

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

In the Matter of the Petition of

GREG BORBA, CDS, INC.

FILE NO. CC-8600983
C.F. NO. 294977

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

Introduction

The petitioner seeks reclassification of L-1 zoned property to NC1/30 and of Single Family 5000 zoned property to L-1. The proposal's street address is 719 N.W. Market Street.

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

This matter was heard before the Hearing Examiner on April 8, 1987. The record was left open to April 10, 1987, for submittal of additional information.

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.

After due consideration of the evidence presented by the Petitioner, the information provided by the Director's report and file, 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 proposes reclassification of certain property from Lowrise 1 to Neighborhood Commercial 1/30 ft. height limit (Part I) and reclassification of additional property from Single Family 5000 to Lowrise 1 (Part II). DCLU recommended approval of the rezone with conditions and issued a determination of non-significance (DNS). No one appeared before the Hearing Examiner to object to the petition, and no appeal to the DNS was submitted to the Hearing Examiner.

2. The subject L-1 zoned property (Part I) is located near the southeast corner of N.W. Market Street and 8th Avenue N.W. The Rezoning Petition describes this L-1 property as "Lots 5 and 6, Block 2, Ballard's Addition." These are the only vacant lots in the corner area. There is, however, a vacant SF 5000 zoned lot at N.W. 54th and 9th Avenue N.W.

3. The lots west adjacent to Lots 5 and 6, to abutting 8th Avenue N.W., are zoned NC1/30.

4. According to the Petition attachment, petitioner would like to reclassify Lots 5 and 6 to NC1/30 in order

to consolidate contiguously owned land, which was previously and legally developed as an auto service station, into a single commercial site under one zoning designation.

The service station was demolished in 1984 and the site has since remained vacant. The property at the northeast corner of 8th N.W. and N.W. 54th, also subject of this petition, Part II, infra, was used as accessory parking for the service station use.

5. With the consolidation/addition of the two 25 by 100 ft. lots, subjects of this rezone petition, there will be an NC1/30' rectangle with 100 ft. of frontage to 8th N.W. and 143 ft. of frontage along N.W. Market Street. Within this rectangle applicant proposes to establish a 2400 sq. ft. convenience store with a two-pump gasoline island. Access would be via a 15 ft. curb cut to 8th N.W. and a 25 ft. curb cut to N.W. Market.

6. A contract rezone is not proposed. However, the present development scheme is further described to include perimeter landscaping and 10 on-site parking spaces. The rear of the proposed store would rest 10 ft. from the rear lot line and would be obscured by a 6 ft. high fence along the south and east property lines.

7. East adjacent to the subject Lot 6 is a 4-unit (L-1 zoned) structure. Kroll 12E further shows that the lots east of 8th N.W. and south of the subject rezone lots (frontage to N.W. 54th) are zoned SF 5000 but developed with a mixture of duplex and single family uses. The corner parcel southeast of rezone Lots 5 and 6 (aka the northeast corner of N.W. 54th Street and 8th Avenue N.W.) is vacant.

8. West of the proposal site and across 8th N.W. is an NC1/30' zoned service station use (southwest corner of N.W. Market and 8th). Kroll 12W also shows the northwest corner to be developed with an NC1/30' zoned deli and two single-family residences. The northeast corner is shown to be developed with a restaurant, coin laundry and parking. As noted above, the northeast corner of 8th Avenue and N.W. 54th is immediately adjacent to the rezone lots and is vacant.

9. With the exception of the east adjacent L-1 zoning, the zoning surrounding this corner NC1/30' zone is SF 5000. DCLU reports that within this SF 5000 zone is a large number of nonconforming duplexes. The L-1 zone has a mixture of single family, duplex and triplex uses. All development is generally low-scale and of low-moderate heights.

10. The proposed rezone site and environs are generally level. There are no designated view protection sites in the immediate vicinity.

11. Northwest Market Street and 8th Avenue N.W. are heavily traveled arterials. Northwest Market is a four-lane arterial bearing from 15,590-17,510 average weekday trips (AWDT). Eighth N.W. has from 9960 to 10,930 AWDT. During the 1987 year, intersection traffic volumes are expected to increase by 1 percent. The Level of Service (LOS) is expected to decline from D/E to E. The infrastructure is, however, considered adequate to address the impacts of the proposal.

12. Metro Bus route 28 is available on 8th N.W. and routes 43 and 46 on N.W. Market. On-street parking is available on 8th Avenue and on N.W. 54th Street, one block south of N.W. Market.

13. The petition at issue also requests that the four corner properties at N.W. 54th and 8th N.W. be reclassified from SF 5000 to L-1 (Part II). The petition includes applicant's vacant, 6000 sq. ft. parcel that is found at the northeast corner of the subject intersection. This corner site is described as "Lots 50 and 51, Block 2, Ballard Addition to the City of Seattle." Per applicant the rezone of lots 50 and 51 would permit development of the vacant parcel with a 4-unit apartment with access to 8th Avenue N.W.

14. The four-corner properties total some 30,400 sq. ft. in area. The northwest corner, Lots 24-26, Block 1,, Haitz's 1st Addition, is developed with two apartment buildings with a total of 7 dwelling units.

15. At the southwest corner of 54th and 8th is an 8800 sq. ft. area parcel that is developed with a 16-unit apartment building. At the southeast corner of the intersection is a 5-unit apartment building located in a 4300 sq. ft. area parcel. This site is described as Lot 1 Block 3, Ballard's Addition to Gilman Park.

16. DCLU reports that although vicinity single family housing appears stable "the blocks on which the L-1 rezone site is located show no record of single family residential development within the last five years;" and further that "from 1959 to 1982 the general vicinity was zoned RD 5000." p.21. A single-family structure at 633 N.W. 54th Street was converted to a duplex in 1984.

17. The N.W. 54th - 8th Avenue N.W. intersection has no Level of Service rating. Traffic is controlled by stop signs on N.W. 54th.

18. In terms of physical development, the Hearing Examiner adopts the substance of the DCLU Report, p.20, concerning block descriptions and development. Designated Block A consists of property on 8th Avenue N.W., between N.W. Market and N.W. 54th Streets; Block B consists of properties facing 8th Avenue N.W., between N.W. 54th and N.W. 53rd Streets. Block C properties face N.W. 54th Street and are between 9th and 8th Avenues N.W.; Block D is also on N.W. 54th Street, between 8th and 6th Avenues N.W. The development is per the chart following. The record shows the single-family housing stock to be stable.

<u>Block</u>	<u>Single Family Structures</u>	<u>Total Structures</u>	<u>SF/Total (%)</u>
A	0	3	0%
B	1	4	25%
C	10	20	50%
D	17	25	68%

19. The northern block face of Block C is 40% single-family and the southern block face 56% single-family. The northern half-block of Block D is 50% single-family and the southern half-block is 76% single-family. Block A has no single-family development along either the east or west block face. Block B, south of N.W. 54th on 8th, has no single-family development on the west block face. One of the two structures on the east block face is single-family.

20. On zoning history, DCLU reports that zoning boundaries between vicinity residential and commercial zones have been stable since the 1959 adoption of Title 24 designations.

21. Lots 5 and 6, which applicant proposes to reclassify from L-1 to NC1/30', were zoned Residential Duplex 5000 in 1959. These properties were zoned from RD 5000 to the present L-1 classification by the 1982 adoption of Title 23 multi-family designations.

22. Properties immediately south of "lots 5 and 6," east of 8th N.W., were rezoned from RD 5000 to SF 5000 in 1982, as were the properties fronting on N.W. 54th Street and lying west of 8th N.W. An L-1 zone begins mid-block to the south of this SF 5000 strip and extends generally to N.W. 49th. This land was previously zoned RD 5000.

23. The N.W. Market Street-8th N.W. intersection was designated BN (Neighborhood Business) in 1959. In 1986 with adoption of the Title 23 neighborhood commercial designations the land was classified as NC1/30'.

24. A June 13, 1985 NCA Mapping Staff Report reflects that the Council considered a request to reclassify the N.W. Market Street - 8th Avenue N.W. intersection properties, south to N.W. 54th Street, to NC2/30'. The request was disapproved by the City Council. The June 13 staff report specifically addressed the issue of expanding the commercial zone south to 54th by bluntly characterizing the area as "not qualified" for commercial zone extension. However, as DCLU and applicant report, no discussion occurred on NC1 zoning of the subject lots 5 and 6, presently zoned L-1.

25. There is no adopted neighborhood plan for the subject area of the rezone. The property is within no greenbelt or other overlay district.

26. Noise, traffic dust and other temporary construction related impacts are anticipated. Long term impacts include noise, air quality and energy conservation as well as increased human and vehicular activity resulting from the proposals. Seattle's Department of Engineering has determined traffic impacts to be within acceptable levels.

27. DCLU has imposed, pursuant to the State Environmental Policies Act (SEPA), conditions which require further SED review of applicant's data regarding change in signalization, driveway/curb cut locations, and general street improvements. Some specifics include a requirement of a specific landscaping plan to include "buffering, screening and aesthetic qualities," and highly visible bus schedules within the store.

28. DCLU also recommended the following conditions on the rezone:

1. Driveway curb cut locations shall conform to locations shown in the traffic report submitted by the applicant dated November 13, 1986, subject to review and approval by the Department of Engineering.

2. The owner(s) and/or responsible parties shall include on the site plan existing and any proposed street improvements, for concept plan review and approval.

3. The owner(s) and/or responsible party(s) shall provide the Department of Engineering the data and background analysis leading to the signalization recommendations contained in the abovementioned traffic report.

4. A complete landscaping plan shall be required, providing buffering, screening and aesthetic qualities, with the submittal of plans for Master Use and/or Construction Permit, meeting or exceeding the specifications given in the disclosed site plan for the convenience store and gas pump development, for review and approval. Additional landscaping may be required by the Department if determined as necessary for mitigation of environmental impacts.

Conclusions

1. The Hearing Examiner will first discuss petitioner's proposal to rezone currently zoned L-1 property to NC1/30'. Seattle Municipal Code Section 23.34.072(A), Designation of Commercial Areas, specifies that a decision to classify an area commercial

...shall be based on the criteria provided in Section 23.34.010, the general rezone criteria contained in Section 23.34.008, the Goals of Land Use Policies for Neighborhood Commercial Areas..., and the criteria contained in subsection B of Section 23.34.072.

Height and/or overlay designations are to be assigned according to the criteria of Seattle Municipal Code Sections 23.34.074 through 23.34.088.

2. Per Seattle Municipal Code Section 23.34.010, "single-family zoned areas may be rezoned...only if...the area does not meet the criteria for single-family designation." Since the site is currently zoned L-1, the Section 23.34.010 reference to "single-family designation," is unclear; and, the Hearing Examiner concludes, inapplicable.

3. There are 8 general rezone criteria in Section 23.34.008. The first, Seattle Municipal Code Section 23.34.008(A), requires consideration of the match between established (NC1) locational criteria and the characteristics of the area.

4. The locational criteria for the NC1 zone are at Seattle Municipal Code Section 23.34.074. The subject site, with the convenience store development, would function to provide services to the adjoining residential neighborhood. Section 23.34.074(A). In terms of present character, the site and immediate vicinity qualify as a "small commercial area surrounded by low density residential areas", e.g. duplexes, triplexes and single-family dwellings. Section 23.34.074(B)(1). Since restaurant, service station, coin laundry and similar-scale services mark the current L-1 zone, the area offers a "variety of small neighborhood serving businesses." Section 23.34.074(B)(2)(a). The proposed use and some of the existing uses rely heavily on automotive, as opposed to pedestrian activity. To that extent, and to the extent that no continuous storefronts to the front property lines exist/or are proposed, the remaining criteria of Section 23.34.074(B)(2)(b-d) are not met by the proposal.

5. Seattle Municipal Code Section 23.34.074(C) lists "physical conditions favoring designation as C1." Not all are met. The rezone site is surrounded by low-density, residential use, Section 23.34.074(C)(1), through which some commercial area traffic would flow to the (developed) site. Section 23.34.074(C)(4). Except for the N.W. Market Street arterial there is no physical edge between the site and the residential areas. Section 23.34.074(C)(2). And the lots proposed for reclassification and development constitute the only vacant lands within the corner area or node. (There is a vacant lot at N.W. 54th and 9th N.W.; that lot is zoned SF 5000, however. Section 23.34.074(C)(3).) As street capacity, transit service and on-street parking capacity are not "limited", the remaining "physical conditions favoring designation as NC1" are not met. Section 23.34.074(C)(5-7).

6. On balance, the area of the proposed rezone to NC1 appears to meet the locational criteria for reclassification to NC1.

7. The second "general rezone" criterion of Seattle Municipal Code Section 23.34.008 concerns zoning history and precedential effect. The zoning boundaries between residential and commercial zones have been stable since the 1959 Title 24 zoning designation. This means that while the non-commercial sites have gone from RD 5000 to L-1 or from RD 5000 to Single Family 5000, there has been no commercial encroachment of residentially zoned areas. One could argue that this rezone would therefore approve an erosion of the east adjacent residential zoning. Further, there is insufficient information of record from which to conclusively state that the rezoning is required (vs. desired) for the development of a convenience store in this area. On the other hand, the Council has expressly rejected extension of the commercial zone south to N.W. 54th, but indirectly addressed the potential east expansion of the commercial zone.

8. Regarding precedent, applicant proposes rezoning of a vacant parcel formerly in service station use to accommodate establishment of a neighborhood-serving business. The remaining land adjacent to NC1 boundaries have established uses, e.g. the fourplex east adjacent to "rezone lots 5 and 6," and other established multi and single-family uses. The record does not support a conclusion that the adjacent L-1 land would, or would not be a likely candidate for NC expansion.

9. The third general rezone criterion concerns zoning principles relating to use compatibility, size, configuration and boundaries. Seattle Municipal Code Section 23.34.008(C). As noted above the use would not be incompatible with the surrounding business, multi and single-family uses. The proposed convenience store would abut on the east an established multi-family structure. The store would face the N.W. Market Street 4-lane arterial and would be separated by fencing and landscaping from adjoining land uses to the south. There would be no specific street, topographical or other such boundary between the new NC1 (east) boundary and the adjoining L-1 zone to the east. There is no such boundary at present. In terms of size, the two-lot expansion of the NC1 zone is not considered particularly adverse.

10. The fourth general rezone criterion of Seattle Municipal Code Section 23.34.008 concerns the positive and negative impact of the proposed rezone. The rezone could be viewed as precedent for further invasion of the L-1 zone, as noted above. However, one could argue that there are sufficient distinguishing historical and other factors to minimize that possibility. While the rezone would usurp land zoned for multi-family housing, there appear to be other NC1 zoned parcels with uses that could provide increased housing opportunities.

11. No significant impact is anticipated with respect to services, noise, air quality and energy conservation. Noise, dust, traffic and other construction - related consequences will be temporary. There will be increased vehicular and human activity as a result of the convenience store (and apartment house) uses. Without the projects a 1 percent increase in the AWDT is projected for 1987. The Department of Engineering has determined traffic impacts to be within acceptable levels. DCLU has imposed conditions pursuant to SEPA and recommended conditions which require further Seattle Engineering Department review of driveway curb cut locations, and street improvements.

12. Further SEPA conditions require "owner(s) and/or responsible party(s)" to provide data and background information on signalization to SED to aid in improvement of the general condition of the immediate area. A single landscaping plan is required, to include "buffering, screening and aesthetic qualities." Also required are "highly visible" bus schedules in the convenience store "to encourage transit use." In sum, the proposal(s) will impact the traffic and other elements of the environment. However, considering the existing environment, the conditions imposed and the scale of the projects, the impacts should not be particularly adverse.

13. The final four general rezone criteria are inapplicable. There is no adopted neighborhood plan, Section 23.34.008(E); and no overlay or greenbelt plan, Seattle Municipal Code Section 23.34.008(G)(H). No "changed circumstances" since the adoption of the Land Use Map commercial designations are presented as justification for the rezone. Seattle Municipal Code Section 23.34.008(F).

14. The Goals of Land Use Policies for Neighborhood Commercial Areas, Seattle Municipal Code Section 23.16.020 are numerous. The L-1 to NC proposal comports with the goals which encourage the preservation and improvement of existing commercial areas, e.g. Sections 23.16.020(I)(A)(1)(4)(7);(I)(B)(3)(5);

23.16.020(II)(B)(d)(c), and with the goals which encourage healthy business climate and activity, e.g. Sections 23.16.020(I)(A)(3)(4)(6); (I)(B)(6). In addition, there is access to adequate transportation corridors. (I)(A)(5).

15. The rezone proposal fails to comport with Commercial Area Goals to "promote the pedestrian character", e.g. Seattle Municipal Code Section 23.16.020(I)(A)(10)(11).

16. While the rezone proposal would, in DCLU terms, "prevent the contraction of the historical boundary of the commercial area in this vicinity," Analysis and Recommendation, p.8, the Hearing Examiner cannot ignore the recorded, historical opportunity for the City Council to rezone lots 5 and 6 to commercial use. The Council's decision was to map the subject area as L-1, contraction theory notwithstanding. The site is presently (deliberately) zoned for residential use. With this view, the proposal to rezone it to commercial use fails to "discourage encroachment of commercial development into residential areas," Section 23.16.020(I)(B)(8);(II)(B)(1)(a). Further, the rezone site is

...on the edge of a commercial zone and consists primarily of lots with structures in commercial use, vacant land and/or parking areas...

However, the Goals specify that such areas "may be considered for commercial designation during the legislative mapping process." Seattle Municipal Code Section 23.16.020(II)(B)(2). That legislative process concluded without reclassification of the subject site to either commercial designation. The rezone proposal would further contradict the stated multi-family designation objective to increase opportunities for new housing development. Seattle Municipal Code Section 23.16.020(I)(B)(1), reference 23.16.002(B)(1).

17. The remaining discussion of the Policies' general criteria for commercial rezones will simultaneously address the criteria, identical, for Commercial Area Designation found at Seattle Municipal Code Section 23.34.072(B)(1-8). As noted in conclusion 16 above, the proposed rezone fails to discourage the encroachment of commercial development into residential areas. The proposal therefore contradicts criterion 23.34.072(B)(1) of the criteria for Commercial Area Designation. Cf. Section 23.16.020(II)(B)(1)(a).

18. Criterion 23.34.072(B)(2) states:

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.

Cf. 23.16.020(II)(B)(1)(b). Per the DCLU Analysis, "the configuration preferences for commercial zones are given in Part II of the Neighborhood Commercial Areas Land Use Policies." at p.8. The Hearing Examiner is more inclined to focus on the DCLU ensuing information on the preferred configuration of residential zones per the Single Family Policies.

19. It is not clear from the 23.34.072(B)(2) reference to the Single Family Policies whether those policies should only apply to single family zones. Little guidance is obtained from a review of the Multi-Family Policies statements on rezones, 23.16.002(B)(2).

20. Some relevant abstracts from those Policies include "topographical and environmental suitability;" boundaries, such as major traffic arterials and "platted lot lines;" contiguous nature of the land subject of the zoning questions; and pattern or trend of uses/developments.

Seattle Municipal Code Section 23.16.002(A). Concerning edges, the Single Family Policies provide that "the edges of single-family residential areas shall be protected from encroachment by other uses...", and that "...uses accessory to permitted uses in abutting higher intensity zones shall not be permitted to expand into single-family residential areas." Section 23.16.022(A).

21. If the Hearing Examiner's preferred reading is correct, the question becomes whether the edge of the L-1 zone is protected by the proposal, and whether the new NC configuration will conflict with the new L-1 configuration. Concerning the latter, the rezone proposal presents no major, boundary, use/development or other problem. The boundary would be a platted (east) lot line beyond which is an existing multi-family residential development. More of a problem occurs with respect to the L-1 edge which would, by the rezone, be unprotected from "other uses."

22. If a literal reading is given to the Section 23.34.072(B)(2) reference to Single Family Policies, it appears no incompatibility is presented since there would be no encroachment into the single family zone, abutting on the south the subject rezone lots, by a commercial use. The impact on the "edge" of that single family zone would not be substantial.

23. While the 4-lane N.W. Market arterial provides a significant buffer between the proposed commercial site and the L-1 property north of N.W. Market, none of the buffering elements would be present to separate the new commercial site from the east adjacent L-1 use and zoning. Section 23.34.072(B)(3). The proposed convenience store would face N.W. Market Street, however, and not that east adjacent residential use.

24. The remaining five criteria appear to be met. Essentially proposed is preservation and concentration of a commercial area. And, the infrastructure can absorb the impacts, Seattle Municipal Code Section 23.34.072(B)(4-8), particularly as conditioned by DCLU pursuant to SEPA.

25. The last Section 23.34.072 criteria relate to "zone, height and/or overlay designations..." Section 23.34.072(A). As noted in Conclusion 4, above, the proposal partially satisfies the criteria of the NC1 designation. While the existing residential and traffic pattern suggest compliance, the auto intensive nature of the proposal does not.

26. With respect to height, the locational criteria of Section 23.34.084 specify references to the Goals of the Land use Policies for Neighborhood Commercial Areas, the general rezone criteria, and additional criteria.

27. The proposed 30 ft. height limit is consistent with the present, adjacent commercial height limit, and with the L-1 height limit of 30 ft. To that degree the proposal and zoning would be compatible with the existing scale of the existing community, while encouraging a healthy climate for the retention of business use of the site. Sections 23.16.020(I)(A)(1)(4)(7), (B)(3)(9)(12).

28. In conclusion, the proposal comports with many of the relevant criteria, but falls short principally with respect to zoning history, precedential effect, encroachment of residentially zoned land, and its auto-intensive vs. pedestrian emphasis. Regarding history, the Council did decline to rezone the subject lots to NC2 (or NC1) during the legislative mapping. However, this fact is not dispositive. The lots are still subject to the rezone process and the plethora of related criteria. Considering those criteria, the historically business use of the site would be renewed and the business climate and node enhanced by the rezone.

The long-term impacts on the environment and infrastructure will not be significant, particularly as the proposal is conditioned pursuant to SEPA. The impact on residentially zoned land presents in this case as a incremental but necessary "process" to accomplish other goals.

29. The next analysis concerns petitioner's proposal to rezone the four corner properties at N.W. 54th and 8th N.W. from SF 5000 to L-1. As noted in Finding 13 above, the rezone would include applicant's lots 50 and 51 and would permit development of a 4-unit apartment on this vacant parcel.

30. Seattle Municipal Code 23.34.010(A) provides in relevant part that

...single-family zoned 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.

31. The criteria for single-family zones are at Section 23.34.012. The first addresses "areas which consist of blocks with at least...70%...of the existing structures in single-family residential use ..." (Section 23.34.012(A)(1)). The second subsection, 23.34.012(A)(2), does not apply since the subject area has been addressed by no neighborhood plan.

32. Accepting the DCLU assignment of blocks which were "based on the definition of blocks in 23.85.004 'B'," the block consisting of two block faces to 8th Avenue between N.W. Market and N.W. 54th has no single-family structures among its three buildings. This "block A" is 0% single-family. "Block" B, on 8th N.W. between N.W. 54th and N.W. 53rd, has 4 structures, one of which is single-family. This is also less than the 70% required by Seattle Municipal Code Section 23.34.012(A)(1).

33. "Block C", on N.W. 54th between 9th and 8th Avenues N.W., has 20 structures of which 10 (50%) are single-family. "Block D", on N.W. 54th between 8th and 6th Avenues N.W., has 25 structures of which 17 (68%) are single-family. Therefore, neither "block" has "at least 70% of the existing structures in single-family use." Section 23.34.012(A)(1). Nor is there displayed any "increasing trend toward single-family residential use." Seattle Municipal Code 23.34.012 (A)(3). There has been no single-family construction in these blocks in the last 5 years, Section 23.34.012(A)(3)(a). There was a 1984 conversion of a single-family development at 633 N.W. 54th Street to duplex use. Section 23.34.012(A)(3)(b). This conversion and the strong presence of multi-family uses in the vicinity suggest that while essentially stable, single-family housing is not on the increase.

34. The area's location is not necessarily unsuitable for single-family development, Section 23.34.012(A)(3)(d). However, this sub-item is only one of four examples of an "increasing trend" to single-family development. An overall assessment leads one to conclude that no such trend is present, Section 23.34.012(A)(3). Since no single-family locational criterion is met the provisions of 23.34.012(B) are not applicable.

35. Information on establishing single-family zone boundaries are specified at Section 23.34.012(C). No lake, stream or other natural feature is present to separate the four corner properties from adjoining single-family zoning. Section 23.34.012(C)(1). Neither are there arterials to separate the proposed L-1 zoned lots from adjoining single-family zoning. Section 23.34.012(C)(2). The 8th Avenue arterial would provide some oblique separation, however, and it can be argued that the higher intensity L-1 zone could buffer the surrounding single-family uses from the arterial activity.

The intervening platted lot lines will serve as L-1/SF 5000 boundaries under this proposal.

36. Also to be considered in establishment of single-family zone boundaries is the following language:

Half-blocks at the edges of single-family zones which have more than...50%...single-family structures, or portions of blocks on an arterial which have a majority of single-family structures, shall generally be included...

Section 23.34.012(C)(4). The policy is to favor inclusion of these half-blocks or block portions.

37. The applicability of Section 23.34.012(C)(4) in this case is somewhat strained. The northern half-block (i.e. block face) of Block C, between 8th and 9th on N.W. 54th, is 40% single-family, and the southern half-block is 56% single-family. If subsection(C)(4) is applicable to the southern half-block it would suggest this (and the east adjacent) southern half block's inclusion in the single-family zoning. However, Section(C)(4) appears to apply only to half-blocks at the edges of single-family zones. Since an edge is the "boundary between two kinds of areas...", Seattle Municipal Code Section 23.84.004"B," the northern half-block development is the critical development. The northern half block is 40% single-family and therefore could be considered for exclusion as a single-family boundary. This is not the case for the northern half block between 8th and 6th N.W. which is 50% single-family. This segment qualifies for inclusion as a single family boundary.

38. Analyzing the block faces along 8th N.W., the only half blocks presently at the edge of the single-family zone are those north of N.W. 54th. Because these half-blocks already bear dual NCl (north) and single-family (south) designations, the propriety of applying Section 23.34.012(C)(4) to those half-blocks is debatable. Assuming that the code section does apply, there are no single-family structures on the east or west block faces. Therefore, these half-blocks, with less than 50% single-family structures, could qualify for single-family boundary/zone exclusion.

39. The next issue for resolution is the impact of the data from conclusions 37 and 38 above. The Hearing Examiner concludes that the boundary analysis suggests that the northern half of the block between 6th and 8th N.W. on 54th should remain single-family, but that the north half of the block to the west need not remain single-family. Assuming that consideration of the southern half blocks is appropriate in this analysis, both should remain single-family. Assuming that the half blocks along 8th N.W. are appropriate for consideration, Section 23.34.012-(C)(4) provides no basis to include as single-family either half block north of N.W. 54th.

40. The next consideration involves the general rezone criteria of Chapter 23.34.008, the first of which requires a close match between the characteristics of the subject area and the locational criteria for the designation proposed. The four corner sites appear to comport with that first NCl locational criterion. The subject properties are within an area of low height, mixed development and low-scale. Seattle Municipal Code Section 23.34.014(A). The rezone sites also border a single-family zone without intervening arterials or other physical edges. Section 23.34.014(B). Prevailing structure heights suggest a 30 ft. height limit to retain existing views in this area of flat topography. 23.34.014(C). The final three criteria are not met in this case. The sites are not overlooked from public open spaces or scenic routes; have direct vs. indirect service to arterials; and the sites have good transit access. Sections 23.34.014 (D)(E)(F), respectively.

41. In terms of zoning history and precedential effect, Seattle Municipal Code Section 23.34.008(B), the subject sites were zoned RD 5000 in 1959 then SF 5000 in 1982. The history does not support such a recent return to multi-family zoning. Further, the existence of multi-family developments on 3 of the 4 corners in question should not be used as established rationale for reclassifying Single Family zoned land. In fact, allowing same could set a negative precedent which could be used to erode other single family zoned areas.

42. Regarding zoning principles, Chapter 23.34.008(C), there appears to be no major problem with the size of the proposed rezone site. The four corner properties combine to present a reasonable pocket for consistent zoning. For similar reasons, the configuration proposed is not negative, and would provide some transition between commercial and single-family zoning. The only land use change anticipated is applicant's development of a multi-unit structure within the northeast corner of the zone. The result would be a node of multi-family structures with immediate access to two arterials.

43. No significant adverse impacts of a physical nature are expected, Chapter 23.34.008(D). Increased housing opportunities would result, for example, and adequate transportation and parking appear to be present. Additionally, SEPA and rezone conditions suggest that improvements to the street system follow the combined proposals.

44. The proposed rezone site is within no greenbelt or other overlay district, Chapter 23.34.008(G)(H), and is the subject of no neighborhood plan. Chapter 23.34.008(E). In terms of changed circumstances, the applicant's site, located on the northeast corner of the proposed L-1 node, no longer serves as accessory parking for the more northerly service station that was demolished in 1984. On one hand, this change could suggest more available land for single-family housing. On the other hand east adjacent to the applicant's site is a four-plex and the other 3 corners are already developed with multi-family uses.

45. In sum, the four corner sites may be considered for reclassification because they generally fail to meet the locational criteria for single-family designation, Seattle Municipal Code 23.34.012(A), although it is recognized that the boundary analysis suggests a mixed result, Conclusions 37-39, above. Further, the sites' characteristics seem to closely match the locational criteria for the L-1 with the exception of the zoning history-precedential effect criterion. The weight of the rezone criteria seem to be met in this case. It appears that there is adequate distinction between this and future cases to minimize the potential negative precedent, and the zoning history's indirect reference to the site should not as a single factor outweigh the substantial evidence in favor of the rezone.

46. The Hearing Examiner therefore recommends approval of this rezone, Parts I and II, with conditions recommended by DCLU.

RECOMMENDATION

For the foregoing reasons, the Hearing Examiner recommends to the City Council that the rezone be approved upon the conditions that:

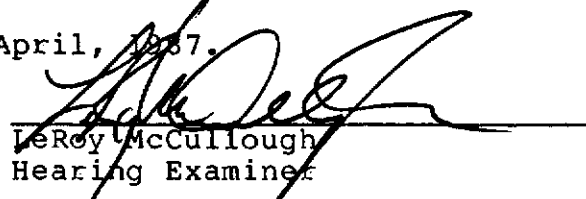
1. Driveway curb cut locations conform to locations shown in the traffic report submitted by the applicant dated November 13, 1986, subject to review and approval by the Department of Engineering

2. The owner(s) and/or responsible parties include on the site plan existing and any proposed street improvements, for concept plan review and approval.

3. The owner(s) and/or responsible party(s) provide the Department of Engineering the data and background analysis leading to the signalization recommendations contained in the abovementioned traffic report.

4. A complete landscaping plan be required, providing buffering, screening and aesthetic qualities, with the submittal of plans for Master Use and/or Construction Permit, meeting or exceeding the specifications given in the disclosed site plan for the convenience store and gas pump development, for review and approval. Additional landscaping may be required by DCLU if determined as necessary for mitigation of environmental impacts.

Entered this 24th day of April, 1987.


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.