

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

In the Matter of the Petition of

WILLIAM SWANBERG

FILE NO. 8705430

C.F. NO. 296473

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

Introduction

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

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

This matter was heard before the Hearing Examiner on December 8, 1988.

After due consideration of the evidence elicited during the public hearing, the following shall constitute the findings of fact, conclusions and decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The subject site is located at 5514 - 25th Avenue N.E. in a large Single Family 5000 zoned area. The proposal is to rezone the site to Lowrise 2. The site is on the east side of 25th Avenue N.E., has 50 ft. of frontage on 25th Avenue N.E. and is 100 ft. deep. The site is the second property north of N.E. 55th Avenue. The site is in an area where the topography slopes moderately from north the south. The existing single family residence is to be demolished for the construction of an 8 unit apartment.

2. To the east and south the site abuts an irregularly shaped L-2 zoned area. The L-2 zoned area itself abuts, to the south, the N.E. 55th Avenue business corridor which was described as being intensively commercially developed according to its NC 2 40 zoning. Within the L-2 zoned area, the property abutting the site at the east is a 4 unit apartment and the property abutting the site to the south is a 3 unit apartment.

3. West across 25th Avenue N.E. are multifamily structures and duplexes in the single family zone that were described as existing non-conforming uses. North of the irregularly shaped L-2 zone, including the site, is the large Single Family 5000 designated area.

4. Twenty fifth Avenue N.E. is a heavily travelled, 4 lane arterial that extends south through the Montlake area and north to Lake City. The University Village shopping center is 2 blocks south of the site.

5. Applicant presented undisputed testimony that the Hearing Examiner finds as accurate that the N.E. 55th business corridor is an area of recent commercial growth and development; that the department's identification of single family residential usage in the area is not accurate; and that there are many residence owners who do not live in the residences and who have rented their residences to University of Washington students.

6. Applicant's presentation at the hearing confirms the Director's representative's presentation and findings that the block has less than 70 percent single-family residential usage.

A "block" is defined as two facing "block fronts". Seattle Municipal Code Section 23.84.994. The block is thus along 25th Avenue N.E. between N.E. 55th and N.E. 57th. Despite applicant's presentation and argument that three residences on the block are rented out to University students, the Hearing Examiner finds that the use in the area is predominately single family usage.

7. The Hearing Examiner finds that no new non-residential construction has been undertaken in the last 5 years in this single family zone. The Hearing Examiner finds that applicant did not establish non single family residential use for the subject site.

8. Applicant suggests that rezone of his property will "square-off" the irregularly shaped L-2 zone and that his new development on the site will provide needed transition to the single family zone.

9. The Director's representative in this regard indicated that the existing L-2 zoned properties provide the necessary transition and that as the subject site is at the edge of the large single family zone certain policy considerations come into effect. The Director's representative stated that deterioration at the edge of single family zones is an important concern and addressed by policy guidelines of single family regulations. That policy states that edges of zones are to be protected and maintained as single family zoned properties.

10. The Hearing Examiner finds from the Director's representative's presentation that an L-2 designation and usage for the site will adversely affect the area by increased auto-related impacts, population, density and environmental concerns from the increased numbers of new residents in the area.

11. The Hearing Examiner finds the area was originally zoned RS 5000 in 1957 and rezoned to SF 5000 in 1982 when the new Land Use Code was adopted.

12. The file contains three letters in opposition to the rezone indicating the single family character would be destroyed by the proposal. No person testified against the proposal at the public hearing, however.

13. The Director's representative stated that after the application was submitted by the applicant, the City Council enacted interim multi-family development standards in multifamily zones which have resulted in a decrease in development potential for L-2 zoned properties. If allowed as an L-2 property, the new standards restrict the proposal to 5 units rather than the originally proposed 8 units.

#### Conclusions

1. Relevant rezone criteria are found at Seattle Municipal, Section 23.34.008:

- A. Match between established criteria and area characteristics.
- B. Zoning history and precedential effects.
- C. Zoning principles relating to compatible land use patterns, size, configuration and boundaries.
- D. Impact evaluation.
- E. Neighborhood planning effort.
- F. Changed circumstances.
- G. Overlay district.
- H. Greenbelt plan.

Relevant locational criteria for single family zones are found at Seattle Municipal Code Section 23.34.012 and relevant locational criteria for L-2 zoning are found at Section 23.34.016.

2. The Hearing Examiner concludes that there is not a match of the area to be rezoned and the locational criteria for L-2 in that the site's usage is single family residential. As there is an existing L-2 use abutting the N.E. 55th Avenue business corridor on the south there is no need of utilizing the site as a transition between the zones because of the existing L-2 property abutting the site. Seattle Municipal Code Section 23.34.016(B); Seattle Municipal Code Section 23.34.008(A).

3. Related L-2 locational criteria are met by the subject site in that the area is a mix of single family, duplex and small apartments with a prevailing height of 25 ft., Seattle Municipal Code Section 23.24.016(B); and in prevailing scale, proximity to transit, open space, neighborhood businesses and topography, Seattle Municipal Code Section 23.24.016(C) and (D). However, as the site proposed for rezone does not comply with the initial test as being non-single family residential, the Hearing Examiner concludes that the property does not qualify for rezoning to L-2. Seattle Municipal Code Section 23.34.010(A).

4. The Hearing Examiner concludes the zoning history for the area is single family residential and that rezone to L-2 would set an unwarranted precedent for other properties at the edges of single family zones and that the related impacts to the single family zone dictates against the rezone. Seattle Municipal Code, Sections 23.34.008(B) and (D).

5. Relevant locational criteria for single family zones are found at Seattle Municipal Code Section 23.34.012. The Hearing Examiner concludes that the block is not at least 70 percent single family residential but that the trend toward residential is established by the fact that in the last five years, the number of existing single family structures has been very stable. Seattle Municipal Code Section 23.34.012(A)(3).

6. The Hearing Examiner concludes that the rezone area meets the size criteria for single family zones in that it abuts a single family zone. Seattle Municipal Code Section 23.34.012(B).

7. The Hearing Examiner concludes that the area meets the criteria regarding single family residential usage in that consideration of the half block that divides the block north and south is more than 50 percent single family residential. Seattle Municipal Code Section 23.34.012(C)(4).

8. The Hearing Examiner concludes that the impact of N.E. 55th business corridor is mitigated by the irregularly shaped L-2 zoned area that provides the transition required by zoning principles. The land use patterns, size and configuration, boundaries and topography also comply with zoning principles and, thus the Hearing Examiner concludes that existing zoning is appropriate for the area. Seattle Municipal Code Section 23.34.008(C).

9. The Hearing Examiner concludes neighborhood planning efforts, changed circumstances, overlay districts and greenbelt plans are considerations not presented and therefore not relevant to this proceeding. Seattle Municipal Code Sections 23.34.008(E) and (F) and (G) and (H).

10. The Hearing Examiner concludes in review of the Director's representative's presentation the Department has established that the area is single family residential and that the area should retain its single family residential designation.

Recommendation

The Hearing Examiner recommendation to the City Council is that the petition be denied.

Entered this 22nd day of December, 1988.

Roger H. Shimizu  
Roger H. Shimizu  
Hearing Examiner Pro. Tempore

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.