

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

In the Matter of the Petition of

HARBOR STEPS, INCORPORATED

FILE NO. CC-82-0013  
C.F. NO. 291852

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

Introduction

Petitioner proposes to rezone property addressed 1200-1310 Western Avenue from Manufacturing (M) to Metropolitan Commercial, subject to a Property Use and Development Agreement.

This matter was heard before the Hearing Examiner on May 17, 1983. The project applicant was represented by J. Hillis and G. Amster, Hillis, Phillis, Cairncross, Clark and Martin; and the Director by Diane Althaus.

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

For purposes of this recommendation, all section numbers refer to the Seattle Municipal Code Titles 23 or 24, as amended (Ordinance 86300, as amended) unless otherwise indicated.

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, and as a result of a site inspection of the subject site and vicinity the following shall constitute the findings of fact, conclusions and recommendation of the Hearing Examiner on this petition.

Findings of Fact

1. Harbor Steps, Inc. proposes to develop approximately two acres of central waterfront property into a mixed residential-retail neighborhood. The legal description appears in the application and is incorporated herein by reference. The street address is 1200-1310 Western Avenue.

2. The overall project site is bounded on the south by Seneca Street; on the west by Western Avenue; on the east by First Avenue; and by the 1315 First Avenue Building and the Seattle City Light substation to the north. Post Alley, parallel to north-south oriented Western and First Avenues, generally divides the site at its center.

3. For ease of reference the proposal has been segmented principally into four sites. The northeast site, near First Avenue and University Street, is currently developed with the Erikson Building, constructed in 1904. Proceeding northerly, the First Avenue level is rented to a hardware store, a jewelry store and a loan shop. The basement is used for storage. Petitioner proposes to demolish the building and construct an eight story residential, retail and office building rising approximately 90 ft. above First Avenue. This site is currently CM zoned. This proposed development does not require rezone approval but is part of the overall proposal.

4. The northwest site, north of University Street at the Western Avenue intersection, is currently developed with the c. 1915 Oceanic Building, formerly used for warehousing. The building has been vacant since 1982. Project applicant proposes to demolish this building and replace it with a five story base structure (65 ft.) and a 30 story (280 ft.) residential tower which will total 35 stories or 345 ft. above Western Avenue. The base height is roughly equivalent to that of the west adjacent viaduct. As described in the Draft Environmental Impact Statement (DEIS), the new building will offer 7,000-12,000 gross square feet of retail space at Western Avenue and Post Alley street levels; and 50,000 gross sq. ft. of office space in floors 2-4. A residential tower of "tall, thin configuration" would complete the structure with 150-190 residential units. The top two floors of the tower would set back on all sides creating terraces. DEIS pp. 43-44. No low income housing is proposed. Because the northwest site is currently zoned Manufacturing, in which zone residential use is prohibited, petitioner's request is to reclassify the property to Metropolitan Commercial (CM).
5. The southwest site is bounded on the south by Seneca Street and on the west by Western Avenue. Located on site are two four story warehouse buildings used for parking and storage. Petitioner proposes to replace these buildings with a 12 story office and residential structure rising 126 ft. from Western Avenue. A rezone from M to CM would also be required for the residential aspect of this site's development. DEIS, p. 44. Setbacks of 16-20 ft. from the existing University Street right-of-way are proposed for the northwest and southwest sites.
6. The southeast site is bounded on the west by Post, on the east by First Avenue and on the north and south by University and Seneca Streets, respectively. This block was the subject of a 1982 separate approval, and is not part of this rezone application. (MUP No. 81-0001). Its development consists of a 26 story residential tower over a 9 story hotel. The development of the northwest site, Finding 4 above, is expected to replicate and complement that of the southeast structure to "lend aesthetic and spatial balance to the 4-block area". DEIS, p. 35. The height of the southeast structure is approximated at 350 ft.
7. In general, the proposal calls for the creation of a residential neighborhood near the waterfront in conjunction with pedestrian, retail and office services. From 685-790 parking spaces would be provided for the roughly four block area. The Harbor Steps project would result in an additional 552-668 persons to this census tract (81).
8. Topographically, there is an approximate 53 ft. drop in elevation from First Avenue to Western Avenue, and a 13 ft. drop along Post Alley north to south. West of the site are the elevated Alaska Way Viaduct, and the four lane Alaskan Way arterial.
9. The proposal includes development of major pedestrian links and amenities which would link the Central Business District (CBD) with the waterfront, and the Public Market area to the north with southerly Pioneer Square. To achieve this goal, the following street vacations are proposed: Post Alley between Seneca and Union Streets; University Street from First Avenue to Western Avenue; and Seneca Street from First Avenue to the east side of Post. By letter dated April 29, 1983, the Seattle Board of Public Works communicated general approval of the development concept and related street vacations.
10. Presently, University Street and Seneca dead end for vehicular travel at First Avenue. Specific University Street pedestrian access from First Avenue is via a narrow wooden stairway. The proposal is to raise Post Alley at the University Street intersection for a more gradual transition in grade. The plan would be completed by a broad expanse of steps with intermediate landings and retail uses connecting First to Western Avenue. Applicant also proposes to cover the existing truck landing area on Seneca Street between First and Post, and provide a pedestrian link between the two avenues.

11. Historically speaking, the waterfront area was initially zoned for industrial use (1923). By mid-century, the zoning had changed to commercial, and in 1957 to Metropolitan Commercial. In approximately 1967, the subject site was part of a strip of land from Union to South King Street which was reclassified to Manufacturing. The M and CM zones are adjacent along most of the waterfront area. No setback is required in the CM or M zone.

12. Immediately north of the site are the Seattle City Light substation and the 1315 First Avenue Building. The 1915 building occupants include a tavern and the First Avenue Service Center. It also has 26 residential units. Pike Place Market is two blocks north of the site. Parking lots, tourist attractions and retail shops are part of the waterfront area development one block west of the subject site. Primarily commercial and office uses are east and south of the project site. In general, few manufacturing uses remain in the area.

13. The trend has been to mixed use developments. See Land Use Legend, Figure 24, DEIS, p. 118. The Arcade Center Project has been approved for development between First Avenue and Second Avenue and Union and University Streets. Twin towers of 33 and 43 stories will accommodate office and retail uses.

14. Directly south of the Harbor Steps site is Waterfront Center, bounded on the east and west by First Avenue and Alaskan Way, respectively. The hotel, office spaces, retail and residential project involves a five block area and new and rehabilitated building heights of 22 stories off First Avenue and 14 stories west of Western Avenue. The Societe Candy Block project at 800 Western Avenue has been approved for low rise retail and commercial development and roughly 120 residential units. The 15-20 story building will be located south of Harbor Steps between Western Avenue and Post Alley and Marion and Columbia Streets.

15. North of Union Street within the Pike Place Market Urban Renewal Area is the site proposed for the 100 unit, 12 story, low income, elderly housing project of the Seattle Housing Authority. The site is below Western Avenue and Post Alley.

16. Proposed for the northwest corner of First Avenue and Union Street is the MC-I or South Arcade/98 Union project, 13 stories of retail and residential space.

17. Since 1957, two contract rezones have been approved (M to CM) for the central waterfront area. One site was the Societe Candy project.

18. Harbor Steps construction as proposed would alter the

"...6-8 story non-residential, early 1900 warehouse character....The site would have 5, 8, and 12 story base structures (above First Avenue) and a 30-story tower atop the 5-story base structure on the NW site. The new building and the height of the tower would vary from the existing conditions of the central waterfront area..." DEIS, p. 124.

19. Although the project site is zoned Manufacturing the 1964 Comprehensive Plan designation for the property is Central Business District, Office Financial, under which office use, landscaped areas and public buildings are acceptable uses. DEIS, p. 58.

20. In 1979, the Office of Policy and Evaluation (currently Land Use and Transportation Project) and the Office of the Mayor formulated Central Waterfront Guidelines to give direction to the Department of Community Development (DCD) on development proposals for the area inclusive of the Harbor Steps site, pending adoption of official downtown land use policies. These have not been adopted by the City Council.

21. The Waterfront Guidelines emphasize a 24-hour housing, retail service, office use, pedestrian environment and "new structure height and scale which would reinforce the basic form of downtown...at a scale compatible with the existing buildings." DEIS, p. 60. Specifically, the Waterfront Guidelines suggest that new construction should not result in buildings eight stories (80 ft.) above fronting Western Avenue or 80 ft. above First Avenue.

22. The Guidelines for Downtown Alternative Plans document was adopted by Seattle City Council Resolution 26598 August 17, 1981. Regarding land use, the adopted Guidelines recommend that the downtown area be a "compactly developed regional center supporting a diversity of uses meeting the employment, residential, shopping, service, and entertainment needs of the broadest possible range of the city's population." Guidelines, p. 2. Mixed use and mixed housing is emphasized. Reservations are expressed about new manufacturing and industrial activities. Guidelines, p. 9. Concerning urban design the Guidelines provide that "(B)uilding height should remain low along the waterfront and increase as buildings climb the slope towards First Hill". At p. 13.

23. The May, 1982, proposed Downtown Alternative Plan generally recommends a building height of 120 ft.

24. The DCD Director questioned the notion that the Harbor Steps project would make a transition "from larger-scale downtown development to the waterfront", and wondered whether a precedent would be set for increased heights near the waterfront. Final EIS, p. 63. The response noted that the "architectural treatment of the entire project..." provides the transition; and that the transition of uses (and pedestrian access) would also be facilitated by the proposal. Final EIS, p. 67.

25. Proponent's Alternative 9 would call for the northwest site to be developed with a 155 ft. (from Western Avenue) structure; for the base tower and structure currently proposed for the northwest site to be placed on the northeast site, obviating the necessity for rezone approval. However, the FEIS states, since the northeast structure would start at First Avenue grade, it would in effect be 40 ft. taller than the proposed tower. The resulting canyon, massing effect was noted as an aesthetic consideration for not choosing this alternative. FEIS, pp. 35-36.

26. Levels of Service (LOS) are expected to drop at the Spring and First (B-C to C-D) and at the Spring and Western intersections (from A to C-D) as a result of all new projects in the area. The general impact on transportation systems will be less vehicular use of Post and the creation of major pedestrian corridors. Project approval is expected to result in increased demands on fire, police and other public services. However, Post Avenue would be designed to accommodate emergency vehicles. The Fire Department had no objection to the (vacation of Post Avenue, et al.) proposal so long as sprinkler system protections and current codes were met.

27. Support for the Harbor Steps proposal and concept was in the form of letters and testimony from vicinity residents, employees, and property owners, such as the First Avenue Service Center, and Cornerstone Development Company, proponents of the Waterfront project. A supporting letter from the Chairman of the Downtown Seattle Development Association asserted that the Harbor Steps Project was consistent with the 1981 "adopted Downtown Alternative Plans":

...The thin residential towers are of a scale and height that is sensitive to the project's location between the central business district and the waterfront....

28. Allied Arts of Seattle questioned the precedential effect of the northwest site's proposed "350" ft. building so near the waterfront. Another letter proclaimed "No to highrises on our Waterfront!...Tall buildings belong uptown, not on First Avenue".

29. The Seattle Engineering Department's Office of Planning has no objection to the proposed rezone. An availability certificate was approved by the Seattle Water Department on August 20, 1982.

30. One of the project sponsor's objectives is provision of enough residential units to keep or make the waterfront area a "true residential neighborhood". Reduction of the residential tower height could affect the project's viability.

31. DCLU recommended approval on conditions primarily related to mitigating construction impacts, to which proponent has no objections. Modifications may be needed to the development agreement, however. DCLU demurred on the question of whether the height of the proposed northwest tower was appropriate. DCLU did entertain limiting the tower to approximately 240 ft., the height of the Watermark Tower Project, First and Spring, to provide a "smoother transition" down to the 55 ft. shoreline district height maximum.

32. One DCLU "condition" recommended consideration of a minimum 16 ft. easement width on the north adjacent City Light substation site, which would allow a more northerly location of the tower, to the property line. The result would be a greater separation of residential and manufacturing uses and a greater University Street setback-view corridor.

### Conclusions

1. The general rezone criteria of Title 23 calls for examination of development compatibility; zoning history, precedential effect, and principals; and impact evaluation. Section 23.34.28. Land Use policies or the Comprehensive Plan Policies are also to be considered. Section 23.34.34.

2. Approval of this rezone would be consistent with traditionally accepted zoning principles. While it would disrupt the linear M zoning pattern west of Post Alley, the CM zone boundary would merely be relocated one-half block west, and the newly CM zoned area would face similar, CM zoning to the east, across Post. It would result in no CM "island".

3. Concerning development compatibility, petitioner proposes to complement the existing vicinity development with retail, commercial and residential uses. This is significant since the trend in the vicinity appears irrevocably away from manufacturing uses evidenced by the fact that many former manufacturing buildings are unused or underutilized.

4. The trend from manufacturing would also support the changed conditions requirements of Parkridge v. Seattle, 89 Wn.2d 454 (1978). Further, project applicant here seeks to increase the permitted use of the property. Hayden v. Port Townsend, 93 Wn.2d 870 (1980). The public could clearly benefit by attractive, improved pedestrian access to and from the waterfront and by the business amenities and development. Increased residents in the area would inure to the benefit of other developers and commercial parties; and to the stability of current residents and workers. An adequate relation to the public health, safety and welfare is provided. Parkridge, supra.

5. The more difficult question is whether and how the proposal comports with the goals, objectives, policies and ordinances of the City of Seattle. To the extent that residential use is proposed for the northwest and southwest sites, the project is not in keeping with current zoning. The 1964 Comprehensive Plan designation of the area is Central Business District - Office Financial Area. Certain aspects of the Harbor Steps proposal, such as the major office space, public and parking areas, are consistent with the Comprehensive Plan designation. The residential use is not.

However, efforts at revising the 1964 Plan are underway. Both the Waterfront Guidelines and the Council's adopted guidelines call for a healthy residential core in the area.

6. The proposal would tend to implement the office, commercial and high density residential aspects of the August, 1981, Guidelines, but tends to conflict with the urban design principles of these and the Mayor's interim Guidelines, which both call for low building height along the waterfront.

7. Petitioner is proposing a height of 345 ft. on the northwest site near Western Avenue and University Street. The base of five stories is designed to offset the visual and other impact of the west adjacent viaduct. (No residential use is planned for that portion.) As viewed east from the waterfront, the proposed northwest site tower would appear stepped down from the height of the 350 ft. southeast section's structure. The proposed residential tower is considered nonbulky and will be terraced.

8. Placing the same tower on the northeast site would not require a rezone. However the detriment, in the absence of defined guidelines on the subject, could outweigh the benefit. A wall of tall buildings might result along First Avenue, presenting a conflict with the upland view preservation principles of the Guidelines. The Harbor Steps Tower would, for example, face the 33 and 43 ft. twin towers of the Arcade Center, on the east side of First Avenue. The 35 story Harbor Steps project is on the southeast site, diagonally located from the northwest site.

9. As a practical matter the general eight story maximum recommended in the Waterfront guidelines has given way to the Waterfront Center's 22 stories; Seattle Housing Authority's 12 stories; as well as to the Harbor Steps' 35 stories. The proposed Downtown Alternative Plan would recommend a 12 story (120 ft.) height limitation. Applied to the proposed project greater bulk could result. Reduction in potential of developable space could militate against proposed pedestrian and other amenities. The adopted Guidelines for Downtown Alternative Plans state no specific building height prohibitions. And the proposed construction offers a visual element of ascension proceeding from the waterfront, particularly when viewed in conjunction with the 35 story Harbor Steps structure south adjacent.

10. The elusive query remains, however. Should the lack of specific height restrictions, coupled with amenities of public benefit, spell approval of a 345 ft. high project tower in this waterfront area. Waterfront Center has a 22 story height off First Avenue. The MC-1 project near First and Union has 13 stories; the Seattle Housing Authority has 12 stories. The Societe Candy Project proposal, along Western Avenue near Marion Street, is for 15-20 stories. The Watermark project is 240 ft. (roughly 23 stories) above Western Avenue. In view of the foregoing, and in consideration of adopted Council policy on graduated height increases, the Hearing Examiner considers approval of the 34 story structure as proposed inappropriate at this time. The legislative body will determine whether approval of the suggested tower height and scale is necessary to the attainment of waterfront - downtown development goals.

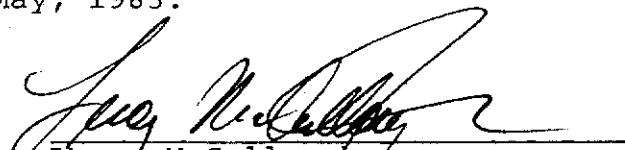
11. The rezone should be approved, therefore, on the conditions recommended by DCLU. Specific efforts should be undertaken to afford a greater University Street setback as the Director recommended. A height limit of 240 ft. above Western Avenue should be imposed on development for the northwest site.

Recommendation

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

The petition should be GRANTED on the conditions of Conclusion 11, above.

Entered this 31st day of May, 1983.

  
Leroy McCullough  
Hearing Examiner

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.