

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

In the Matter of the Petition of

JOHN V. FARRELL

FILE NO. CC-83-005
C.F. NO. 292489

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

Introduction

John V. Farrell petitions for a reclassification of property located at 7717 Detroit Avenue S.W. from Single Family Residential 7200 (SF 7200) to General Industrial (IG).

For purposes of this recommendation, all section numbers refer to the Seattle Municipal Code, Title 23, 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 June 13, 1985.

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

Findings of Fact

1. Petitioner, by his agent, John McKenna, requests a contract rezone of approximately 5.2 acres of SF 7200 zoned land located north of S.W. Kenyon Street and west of IG zone boundary roughly parallel to Detroit Avenue S.W. to General Industrial (IG). A map (Appendix A) and legal description (Appendix B) are attached and incorporated in this finding.

2. The subject property is part of a large parcel, some 20-25 acres, under common ownership. The parcel includes the L-1 zone to the west, SF 7200 zoned property northeast and east of that, and IG zoned property extending easterly to Detroit. Petitioner has plans in the nature of an "in-house PUD" for the entire parcel including multifamily development, open space and a warehouse facility.

3. The subject site is located in the West Duwamish Greenbelt.

4. Greater than 50 percent of the site is a grassy area with trees and shrubs on the remainder.

5. The area has been designated environmentally sensitive because of a steep topography, unstable soils and drainage problems.

6. The property involved in the rezone request is dominated by a bench area created by removal of fill years ago which area is only gently sloping. The treed area surrounding the bench area has greater slopes and actually forms the crest of the hill. The subject site rises very gradually from the westerly part of the IG zone to the steeply sloping area but the area proposed for parking is at the same elevation as that where the westerly building would be located in the existing IG zone.

7. Land to the north, south and west is mostly undeveloped on this hillside. There is no development between the site and 8th Avenue S.W. at the top of the slope. There is no development in the SF 7200 zone north of the site but to the northwest, over the crest of the hillside, is a fully developed, stable residential area. South of the site is more SF 7200 zone with new development occurring on 4th and 5th Avenues at the top of the hill.

8. The IG zone runs along West Marginal Way S. and has industrial development. Immediately east of the parcel is a heavy equipment salvage operation, an industrial cleaning warehouse and a bus storage yard. To the northeast, in the IG zone, are two single family houses, not in good repair.

9. Access to the subject site would be from Detroit Avenue S.W. and from S.W. Kenyon Street. Detroit provides access to Highway 99 and Michigan Street. It is now used by industrial traffic.

10. Petitioner proposes to construct two large, concrete, tilt-up warehouse and office buildings within the existing IG zone and to utilize the subject site for parking and loading. Asphalt would cover approximately 46,000 sq. ft. of the 227,000 sq. ft. rezoned area. Petitioner will file a greenbelt preserve designation for the remainder plus a 42,000 sq. ft. area on the adjacent IG zoned property. Some part of this area on the adjacent property may be required for the designation associated with development of that property, according to Ed Somers. Petitioner also commits to a landscape plan which would provide screening of the parking area along the part of the perimeter which does not now have trees. Petitioner agrees to a condition limiting the height of the buildings in the current IG zone to 40 ft.

11. Petitioner's "in-house PUD" contemplates multifamily housing above the hillside with the storm water drainage retention required for that development on the IG zoned site below. Between the housing and the warehouse area would be some seven acres of greenbelt-open space disturbed only for installation of drainage lines. Petitioner's agent reports that this area was offered as a gift to the City for parkland but the offer was refused.

12. An obstacle to single family development of the subject site would be access because of the steepness and soils instability. In the area of the Kenyon Street right-of-way between the top of the hill and the subject site the slope approaches 60-70 percent. The approach from the bottom is undesirable because it requires traveling through a heavily industrialized area over roads used chiefly by industrial traffic.

13. Views from this lower part of the slope overlook and include salvage and storage yards.

14. Based on a "probable use" analysis, R.W. Thorpe predicts that the probability of the site being developed for single family use is only ten percent. The factors he considered support such a conclusion.

15. DCLU recommends that the petition be denied chiefly because of an increasing trend toward single family use to the southwest at the top of the hill, the reduction in greenbelt preserve, an absence of need for IG zoning, and the irregular extension of the IG zone.

16. An application has been filed for construction of 27 single family houses in a platted area located south of S.W. Kenyon Street along 4th and 5th Avenues S.W. That area is topographically removed from the subject site.

17. The number of single family homes to the north and west has remained stable in the last five years.

18. Soils engineers have advised that some of the hillside area owned by petitioner should not be improved with roads or developed because of its instability.

19. The steeper portion of the subject site would not be disturbed by petitioner's development plans.

20. The subject site is in Sea-Tac's flight path.

21. There is currently consideration of expanding the bus storage facility into the unused IG zoned property north of petitioner's property.

22. Petitioner has a prospective occupant for one of the buildings.

23. The Director issued a determination of non-significance (DNS) pursuant to SEPA for an unrestricted rezone of the site to IG. Probable, but non-significant, impacts found by the Director were changes in topography and soils stability, increased runoff, increased air emissions, increased noise, light and glare, change in land use, decrease in potential housing of 31 dwellings, increased parking and traffic and aesthetically offensive views.

Conclusions

1. Special criteria apply to a rezone from a single family classification to another classification. Except for parcels of five or more acres the area may be rezoned only if it does not meet the criteria for single family designation. Section 23.34.24. The parcel is greater than five acres but since multifamily designation is not requested the exception apparently does not apply.

2. The criterion of Section 23.34.32 for single family zones which may apply to this parcel is:

3. Areas which consist of blocks with less than seventy percent of the existing structures in single family residential use but in which an increasing trend toward single family residential use can be demonstrated, for example:

a. The construction of single family structures in the last five years has been increasing proportionally to the number of construction for new uses in the area; or

b. The area shows an increasing number of improvements and rehabilitation efforts to single family structures; or

c. The number of existing single family structures has been very stable in the last five years; or

d. The area's location is topographically and environmentally suitable for single family residential development.

3. The question as to the applicability of this criterion centers on what the relevant "area" is, that is, does the area include land lying above the crest of the hillside, topographically removed from the subject site? If so, there is new development occurring to the south and southwest and the number of houses to the northwest has remained stable making it appropriate for single family zoning. If the area under consideration is that which shares the same topographical characteristics and is unseparated by any

topographical break, then application of the criterion has a different result. There has been no construction of single family residences and some there are deteriorating seriously. In addition, the suitability of parts of the area for single family development is uncertain because of slope and instability, lack of access and proximity to IG development.

4. It is reasonable to conclude that there are two distinct areas, the steep slopes with the more level land below and the area at the top of the hill beyond the crest. The lower area which includes the subject site would not be required to be single family under the criterion.

5. The general rezone criteria relevant to analysis of the proposed rezone of this site are: B. Zoning history and precedential effect; C. Zoning principles; D. Impact evaluation; and H. Greenbelt plan.

6. No zoning history was provided but it appears that the site has long been zoned for single family. Rezoning of the site could provide precedent for further rezoning to the north or west unless specific site condition differences are noted.

7. The DCLU land use specialist and petitioner's expert offered differing conclusions to be drawn from applying zoning principles. On the one hand, the zone line would be drawn to recognize change in topography and to integrate similarly situated property into one zone designation. Contract provisions would ensure separation and a buffer between warehouse buildings and single family zoned property. On the other hand, the rezone would represent an erosion of the single family area and greenbelt and an irregular zone line which could encourage further rezones. Both approaches appear to be valid except that it should be noted that the proposed development would not decrease the mass of trees and that the likelihood of single family development on the subject site is low because of access problems.

8. The negative impacts on the environment would be minimal from the proposed use of the subject site, recognizing that the existing IG zone could be used for warehouses without the subject site.

9. Perhaps most difficult to assess is the effect on the preservation of the greenbelt. Trees on the slopes would not be removed retaining their buffering and slope stabilizing capabilities. Any wildlife habitat provided by the grassy area would be lost. And even though only grass would be replaced by asphalt, to the extent the area can be seen given the warehouse to the east and abrupt rise with trees to its west, grass provides more visual continuity in a greenbelt than asphalt. However, it is the development of the already zoned IG portion which will have the most noticeable effect and may partially obscure the parking area from view.

10. Need for more IG zoning was questioned by DCLU when there is unused IG zoned land to the north. However, expansion plans exist for that property.

11. If the property is eligible for rezoning, it appears, from the analysis of the applicable rezone criteria in Section 23.34.28, that the good accrued from preserving the portion of the grassy bench in the subject site is balanced by the benefit to the public of having the land in use, given the petitioner's willingness to enter into a contract restricting the use and development of the site.

12. If the property is to be rezoned, the following conditions proposed by petitioner should be included in a property use and development agreement:

1. Use of the subject site be limited to accessory parking and loading area for warehouse and office development on property adjacent to the east;

2. No structure, other than retaining structures, be placed on the subject site;

3. The configuration and size of the asphalt area be as depicted on sheet A-1 of the plot plan dated May 27, 1983;

4. A landscape plan be prepared, approved by DCLU, and implemented adding vegetation to screen the southwesterly perimeter of the asphalt area;

5. A greenbelt preserve designation be filed and approved showing at least 70 percent of the subject site as greenbelt preserve;

6. The lot area of the subject site not be used in the calculation of permissible floor area for the development of the adjacent IG zoned property and no structure on that adjacent property exceed 40 ft. in height; and

7. A soils report and drainage plan meeting the requirements of DCLU be submitted prior to development of the subject site.

13. It can be concluded that the site is in an area which does not satisfy the criteria for necessarily remaining zoned single family residential. There are strong theoretical reasons for retaining the current zoning -- maintaining regular zone boundaries, maintaining distance between IG and developed or developable SF, maintaining maximum greenbelt preserve requirements. The facts of this case, the distinct topography, nature of the vegetation, low probability of development as single family and agreed conditions, dictate a different result.

Recommendation

The rezone should be approved subject to a contract which includes provisions incorporating the conditions set forth in Conclusion No. 12, above.

Entered this 26th day of June, 1985.

M. Margaret Klockars
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Deputy Hearing Examiner

Notice of Right to Petition For Further Consideration

Pursuant to 23.34.14, 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 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.