

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

In the Matter of the Petition of

David Hoy

FILE NO. CC-8500296
C.F. 293778

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

Introduction

David Hoy requests a rezone of property at 616 29th Avenue East from SF 5000 to Lowrise 2 subject to an agreement to provide extra parking.

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 October 7, 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 findings of fact and conclusions shall constitute the recommendation of the Hearing Examiner on this petition.

Findings of Fact

1. The property which is the subject of the petition is an 11,593 sq. ft. triangular lot at the southeasterly corner of the intersection of 29th Avenue East with East Roy Street. It is legally described as: Lots 1, 2, 3, 4, 5 and 6, Block 21, Madison Street Addition to the City of Seattle, according to the Plat recorded in Volume 2 of Plats, page 85, in King County, Washington.

2. The subject lot had been used by City Light as a substation since the early 1940's. The use was terminated by City Light and the property subsequently sold to petitioner in 1984. The building which had housed the rectifier and the concrete pad on which the transformer equipment stood remains. Tests show possible PCB contamination which must be removed by City Light prior to other use of the property.

3. The subject property and that to the north and west have been zoned for single family use, RS 5000 and now SF 5000, since the 1957 zoning ordinance. Properties in the SF 5000 zone are largely in single family use.

4. Properties along the East Madison Street corridor are zoned Multiple Residence Low Density (RM 800) and Neighborhood Business (BN). In the last few years, the Madison corridor in this area has experienced a surge of renovation and redevelopment with new businesses and new multifamily residences coming into the area.

5. The higher intensity zoning along East Madison applies to the lots with frontages on East Madison which, in some cases, project in a triangular fashion into the SF 5000 area. In the 2800 block, one triangular projection comprising lots which do not have frontage on East Madison was rezoned to BN recently.

6. The Mayor's proposal for zoning to implement the Neighborhood Commercial Areas Policies provides for NC 2/40 zoning of the BN and RM properties along E. Madison in the 2800 and 2900 blocks.

7. Petitioner requests L-2 zoning to allow him to construct multifamily units on the site. Development standards of the zone would permit some 12 to 20 units with 15 probably the maximum because of the shape of the lot. Mr. Hoy has offered to contract to provide 1.25 parking spaces per unit instead of the one space per unit required. These extra spaces would be located on the subject property or within the now undeveloped street right-of-way in which case they would not be for the exclusive use of the building tenants or their guests.

8. Existing zoning would allow the creation of up to two lots for single family development.

9. The developed roadway of 29th Avenue East is 25 ft. wide and parking is permitted only on the westerly side. The street right-of-way is 66 ft. wide.

10. Roy Street's right-of-way is 60 ft. wide in the block to the west of the subject site. The right of way on the north side of the subject site is 50 ft. wider with the extra width next to the subject site. This extra right-of-way joins the Washington Park Playfield and Arboretum which lies to the northeast of the subject site.

11. The easterly side of the 600 block of 29th Avenue East contains the subject lot and two apartment buildings which have been joined together. Single family residences occupy lots on the westerly side. The north side of the 2800 block of Roy Street contains a row of six single family residences. One residence is located east of the alley, across the street from the subject property.

12. The Director, DCLU, issued a determination of nonsignificance (DNS) pursuant to SEPA (RCW 43.21C.030(2)(c)) for the proposal. Conditions requiring landscaping and bicycle parking and outdoor lighting were imposed.

13. Comment letters and neighbors' testimony addressed the character of the area and traffic and parking effects. While some letters supported the rezone because of the need for more in-city housing and the reputation of the proponent, many neighbors expressed opposition. Many of the comments addressed an earlier proposal to rezone to L-3 and development of a five story building. They pointed to the stable single family character of the area immediately north of Madison with generally small scale houses many of which are undergoing or have undergone renovation and some of which are new.

14. The subject lot's orientation is more toward the rest of the neighborhood than toward Madison and would be a departure from the character of the neighborhood in terms of the bulk of the structures and amount of activity.

15. Development of the site would add traffic to the street of up to 90-100 vehicle trips per day for a 22 unit development with approximately ten of those trips during the evening peak hour.

16. Demand for on-street parking would increase. Some houses along 29th and Roy Street do not provide off-street parking. The neighborhood is beginning to experience parking demand generated by the businesses.

17. Bus service to downtown Seattle is available on Madison Street.

18. Twenty-ninth Avenue is a bicycle route and is used by cyclists.

19. The Director, DCLU, recommends the rezone be denied having found that petitioner failed the first test for a rezone of single family zoned property, a showing that the site does not meet the criteria for single family designation.

Conclusions

1. To have an area zoned single family rezoned to another zoning classification, the petitioner must demonstrate that the area does not meet the criteria for single family designation, the first "test". Section 23.34.24.A. The criteria contemplate that an area of several blocks is being rezoned. Application of the criteria to one lot requires extrapolation and interpretation. When the staff report looks at the first locational criterion, "Areas which consist of blocks with at least seventy percent of existing structures in single family residential use", it treats as the "area" the two facing blockfronts the lot is a part of: 1) that along both sides of 29th Avenue East and 2) that along East Roy Street from the alley and 29th eastward. The staff report treats the subject site as "vacant", despite the presence of the rectifier building and pad. Petitioner urges the site has an existing building. If the subject site is treated as a vacant site, given that the prior use has been abandoned and the structure remaining is not suitable for other use, 75 percent of the first "block" is single family and 100 percent of the second block is single family. If the remaining rectifier building is counted as an existing structure, the percentage of single family use for the second block drops to 50 percent, under the 70 percent bench mark.

2. Even though the "area" has blocks with less than 70 percent single family use, it may still meet the locational criterion for single family use if it shows an increasing number of improvements and rehabilitation efforts or stability in the number of single family residences over the last five years. Section 23.34.32.A.3. These conditions are present in the broader residential area, not the "area" of the rezone. If the "area" includes the Madison Street frontage there is doubt whether the number of new single family residences has increased proportionally to the total number of new uses constructed in the last five years. The record does not provide actual numbers.

3. The second determinant of the first test is whether the area meeting one of the locational criteria is 15 or more contiguous acres or abuts an existing single family zone. Section 23.34.32.B. Petitioner points out that the area to be rezoned is not at least 15 acres. The Director's staff representative argues that the single family "area" is at least 15 acres. The site unquestionably abuts or borders an existing single family zone so the "area" issue need not be resolved to assess compliance with this factor.

4. Section 23.34.32.C lists elements to be considered in establishing boundaries for single family zones. Platted lot lines, one of the elements, now serve as the boundary. Petitioner urges that the element of half-blocks at the edge of single family zones applies. The provisions clearly states that policy favors including these half-blocks in the single family zone.

5. Even interpreting the code in the manner more favorable to petitioner's position, he has not clearly demonstrated that the property does not meet the criteria for single family designation. Therefore, present zoning should remain.

6. Because the code is not designed specifically for the one lot rezone there is a possibility that the Director's and the Hearing Examiner's approach to its application would differ from that the

City Council would use. Therefore, this recommendation will contain the analysis that follows the initial determination, if that determination should be that the petitioner has shown that the property does not meet the criteria for single family zone designation.

7. First, the property or area should fit the locational criteria for the Lowrise 2 designation of Section 23.34.38. If the development along E. Madison is considered, the area does have a mixture of single family and multifamily residences, one, two and three stories. The property is located between single family and multifamily or commercial structures and would provide for transition. The property is near transit on Madison, open space in the Arboretum and the businesses along Madison. These show a match with the L-2 locational criteria.

8. As to the zoning history of the area and possible precedent, the zoning of the site has been single family residential but the property has not been in private ownership. The change could warrant reexamination of this site without threatening the remaining single family area. The site is different from most undergoing rezoning activity just off Madison because a platted lot line separates this site from the Madison frontage property. A rezoning of this site, then, could establish a precedent or reinforce a precedent set by the recent rezoning of the property in the 2800 block.

9. A rezone of the subject site could provide a transitional zone but also would create a situation where a multifamily zone faces across two streets to single family zoned and developed properties, generally considered to violate zoning principles.

10. An evaluation of the impacts shows that the rezone would result in: probable increased traffic on residential streets with accompanying increase in traffic hazards; increased demand for on-street parking where parking is already restricted to one side, houses do not all provide off-street parking and business parking is beginning to affect the neighborhood; and a disparity in bulk between probable development and the existing structures.

11. The requested rezone is appealing in that the site is set apart somewhat by the two streets and the playfield and offers prospects of more housing units and residents to patronize the new businesses along Madison. The public interest would be served in this way. The Single Family Residential Areas Policies state a strong bias toward preservation of current single family zoning and maintenance of character, however. The first test for such a rezone provides for implementation of that protection. Petitioner has not demonstrated that the site is not appropriate for single family zoning, as the criteria have been interpreted and applied. Even if these have not been correctly interpreted, the intent and purpose of the Single Family Residential Areas Policies dictates a denial of the petition because of the change in character of the area that would take place.

Recommendation

The petition should be denied.

Entered this 21st day of October, 1985.

M. Margaret Klockars
M. Margaret Klockars
Deputy Hearing Examiner

Concerning Further Review

Pursuant to Section 23.34.14, Seattle Municipal Code, as amended, any party affected by a recommendation of the Hearing Examiner may submit a petition in writing 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 reasons 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.