

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

In the Matter of the Petition of

B G PREECO

FILE NO. 8708118
C.F. NO. 296369

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

Introduction

B G Preeco petitions to rezone an underwater parcel at 2611 Alaskan Way from SF 9600 to DH1-45' and to change the shoreline designation from CN to UH.

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 conditionally granted.

This matter was heard before the Hearing Examiner on August 23, 1988.

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 and redesignation request is that property in the harbor 148 ft. west of the outer harbor line at the end of Pier 69, an area of some 104,600 sq. ft.

2. The subject property is zoned Single Family Residential 9600 (SF 9600) as property not specifically included within a zone on the Official Land Use Map. Section 23.30.030. The property is within the Conservancy Navigation (CN) shoreline environment.

3. Since the subject property is beyond the outer harbor line it is undeveloped. The pier to the east has two large wood frame pier sheds, one scheduled to be remodeled and one removed under existing permits.

4. The piers along Alaskan Way are zoned Downtown Harborfront One (DH1-45'). The piers and pier sheds are developed with a mix of water-dependent and water-related businesses. The next pier north is developed with a restaurant, import shop and a number of small retail businesses. South of Pier 69 is the Edgewater Inn, currently undergoing renovation.

5. The waterfront lots along Alaskan Way are within the Urban Harborfront (UH) shoreline environment to the outer harbor line.

6. The petitioner leases Pier 69 from the State of Washington and subleases it to B. C. Steamship and others. In planning the renovation of the pier, petitioner determined that the space could be used more efficiently with reorganization. Now, because the loading space for the ships is near the shore, the entire pier has to be closed off when a ship arrives from Canada for U. S. Customs to complete their work with incoming passengers. If the loading area is moved to the outer end of the pier, even with ticketing in the street frontage portion of the pier, the rest of the pier can be leased to others. To accommodate ships at the new loading area, new moorage structures (catwalks and dolphins) are required and would extend beyond the

outer harbor line and into the area of SF 9600 zoning and CN shoreline environment.

7. Vehicles waiting to board the Princess "Marguerite and Vancouver Island Princess at Pier 69 now must wait on Alaskan Way because of insufficient stacking room in the pier. The rezoning will allow more space on the pier to be used for a parking and stacking area. Traffic circulation on Alaskan Way should be improved.

8. An application has been made to the State Harbor Line Commission to change the location of the outer harbor line.

9. The downtown harborfront is part of a shoreline of state-wide significance.

10. Commercial uses are not permitted in the SF 9600 zone and no development is permitted in the CN environment, hence the petition for rezoning and redesignating.

11. Two comment letters were received, both regarding the use by peregrine falcons of the north side of the pier as a perch for hunting pigeons. Since the proposal addresses changes only to the southwesterly portion of the pier it would not directly impact perches on the north side.

12. The Director, Department of Construction and Land Use, issued a determination of nonsignificance pursuant to SEPA for the overall proposal which includes revision to shoreline permit No. 83-535. The Director found no direct adverse environmental impacts from the rezone or redesignation. Possible indirect impacts identified would be other rezones leading to construction farther out in the harbor and possible navigation conflict.

13. The recommendation of the Director is for the City Council to tie approval of the rezone and redesignation to approval of the relocation of the outer harbor line and to restrict development to the type proposed for ship mooring.

14. Revitalization of the harborfront is one of the goals of the policies for downtown. Projects are underway, such as the remodelling of the Edgewater Inn, and proposed, such as the bond issue for the Alaskan Way improvements. Renovation of Pier 69 would be a significant step in this revitalization process.

15. With adoption of the Downtown Code in 1985, the entire harborfront was classified as DH-1.

Conclusions

1. The analysis of the rezone petition must include whether the area meets the criteria for single family designation, consideration of the downtown plan and consideration of the general rezone criteria.

2. The subject area meets none of the criteria for single family designation in Section 23.34.012 so classification to other designations may be considered.

3. The general rezone criteria, Section 23.34.008, require consideration of area characteristics against locational criteria, zoning history and precedential effect, other zoning principles, impacts, neighborhood planning efforts, changed circumstances, overlay districts and Greenbelt Plan.

4. Downtown Plan Policy 36: Downtown Harborfront-1 and Shoreline Environment (DH-1), Guideline 1 establishes the locational criteria for the proposed zoning.

Both the Downtown Harborfront-1 land use designation and the Urban Harborfront Shoreline Environment designation shall apply to waterfront lots and adjacent harbor area located within the boundaries of downtown.

The subject area matches this criterion in that it is in the

harbor area adjacent to a waterfront lot, however it is outside the boundaries of downtown, the outer harbor line. If the outer harbor line is moved then the match would be complete.

5. The purpose of the DH-1 designation is to "encourage economically viable marine uses to meet the needs of waterborne commerce, facilitate the revitalization of downtown's waterfront..."etc. The redesignation here would further that purpose by allowing the improvement of a passenger shipping terminal and encourage additional commerce on the pier.

6. The height limit proposed is the same as the remainder of the waterfront so is appropriate. The Downtown Land Use Policies, policy 36, limits DH-1 height to 45 ft.

7. The area's most recent zoning change occurred with the adoption of the Downtown Code in 1985 which is when the DH-1 classification was applied to the adjacent property. The reclassification and redesignation of this property could have a precedential effect only if the State Harbor Line Commission acts to move the outer harbor line for other proposals. That check, plus the requirements of the Shoreline Master Program, would prevent any unwarranted changes.

8. One zoning principle which may be offended by the proposed rezone is that encouraging regular and natural boundaries. Here, the zone boundary would jut out beyond the rest of the zone. Given that the SF 9600 designation of the surrounding property is a holding designation and residential development will not occur, the principle has little purpose in this case.

9. The only direct environmental impact of the rezone would be potential hazard to navigation from allowing development farther out in the harbor. This is not viewed as substantial because of the location away from state ferries and cargo traffic but would have to be carefully considered by the State Harbor Line Commission in its determination of the request to have the outer harbor line changed. An indirect positive effect of the rezone would be to allow the reorganization of the pier space to provide more stacking capacity and improve the flow of traffic on Alaskan Way.

10. The Harborfront Plan emphasizes strengthening the maritime use of the harborfront and specifically calls for continued use of Pier 69 for moorage of large vessels. The improvements which the proposed rezone would allow would make that continued use more likely.

11. The petitioner does not rely on changed circumstances as a justification for the rezone.

12. The subject property is not within an overlay district nor a greenbelt.

13. The Land Use and Transportation Plan for Downtown Seattle also has policies related to rezones within downtown. (Policy 47). The plan would permit application of a downtown land use classification only if the boundary of downtown is changed by a change in the outer harbor line. The outline for rezone evaluation in that policy requires consideration of: public objectives; match between area characteristic, locational criteria and development potential; boundaries; zoning and planning history; impacts; changed circumstances; and height.

14. The public objectives to be considered are in the Downtown Plan Framework Policies. Policy N advocates the revitalization of the harborfront to strengthen maritime activities and enhance opportunities for public access. Water-dependent uses which are compatible with a "high pedestrian use waterfront" are to be encouraged along with meeting the needs of waterborne commerce and providing an active working waterfront character. The rezone, which would improve the facility for the water-dependent passenger ships and reduce congestion on Alaskan Way, satisfies these public objectives.

15. The policies require that in matching the locational

criteria and area characteristics one first must determine that the rezone would strengthen the character of the area, increase service and/or avoid excessive impacts of development. A rezone to improve a water-dependent use would tend to "strengthen the character of the area. Further, the traffic circulation improvement not only avoids excessive impacts but would improve an existing situation.

16. DH-1 is appropriate for waterfront lots (Policy 36).

17. The relevant boundary factor is the location of the outer harbor line. If the line is moved, the proposed zone boundary would be appropriate.

18. Specific impacts are set out to be considered in downtown rezoning: market and economic conditions, development potential, effects on transportation, parking, housing and public services and environmental factors. No negative effects on any of these are reasonably foreseen from the proposed rezone. The probable positive effect of the change permitted by the rezone would be an improvement in traffic circulation.

19. The height consideration is whether the proposal conforms with Policy 15 and it does.

20. The evaluation of the required factors under the Land Use and Transportation Plan for Downtown Seattle shows that rezoning the subject site to DH-1 45' is appropriate but only if the outer harbor line is moved. The rezone should be granted subject to the following conditions: 1) that the outer harbor line is changed and 2) the use of the area is restricted to moorage structures.

21. Implementation Guideline A5 of the Seattle Shoreline Master Program sets forth the criteria for shoreline environment redesignations to assure that changes are consistent with the purpose of the Shoreline Goals and Policies. The general goals of the state shoreline act are to preserve the shorelines for water-dependent use, provide public access and protect the shoreline environment. The proposed redesignation is for improvement of a water-dependent use and would have little effect on the shoreline. Public access is not relevant to the proposal since the subject area is underwater.

22. Since the subject site is a shoreline of statewide significance, the redesignation must conform to certain criteria relating to that status. The statewide interest in long-term protection of natural character and resources must prevail over local interest. With conditions limiting development to moorage facilities there should be no adverse effect on the shoreline environment and the redesignation would allow improved utilization of a water-dependent use serving more than the local area.

23. The area objective for the existing CN environment is to allow only a few uses which do not interfere with navigation. With the outer harbor line at its current location, the CN environment is appropriate. The purpose of the UH environment is the same as the DH-1 zone. If the outer harbor line is moved, after consideration by the Harbor Line Commission of the needs of navigation, then the purpose to be served is changed and the changed designation would be appropriate.

24. The locational criterion for CN is submerged lands used as a fairway for vessel navigation. The criteria for UH are underlying downtown zoning, adjacent to state harbor areas, and areas developed with finger piers and transient sheds. As zoned now, the characteristics meet the criteria for CN but if the outer harbor line is moved and the zoning is changed it would match all the criteria of UH.

25. It is the duty of the State Harbor Line Commission to determine the effect of a change in the outer harbor line on the harbor area. The redesignation should conform with the determination of that body, however, the Seattle Shoreline Master Program, Implementation Guideline E4, offers guidance. The change is necessary for the efficient operation of a water-dependent use

by allowing reorganization of space on the pier; it would further the policies by allowing continued existence of the use and encouraging revitalization of the waterfront; it would be in the public interest by removing standing cars from Alaskan Way and improving the traffic flow; and it would have little effect on the shoreline environment. From the City's vantage point, the change would be appropriate.

26. The redesignation should have little negative effect on the area and its surroundings except for possibly requiring some adjustment in local navigation. Land use impacts can be controlled by limiting development to minor moorage structures.

27. Under this petition both the zoning and shoreline designation would be changed and DH-1 and UH, the proposed classifications are compatible.

28. Consideration of the factors specified by the Seattle Shorelines Master Program shows that redesignation is appropriate if the outer harbor line is moved subject to the same conditions as those applied to the rezone.

Recommendation

The property should be reclassified DH1-45' and redesignated UH with a property use and development agreement which includes the following provisions:

1. The owner(s) and or responsible party(s) shall restrict the use of the subject property to moorage structures such as dolphins, catwalks, piers and mooring fenders necessary for water-dependent uses.

2. The Harbor Line Commission shall have approved the relocation of the Outer Harbor Line within two years of the effective date of the rezone and redesignation.

Entered this 7th day of September, 1988.

M. Margaret Klockars
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Deputy 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.