

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

In the Matter of the Petition of

JACK LYNCH

FILE NO. 8704855
C.F. NO. 296060

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

Introduction

Jack Lynch petitions to rezone approximately 54,409 square ft. of property located on the northwest side of Northgate Way from Single Family 7200 to Lowrise 3. The street address is 1760 N. Northgate Way.

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 July 5, 1988. The record remained open to July 7, 1988 for DCLU supplementation.

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

Findings of Fact

1. The subject property is a 54,409 square area parcel located approximately 5 blocks west of the Northgate Shopping Center. The site's southern boundary is N. 107th Street. Across 107th are single family zoned and developed properties. The western boundary consists of lot lines that are east - parallel to Densmore Avenue N.

2. The subject property is presently zoned Single Family 7200. This site was zoned RS 7200 before the 1982 Single Family 7200 designation of the Land Use Code.

3. The rezone site is bordered on the north by Lowrise 3 - zoned, 7 building apartment complex known as the Chateau Boise. North of the Chateau Boise is the N. 110th Street (unopened) right-of-way. The Chateau Boise site was zoned to RM 800 in 1978 and to L-3 in 1982.

4. The Chateau Boise fronts on the "Burke Avenue N." right-of-way. Across Burke Avenue, northeast of the site, is a 24-unit condominium development consisting of two structures. This property, also part of the L-3 zone, extends east to a curved portion of Northgate Way and appears to be associated with the Chateau Boise.

5. Across Northgate Way from these units is Neighborhood Commercial (NC) - 3/65 ft. height limit zoned property that fronts on the east to Meridian Avenue N. and that is developed with a service station and fast food restaurant. This NC-3 zone was changed from RD 7200 to Neighborhood Business (BN) in 1959, to BC in 1973 and to NC-3/65 ft. 1987.

6. Southwest of this triangular NC-3/65 ft. zone is an L-3 zone that extends south to N. 107th. This land area is directly east of the rezone site and was rezoned from RS 7200 to RM 800 in

1978 and to L-3 in 1982. At the most northwesterly point of the triangle is the 10736 Northgate Way property that was formerly a single family residential structure. Subsequent to the May 23, 1988 DCLU analysis and recommendation, this single family structure was demolished to accommodate construction of an apartment building. South of the 10736 property are two multi-family structures. The more southerly structure's property line extends south to N. 107th Street. These structures are principally separated from direct Northgate Way frontage by a triangular piece of property that is formed by the northeasterly angle of Northgate Way from N. 107th Street.

7. The subject site's east boundary is Northgate Way and a segment of what is mapped as Burke Avenue N. (actually an extension of Northgate Way). Northgate Way is a 4-lane, heavily travelled arterial which continues to see an increase in traffic volumes. The arterial is directly served by Metro transit.

8. Three and four story apartment buildings and wooded Park Department property are also south and southeast of the site, across Northgate Way.

9. There is no view to or across the rezone area from public open spaces or scenic routes which could be affected by construction of bulk structures' on-site.

10. The rezone parcel is developed with six development sites, each containing a 1-2 story single family residence. Two of the six sites have frontage to N. 107th Street. The more westerly of these properties is addressed as 1718 N. 107th and has no frontage to Northgate Way. Neighboring properties west are zoned and developed single family. Applicant and DCLU acknowledge a topographic break along the rear lot lines of the rezone properties that face Northgate Way. There is also a topographic distinction between the lower L-3 properties east of Northgate Way and the more elevated properties included within the rezone area. Continuing westerly, the single family houses fronting on Densmore are at a higher elevation and have the potential to view over the Northgate Shopping Center. The elevation difference between Densmore and Northgate Way approximates 55 ft.

11. Petitioner proposes to rezone the subject site to accommodate multi-family development and has agreed to limit access to "Burke Avenue N." Applicant is also willing to limit development to 75 units, which would average 725.45 square ft. per unit. Interim multi-family development standards, imposed subsequent to this application, restrict L-3 density to one dwelling unit per 700 square ft. of lot area.

12. The Hearing Examiner finds in accord with the traffic study of record that approximately 458 new vehicle trips per day would result from 75 units on-site and that there would be no reduction in the vicinity intersections' level of service, particularly with the addition of a Northgate Way left turn lane. (Applicant would agree to dedicate properties along Northgate Way to accommodate such a left turn lane).

13. Redevelopment of the area would result in increases in population, parking, energy, recreational use and infrastructure use and traffic, as noted above. DCLU issued a determination of nonsignificance on the rezone proposal but indicates that specific development proposals would require further environmental review. See Environmental Checklist, page 3.

14. Notwithstanding the Northgate Way high traffic volume, the "Burke Avenue" - Northgate Way intersection has a very low accident history. From January 1, 1982 to March, 1988 two accidents, both in 1984, were reported. The Northgate Way - Meridian intersection is signalized.

15. The rezone area is within no overlay district and is subject to no adopted neighborhood plan.

16. Generally, the single family zoned area, inclusive of

the rezone site, is enjoying stability, some maintenance and repair. Some of the rezone site houses, however, have undergone some deterioration. (Testimony of L. Stewart.) Another witness noted, and the Hearing Examiner finds, that the single family - zoned residences facing Northgate Way are exposed to continuing traffic access and other vehicular - related problems that are not confronted by single family - zoned residences along Densmore or along N. 107th. (Testimony by K. Alford.) A third witness in favor of the petition resides on Densmore. Mr. Hodges opined that the rezone proposal could indicate a sound barrier for the Densmore residents.

17. V. Body, of N. 107th Street, presented 22 signatures to her letter opposing the rezone. Concerns expressed included land use impact and exacerbation of a 107th Street parking shortage.

18. Other correspondence in opposition stated concerns that further L-3 housing would "make the predominantly single family housing neighborhood a dangerous and traffic congested area..." In particular, the correspondents anticipated increased traffic through the single family area (N. 107th), already used by cars and delivery trucks to avoid the delays at Northgate Way - Aurora Avenue. (Applicant proposes to orient all access to "Burke Avenue.")

Conclusions

1. The Hearing Examiner has jurisdiction of this matter pursuant to the procedures of Title 23, Seattle Municipal Code.

2. Areas zoned single family may be rezoned "only if the applicant can demonstrate that the area does not meet the criteria for single family designation." Seattle Municipal Code Section 23.34.010(A).

3. The single family locational criteria are stated at Seattle Municipal Code Section 23.34.012. The first is

...Areas which consist of blocks with at least...percent...of the existing structures in single family residential use.

23.34.012(A)(1).

4. The immediate problem for this case is how a "block" should be identified. The rezone site is bordered irregularly by segments of Northgate Way, "Burke Avenue N." and N. 107th.

5. Generally, a "block" consists of two facing "block fronts"

bounded on two...sides by alleys or rear property lines and on two...sides by the centerline of platted streets...

23.84.004(B).

6. Appended to the DCLU Analysis are four varying configurations for "the relevant block." Applicant's Hearing Memorandum discusses the configurations.

7. The Hearing Examiner declines to adopt DCLU's first configuration principally because it is bounded only on one side, the south, by a platted street (N. 107th). To the north, the boundary is the northern lot line of the rezone area extended east, across Northgate Way, to the east lot line of the parcel that abuts Northgate Way.

8. DCLU's second configuration, as modified, would appear as the closest to the definition of "block." The northern boundary is the centerline of platted (but unopened) N. 110th Street and the south the centerline of N. 107th Street. The west boundary consists of the rear property lines of developments that have street frontage - access to "Burke Avenue" - Northgate Way. Although 1718 N. 107th is included within the rezone site, it fronts to N. 107th and is therefore properly excluded. The

definition does not require inclusion of all areas "subject to a rezoning petition." The definition merely addresses "areas which consist of blocks with at least ...70 percent...of the existing structures in single family residential use,"

9. DCLU's figure 2 has an eastern boundary of lot lines at the south, southeast but has a boundary through the area to the north that appears to be representative of no lot line. The boundary of this eastern "block front" should extend to the Northgate Way right-of-way. Within this triangle formed by "Burke," Northgate Way and N. 110th are the two buildings identified in Finding 4, above.

10. As modified, therefore, the block would consist of 5 single family structures and 7 multi-family structures on the western "block front" and 4 multi-family structures with no single family structures on the eastern block front. Of the 16 structures, then, only 31 percent are single family, a far cry from the 70 percent minimum stated at Seattle Municipal Code Section 23.34.012.

11. By contrast, another area "block" is 100 percent single family (DCLU figure #4). This block consists of the block fronts to N. 107th. This "block" does not include all of the rezoning property.

12. In conclusion, the "block" analysis is inconclusive. It is appropriate, therefore, to examine the other rezoning criteria and factors.

13. The area is under no adopted neighborhood plan which designates it for single family use, Seattle Municipal Code Section 23.34.012(A)(2). The number of single family homes in the figure number 4 "block" has been stable and there are general indicators of maintenance and improvement of the single family stock, Seattle Municipal Code Section 23.34.012(A)(3). However, some of the rezoning properties themselves have deteriorated. (DCLU's "Block" 4). And, within DCLU's Block 2 as modified by this Examiner, the clear trend is toward multi-family development.

14. The rezoning area, although less than 15 contiguous acres abuts an existing single family zone. Seattle Municipal Code Section 23.34.012 (B)(1).

15. In terms of single family zone boundaries, platted lot lines may be considered. "Major traffic arterials, half - blocks at the edges of single family zones which have more than...50 percent...single family structures or portions of blocks on an arterial with a majority of single family structures, may also be considered. Seattle Municipal Code Section 23.34.012(C).

16. The proposed rezoning area is bounded on the east by a major arterial, beyond which is L-3 zoned property. This suggests that no more westerly boundary is required. On the other hand, the rezoning sites' platted lot lines could serve as the most easterly boundary and still comport with 23.34.012(C). It is noted that the present north boundary is a platted lot line. It is further noted that there is a substantial topographical break between the Densmore - fronting single family residences and Northgate Way. This suggests that the platted lot lines and the "natural feature" could serve as reasonable boundary indicators.

17. Seattle Municipal Code Section 23.34.012(C)(4) also supports redesignation. The half-block (Figure 2) at the edge of the single family zone is with less than 50 percent single family developed. On the other hand, included within the rezoning area is a "portion of a block on an arterial" with a majority of single family structures.

18. The applicant has demonstrated that the area fails to meet the 70 percent single family criterion (depending on the "block" configuration selected). It is appropriate to continue to review the other rezoning criteria.

19. The general rezone criteria are delineated at Seattle Municipal Code Section 23.34.008. The first is the match between established locational criteria and area characteristics. Petitioner requests Lowrise-3 zoning. The L-3 criteria are found at Seattle Municipal Code Section 23.34.018.

20. Although the rezone area's 1-2 story houses show no "prevailing pattern of medium bulk and moderate height (...30...to...40 ft.)," a "variety of scale patterns" does exist east, northeast and north. Seattle Municipal Code Section 23.34.018(A). The topographic break between the rezone area and the single family properties to the west sufficiently comports with Seattle Municipal Code Section 23.34.018(B). The area is not one where topography and prevailing height require a 37 ft. height limit to retain views, Section 23.34.018(C); nor is it an area "overlooked from public open spaces and scenic routes where important views could be blocked by bulky structures" taller than 37 ft. Seattle Municipal Code Section 23.34.018(D). However, the area is "well - served by public transit," and is in "close proximity" to an arterial. Depending upon one's definition the area is "adjacent" to a commercial area across the 4-lane arterial which offers greater bulk. Seattle Municipal Code Section 23.34.018(E)(F).

21. In sum, the bulk of the L-3 criteria are met.

22. Although the vicinity upzoning supports the petition, the zoning history for the rezone site strongly suggests that single family zoning be retained. The site has always been zoned for single family use which designation was affirmed by the 1982 Land Use Code classification. Further, approval of this rezone could serve as precedent for erosion of more of the single family - zoned areas south of the site along Northgate Way. On the other hand, rezoning tends to recognize the traffic and development trend extant confronted by the single family homes within the rezone area.

23. The rezone would be consistent with certain zoning principles. Proposed multi-family development would be accord with the north and east adjacent uses. While the present street boundary is arguably adequate and effective, the boundary of the proposed L-3 zone, excepting the 1718 N. 107th property, would be a logical southward extension of the present L-3 zone.

24. Regarding impacts, the rezone would herald a population increase and attendant impacts on vehicular use, parking, energy and similar factors. There would be increased opportunities for multi-family housing within the City. In terms of transportation, conditions could be included within the agreement to direct project traffic away from the N. 107th - single family zoned area, and to require pursuit of a left turn lane. No decline is expected in vicinity intersections' level of service.

25. The general increase in traffic along Northgate Way and the multi-family development trend east tend to support the requested rezone.

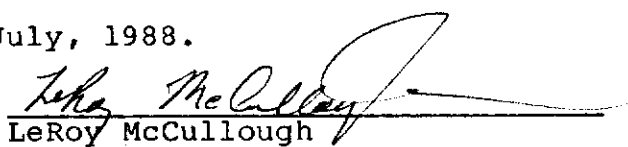
26. In conclusion, the Hearing Examiner concludes that the rezone area meets 70 percent the criteria for single family designation only if a certain block configuration (N. 107th Street) is used. The more appropriate block configuration shows a 31 percent single family use. In addition, sufficient L-3 criteria are met. Further, the rezone is consistent with the changed circumstance, zoning principle and other general rezone criteria. Particularly as it relates to impacts, if granted, the rezone should be conditioned to limit access to "Burke Avenue N.;" to restrict the number of units to 75; and to require dedication along N. Northgate Way and other activity consistent with the construction of a left turn lane.

Recommendation

The Hearing Examiner recommends that the petition be approved

subject to a property use and development agreement which would include conditions outlined in Conclusion 26 above.

Entered this 22nd day of July, 1988.


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 reconsideration 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.