

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

In the Matter of the Petition of

EVELYN B. RICHTER

FILE NO. CC-82-008  
C.F. NO. 291534

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

Introduction

Petitioner, Evelyn B. Richter by Barry Margoless, requests the reclassification of property at 949 North 105th from Multiple Residence Low Density (RM 800) to Community Business (BC).

No correspondence or testimony was entered in the record in opposition to the petition.

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 granted.

This matter was heard before the Hearing Examiner on August 19, 1982. Petitioner waived the requirement that the recommendation be issued within 14 days to allow time to clarify the legal description.

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 property, subject of the rezone petition, comprises a strip of RM 800 zoned property extending some 250 ft. between North 105th and North 104th Streets with a width varying between approximately 40 and 60 ft. The property is legally described as:

That portion west of the east 100+ ft. of the following described piece of property:

The east 2.5 ft. of Lot 11, and lots 12 through 19, Block 4, North Park Addition, according to the plat recorded in Volume 18 of Plats, Page 76, in King County, Washington

Together with, the alley vacated in Vacation Ordinance 109611, records of the City of Seattle, Washington.

Except the following portion of lot 19, deeded to the City of Seattle for street purposes and accepted by ordinance 109641, described as follows:  
Beginning at the northwest corner of said Lot; thence east along the north line of said lot,

33 ft.; thence south parallel with the west line of said lot, 28 ft.; thence southwesterly to a line 65 ft. south of and parallel with said north line; thence south on a line, 16 ft. east of and parallel with the west line of said lot to the south line of said lot; thence west along said south line 16 ft. to the southwest corner of said lot; thence north along said west line 96 ft.; more or less, to the beginning.

Together with adjacent streets and alleys to their centerline.

2. The subject property amounts to about 8900 sq.ft. in a strip of varying widths between the BC-zoned Aurora frontage lots and an alley. The adjoining Aurora frontage lots are in common ownership with the subject property. The entire parcel would be developed together.

3. The subject property was zoned RM 800 and included in the Lowrise 2 (L-2) zone when the Multi-Family Land Use Policies Map was adopted, following the historic zone boundary.

4. Property west of the subject site is zoned RM or L-2 and west of that is Single Family High Density (SF 5000).

5. Property along both sides of Aurora Avenue to the north and south is zoned BC or General Commercial (CG). The proposed Neighborhood Commercial Areas Policies urge nodal commercial development instead of strip development to be centered around well-travelled intersections. The deeper commercially zoned parcel this rezone would create would be a step toward nodal development.

6. The Multi-Family Land Use Policies Map labels the BC-zoned property as mixed use.

7. The subject property is currently without any buildings but is used as a nursery. To the north, across 105th, is a single family residence, physician's office, and restaurant. To the south, across 104th, is a furniture store fronting on Aurora and apartment building on 104th. To the west are single family residences and apartment buildings. Across Aurora to the east is a gas station at the corner and then to the south an auto supply store and tavern.

8. Aurora Avenue North and North 105th Street are major arterials.

9. An alley has been relocated, by action of the City in 1980, from the western edge of the BC-zoned property to the western edge of the subject site. The proposed zone boundary would be along the centerline of the new alley.

10. The subject property and Aurora frontage property were zoned Business and Second Residence when annexed by the City. The divided zoning of the parcel between commercial and residential has continued to this time.

11. A declaration of non-significance pursuant to Chapter 25.04, Seattle Municipal Code, and RCW 43.21C.030(2)(c) was issued by the Department of Construction and Land Use for the proposed rezone. Use-related impacts identified were increases in traffic, noise, glare and change from commercial use without structures to uses within structures. None of the impacts were found to be significant.

12. No adopted neighborhood plan or overlay district applies to this site.

13. The site is not part of a greenbelt.

#### Conclusions

1. Section 23.34.28 sets forth the eight factors to be considered in the evaluation of a rezone petition. The first, match between established locational criteria and area characteristics, is not directly applicable since policies have not yet been adopted with locational criteria for commercial zoning. As suggested by DCLU, a look at the match with the recently applied L-2 zoning shows that the characteristics of the subject property are not very compatible with those criteria. For instance, the site adjoins commercial usage on three sides; it is located between residential and business areas; there are no open spaces or recreational amenities; no views need be protected nor is the area overlooked from scenic routes or open spaces; and the site is in close proximity to arterials.

2. As for zoning history, the division of the site between residential and commercial zoning has existed since its annexation by the City. The change in the location of the alley offers a reason to reconsider this historical division.

3. A clearer zone boundary would result from moving it to the new alley location and the boundary then would correspond to property-ownership lines both results being consistent with good zoning.

4. The environmental analysis conducted disclosed no impacts that would militate against the requested rezone.

5. Subsections (E), (G) and (H) of Section 23.34.28 are inapplicable to the subject site.

6. The change in the location of the alley, though before the Council's last zoning action on this property, is a circumstance that now should be considered as partial justification for recalssifying this small parcel. In adopting a policy map it is not reasonable to assume that the Council was cognizant of the alley's changed location. That change, along with the benefits of the potential for full development of the parcel without any significant adverse environmental effects, supports the requested reclassification.

#### Recommendation

For each of the above reasons, the recommendation of the Hearing Examiner to the City Council is as follows: The petition for rezoning should be GRANTED.

Entered this 9th day of September, 1982.

M. Margaret Klockars  
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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.