

FINDINGS AND RECOMMENDATION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Petition of

THE RAINIER FUND

FILE NO. CC-84-011

C.F. NO. 293413

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

Petitioner, The Rainier Fund, requests the reclassification of Seattle School District No. 1 property at 10040 Aurora Avenue North from SF 5000 to Community Business (BC) zoning.

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

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

This matter was heard before the Hearing Examiner on October 30, 1984.

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 subject of the rezone petition is an 8.058 acre block bounded by North 100th and 103rd Streets and Aurora Avenue North and Stone Avenue North. The legal description of the property is: the SW 1/2 of the NW 1/2 of the NE 1/2 of Section 31, Township 26N, Range 4E, W.M., except streets.
2. The site is owned by Seattle Public Schools which has declared the Oak Lake School which occupied the site surplus to its needs. The old school buildings still are present on the site.
3. The westerly 120 ft. is now zoned BC. The remainder of the block is zoned SF 5000.
4. The blocks across North 100th to the south have been zoned General Commercial (CG) since 1968. Prior to that the zoning was Manufacturing (M).
5. The blocks to the east and northeast are zoned SF 5000 and are in chiefly single family use. Directly north, across North 103rd, east of Midvale, is SF 5000 zoning. West of Midvale is a half block wide strip of Lowrise 3 (L-3). Adjacent to Aurora is a 120 ft. strip of BC. The L-3 zoned property directly across from the subject site is in use as a parking lot accessory to a bank in the BC zone.
6. Aurora Avenue North is six lanes wide in this area and has a median barrier which prevents turns except at certain intersections. A pedestrian overpass is located at the northwest corner of the subject site.
7. The petitioner proposes to develop the site as a small shopping center. Uses such as movie theaters and small retail shops are contemplated but the petition does not propose specified uses.

8. A declaration of non-significance pursuant to Chapter 25.04 and SEPA was issued by the Director, Department of Construction and Land Use, for the rezone. The environmental checklist shows probable deterioration in air quality, at least during construction, increase in noise levels, more lighting, alteration in land use, increased population on the site, loss in the area available for residential use, transportation and circulation impacts and alterations to certain public utilities.

9. A transportation analysis was done for the petitioner assuming development of four retail buildings with a total of 58,000 sq. ft. of floor area and a 2,000 seat theater plus 500 parking spaces. Such a project could generate up to 2,260 daily one way trips during the PM peak hour. No projection of actual parking demand was made but the highest estimated or required parking of the sources considered is 412 spaces.

10. Volumes of traffic on North 103rd, North 100th, Stone Avenue North and others will be higher than now or than with the prior school use.

11. Some increase in traffic hazards will occur due to the increase in volume and new access to Aurora.

12. The Department of Construction and Land Use (DCLU) recommends that the rezone be granted subject to three conditions:

1. Screening, 6 ft. in height, and located no closer to the street than 10 ft. shall be provided as specified in Section 24.66.140 on the entire Stone Avenue frontage of the subject school site, and on the partial frontage on 103rd Street directly across the street from the existing SF 5000 zone. Further, the area between the screening and the street lot line shall not be used for parking purposes, but shall be landscaped and maintained.
2. No vehicular access is permitted on the Stone Avenue frontage.
3. Any outdoor refuse storage or incineration shall be effectively screened from premises in the R zone.

13. The petitioner agrees to the conditions in DCLU's recommendation.

14. The Neighborhood Commercial Areas Policy Map shows the site proposed for NC3/40 zoning.

15. Both North 103rd Street and Stone Avenue North have 60 ft. wide rights-of-way.

16. Most structures in commercial use in the area are two or three stories high.

17. DCLU recommends that the site be designated as NC3/40 when the Council considers the city-wide rezoning of neighborhood commercial areas.

Conclusions

1. Because the property is zoned single family and is not vacant it may be rezoned to another classification only if it does not meet the criteria for single family designation, according to Section 23.34.24. The property does not meet any of the three locational criteria of Section 23.34.32 for single family zones in that the existing structures are not in single family use; the property is not designated in a neighborhood plan

for single family use; and there is no trend toward single family use of the property. Therefore, the site may be considered for other classification.

2. The general rezone criteria are found in Section 23.34.28. As no locational criteria exist for the BC zone designation, there is no overlay or greenbelt district applicable and the petitioner is not offering changed circumstances as justification for the rezone the only relevant factors are B, C, D, and E.

3. Section 23.34.28.B requires consideration of the zoning history of the area. The zoning changes that have occurred around the site have been to commercial or business and toward greater density of population. The requested rezone would be in harmony with these changes. Potential changes include those associated with the city-wide neighborhood commercial rezone.

4. The next subsection, Section 23.34.28.C, provides for consideration of zoning principles. The zoning principle identified by DCLU as relevant to the proposed rezone is that uses on facing sides of the street should be compatible. The proposed rezone would result in single family zoning facing business zoning across both Stone Avenue North and North 103rd. The width of the street rights-of-way and proposed screening and setback conditions reduce the incompatibility of the potential dissimilar uses. While the northwesterly part of the site faces an L-3 zone, the use of that property for accessory parking is not incompatible with the likely uses of the site.

5. The impact evaluation, required by Section 23.34.28.D, shows that the negative impacts on the surrounding area from development of the site under BC zoning would be from the increased vehicular traffic. The impacts of noise, pollution, and volume on neighborhood streets could be severe if access was to be permitted to and from Stone. With the proposed condition limiting curb cuts to the Aurora and North 103rd sides, these effects should be minimal. None of the other impacts disclosed in the environmental checklist are viewed as necessarily negative.

6. Finally, Section 23.34.28.E directs that plans or recommendations which apply to the site are to be taken into consideration. The Proposed Neighborhood Commercial Areas Policies Map should be treated as such a recommendation and the proposed designation of NC3/40 examined. The requested rezone would further certain of the goals of the Land Use Policies for Neighborhood Commercial Areas, namely:

I.A.2. Encourage the careful location of residences, institutions and businesses in order to maintain the integrity of neighborhoods;

5. Locate intense, traffic generating businesses where access to adequate transportation corridors is maximized; and

B.3. Encourage compact, concentrated commercial areas in preference to diffuse commercial sprawl.

7. The location of the property at the edge of the residentially developed area and on a major transportation corridor would not disturb the integrity of the residential neighborhood and provides direct access to that corridor.

8. Assuming that there is demand for more commercial space in this area, the proposed rezone would also satisfy the

objective 11.B.1.d that "compact, concentrated commercial areas, or nodes, shall be preferred over diffuse commercial sprawl." Further, the capacity of infrastructure would not be exceeded satisfying objective 11.B.1.f.

9. The clearest indication that the site is appropriate for commercial zoning is 11.B.2.f., that:

The area is a closed public school which has been declared surplus by the Seattle School District and which is within or immediately adjacent to a business commercial area, to the extent that such designation would not result in the intrusion of commercial use into a residential neighborhood;...

10. The analysis of the factors listed as general rezone criteria in relation to the site shows that there is a trend toward higher density residential and retail suggesting a need for more business zoning to serve the area; that with conditions on access and for buffering the rezone would not violate good zoning principles and cause environmental degradation; and that such a rezone would be consistent with Neighborhood Commercial Areas Policies. Therefore, the Council should rezone the property with the recommended conditions.

11. DCLU's representative explained that the chairperson of the Council's Land Use Committee has requested recommendations for the classification to be given rezone sites during the city-wide neighborhood commercial areas rezone. To determine which of the commercial zone classifications should be assigned the policies require that each of the locational criteria be considered. Those of Neighborhood Commercial 2 (NC2) and Neighborhood Commercial 3 (NC3) appear to be the most appropriate and will be examined.

12. The existing character of the area, one of the criteria, matches neither NC2 or NC3 descriptions precisely but the site itself could be characterized as a "medium-sized node generally surrounded by low to medium density residential areas" and the nearby commercial strip a "commercial area along major arterial where lots are generally small and shallow and are surrounded by low density residential areas." These are characteristics of NC2. The NC3 characteristics include being "surrounded" by medium to high density residential areas or commercial areas. While the site faces commercial across the street on its west and south sides two other sides face single family residential.

13. As to the desired character, the possible development has some of the characteristics of each classification and is dissimilar to others for each classification. It would probably have a variety of neighborhood serving businesses like NC2 or retail businesses like NC3; would not have storefronts built to the property line unlike the characteristic of both NC2 and 3, but be developed as a shopping center, might or might not be pedestrian friendly, a characteristic of both for NC2 and 3 and cycling and transit are not likely to be important means of access which is a characteristic of NC3.

14. The criterion of physical conditions seems slightly to favor NC3 in that the site is served by a principal arterial, the circulation system can accommodate commercial traffic without drawing the traffic through residential areas and the property is large enough to accommodate parking demand on site. Other conditions described in the policy as favoring NC3 not present for the subject property are: separation from low density residential areas and the need for high accessibility for intense activity of a major commercial node. The site has the following NC2 conditions: low to medium density residential areas

"surrounding" (on two sides), lacks strong edges to buffer residential area and access can be gained through low density residential areas. Conditions of the site contrary to conditions for NC2 listed in the policy are that the site is located on a major transportation corridor, and would have ample parking capacity. Facts about the availability of vacant land for commercial development were not presented. The report indicates the site is "well-served" by public transportation but whether that service qualifies as either "excellent" for NC3 or "limited" for NC2 is not known.

15. The uses permitted under both designations are the same, with certain exceptions, but under NC2 a maximum area which can be devoted to the use is established. Uses which are prohibited in NC2 but permitted in NC3 include: non-household fuel sales, non-household construction equipment and materials sales, farm and industrial equipment sales, hotels, motels, wholesale showrooms, mini warehouses, warehouses, communication utilities, billboards, taxi services, ambulance services, passenger terminals, park and ride lots (a conditional use) and helistops (a Council conditional use).


16. As shown above, the site does not fit precisely either NC3, recommended by DCLU, or NC2. Because of its proximity to the single family neighborhood, the examiner would recommend providing greater protection for the neighborhood through the more restricted uses of NC2. The 40 ft. height limit would be appropriate given the height of other buildings in the area.

Recommendation

The property should be rezoned to BC subject to the following conditions:

1. Screening, 6 ft. in height, and located no closer to the street than 10 ft., shall be provided as specified in Section 24.66.140 on the entire Stone Avenue frontage of the subject school site, and on the partial frontage on North 103rd Street directly across the street from the existing SF 5000 zone. Further, the area between the screening and the street lot line shall not be used for parking purposes, but shall be landscaped and maintained.
2. No vehicular access is permitted on the Stone Avenue frontage.
3. Any outdoor refuse storage or incineration shall be effectively screened from premises in the R zone.

Entered this 13th day of November, 1984.


M. Margaret Klockars
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 error 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.