

FINDINGS, DECISION AND RECOMMENDATION
OF THE CITY OF SEATTLE HEARING EXAMINER

In the Matter of the Application of

FATHER ROBERT WEBB ON BEHALF OF
QUEEN ANNE CONDOMINIUM ASSOCIATION
AND EDWARD VANDESTEEN,

APPLICATION NO. 8803983
C.F. NO. 296670

for a rezone of property pursuant to
Title 23, Seattle Municipal Code

and

In the Matter of the Appeals of

MR. AND MRS. DOUGLAS ROTH AND
MR. AND MRS. TAKAO AOKI

FILE NO. W-89-007

from an environmental determination
by the Director, Department of
Construction and Land Use

Introduction and Procedural Background

On August 17, 1988, the Applicants, Father Robert Webb, on behalf of the Queen Anne Condominium Association, and Edward Vandestein, filed an application to rezone certain properties located at 501 to 637 West Mercer Place (the "subject property") from the Midrise ("MR") designation to a lower density designation, either Lowrise-2 ("LR2") or Lowrise-3 ("L3") (the "initial rezone request").

The Applicants do not own, reside in or have any other interest in the subject property. Rather, they are owners of condominiums (620 West Mercer Place) and the owner of a single family residence (605 West Roy Street), whose property is situated on the northeast side of West Mercer Place, facing the proposed rezone area.

The Director of the Department of Construction and Land Use (the "Director") considered the initial rezone request and, on September 28, 1989, issued an Analysis and Recommendation (the "initial Director's decision"). The initial decision included a recommendation that the initial rezone request be modified to L3 and that an L3 designation be approved. The initial decision also included a Determination of Non-Significance ("DNS") as required by the State Environmental Policy Act ("SEPA"), RCW 43.21.C. and Chapter 25.05 of the Seattle Municipal Code ("SMC").

The initial Director's decision regarding the rezone was

opposed by several owners of the subject property: Mr. and Mrs. Douglas Roth (505, 511 and 515 West Mercer Place) and Mr. and Mrs. Gordon Burns (601 and 623 West Mercer Place). In addition, Mr. and Mrs. Roth appealed the DNS, pursuant to the Master Use Permit Ordinance, Chapter 23.76, SMC.

A consolidated public hearing to consider the initial rezone request and the DNS appeal of Roth was scheduled for October 30, 1989. By Order dated October 27, 1989, the public hearing was continued to November 22, 1989. The examiner further ordered the parties to participate in a pre-hearing conference to be held on November 15, 1989. A Notice of Prehearing Conference was issued on November 2, 1989.

At the prehearing conference, Appellants, Dr. and Mrs. Roth, moved to dismiss the application on several grounds:

1. Lack of Authority. The Roths argued that the applicants lacked authority to file the rezone application because they are neither owners nor agents of the owners of any of the property to be rezoned and, therefore, are not "interested" persons within the meaning of SMC 23.76.040.A. The phrase "interested" persons is not defined in the statute.
2. Constitutionality. The Roths also argued that the City lacks jurisdiction to consider the rezone application because the application was filed in violation of the property owners' Constitutional property rights.

On November 15, 1990, the Examiner also considered an objection by Gordon Burns to the adequacy of the Notice of Public Hearing.

At the beginning of the public hearing on November 22, 1989, the Examiner ruled that the initial Notice of Public Hearing, published by DCLU on September 28, 1989, was inadequate. The Notice failed to describe the Director's recommendation and environmental determination, as required by SMC 23.76.052.B(4). A new Notice was published on November 30, 1990 for public hearings to commence on January 11, 1990 and continue, if necessary, on January 12, 1990.

On January 9, 1990, the Examiner granted a motion by Mr. and Mrs. Takao Aoki (519 and 521 West Mercer Place) to intervene in the appeal from the Director's Environmental Determination.

On January 11, 1990, the Examiner responded to the Roths' motion to dismiss. The Examiner ruled that whether the applicants were "interested" persons, within the meaning of SMC 23.76.040.A, would depend upon their reasons for filing the application. If the applicants were motivated by a reason which is consistent with the public welfare and interest, they could be deemed to have been properly interested in the proposed amendment

to the Official Land Use Map. If, however, the motivation for the application was purely personal, including the protection of their private views, their interest in amending the Official Land Use Map could be deemed to be inconsistent with the purposes and policies of the Land Use Code.

The Examiner deferred a decision on the motion to dismiss, based on an interpretation of the term "interested" person, until after receipt of the applicant's evidence.

In response to the constitutional arguments, the Examiner determined that he lacks jurisdiction, to consider whether SMC 23.76.040.A is unconstitutional, and whether the City's consideration of the rezone application would also be unconstitutional.

During the public hearing on January 12, 1990, the Examiner was advised that on December 18, 1990, the Seattle City Council adopted Resolutions Nos. 28110, 28111 and Ordinances Nos. 11486, 11487 and 11488; and that on December 27, 1989, the Mayor signed the three ordinances.

1. Resolution 28110 adopted revised locational criteria and zone purpose statements for L1, L2 and L3 zones. This resolution took effect immediately.
2. Resolution 28111 amended the multi-family policies to include a new L4 zoning classification, and adopted development standards and locational criteria for the new L4 zone. This resolution took effect immediately.
3. Ordinance No. 114886 repealed certain sections of the land use code and added a new one, Section 23.34.013, to remove locational criteria for multifamily zones from the Land Use Code and reference them in the Multifamily Residential Area Policies. The effective date of Ordinance No. 11886 would be January 26, 1990.
4. Ordinance No. 114887 amended certain sections of the Land Use Code to change the requirements for the development of multifamily structures; repealed other sections of the Code and added new Sections 23.45.008 through 23.45.018 to consolidate development standards for building in all Lowrise Multifamily zones. The effective date of Ordinance No. 114887 would be January 26, 1990.
5. Ordinance No. 114888 amended certain sections of the Land Use Code to add requirements for the development of multifamily structures in the new Lowrise 4 zone. The effective date of Ordinance No. 11488 would be January 26, 1990.

The resolutions and ordinances significantly changed existing

development standards and locational criteria pertaining to existing low-rise zones. In addition, a new zone and corresponding development standards and locational criteria were added to the Land Use Code. During the public hearing on January 11, 1990, the DCLU representative testified that DCLU had not evaluated the application in light of the new zoning classifications, development standards and locational criteria; and that the Director's report might differ if issued under the new locational criteria.

Therefore, the Examiner granted a motion by the applicant to amend their application in order to request that the subject property be rezoned to either the new L3 or alternatively, the new L4 zoning classification. On February 9, 1990, the Examiner entered an Order remanding the amended application to DCLU for further consideration in light of changes to the City's Land Use Code and Policies and requiring DCLU to submit a revised report.

A Notice of Revised Application was filed on April 12, 1990, requesting a rezone of the subject property from MR to L3 or alternatively, L4. The Director's Revised Analysis and Recommendation (the "Director's final decision") was issued on May 24, 1990. The Director recommended downzone of the subject property to L4. On the same day, a Notice of Revised Recommendation was published.

Public hearings resumed on June 25th and 26th, and concluded on August 3, 1990.

After due consideration of the evidence elicited during the public hearings and during comment periods, the following shall constitute the findings of the fact, conclusions of law and decision/recommendation of the Hearing Examiner on this application and appeal.

Findings of Fact

A. Rezone Analysis:

1. This is a Council Land Use Action request to rezone approximately 1.17 acres from MR to L3, or alternatively L4. If a downzone to L3 is approved, structure height limits would reduce from 60 feet to 30 feet, and maximum apartment building width and depth from 150 feet to 75 feet. Townhouse development under L3 allows buildings up to 120 feet long. Front yard setbacks and open space requirements would remain the same. Rear yard setback requirements would increase, and side yard setbacks would decrease. L3 properties are subject to a density limit of one unit per 800 square feet of lot area, and lot coverage limits of 45 percent (45%). There are currently no density or lot coverage limits in MR zones. L4 allows buildings up to 37 feet in height and a density limit of one unit per 600 sq. ft.

2. The following approvals are required: (a) rezone - to rezone the subject property from MR to lower one designation (SMC 23.34); and b) SEPA - an environmental determination (SMC 25.05).

3. The subject property consists of eleven continuous lots, with seven separate owners. The applicants are neither the owners or the agents of the owners. Three owners are parties of record and oppose the rezone request. It is unclear whether the other 4 owners received actual notice of the rezone request, the Director's decisions and of the public hearings. There is no evidence that the other 4 owners consented to the rezone, and therefore, the Examiner assumes that they prefer to retain the current zoning.

4. The subject property is the westernmost extension of an MR zone on the southwest slope of Queen Anne, just south of Kinnear Park. It is located on the south side of West Mercer Place between 5th Avenue West and Elliott Avenue West. It is unclear why the applicants have requested to downzone only a portion of this MR zone.

5. Under Title 24, the subject property was initially zoned Multiple Residence High Density (RMH 350). In 1976, the subject property was downzoned to Multiple Residence Low Density (RML 8900), with development standards comparable to L2 and L3 zones under the current code. The area downzone affected property on both sides of West Mercer Place, including the subject property, and extended several blocks to the west and north, including Kinnear Park.

6. In 1982, the multifamily residential sections of Title 23 were adopted. The new zoning code designated MR zoning for the subject property and located the boundary of the new zone at West Mercer Place. Development standards comparable to those in effect under Title 24 were continued through the adoption of L3 zoning on the north side of West Mercer Place. The difference in potential scale of development from one side of the street to the other was clearly intentional, because a request for MR zoning on the north side of the street, including property owned by the applicants, was considered by the City Council and denied.

7. All of the subject property is developed with residential structures, including four single family residences, three duplexes, two triplexes, and two apartment buildings of six and nine units. The existing structures range in height from one to three stories.

8. The subject property is situated approximately one-half mile west of the Seattle Center. Kinnear Park, located northeast of the subject property is heavily wooded with steeply sloping topography and provides both open space and recreational opportunities.

9. Kinnear Park is accessible from West Olympic Place at

its uphill edge and by a footpath off the dead end of West Roy Street at mid-site. The footpath leads to a tennis court. Kinnear Park is a protected view-point under the City's SEPA Ordinance Public View Protection policy (SMC 25.06.675.P). The nearest accessible point in Kinnear Park, the footpath and tennis court off the end of West Roy Street, is roughly 75 feet above the highest point on the subject property. Public views would not be affected by structures on the Subject Property constructed up to the MR height limit of 60 feet.

10. The site slopes down toward the southwest over an elevation change of approximately 30 feet. Areas along the southwest boundary and the east end of the subject property are designated environmentally sensitive due to steep slopes.

11. The sloping topography of the southwest Queen Anne neighborhood provide views of Elliott Bay. For this reason and due to its proximity to the Seattle Center and downtown Seattle, West Mercer Place is very desirable residential property.

12. The properties situated northeast of the subject property are zoned multifamily and developed with both single and multifamily structures. The structures range in size from four to 40 units. The scale and intensity of multifamily development increases further uphill.

13. The properties on the north side of West Mercer Place, facing the subject property, and continuing north of a line which is approximately 100 feet south of West Roy Street, are zoned L3, despite efforts in 1982 to have the property rezoned to MR. There are four single family residences, and one six-unit condominium. This area borders Kinnear Park. The area northeast of West Mercer Place, south of 6th Avenue West, and across the street from the subject property is zoned MR. There is relatively new multifamily construction on this site.

14. Properties located south of the line which is approximately 100 feet south of West Roy Street and West Mercer Place, including the subject property, are zoned MR.

15. A neighborhood commercial area along West Mercer Street is three blocks east of the subject property, and there are less neighborhood oriented commercial properties on Elliott Avenue West, one block west of the subject property. Those properties are of comparable and, potentially, greater height and bulk than is permitted on the subject property.

16. Properties situated southwest of the subject property, fronting on Elliott Avenue West, are zoned Commercial ("C2"). The C2 zone consists of offices, retail, restaurant and auto repair businesses in one and two story buildings. Properties located across Elliott Avenue West, southwest of the C2 zone, are zoned Industrial Commercial ("IC"). The IC zone consists of light manufacturing and construction supply uses, including large

areas of open storage and railroad right-of-way. A narrow strip of park land, currently zoned Manufacturing (M) fronts Elliott Bay on the other side of the IC zone.

17. With the adoption of Title 23, (Industrial areas zoning) in 1987, the height limit for office and commercial structures was reduced from 65 feet to 40 feet in the adjoining C2 zone. The IC zone beyond is included in a shoreline-related area where height up to 65 feet is permitted with the inclusion of view corridors totaling 35 percent of lot width.

18. A 261,000 sq. ft. office complex of two buildings, each five stories tall, is currently proposed in the IC zone, directly downhill from the subject property (See MUP No. 8803090).

19. The applicants have stated a variety of objectives for requesting the rezone, including concerns about parking, noise and pollution. However, the principal theme in correspondence authored by the applicants or their supporters had to do with the preservation of private views. During the hearing, applicant Webb testified that he opposed an increase in "height" not "density" at the subject property; that the primary motivation of the applicants was to preserve their "quality of life;" and that single family residences within the subject property should remain single family residences.

20. Applicants argue that the zoning classification most appropriate to the site is L3 because: (a) L3 would allow the construction of structures which are more compatible with existing neighborhood character, since the prevailing height and scale of other structures in the vicinity is less than 60 feet; (b) existing uses downslope and upslope of the subject property require a gradual transition which may not occur if the subject property is developed to its maximum potential under the MR zoning classification; (c) topographic and view conditions necessitate a lower height limit than is possible in the MR zone, to preserve the view upslope from the site without depriving the site of view; and (d) a lower zoning designation would mitigate the potential adverse traffic, odor, noise and vibration impacts on the neighborhood, from traffic using West Mercer Place.

21. Although West Mercer Place is designated a principal arterial, it is actually only a two lane residential street without on-street parking. A Seattle Engineering Department ("SED") representative testified that the City Council considers the "functional use" of streets, rather than departmental standards in determining that a street is a primary arterial. The Seattle comprehensive Traffic Program was adopted as a policy document and provides a basis for the City Council's definition of "primary arterial".

22. West Mercer Place does not comply with the standards for a principal arterial (See Seattle Street Design Manual). Although 66 to 71 feet of right-of-way width is available, the

pavement width is only 26 feet, rather than the standard arterial width of 44 feet. Therefore, there are only two, rather than four traffic lanes. There is no planting strip and the sidewalk on the northeast side of the street is only three to six-foot wide. There is no sidewalk on the southwest side of the street.

23. West Mercer Place is a connection between Elliott Avenue West and West Mercer Street. It is also a link in one of the main traffic routes from Magnolia and Interbay areas to the I-5 freeway. West Mercer Place carries an average of 9800 vehicles trips per day, including two bus routes. Several more bus routes are available on Queen Anne Avenue, five blocks to the east. West Mercer Place is not designated a scenic route and parking is prohibited on this two lane, two way street.

24. Topography could limit future widening of the roadway. Street widening would probably occur on the southwest side of West Mercer Place, adjacent to the subject property. The property owned or occupied by applicant Webb is improved with a rockery in what should be the City's right-of-way, resulting in a sidewalk which is only 3-feet wide in some locations. Street widths and capacities increase within one block in either direction from the subject property.

25. The SED has estimated the capacity of West Mercer Place at about 1,800 vehicles per hour. Current afternoon peak hour traffic volume is 802 vehicles. Multi-family development generates an average of 0.6 trips per peak hour (See the Institute of Traffic Engineering Manual, (1987)).

26. A traffic analysis is normally not done as a part of the City's review of a rezone application because there is no proposed project. However, according to the City, the major impact of traffic volume on West Mercer Place is "through" traffic. An SED representative testified that there have been 42 total auto accidents, including 31 rear-end collisions, on West Mercer Place in the past five years.

27. According to applicant Webb, the main source of noise on West Mercer Place is from trucks and buses, particularly trucks carrying automobiles from the import auto facility at Pier 90. Those impacts would not be reduced through a rezone of the subject property.

28. Another significant source of noise and pollution affecting property owners on West Mercer Place is the grain-loading facility across Elliott Avenue. Those impacts would also not be reduced through a rezone of the subject property.

29. This is not a project specific rezone request, therefore, such worse case projections of traffic impacts are all that can be evaluated. The Examiner recognizes that actual and cumulative impacts of future development will depend on several

factors, including: (a) the availability and quality of transit service; (b) the mitigation measures imposed upon the new development (which may be greater if development occurs at MR densities); (c) the type, size and location of new development (development at full capacity may not occur); (d) the location of points of ingress and egress at each of the 11 parcels; (e) the success or failure of efforts to effectively mitigate existing traffic and related impacts caused by commuter traffic from Magnolia and Ballard and commercial traffic generated by businesses located on Elliott Avenue West and Elliott Bay; (f) the nature and density of other new residential and commercial development in the vicinity; and (g) the location, type and timing of other traffic improvements in the vicinity, including possible traffic diversions, lane widening and new traffic signals, which may be implemented by the City or other developers.

30. Data from the ITE Manual indicates that apartment development generates a weekday average of 6.1 vehicle trips per unit. If the subject property is developed to its full potential under the MR zone, 112 units would be constructed and would generate 683 average weekday trips. That total would include approximately 189 trips already generated by the 31 existing units, leaving a potential net increase of 494 trips. This net increase would be only five percent (5%) of the current traffic volume on West Mercer Place.

31. According to the DCLU representative, capacity and hazard issues are based on the fact that West Mercer Place absorbs a lot of new development. The representative testified, further, that an additional five percent (5%) increase in traffic volume can be absorbed.

32. At full MR development capacity, the subject property could add 67 peak-hour trips for a potential volume of 869 trips, less than half the estimated street capacity.

33. Any development of the subject property will likely generate traffic and parking impacts and will contribute to cumulative impacts on nearby streets and intersections. Traffic congestion is exaggerated by commuters from Magnolia and other neighborhoods north and west of the subject property, the lack of alternative routes to conveniently access arterials leading to I-5, and the attraction of lower Queen Anne's commercial district and the Seattle Center.

34. Current SED policy is to evaluate the need to improve substandard streets adjacent to new construction of ten or more residential units on a case-by-case basis. However, an SED representative testified that the department has recommended that a 12 foot wide left-turn lane be added to increase the width of West Mercer Place from 26 feet to 38 feet. The new lane would reduce noise impacts which result from acceleration and deceleration. The new lane would also improve vehicular and

pedestrian safety on West Mercer Place.

35. Even with the additional turn lane, West Mercer Place would not meet the standards for a principal arterial. According to property owner Roth, the additional turn lane is included in proposed plans for development of his property to MR standards. By developing several lots, Roth will reduce the number of access points onto West Mercer Place.

36. Street improvements and reduced access points onto West Mercer Place are more likely to occur under MR than the Lowrise designations. The Roth proposal could also gain access via a short spur of Mercer Street connecting to Elliott Avenue, where a traffic signal is presently functioning.

37. Parking demand in the vicinity of the subject property already exceeds available supply. This condition exists, in part, because many of the older apartment buildings near the Subject Property, which contribute to the unique character of the Queen Anne community, were developed without off-street parking.

38. The parking problem is also exaggerated by the attraction of nearby commercial development and the Seattle Center.

39. Any additional demand for street parking in the vicinity of the subject property will adversely affect existing parking conditions. Those problems will not be solved simply by limiting the intensity of development in the subject area.

40. The Land Use Code (SMC 23.54.015) requires new multifamily projects to provide parking at a ratio of 1.1 to 1.25 spaces per unit. The ratio increases with the number of units in the project. SEPA policies (SMC 25.05.675.M) authorize mitigation of parking impacts beyond the requirements of the Land Use Code in multifamily zones where streets are unable to absorb parking spill-over due to inadequate capacity; or where on-street parking is already at capacity. New development in the subject area should include all required parking.

41. The subject property is within 1.5 miles of the Downtown business district, one-half mile north of a cluster of large office buildings surrounded by smaller industrial uses along Elliott Avenue West, and five blocks west of the lower Queen Anne commercial district, bordering the Seattle Center.

42. The elevation difference between the L3 and MR properties on either side of West Mercer Place ranges from 10 to 50 feet. Sloped topography continues both up and downhill of the MR zone boundary. Although some private view obstruction could occur at plateaus, or where buildings are close to the street on both sides, the general effect of the slope is to reduce the apparent height of downhill structures, as seen from uphill properties. This allows for transition in scale.

43. The subject property has slopes ranging from 15 to 40 percent and views are southwest to Elliott Bay, oriented perpendicular to the slope. The prevailing structure height in the vicinity of the subject property is three residential stories or less. However, several developments located northeast of the subject property are taller: (a) the Queen Anne Place Condominium is four stories in height consisting of three residential floors and level of parking; and (b) the West Mercer Condominium and the Bayview Heights Condominium, both located in the existing MR zone, are five stories in height, including four residential floors and one level of parking.

44. Differences in grade elevations from the buildings developed in the subject property to those across West Mercer Place range from 10 to 50 feet. The elevation difference is greatest at the northwest end of the subject property where structures built to the MR height limit would create little or no view obstruction. Grade change is least at the southeast half of the subject property, where views from lower levels of existing buildings could be obstructed by buildings over 30 feet in height. The pending Roth property development proposal is between 30 and 40 feet high at the street side.

45. On July 7, 1980, the Seattle City Council adopted Resolution 26164 (the "Resolution"). The resolution recognized the Goals and Policies of the Queen Anne Community. In adopting the Resolution, the City Council recognized goals which include, maximum local participation and self-determination in communities, consonant with a concern for the needs of all Seattle citizens; the basic right of neighbors to voice their concerns regarding proposed government decisions and actions affecting their interests and to attempt, through legitimate means, to influence those decisions and actions; and that the Queen Anne goals and policies represent a statement by the Queen Anne Community regarding its future development and interests.

46. There is no land use map to go along with the goals and policies, therefore, there is no adopted neighborhood plan for the Queen Anne community.

47. The City Council resolved that: (1) although the Queen Anne goals and policies were not adopted as City policy, they were written and approved by the Community as its objectives for Queen Anne and a suggested guide for official city action; (2) the Queen Anne goals and policies shall be considered by the City in the preparation of Environmental Impact Statements for public and private projects and evaluating rezoning, variance, conditional use permits and shoreline permit applications, which particularly affect the Queen Anne Community; and that, (3) agreement or disparity between the proposed action and the goals and policies shall be documented prior to making those types of decisions.

48. A proviso to the City Council resolution is that any disparity between proposed action and the goals and policies

shall not, by itself, be grounds for approval or disapproval of any proposed action.

49. Goal No. 1 of the Queen Anne community is to:

Achieve stability and retain the residential characteristics of the community without preventing change; and to preserve and enhance the family oriented residential nature of the community.

50. Policy No. 4, adopted pursuant to goal one states:

Rezone of any Queen Anne residential area to permit higher density development shall be prohibited.

51. Policy No. 8 states, in part, that:

The City's Comprehensive Planning Policies, Zoning Ordinance, Building Code and other land use regulations should be modified periodically to incorporate changes in residential land use patterns and to respond to performance expectations of residents in Queen Anne...giving primary cognizance to elements of environmental quality such as:

- a. Natural Setting
- b. Existing neighborhood activities and lifestyles
- c. Predominant Views
- d. Access (traffic and parking)
- e. Spatial Form
- f. Open-space and Landscaping
- g. Sense of Privacy

52. Another goal of the Queen Anne Community is to control development to ensure a compatible and balanced cross section of housing types (Goal 9).

53. Goal 9, Policy No. 1 states that:

New residential development, modifications of existing residential development or the conversion of uses for existing residential development should be compatible with the surrounding neighborhood in regard to bulk, siting, height and density.

54. Policy 2 states, in relevant part that:

Exceptions to density provisions in Policy No. 1 (above) should be permitted only for special

care group living facilities (as specified in Goal #1, Policy 4.), and low-income housing development sponsored by the City of Seattle....

55. Goal 9, Policy 3 provides that:

The present heterogeneous mixture of housing types on Queen Anne should be maintained. Therefore, multi-family development of any one type should not be concentrated in a single family area, but should be dispersed throughout the Queen Anne Community.

56. The Queen Anne goals and policies favor maintenance of existing residential densities and support the proposed rezone. However, the goals and policies are not totally inconsistent with retention of the MR zone. The community council specifically declined to include guidelines on view protection in their goals and policies.

57. The Queen Anne goals and policies were adopted in 1980, prior to adoption of the multifamily residential sections of the Land Use Code in 1982. The Examiner assumes the City Council took the goals and policies into consideration during its deliberations. Nevertheless, in 1982, the City Council rezoned the subject property from RML 8900 to the potentially more intense MR zone.

58. The most recent construction within the subject area involving a change in residential capacity occurred in 1979 when a second-story unit was added to 505 West Mercer Place. No new uses have been established, nor have changes to the structures height or transit patterns taken place since the adoption of MR zoning in 1982. Traffic volumes have increased at a rate slightly higher than the city-wide average of two percent (2%) per year since 1982.

59. Most of the property is in an Environmentally Sensitive Area ("ESA"). Therefore, the ESA is the only overlay district which applies. The subject property is not in a Greenbelt zone.

60. City long-range planners have reviewed the subject property on three occasions, from 1983 to 1989, since the last rezone but have not decided to reconsider the MR zoning designation. Moreover, the subject area is not currently included in the Office of Long Range Planning's re-mapping considerations.

61. Owners of over eighty percent (80%) the subject property have MUP and construction permit applications pending to develop their lots under MR standards. DCLU did not consider the existing owners' reliance on existing zoning in making their respective development plans.

62. According to the DCLU representative, the Department's recommendation to rezone the subject property to Lowrise rather than to retain the MR zone was very close, was made by consensus, and reflected a decision by DCLU to "split the baby".

63. DCLU's analysis of the MR and new Lowrise locational criteria and general rezone criteria are set forth in detail (pages 3 through 11) in the Director's Revised Analysis and Recommendation dated May 24, 1990 (the "Revised Report"). Portions of that analysis is included in the preceding findings. The balance of DCLU's analysis is adopted by the Examiner and incorporated herein, with the following clarifications:

a. Midrise (MR) Locational Criteria: (SMC 23.34.020.

(1) On page 5 of the Revised Report, the Director concludes that the site meets, at least partially, six of the nine locational criteria for Midrise zoning. The Examiner finds that two of the topographic locational criteria that are not met, (F) and (G), are inapplicable to the subject property.

(2) As the Director recognizes, the elevation difference between uphill (L3) and downhill (MR) properties range from 10 to 50 feet, the elevation difference is greatest at the northwest end of the subject property where structures built to the MR height limit of 60 feet would create little or no obstruction. Therefore, some of the subject property, including parcels owned by Gordon Burns, meets locational criteria (I).

(3) Based on the analysis above, the Examiner finds that only seven locational criteria are relevant to the subject property and that the subject property meets at least 6, (and perhaps 7), of the applicable MR locational criteria.

b. Lowrise Three (L3) Locational Criteria: (Resolution No. 28110):

(1) The Examiner disagrees with Director's conclusion that locational criteria 1.b is satisfied merely because all lots within the subject area are accessible from an arterial.

(2) The Examiner finds that because vehicular circulation on West Mercer Place and surrounding streets are generally inadequate; alley access is nonexistent; the width of West Mercer Place and adjacent neighborhood streets are insufficient to allow for both two-way traffic and parking along at

least one curbside, locational criteria 1.b is not met.

(3) Based on the analysis above, the Examiner finds that the subject area meets only three of the six L3 locational criteria.

c. Lowrise Four (L4) Locational Criteria: (Resolution No. 28111)

(1) The Examiner disagrees with the Director's conclusion that locational criteria 1.d is satisfied merely because all lots within the subject area are accessible from an arterial.

(2) The subject area is not characterized by good internal vehicular circulation. One of the applicants' primary complaints is about the traffic congestion on West Mercer Place. Access to the sites are only as good as the traffic conditions on West Mercer Place and there are no alleys. Moreover, the width of West Mercer Place is insufficient to allow for two-way traffic and parking along at least one curb-side.

(3) The Examiner has doubts about whether locational criteria 2.a applies to the subject property and is unable to resolve the uncertainty with the evidence presented.

(4) Based on the analysis above, the Examiner finds that the subject area meets only five of the eight locational criteria; or if criteria 1.d does not apply, only four of the seven applicable criteria.

d. General Rezone Criteria:

1. Other Zoning Principles:

(a) The Examiner generally agrees with the DCLU analysis of zoning principles relating to compatible land use patterns, size, configuration and boundaries.

(b) The Examiner finds that, although L4 may provide development standards most consistent with uphill development, due to topographic characteristics and the character of other development on the south west side of West Mercer Place, development of the subject property under MR (with appropriate mitigation under the Land Use Code and SEPA), would not be inconsistent with uphill development.

(c) The Examiner finds that either L4 or MR would provide scale transition and continuity between the L3 and C2 zones.

2. Impact Evaluation.

(a) The Examiner generally agrees with the DCLU analysis of possible negative impacts on the subject area and its surroundings.

(b) Any positive impacts associated with reducing the number of housing units in the subject area must be balanced against the negative impacts of reducing housing supply and potentially increasing housing costs.

(c) It is reasonable to expect that any development within the rezone area will be approved subject to conditions which may be imposed pursuant to applicable City codes as well as SEPA. Moreover, there is no assurance that the subject property will be developed to its full density potential under L3, L4 or MR zoning. Therefore, it is very speculative to assume that L4 zoning would provide any greater economic incentive to support desired traffic improvements than would L3 zoning. Even with development at levels less than the maximum permitted density for MR zones, there would be greater economic incentives to make needed street improvements.

3. Changed Circumstances

Two Master Use Permit ("MUP") applications (601 and 623 West Mercer Place) were filed for properties within the subject area at the time of the Director's initial recommendation. Four more MUP applications have been filed since the initiation of this rezone request. If a SEPA decision is issued or a building permit application filed prior to City Council action on this rezone application, those projects would vest to the existing MR zoning designation.

Since the initial recommendation, two construction permits have also been filed: one for a five-story, ten-unit apartment building at 505 West Mercer Place; and the other a five-story, five-unit apartment building at 609 West Mercer Place. Those projects would replace a triplex and two single family residences respectively. Assuming that the two applications are approved, they are, as construction permits, vested to the current MR zoning.

If all of the eight proposed projects vest under the MR zoning, and the downzone is approved, approximately 85% of the parcels in the subject area would be developed or redeveloped as legal nonconforming structures. It is not the City's policy to create nonconformities.

The Examiner disagrees with DCLU regarding the significance of pending MUP and Building Permit applications. The Examiner finds that the filing of those applications constitute a changed circumstance which should be considered by the City Council.

64. Approximately 27 letters supporting the rezone and approximately nine letters opposing the rezone were reviewed by DCLU prior to its initial decision. Following public notice of the revised rezone proposal, two of the parties submitted comments in opposition to the proposal.

B. SEPA Analysis:

65. The potential environmental impacts of the proposed rezone would include impacts on transportation, parking, housing, public services and environmental factors such as noise, air, water quality and energy conservation.

66. The southwest portion of the subject property is designated an ESA due to landslide hazard on slopes over fifty percent (50%) grade. Therefore, all parcels in the subject area, with the possible exception of 521 West Mercer Place, fall partially within an ESA. Since 521 West Mercer Place contains less than 4,500 sq. ft. of area, redevelopment of that lot alone would be unlikely to exceed levels requiring SEPA review for either MR, L4 or L3 development. However, if 521 West Mercer Place is developed in conjunction with a lot in the ESA, the lower review threshold would be in effect.

67. Under the city's SEPA ordinance (SMC 25.05), any new development and any addition to existing development over 750 sq. ft. would be subject to review of all potential environmental impacts.

68. The City's Multifamily Policy Environmental Impact Statement projected maximum development densities of 95 units per acre in MR zones. Lesser development densities would occur in L3 and L4 zones. The SEPA ordinance provides authority to require mitigation of adverse impacts based on existing conditions and scale of the impacts, regardless of zoning. ESA boundaries are based on topographic data and review thresholds and mitigation authority would not be affected by a change from MR to lower density zoning.

69. Development to full MR density could increase traffic volumes on West Mercer Place by an average of 494 weekday daily

trips, a 5% increase over current volumes. Development at lower densities would likely reduce traffic volumes, but the decrease would not be significant. A rezone would likely decrease the redevelopment potential and incentives for owners of lots within the subject area. Site-generated traffic increases would be reduced or postponed. However, because "through traffic" constitutes the bulk of the existing adverse traffic impacts, traffic levels would probably continue to rise and impacts would not be affected by a rezone.

70. New development would be more likely to occur in the near future under MR standards. This would promote assembly of larger parcels of land, including longer street frontages, fewer driveways and street improvements. The net result of this would be improved safety and other impact mitigation.

71. On-street parking is not permitted on West Mercer Place and is not likely to be permitted after street improvements and potential expansion of the right-of-way. The Land Use Code parking requirements would mitigate some of the impacts of new development of the subject property. In addition, SEPA policies authorize mitigation of parking impacts beyond the requirements of the Land Use Code in multi-family zones. Those policies should be relied upon to assure that all parking requirements are provided on-site with any development of the subject property.

72. MR zoning allows buildings up to 60 feet tall with no density limit. In addition to a range of residential and institutional uses, a limited number of commercial uses and parking would be permitted at the ground floor of MR structures. The proposed rezone could reduce the potential housing supply at the subject property by as much as 127 units, and eliminate the opportunity to mitigate parking impacts by incorporating a large parking facility on-site.

73. Development of the subject property to its full MR potential would not result in view obstruction from Kinnear Park. Moreover, the view corridor exception to height limits in the L3 zone, designed to preserve shoreline view corridors, in the case, from Elliott Avenue, a scenic route, would also preserve views from upland properties.

74. There would be a view loss on the subject property if it is downzoned to L3 and a partial view obstruction if it is downzoned to L4. Therefore, a downzone would reduce the views of owners of the subject property. By contrast, views from the applicant's properties would be preserved with a downzone.

75. Housing demand was not considered in DCLU's environmental review. An increase in housing demand would not in DCLU's opinion, make a loss of potential housing in the subject area a more significant impact.

76. Approval of the rezone request could result in a

decrease in housing opportunities in Queen Anne and an increase in housing costs in Queen Anne and Capital Hill. The only alternative available would be to move further from the downtown which, in turn, will increase traffic impacts.

77. The examiner finds that decreases in housing availability, increases in housing prices, the need to move further out and the increase in traffic which results would all be cumulative impacts of a decision to downzone the subject property. Those cumulative impacts were not evaluated by DCLU, however, without a specific development proposal, such an analysis would be highly speculative.

78. Potential demand for public services, energy use, adverse noise and air quality impacts would be reduced in proportion to the decrease in allowable density and population under the proposed rezone.

79. According to the Water Department, water service and fire hydrants are available at the site. Future developments would be required to submit information on estimated water use prior to obtaining service. Impacts of residential development on public services, energy uses, noise, and air quality are not expected to be significant under either MR, L3 or L4 zoning.

80. The responsible official reviewed and further investigated the environmental checklist prepared by the applicant. Based on its review and investigation, the Director determined the proposed rezone would not result in significant environmental impacts. Additional environmental review will be necessary for any future development beyond the exempt levels.

81. The Director's determination was appealed by Dr. and Mrs. Roth and Mr. and Mrs. Aoki. The Aokis relied upon the evidence presented by the Roths. The Roths alleged that the City erred in issuing a DNS without considering the last two pages of the environmental checklist and without evaluating the indirect, long-term, cumulative impacts of the rezone on housing, population and land use.

82. Appellants request the Examiner to remand the application to DCLU for the preparation of a limited scope EIS.

83. Absent a proposed plan or a disclosed use for the Subject Property, the Hearing Examiner lacks substantive authority to mitigate potential adverse impacts to traffic, parking and views caused by the height, bulk and scale of the structure and increased population density.

84. The Examiner finds that DCLU's environmental review of this project was adequate and that the DNS was appropriate.

Conclusions

A. Rezone Evaluation:

1. To approve a request to downzone property from Midrise to Lowrise multifamily zoning, SMC 23.34.008 sets forth eight factors to be considered. All eight factors must support a zoning change.

2. The first factor requires a comparison of the locational criteria for the current zoning (MR) to the locational criteria for the proposed new zoning (L3 or L4).

3. L3 Locational Criteria. The Director's final decision concludes that the subject property meets four of the six locational criteria for the L3 zone. However, the report concedes that two of the four criteria are only partially met and combines the two partially met criteria to meet its total of four.

4. As shown below, all of the L3 zone locational criteria are relevant to the subject property and if all are given equal weight, only three of the six, fifty percent (50%), of the criteria are met. The subject property:

1.a. Is in an area with a predominance of multifamily buildings less than four stories in height. Seven of the eleven existing residential structures are multifamily and all are three stories or less in height. However, if pending MUP and building permits are issued and vest under MR zoning, this criteria would no longer be met.

1.b. Is not in an area where street patterns provide for adequate vehicular circulation and access to sites. There are no alleys and street widths are insufficient to allow for two-way traffic and parking along at least one curb-side. This locational criteria is not met.

2.a. Is in an area which is well-served by public transit and has direct access to arterials, so that vehicular traffic is not required to use streets and pass through less intensive residential zones. Despite its design constraints, West Mercer Place is considered by the City of Seattle to be an arterial. However, it is an underdeveloped and overburdened arterial and serves, primarily, as an access to other functional arterials for commuter and commercial traffic generated outside the subject area. This locational criteria is met.

2.b. Is in an area with significant topographic breaks, a "major arterial" and open space, but does not provide a transition to LDT or L1 multifamily development. The subject property is part of a steep hillside providing significant topographic breaks between both uphill and downhill properties. However, none of the adjacent properties are zoned LDT or L1. The topographic breaks would, in fact, provide a transition, but to more intensely developed MR and C2 zones. Therefore, this locational criteria is not met.

2.c. Is in an area with existing multifamily zoning with close proximity and below standard pedestrian connections to neighborhood services, public open spaces, and other residential amenities. Even though there are no schools in close proximity to the subject property, bus service provided by the Seattle School District would compensate for this shortcoming. Therefore, this locational criteria is met.

2.d. Is not in an area which is adjacent to business and commercial areas with comparable height and bulk, or where a transition in scale between areas of larger multifamily and/or commercial structures and smaller scale multifamily development is desirable. Due to the development potential of the C2 zone and the existence of L4 type development on higher topography in the L3 multifamily zone uphill from the subject property, the transition in scale intended by this criteria would not occur. Therefore, this locational criteria is not met.

5. L4 Locational Criteria. The Director concluded that six of the eight L4 locational criteria are met, but concedes that two of the six are only partially met.

6. The Examiner concludes that if all of the L4 zone locational criteria are relevant to the subject property and are given equal weight, five of the eight, sixty three percent (63%) of the criteria are met. If locational criteria 2.d is not relevant to the subject property and the rest are given equal weight, only four of the seven, fifty seven percent (57%), of the relevant criteria are met. The subject property:

1.a. Is not in an area with an established pattern of development characterized by larger, high density residential structures

with heights of three, four or more stories and often occupying two or more lots. This locational criteria is not met.

1.b. Is in an area of sufficient size to promote a high quality, higher density residential environment where there is good pedestrian access to amenities. The only concern about satisfying this criteria is the quality of the pedestrian access to amenities. However, this concern would apply to any of the three multifamily zones under consideration. Therefore this locational criteria is met.

1.c. Is not in an area generally platted with alleys that can provide access to parking, allowing the street frontage to remain uninterrupted by driveways, thereby promoting a street environment better suited to the level of pedestrian activity associated with higher density residential environments. There is no alley access to the subject property and there is no evidence that street frontages would remain uninterrupted by driveways if the subject property is developed at either L3 or L4 densities. This locational criteria is not met.

1.d. Is not in an area with good internal vehicular circulation and good access to sites preferably from alleys; and the width of principal streets in the area are insufficient, and incapable of being improved to allow for both two-way traffic and parking along at least one curb-side. This locational criteria is not met.

2.a Is adjacent to concentrations of employment, including downtown Seattle, lower Queen Anne and the Seattle Center area. This locational criteria is met.

2.b. Is in an area which is directly accessible to regional transit, providing connections to major employment centers, including arterials where transit service is good and street capacity is sufficient to accommodate traffic generated by higher density development. Vehicular access to the area does not require use of streets passing through less intensive residential areas. For reasons stated in the discussion of criteria 2.a for the L3 zone, this locational criteria

is met.

2.c. Is in an area with close proximity and pedestrian connections to services in neighborhood commercial areas, public open spaces and other residential areas. For reasons stated in the discussion of criteria 2.a for the L3 zone, this locational criteria is met.

2.d. Is in an area with well-defined edges providing sufficient separation from adjacent areas of small scale residential development, or where such areas are separated by zones providing a transition in height, bulk and density of development. However, the subject property is not located adjacent to small scale residential development. Therefore, this criteria could be irrelevant to the subject property. West Mercer Place and sloping topography on each side of West Mercer Place create a well defined separation from adjacent L3, MR and C2 zones. The Examiner finds that locational criteria 2.d. is relevant to the subject property and that this locational criteria is met.

7. MR Locational Criteria. The Director concluded that six of the nine MR locational criteria are met. However, unlike the locational criteria for L3 and L4, three of the MR locational criteria are variations on the same standard. Criterion F, G and H of SMC 23.34.020 permit evaluation of property located in flat areas (F), areas with moderate slopes (G) and areas with steep slopes (H). Very few, if any small rezone areas would satisfy more than one of those criteria. In this case, criteria H. applies, and the Examiner concludes that criterion F. and G. are inapplicable and therefore, irrelevant to this analysis.

8. Assuming that all of the MR zone locational criteria are deemed to be relevant and are given equal weight, six of the nine, sixty six percent (66%), of the criteria are met.

9. Based on the examiner's conclusion that locational criteria G. and H. are not relevant to the subject property, and assuming the remainder are given equal weight, six of the seven, eighty six percent (86%), of the relevant criteria are met. The subject property:

A. Is adjacent to the business and commercial areas (C2 and IC zones) with comparable height and bulk;

B. Is served by major arterials (West Mercer Place and potentially Elliott Way). Transit service is good on West Mercer Place and Queen Anne Avenue, and street capacity can absorb the

traffic generated, particularly with street improvements that would likely be made along with Midrise development;

C. Is in close proximity to major employment in downtown Seattle, lower Queen Anne and the Seattle Center area;

D. Is in close proximity to open space and recreational facilities, particularly Kinnear Park and the Seattle Center;

E. Is situated along an arterial where topographic changes provide an edge and permit a transition in scale with adjacent properties zoned commercial and Lowrise 3.

F. Is not situated in a flat area where the prevailing structure height is greater than thirty-seven feet or where, due to a mix of heights, there is no established height pattern. Therefore, the Examiner concluded that locational criteria F is not relevant to the subject property.

G. Is not situated in an area with moderate slopes and views oblique or parallel to the slope where height and bulk of existing structures have already limited or blocked views from within the multifamily and upland areas. Therefore the Examiner concluded that locational criteria G. is not relevant to the subject property.

H. Is situated in an area with steep slopes and views perpendicular to the slope where upland developments are of sufficient distance or height to retain their views over the area designated for the sixty foot (60') height limit. Slopes range from 15 to 50 percent with views southwest to Elliott Bay which are perpendicular to the slope. Views from most units in most uphill properties would not be obstructed by MR development. This is particularly true of MR development at the northwest end of the subject property where elevation differences between uphill (L3) and downhill (MR) properties would be as great as 50 feet. This locational criteria is met.

I. Is in an area with steep slopes of 15% to 40%, with views of Elliott Bay perpendicular to the slope; however, it is unclear whether the topographic conditions will allow the bulk of structures on all lots within the subject property to be obscured. Therefore, this locational criteria is relevant, but may not be fully satisfied. If properly designed and landscaped, some, if not all, of the lots in the subject area would, by taking advantage of the topographic differences between their location and uphill properties, obscure their bulk. For the purpose of this analysis, the Examiner concludes that this locational criteria is not met.

10. General Rezone Criteria. In addition to the locational criteria discussed above, a rezone application may only be approved if the following general rezone criteria are also satisfied:

B. Zoning History and Precedential Effect. The zoning history of the subject property and the precedential effect of a rezone support retention of the MR zone.

1. The last City Council rezone of the subject property, in 1982, occurred after adoption of the Queen Anne Community Council's goals and policies and resulted in the selection of the MR designation. A request to change the zoning of property owned by the applicants from L3 to MR was denied. On at least three occasions since 1982, the City's long-range planners reviewed the zoning on the subject property and concluded it is appropriate. Moreover, the subject property is not currently under consideration for remapping by the City's long-range planning office.

2. In 1987, the height limit for offices and commercial structures in the area southwest of the subject property was reduced from 65 to 40-45 feet. This helped preserve views for the subject area and some of the uphill properties. However, the MR height limit of 60 feet is necessary to provide views over the C2 zone.

3. Approval of the rezone could encourage the filing of other similar rezone applications by property owners near the subject property and in other areas of Seattle. Therefore, approval could have a precedential effect on other properties which are similarly situated.

C. Other Zoning Principals. Other zoning principals support retention of the MR zone.

1. The long term impacts of approving this and other similar rezones could include fewer units and higher rents and therefore, a reduction of affordable housing near downtown Seattle; increased commuter traffic, and fewer non-tax generated financial resources for making needed street improvements.

2. Retention of the MR zone would provide the opportunity for development of the subject property with a combination commercial and residential use, thereby increasing and improving the amount and type of neighborhood commercial amenities within close pedestrian access of all properties in the vicinity. In addition, more on-site parking and fewer driveways would be possible through MR development.

3. A downzone to L4 would not result in a change of this residential zone from multifamily. Given the City's authority to control development through the Land Use and other applicable codes and SEPA, development of the subject property under either MR or L4, would result

in construction of structures which will be compatible with existing adjacent development. No public view obstruction would result from development to either L4 or MR standards.

4. Either L4 or MR would provide scale transition and continuity between L3 and C2 zones.

D. Impact Evaluation.

1. Impacts of the proposed rezone do not favor either retention of the MR zone or approval of the downzone to L4. Rather a balancing of policies and priorities regarding population and housing, transportation and parking, and the desirability of preserving private views should guide the City Council's consideration of this factor.

2. Most, if not all of the subject property falls partially within an Environmentally Sensitive Area. Therefore, development of the lots within the subject area or additions to existing development over 750 sq. ft. would be subject to review of potential environmental impacts including those listed above.

E. Neighborhood Planning Efforts. Although the DCLU report concludes that the policies and goals adopted by the Queen Anne Community Council support a decision to approve the rezone request, those policies and goals cannot be determinative of the issue. Moreover, the City Council, presumably, took those policies and goals into consideration when Title 23 became law in 1982. The Examiner has been presented with no facts supporting a conclusion that the wisdom of the 1982 City Council should be questioned.

F. Changed Circumstances. The only evidence of changed circumstances are that: (1) new residents of nearby properties, who did not have an opportunity to participate in the City's decisionmaking process in 1982, now desire to do so; (2) traffic and accidents on West Mercer Place have increased at a progressive rate; and (3) owners of over 80% of the lots within the subject property have filed MUP and Building Permit applications in an effort to vest the right to develop their property under MR development standards. None of these changes circumstances are sufficiently significant to justify a downzone of the subject property.

G. Overlay Districts. The Environmentally Sensitive Areas overlay district applies to the subject property, due to the fact that the southwest portion of the subject property has slopes over percent grade and therefore are considered a landslide hazard. SEPA review of any

proposed development in this area would address all relevant issues pertaining to the development of each lot. Therefore, this general criteria would not affect the decision about whether to retain the MR zoning or approve a downzone of the subject property.

H. Greenbelt Plan. This factor is irrelevant to the subject property and therefore to this application.

11. The Examiner concludes that the applicants have failed to prove that the eight factors set forth in SMC 23.34.008 support a downzone of the subject property from MR to L3 or L4.

12. The Examiner also concludes that the applicants have failed to prove that the proposed rezone bears a substantial relationship to the public health, safety, morals or welfare.

B. SEPA Evaluation:

13. DCLU has authority, during its initial environmental review, to consider a project's contribution to cumulative effects on existing traffic and parking conditions; and has limited authority to impose reasonable and lawful conditions on approval of a project specific application, to mitigate adverse impacts.

14. It is the City's policy to mitigate adverse impacts, of proposed developments, on parking and traffic in surrounding areas by ensuring reasonable access and flow.

15. There is no plan or proposal for development of the entire Subject Property, therefore a cumulative impact analysis which includes traffic expected to be generated by the project would be highly speculative and would be related to no clearly identified adverse impact. Seattle Municipal Code Section 25.05.660A.1.

16. Future development impacts should be assessed and appropriate mitigation measures should be imposed during environmental reviews required in connection with the building and other permit process which precede development of specific lots within the Subject Property.

17. The environmental review performed by the responsible official was adequate. The evidence offered by appellants to support their allegation that the DNS was improper is not persuasive.

Decision and Recommendation

1. Rezone Application. The Rezone application should be DENIED and MR zone designation retained for the subject property.

2. Environmental Determination. The appeal of the DNS is DENIED.

Entered this 5th day of October, 1990.

Christopher E. Mathews *by MG*
Christopher E. Mathews
Hearing Examiner Pro Tempore

CONCERNING FURTHER REVIEW

Judicial review under SEPA shall without exception be of the decision on the underlying governmental action together with its accompanying environmental determinations. RCW 43.21C.075(6)(c). SEPA issues may be added to the request for review of the rezone, Council conditional use or other council action within 30 days after the date of the underlying Council decision if a notice of intent to seek judicial review of SEPA issues is filed with the Director of the Department of Construction and Land Use, 408 Municipal Building, Seattle, Washington 98104, within fifteen days of the date of this decision. Seattle Municipal Code Section 25.05.680(D)94).

Further directions regarding review of the underlying rezone or council conditional use decision may be obtained from the Council.