

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

In the Matter of the Petition of

JOHN B. AND KATHERINE M. RUHL

FILE NO. CC-8504648
C.F. NO. 294520

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

Recommendation: The petition should be DENIED.

Introduction

Petitioners Ruhl pursued an application to reclassify property addressed as 2804 and 2810 N.E. 115th Street from Single Family 5000 to the multi-family classification of Lowrise-2.

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

Other opposing correspondence and testimony were also entered in the record.

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.

This matter was heard before the Hearing Examiner on September 4, 1986.

After due consideration of the petitioners' evidence; the information provided by the Director's report; and all evidence elicited during the public hearing, the following shall constitute the findings of fact, conclusions, and recommendation of the Hearing Examiner on this petition.

Findings of Fact

1. The subject property is described in the rezone petition as:

Lots 9 and 10, Block 18, Homewood Park
addition and together with 1/2 vacated alley
adjacent.

2. Petitioners John B. and Katherine M. Ruhl are owners of the interior Lot 10, addressed as 2810 N.E. 115th Street. At the time the petition was filed, James F. and Maureen E. Grigsby owned the property addressed as 2804 N.E. 115th Street (Lot 9). The 2804 property is at the northeast corner of N.E. 115th Street and 28th Avenue N.E. and is west adjacent to the Ruhl property.

3. Lots 9 and 10 each measure approximately 7980 sq. ft. in area. The total petition site area is roughly 15,960 sq. ft.

4. When annexed to the City in 1953, the subject properties were zoned First-Residence. Since then the properties have maintained the single family (5000) designation.

5. Both of the subject lots are developed with single-family dwellings. The subject petition is to rezone the properties to Lowrise-2 (L-2) because "both property owners would like to upgrade existing single family residences to multi-family dwellings." Rezoning Petition, p.2.

6. The subject parcels are located one block east of commercially zoned (C1-40') Lake City Way. The Lake City business district is north.

7. The subject properties are part of a SF 5000 zoned rectangle that is bounded on the north by N.E. 117th; by N.E. 115th to the south; by 28th Avenue N.E. on the west; and by 30th Avenue N.E. to the east. This "block" is part of a large SF 5000 zone which extends north and east.

8. A large Single Family 7200 zone commences south of N.E. 115th Street that extends south and east. The Jane Adams Junior High and the Nathan Hale Senior High School sites lie within this zone.

9. The SF 5000 and 7200 single family zones exceed 15 acres in area.

10. West of the site, across 28th N.E., is an L-2, L-2/RC, and C1-40' zoned strip developed with a 12-unit apartment building, two single family residences, a Job Service Center and an auto sales establishment. On the east side of 28th Avenue N.E., also between N.E. 115th and N.E. 117th, are 7 single family residences.

11. South of N.E. 115th, 28th Avenue resumes farther west. The small L-2 zone at this southeast corner of N.E. 115th and 28th N.E. is developed with four single family residences as are the remaining sites east to 30th Avenue N.E. that are zoned single family.

12. In accord with the undisputed evidence of record the Hearing Examiner finds that of the 12 structures facing 28th Avenue N.E. between N.E. 115th and N.E. 117th, 9 (75%) are in single family use. All of the structures facing N.E. 115th Between 28th and 30th Avenues N.E. are in single family use.

13. The Ruhls propose to convert their 2810 N.E. 115th single-family dwelling to a triplex. According to Ms. Ruhl, this will assist in the financial planning for their retirement. The Ruhls plan to live in one unit of the triplex.

14. The plans also call for converting the "Grigsby" residence to a duplex. However, a letter of DCLU file record dated March 25, 1986, bears James Grigsby and Maureen E. Grigsby signatures. According to that letter, the Grigsby's have no further interest in the pursuit of the rezoning petition because they "have recently moved." There is no indication who the new owners are nor whether they wish to pursue or abandon the petition.

15. No appeal was submitted from the DCLU determination (DNS) that the proposal would have no significant adverse impact upon the environment. DCLU did require as a DNS condition that landscaping be installed and maintained per plan.

16. The environmental and other documentation of record show that if approved, the proposal is expected to cause a slight increase in population, noise, lighting and on-street parking demand. It could also be cited as precedent for other requests to change area single-family zoning to multi-family zoning. Minor alterations to structure exteriors were proposed to accommodate the proposed conversions.

17. In support of her application to rezone the subject property from single family to L-2, petitioner K. Ruhl testified that her immediate area has experienced a shift from more traditional family units with children. In fact, there is only a slight population of children in the area north of N.E. 115th. Ruhl also testified that in the past 2-3 months N.E. 115th was changed from a neighborhood street to "arterial" designation and striped; both in recognition of the amount of 115th Street traffic. Ruhl further testified to one realtor's opinion that the arterial designation reduced the marketable value of her property. Finally, Ruhl testified that although no area within her 28th-30th Avenue N.E. rectangle had been rezoned there are a num-

ber of "illegal apartments" within the immediate single family zoned areas.

18. Neighborhood residents generally oppose the rezone as indicated in a petition of record. They describe the community as a stable single family neighborhood of long term residents. One resident described the corner proposed for rezone as the "cork in the bottle, holding in the neighborhood character."

19. The record reflects no neighborhood, greenbelt or overlay district plan for the site.

Conclusions

1. The file in this case contains a reference that petitioners Grigsby have sold the 2804 N.E. 115th property and have discontinued pursuit of the rezone petition. The record contains no identification of the present owner(s) of said property and no indication whether they wish to pursue or abandon the rezoning petition.

2. Seattle Municipal Code Section 23.76.040(A) provides that "any interested person may make application for an amendment to the Official Land Use Map..." Once the petition is filed and the matter has proceeded to hearing before the Hearing Examiner, the Examiner is to prepare written findings, conclusions and a recommendation to the Council based on "the information gained at the hearing." Seattle Municipal Code Section 23.76.052(G). In this case, the Grigsby's were property owners at the time they filed the present petition to rezone the site. The "information gained at the hearing" included petitioner K. Ruhl's testimony and argument for the rezone of the "Grigsby" and Ruhl lots.

3. The following analysis will therefore consider the petition as one affecting the Ruhl property (Lot 10) as well as the property formerly owned by the Grigsby's (Lot 9).

4. The subject site is currently zoned Single Family 5000. As related to this petition, Seattle Municipal Code Section 23.34.010(A) provides that a single family zoned area

may be rezoned to another classification only if the applicant can demonstrate that the area does not meet the criteria for single family designation.

5. The criteria for single family designation are enumerated at Seattle Municipal Code Section 23.34.012. The record reflects no adopted neighborhood plan for the subject area. Seattle Municipal Code Section 23.34.012(A)(2). And, as will be demonstrated, the subject area does not consist of "blocks with less than seventy percent (70%) of the existing structures in single-family residential use." Seattle Municipal Code Section 23.34.012(A)(3).

6. The Code notes that a "block" consists of

two (2) facing block fronts bounded on two (2) sides by alleys or rear property lines and on two (2) sides by the centerline of platted streets, with no other intersecting streets intervening...

Seattle Municipal Code Section 23.84.004"B."

A "block front" is the

frontage of property along one (1) side of a street bound on three (3) sides by the centerline of platted streets and on the fourth side by an alley or rear property lines. Id.

7. The subject property therefore lies within two "blocks", one consisting of the north and south sides of N.E. 115th between 28th and 30th Avenues N.E. The second block consists of those properties that face 28th Avenue N.E. between N.E. 115th and N.E. 117th.

8. Of the 12 structures in the 28th Avenue block, 9 (75%) are in single-family use. All of the structures in the N.E. 115th Street block are in single family use, including those that are within the westerly L-2 zone. Since the subject area consists of blocks with at least 70% of the existing structures in single-family use, it meets the first locational criterion for designation and classification as single family.

9. In addition, it is undisputed that the subject property is part of a single-family zoned area that abuts an existing single-family zone and extends north, east and south of the site for at least 15 contiguous acres. Thus, the area within which the subject property is located meets the second code criterion for single family designation. Seattle Municipal Code Section 23.34.012(B)(1). Further, the subject corner property is within two half-blocks that are at the edge of single-family zones. These two half blocks are at least 50% developed with single-family structures. Therefore the present zoning appears as a proper single-family boundary. Seattle Municipal Code Section 23.34.012(C)(4).

10. Since a single-family zoned area may be reclassified "only if" it fails to meet the criteria for single family designation, the conclusion is that the requested rezone should be denied. Seattle Municipal Code Section 23.34.010.

11. The recommendation for denial is also supported by application of the more general rezone criteria of Seattle Municipal Code Section 23.34.008. Many of the L-2 locational criteria are met by the proposal. For example, the subject area "features a mix of single family structures, duplex, and small to medium size apartments..."; it is an area that lies between single-family and multi-family structures; and it is proximate to transit and business areas. Seattle Municipal Code Section 23.34.016.

12. However, the history shows that the subject site has always been zoned single family since City of Seattle annexation. Further, the site is at the edge of a single family zone that is faced to its west by higher intensity zoning, higher intensity uses and the traffic and development pattern of Lake City Way. Thus, the rezoning of the subject site could be urged as precedent for further erosion of the single family zone. Consideration of the history and precedential effect therefore militate against rezoning the property.

13. As presently zoned the subject site provides a reasonable boundary for the single family zone, see Conclusion 9, above. There is single family zoning north and east adjacent and directly across N.E. 115th. Single-family development is predominant in this area. These factors outweigh the fact that the proposed L-2 zone would mirror the present zoning to the west. Seattle Municipal Code Section 23.34.008(C), Zoning Principles.

14. The environmental impacts expected to result from the proposal are not significant. Some increase is expected in human population and attendant activity. There could also be some increase in on-street parking demand. The most salient negative impact would be that on precedent. Seattle Municipal Code Section 23.34.008(D), Impact Evaluation.

15. The record reflects no adopted greenbelt, overlay district or neighborhood plan for the subject area. Seattle Municipal Code Section 23.34.008(E)(G)(H).

16. Regarding changed circumstances, it was undisputed that

N.E. 115th has recently been classified and striped as an arterial, or major street. Petitioner Ruhl further urges consideration of the fact that there are fewer traditional family units e.g. with children, in her area north of N.E. 115th; and that there are multi-family uses within the single family zone. However, the great weight of the evidence shows no significant change in land use, demography, or traffic patterns that would support the rezone. Seattle Municipal Code Section 23.34.008(F).

17. In summary, the subject area meets the criteria for single family designation and therefore is not appropriate for reclassification. This conclusion is buttressed by application of the more general rezone criteria, which also shows that a rezone in this instance is inappropriate.

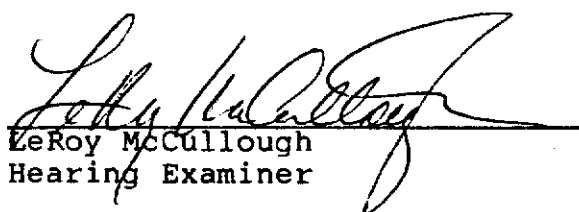
18. If interior Lot 10, singly, were rezoned to L-2 the L-2 lot would be surrounded on all sides by single family zoning and development. A negative precedent would be established. Therefore the proposed rezone of Lots 9 and 10, singly or together, is not warranted.

Recommendation

For each of the above reasons, the recommendation of the Hearing Examiner to the City Council is as follows:

the petition should be denied.

Entered this 18th day of September, 1986.


LeRoy McCullough
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 consideration 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.