

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

In the Matter of the Petition of

A. E. RAKETTY BY
GEORGE L. NELSON, AGENT

FILE NO. CC-8601293
C.F. NO. 295075

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

Introduction

Petitioner seeks the rezoning of property at 4515 South Orcas from SF 5000 to NC2/40'.

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

For purposes of this recommendation, all section numbers refer to the Seattle Municipal Code, unless otherwise indicated.

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

This matter was heard before the Hearing Examiner on May 21, 1987. The record remained open for submission of additional information regarding adopted policies addressing retention of existing businesses.

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. The subject of the rezone petition is a parcel, approximately 4,990 sq. ft. in area, with 68.75 ft. of frontage on the street at 4515 South Orcas Street. The property is described as: Lots 11 and 12, Block 9, Hillman City Addition, Division No. 1. The property abuts an alley on the west and south sides.

2. The petitioner seeks a rezoning of the subject property from SF 5000 to Neighborhood Commercial 2/40 ft. (NC2/40') to legally establish an existing storage use of the site. Petitioner also owns the lots west of the alley which have frontage on Rainier Avenue South on which is operated a wholesale distributing company. Vehicles are stored on the subject site and delivery trucks use the site for backing into the warehouse.

3. City records show the subject property to have been zoned single family residential at all times. According to testimony at hearing, the site was developed with a large fire station at one time. Permit history shows a duplex residence on one of the lots in the past and a storage shed for a drug store having been constructed on the other under a permit issued in 1944.

4. A commercially-zoned strip runs north and south along both sides of Rainier Avenue South which is separated from residential zoning to the east by an alley. Property east of the alley in the block is zoned SF 5000 and in single family use. On the north side of Orcas Street the same pattern exists except that the property just east of the alley is zoned for commercial use as the result of a 1959 rezoning action. That property is developed with a medical clinic.

5. Petitioner initially proposed to vacate the existing alley and reestablish it on the other side of the lot, however that proposal has been dropped.

6. Use of the properties on three sides of the subject site is single family. The block is in over 70 percent single family usage. Across Orcas Street, to the northwest of the subject site, is the medical clinic use.

7. The petitioner has been at the Rainier location since 1931 and has used the subject property itself for about 25 years for parking. The rezone petition is in response to a Land Use Code enforcement action taken by the City.

8. Petitioner's business employs 40 persons, about 20 of whom live in the neighborhood. The petitioner has experienced increasing security problems and has lost goods out of the parked trucks. The subject site is visible from dwelling units on the second story of the building located on the Rainier Avenue frontage property. That aids in providing security especially since the other businesses in the area close earlier in the evening. A gravelled parking lot is located at the southwest corner of the block in the NC2 zone but is not visible from the apartments. One of petitioner's representatives, Arlene Krussell, testified that if the subject site cannot be used for vehicle storage as it has in the past, the business would be sold to a competitor who would relocate it, probably outside of the city.

9. Angle parking which had existed on Rainier Avenue in front of the buildings was eliminated in the 1940s forcing other solutions to parking needs.

10. In 1984, the City Council authorized the initiation of the Neighborhood Business Development Loan Program recognizing the "importance of neighborhood businesses in preserving and improving the quality of Seattle neighborhoods...." Resolution 27178. While Columbia City is one of three target areas for this program, the subject site is several blocks outside the specific boundary for the target area.

11. Resolution 27067, adopting economic development goals, policies and strategies for the City of Seattle, established the following goal and strategy:

3. The City shall support economic development measures that assist in retaining existing businesses and attracting new businesses

and

3. The City should consider economic development impacts in making major policy decisions, especially as related to land use....

12. Petitioner is willing to create a landscape buffer between the subject property and the abutting SF 5000 lot.

13. A determination of non-significance pursuant to SEPA was issued by the Director, Department of Construction and Land Use. Impacts on the environment from the proposed rezoning were identified but found not to be significant. Those impacts were a change of land use, increased bulk and scale of potential development, increased shadowing of property to the east, increased traffic, parking and use of utilities.

Conclusions

1. The general rezone criteria of Section 23.34.008 are to be used in evaluating a request for a zoning change.

Prior to that evaluation, however, since the area is already zoned single family, Section 23.34.010 requires an analysis to determine if the applicant has demonstrated that the area does not meet the criteria for single family designation. The locational criteria for single family zones are found in Section 23.34.012. The first is that at least 70 percent of the existing structures in the block are in single family residential usage. This criterion is met in the instant case. The remainder of the requirement for single family designation is present since the subject site abuts an existing single family zone. Since the threshold evaluation shows that the area meets the criteria for single family designation, rezoning the subject site to a commercial classification would not be permitted.

2. If the policy supporting retention of ongoing businesses is given similar weight as to the policy of retaining single family-zoned properties, the general rezone criteria in Section 23.34.010 should be considered to determine the appropriateness of the proposed zoning. Those criteria include a match between established locational criteria and the area's characteristics, the zoning history and potential precedential effect, other zoning principles, evaluation of impacts, neighborhood planning efforts and changed circumstances. There is no overlay district for this site and the greenbelt plan is not applicable to this site so those criteria are not applicable.

3. The analysis of the "match" requires consideration of the goals of the Neighborhood Commercial Area Land Use Policies found at p.23-74.1. Goals which favor the rezoning are:

A.3. Ensure the stability of a local economy and encourage stable economic growth; 4. Establish a healthy business climate for the creation, retention and expansion of businesses; 5. Locate intense, traffic-generating businesses where access to adequate transportation corridors is maximized; 6. Encourage entrepreneurship and small business and service activity by individuals; generate jobs and help small firms to expand; 7. Preserve and improve existing commercial areas in preference to creating new business districts; 9. Encourage a diversity of employment and economy and provide employment for the widest possible range of skills and 12. Preserve employment within the City for Seattle residents;...

Goals which would be promoted by retaining the existing zoning are:

B.1. Reinforce the objectives of the adopted single family policies and multi-family policies.

and

8. Discourage encroachment of commercial development into residential areas....

4. The proposed rezoning meets several of the general criteria for commercial area designation found at Section 23.34.072 and conflicts with several. Criteria "B. 4. Compact, concentrated commercial areas or nodes shall be preferred to diffuse sprawling commercial areas; 5. The preservation and improvement of existing commercial areas shall be preferred to the creation of new business districts;" and "6. The cumulative impact of development in the area shall not exceed the capacity of infrastructure such as streets, utilities and sewers" are satisfied by the proposed zoning. Those criteria the proposal conflicts with are: "B.1.

The encroachment of commercial development into residential areas shall be discouraged; 2. Preferred configuration of commercial zones shall not conflict with the preferred configuration and edge protection of residential zones as established in the single family policies" and 8. Changes in commercial boundary, zone designation, height or special district overlay shall occur in an orderly and predictable fashion." The alley as a boundary had clearly defined the commercial zone so the change eliminates predictability. Criterion 3 seeks buffers between commercial zones and other zones which the alley now provides. A comparable buffer could be established through the use of a 12 ft. wide landscape zone with tall vegetation, however, the alley provides definition of the edge between the two zones all along Rainier and the proposed change in boundary would violate that pattern. This could be especially harmful to predictability because it would be the second instance of that violation.

5. Finally in assessing the "match", the area characteristics are to be compared to the specific locational criteria for Neighborhood Commercial 2 zones. The proposed use would not comport with the intended function of an NC2 zone which is as

a pedestrian-oriented shopping area which provides a full range of household and personal goods and services, including convenience and specialty goods, to the surrounding neighborhoods.

Parking or storage for vehicles accessory to a wholesale use is not within that function. The character of a "commercial area along major arterial where lots are generally small and shallow, and are surrounded by low density residential areas" describes the existing area, however the rezoning would add unwanted depth. The rezoned site would not add to the desired characteristics of a variety of small businesses or continuous storefronts or pedestrian-friendly area. Some physical conditions favoring designation as NC2 are present in that the site is surrounded by low density residential areas, it lacks a strong edge to buffer the residential area, there is a lack of vacant land or land appropriate for the expansion of the particular business and it is located near a street with good capacity.

6. The second general rezone criterion to be considered is the area's zoning history. The zoning history indicates an intention to maintain single family zoning, however the past use has not supported that intent. Petitioner suggests the rezoning of the site east of the alley across Orcas Street is precedent for rezoning of this site, however that zoning change can be regarded as the product of undefined policies in the past. Where the policies are clear, rezoning the subject property could set precedent for the future of crossing an existing boundary.

7. The third consideration, zoning principles, shows that the proposed rezone is inappropriate because it would result in differing uses facing each other across the street, an existing single family residence facing a commercial storage lot, however it must be recognized that this has been the case for at least 25 years. A further problem is that an appropriate buffer between the adjoining single family use to the east would not exist unless a landscape buffer were created.

8. As to impacts, the impacts on the area from the use of the site would not change. Since the use is not now permitted it can be recognized that the new zoning would allow greater traffic and accompanying noise and pollution than would occur if the use were the single family use now permitted.

9. No neighborhood land use plan was shown to exist and, while there is a neighborhood business development loan program, it does not apply specifically to this site.

10. Several changes were suggested by petitioner as circumstances which would warrant rezoning. The change in parking preceded by many years the last zoning of the site so has been considered previously. The increased poverty and crime is a condition that, if present, is not one that would necessarily warrant a change from residential to commercial zoning.

11. Since it has not been demonstrated that the area does not meet the criteria for single family designation, the site should not be rezoned to commercial. However, if the City policies in favor of retaining existing businesses should offset or outweigh the policy in favor of preserving existing single family areas, especially where the property has not been used as single family, the general rezone criteria can be considered. The evaluation of those criteria weighs in favor of retaining the existing zoning as well. The creation of a landscape buffer on the east side of the subject site, of a width comparable to an alley, would add some weight to the case in favor rezoning by recreating a boundary and buffer.

Recommendation

The petition to rezone the subject property should be denied.

Entered this 4th day of June, 1987.

M. Margaret Klockars
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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 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.