

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

In the Matter of the Appeal of

LINDA YOUNGS FOR ROLF SKAFTUN

FILE NO. CC-84-014/8404049
C.F. NO. 293479

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

Introduction

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 denied.

This matter was heard before the Hearing Examiner on January 18, 1985. The record remained open until January 28, 1985, for supplemental memoranda.

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 shall constitute findings of fact, conclusions and recommendation of the Hearing Examiner on this petition.

Findings of Fact

1. Petitioner seeks to rezone approximately 2.26 acres of land addressed as 10053 Wallingford Avenue N. from Single Family 7200 to Lowrise 1. The property is legally described as Lots 19, 20 and 21, Meridian Acres, King County. The DCLU Director recommended against the rezone.

2. The subject 98,556 sq. ft. area site is located in north Seattle between N. 103rd Street to the north; Densmore Avenue N. to the west; and Wallingford Avenue N. to the east. The site extends south to nearly one-half of the land between N. 103rd and N. 100th Street to the south. Neither of the surrounding streets is an arterial.

3. Except for an older residence located in the northeast corner, established as a duplex in 1981, the subject site is undeveloped. Site vegetation includes blackberry bushes and some poplars. The remaining property south to N. 100th Street is principally developed with older, modest single family homes. See Petitioner's Photographic Exhibit 2.

4. The subject site is generally level, but within a hollow. The site's western edge is approximately 30 ft. below west adjacent Densmore Avenue N. East and south adjacent properties are generally at grade. The site slopes downward to the east, such that the north portion of the site is below grade along the western portion, and generally at grade for the eastern portion.

5. The subject site is zoned SF 7200 as are properties to the north, directly northwest and west. South adjacent properties are zoned SF 5000 but there is a SF 7200 strip southeast of the subject property's SF 7200 zone. Single family uses are clearly the predominant development in these single family zones. For example, the west "block front" of Densmore, which faces the

subject property, is completely developed with single family dwellings, as is the "block front" along the north side of N. 103rd Street. Only single family development faces the north and south sides of N. 100th Street. The Examiner further finds in accord with the DCLU report that there are seven structures, including petitioner's duplex, along the west side of Wallingford Avenue between N. 100th and N. 103rd Streets. There are some newer homes in the area but most are older, modest rentals and ownerships.

6. Directly east of the subject site, across Wallingford Avenue N., is a triangle-like parcel that is developed with the North Police Precinct station, built in 1983, and considered low-scale in terms of height. The precinct site retains the RD 7200 classification. The precinct parcel is also bordered on the north by N. 105th Street and on the south, where it narrows, by N. 100th Street. The precinct property's eastern boundary, College Way N./Meridian Avenue N., curves to the southern tip. See Petitioner's diagram, Exhibit 3.

7. Southeast of the precinct property (south of N. 100th Street) is the North Seattle Community College campus. The College property has the Institutional 1 (37 ft. height limit) and underlying Lowrise 3 classifications. One long-time resident testified that development of the College was not opposed because the low building design was seen as a better alternative to high rise, and because of expected sewer and other improvements to the area. From the subject site, the view is to the community college, the I-5 Freeway and to the nearby Northgate Shopping Center.

8. Another Lowrise 3 segment is northeast of the precinct site along Meridian Avenue N. This zone is developed with a mixture of office, apartment and condominium uses. An office building, for example, is located at N. 103rd and Meridian. North of this is a 33 unit condominium. Continuing northerly, there is a 100-plus senior citizen unit, bordered on its north by another office building. Along the east side of Meridian, north of N. 103rd are other apartments, office buildings and condominiums, including one of approximately 144 units. North of N. 105th Street, an arterial, but west of Meridian are other condominium units and a government building. East of the L-3 zone is an area zoned Highrise (HR). The Community College area is south of the HR zone.

9. According to petitioner, the police precinct and the Community College development, especially parking and traffic, caused (his) property values to decline; hence, single family development of his site is neither desirable nor feasible. Petitioner thus proposes to rezone his property to Lowrise 1 which would allow approximately 40 units of ground-related housing. Petitioner's feasibility schematic of record shows twenty buildings of two attached units per building. Maximum building width would be 60 ft., and each building would have an attached parking garage. Additional parking would also be on site. Since the west (Densmore) property boundary is marked by a cliff, access is not proposed from that direction. Wallingford is offered as the most likely access.

10. Petitioner estimates that the site's development cost makes single family units (approximately \$116,000 each) too expensive but that 40 units would make the development more feasible. A petitioner's witness, a realty sales associate and owner of the 33 unit condominium at 103rd and Meridian, testified that her project survey showed the area as principally attractive for singles and for units in the \$50,000 range. The witness and the project architect testified that the subject site development costs are too high for the maximum 14 single family dwellings, minimum lot size of 7,200 sq. ft. each. The real estate witness continued that all of her \$50,000 units sold quickly, and that only eight of the 33 units, in the \$60,000 range, remain for sale.

11. Several neighbors supported petitioner's request for a rezone. One in particular considered the topographical separation, and the police facility, and the Freeway and College displacement of single family homes as supporting the requested rezone.

12. Several others were opposed. Some neighbors recalled, for example, that contrary to petitioner's suggestion that single family development was not feasible in the last 5 to 8 years four new homes on or across Densmore sold "right away". Another opposing witness with "30 years real estate experience" opined that "if built correctly, single family homes would sell". In the opinion of these witnesses, the nearby police station should not be viewed as justifying any further changes to this single family zoned and developed area. One such witness considered the police station noise output as "low-level". On another issue, one witness reported that her residence at 10012 Densmore had undergone extensive remodeling.

13. In 1957, the subject site was zoned Single Family (RS) 7200. In 1980, the City Council rejected the Office of Hearing Examiner recommendation, X-79-163, and reclassified the site to RD 5000 by "contract" limiting the development to 20 units and to a southern setback of 30 ft. C.F. 287947, Ordinance 109529. Since no development was undertaken pursuant to the "contract" the agreement expired in June, 1984, two years after implementation of the Land Use Code, Title 23, and the land reverted to a single family classification. Section 23.34.20 provides that if no application for a Master Use Permit has been filed within two years of the "contract rezone", the rezone "shall be void and the property shall revert to its former zone classification". Petitioner recalls the cost of money as the reason for non-development per the 1980 reclassification.

14. The site is the subject of no Neighborhood Improvement Plan and offers no special views. A public park is located approximately two blocks southwest of the site. DCLU terms the transit across as "reasonably good" but considers that retail and commercial services are accessible by vehicular travel, such as via 105th Street to Northgate. The DCLU representative also expressed the view that since the subject area is already developed and fairly stable, it is unlikely that the proposed rezone would have a "ripple-effect".

15. The DCLU declaration of non-significance (DNS) noted that proposed development would increase the population density and in time cause minor increases in noise, traffic, parking demand, and air pollution. The statement concluded, however, that

All impacts will be local in effect and well within the capacity of the area to absorb them...

See C.F. File 293479.

Conclusions

1. General rezone criteria are found at Chapter 23.34, Seattle Municipal Code. Section 23.34.24(A) provides that single family areas may be rezoned to another classification "only if the applicant can demonstrate that the area does not meet the criteria for single family designation". (Emphasis added.)

2. The criteria for single family designation are at Section 23.34.32:

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

It should be noted that Section 23.34.32 speaks of rezoning an area to single family. Nevertheless, the section heading, "Criteria: Single Family Zones", content and context present it as reasonable and appropriate to also consider the enumerated single family criteria in petitions to rezone from single family.

3. At Section 23.84.04"B", a block is described as consisting of "two facing block fronts". A block front is defined as "the frontage of property along one side of a street bound on three sides by the center line of platted streets". Section 23.84.04"B".

4. The "block" composed of east and west Densmore Avenue block fronts unquestionably qualifies as single family since the "existing structures" in this block are in at least 70 percent single family use. Section 23.34.32(A). Similarly, the "block" composed of the N. 103rd and N. 100 Street block fronts are developed with no less than 70 percent single family structures, although the Examiner would note that the N. 100th Street block frontage is segmented by a jogged portion of Wallingford Avenue N., and that the N. 103rd Street frontage calculation would include the petitioner's duplex located at the corner of N. 103rd and Wallingford. The "block" composed of Wallingford Avenue "block fronts" includes the police precinct, petitioner's duplex and six other single family uses. Thus, the Wallingford "block", which includes one institutional (police precinct) use, is in 75 percent (six of eight) single family use if the precinct is considered as one use. The foregoing shows that the immediate area, as one with "at least seventy percent of the existing structures in single family residential use", qualifies per Section 23.34.32(A) for single family classification. Petitioner has not demonstrated to the contrary as is required by Section 23.34.24 before land is rezoned from single family.

5. The second single family zone criteria of Section 23.34.32(A) is a designation of the area by an adopted neighborhood plan as appropriate for single family. The subject area has not been included within any adopted or proposed neighborhood plan as single family. In this context, use of this criterion underscores the less-than-precise applicability of 23.34.32 to requested reclassifications from single family. See Conclusion 2, supra.

6. Section 23.34.32(A)(3) concerns areas where less than 70 percent of the blocks are in single family residential use. Even if the use is less than 70 percent, a trend toward single family use can be demonstrated in any one of several ways, such as:

- a stable number of existing single family structures in the area in the "last five years"; or
- an increasing number of improvements or rehabilitation efforts to single family structures.

These two illustrations would support single family classification. Although the dimension of the "area" to be considered is not spelled out in the Code, the Examiner considers the overwhelming number of older single family homes immediately north, west and south of the subject site as supportive of single family retention of the subject site. Additionally, at least one area resident testified to extensive remodeling of her home. Some new construction has occurred. Therefore, notwithstanding the police precinct and other non-single family development principally north and east of the subject site, the record fails to reflect that the area does not meet the single family designation criteria. Section 23.34.24.

7. Turning to the general rezone criteria of Section 23.34.28, there would be some "fit" between the adopted L-1 locational criteria and the subject site. Section 23.34.28(A), reference 23.34.36. For example, the area development pattern is one of small bulk and consistently low height; and no transition from the adjacent single family area to greater scale development is desirable.

8. The zoning history could support either posture. On the one hand, the site was once rezoned to multifamily use. On the other hand the site has principally been zoned single family except for the brief period of the unrealized "contract" rezone for multifamily use. This special reclassification was not retained by the Council. As to precedent, approval of this rezone could be negative in that the rezone would be based to an uncomfortable degree on the incidental siting of the public institution, the precinct, across Wallingford. Further, an approved L-1 "pocket" in conjunction with the police precinct could be used to support requests for more intense uses of the stable but older adjacent properties.

9. No arterial street separates the subject site from any of the nearby single family uses. Although a steep cliff separates the west single family uses, no topographical or other "boundary" separates the subject site from the single family development to the south. Buffering is possible to address this concern, however.

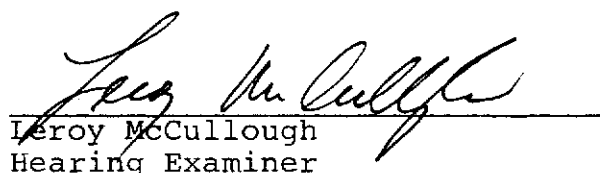
10. Regarding impacts, the local system could absorb the results of the rezone. The difference to note would be the proportionate difference between use of the approximately 40 units proposed and the approximately 14 single family homes allowed by current zoning.

11. In summary, petitioner did not demonstrate that the subject area should be reclassified from single family, Section 23.34.24, nor that consideration of the general rezone criteria of Section 23.34.28 would compel any change in the classification. If the Council determines to the contrary, however, the Examiner recommends the imposition of strict buffering conditions for the south property setback; and that the reclassification be scheduled to expire within the timeframe of Section 23.34.20. The latter would provide the community with some date by which known development options must be exercised.

Recommendation

The petition should be DENIED.

Entered this 8th day of February, 1985.


Leroy McCullough
Hearing Examiner

Notice of Right to Petition For Further Consideration

Pursuant to 23.23.14, Seattle Municipal Code, 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 error 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.