis.

5. The general rezone criteria provision requires evaluation of eight factors. Section 23.34.008. Those applicable to this action are: A. Match Between Establish Locational Criteria and Area Characteristics; B. Zoning History and Precedential Effect; C. Other Zoning Principles; And D. Impact Evaluation. The fit of the area characteristics with the locational criteria for the proposed classification has been discussed above. If the site is to be reclassified, the Lowrise 1 classification would not be inappropriate.

6. The history of long term single family classification does not provide support for the rezone. Of special concern however, is the precedential effect of a rezone. While petitioners have pointed to some distinguishing features of the subject site, i.e., facing a church property, larger lots, higher incidence of tenant occupancy and abutting the C1 zone, these factors are subject to change, as in the examples of the occupancy of both areas, are not significantly different, as in the size, especially if the last undivided lot is divided and, though these are differences, they may not provide a sufficient reason for a different classification as in the case of the church/school which use is not uncommon in single family zones. Rezoning the site could set a precedent for reclassification of land to the north along the arterial.

7. The principle adopted by the City that like zones should face across the street would be deviated from by this rezone. This would not be a particularly serious departure from the intended norm because the existing facing uses are not the same. The small zone, surrounded on three by single family zoning, would jut into the single family zone, a configuration not comporting with good zoning. Again, this would not be a very significant departure because of the limitation on density and bulk.


8. The environmental impacts from new development and redevelopment under the rezone would be from increased traffic, increased residential density and some additional parking demand if insufficient spaces were provided on site. These impacts should be minor.

9. The criteria for rezones set out in the code are designed to assist the decisionmaker in the assessment of the public interest. Here, the balance is slightly in favor of single family since there is no indication that the number and condition of the single family structures in the area is anything but stable, the rezoning would set a precedent for further erosion of the single family zone and the development pattern permitted by the rezone would not be desirable. Therefore, the petition should be denied.

Recommendation

The rezone petition should be denied.

Entered this 25th day of January, 1989.


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 reconsideration 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.