

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

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In the Matter of the Appeal of

SAVE QUEEN ANNE FROM DEVELOPERS (SQAD) FILE NO. MUP-85-049(W)  
UNITED SOUTH SLOPE RESIDENTS (USSR)

and

WILLIAM G. BLAIR FOR QUEEN ANNE  
COMMUNITY COUNCIL

FILE NO. MUP-85-053(W)  
APPLICATION NO. 8501158

from a decision of the Director of  
the Department of Construction and  
Land Use on a master use permit  
application

Introduction

Applicant proposes to develop a vacant site at 160 Lee Street with a 30 unit apartment building and 36 parking spaces. The Department of Construction and Land Use (DCLU) issued a declaration of nonsignificance (DNS) and appellants submitted the respective appeals.

The appellants exercised their right to appeal pursuant to the Master Use Permit Ordinance, Chapter 23.76, Seattle Municipal Code.

This matter was heard before the Hearing Examiner on September 23, October 1, 3, and 4, 1985.

Parties to the proceedings were: appellants SQAD and USSR by J. Richard Aramburu, attorney at law; appellants William G. Blair and the Queen Anne Community Council by William G. Blair, pro se; project applicant by Rory Veal, pro se; and the DCLU Director by Clay Leming.

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

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

Findings of Fact

1. Applicant proposes to develop a vacant site addressed as 160 Lee Street with a three-story apartment building. The proposed 30 units, to be located within two on-site buildings, will not exceed 817 sq. ft. in floor area per unit. The two buildings will be connected by second and third story skybridges. On-site parking for 36 vehicles is also proposed.

2. DCLU issued a declaration of nonsignificance (DNS) for the proposal, and imposed specific conditions. Those conditions restrict hours for use of loud construction equipment; require approved landscaping; require shielding and direction of lighting away from adjoining residences; require that applicant or owner provide construction workers with on-site parking and inform potential residents that only one resident parking space is available in the building; and require that six of the 36 parking spaces be signed and reserved for guests only.

3. Appellants submitted respective appeals from the DNS.

4. The subject site consists of a 17,282 sq. ft. area vacant lot that has 129 ft. of frontage on south adjacent Lee Street. The site also has 120 ft. of frontage on east adjacent Orange Place N., and approximately 35 ft. on west adjacent Warren Avenue N. The lot configuration therefore shows a "dogleg" to the north. Galer is the north parallel street to Lee Street.

5. The site's three adjoining streets are narrow. Lee Street and Warren Avenue N. are 25 ft. wide, curb to curb. Orange Place is only 18 ft. wide. Applicant proposes to use the dogleg for access, with egress via Orange Place, and egress via the wider Warren Avenue N.

6. As indicated by appellant's Exhibit 3, the immediate vicinity is marked by a number of no parking zones, including the entire east side of Orange Place from Lee to Galer Street. On-street parking is also prohibited along the Lee Street frontage adjacent to the subject property and from Lee to Galer along the east side of Warren Avenue.

7. An 18 ft. wide portion of Warren Avenue intersects Lee Street almost directly mid-south of the subject site. Parking is prohibited on both sides of this segment from Lee Street south to Highland Drive.

8. The vicinity street pattern is also marked by streets that are segmented. Galer Street, for example, dead-ends with stairs where it is intersected from the south by Queen Anne Avenue N., two streets west of the subject site. Between Warren Avenue, adjacent to the site, and Queen Anne Avenue is a segment of First Avenue N. that dead-ends south of Lee Street.

9. Some street segments are steep. Proceeding west from Warren there is an 8-12 percent downhill grade. There is also a decline in grade south of Lee Street. Vicinity driveways are comparatively narrow (8 ft. wide).

10. There is an intensity of on-street parking in the area, attributed in part to the number of no parking zones. Some cars are parked straddling the street, in no parking zones and across driveways. Exhibit 5, (seven photos).

11. The parking activity is also attributed to a gymnasium located at the southeast corner of Orange Place and Galer Street. Second Avenue N. is immediately east of the gymnasium. It is used regularly for a variety of classes, social events, aerobics and similar activities. Exhibit 9.

12. Across Second Avenue N. from the gymnasium is the former Queen Anne High School building that has been approved for conversion to 137 residential units. Appellants are concerned that the conversion project, the subject (160 Lee Street) proposal, and other planned and present development do not bode well for parking and other vicinity issues.

13. Appellant's Exhibit 11 is a Queen Anne High School Restoration Traffic Analysis. It reflects a proposed 1.24 spaces per unit ratio, or a total of 170 parking spaces for the 137 units. The analysis utilized the Seattle Engineering Department's "Multifamily Parking Study for Queen Anne Hill, First Hill, and the University District".

14. The Seattle Engineering Department study suggests that a parking ratio of 1.02 parking spaces per unit will be adequate for apartment resident demand and that a 0.39 per unit factor should be added for visitor demand. The weekend visitor factor is .83. Using the Seattle Engineering Department figures, the Queen Anne High School project would present a parking demand of 193 spaces. Since 170 are proposed, Exhibit 11 continues, a spillover of 23 spaces would result. The parking section of Exhibit 11 concludes that

The 170 spaces provided by the project are expected to accommodate both resident and visitor demand especially as it is unlikely that all guest parking demand would occur simultaneously. If there should be parking spillover onto the street, the surrounding street system could absorb the additional demand at all times of day...The parking effect... will probably make parking more congested on 3rd Avenue N. bordering the site at times causing residents of the two small apartment buildings on Lee Street to seek parking further away...

Exhibit 11, p. 26.

15. By similar methodology, appellants' traffic witness projected a substantial parking spillover for the subject 160 Lee Street project.

16. Appellants' traffic expert speculated that the Queen Anne High School's 23 parking space spillover actually translates to a spillover of 30-60, since some residents will, in his opinion, park their cars on the street to hold space for others. The Hearing Examiner declines to accept the multiple spillover projection as a finding of fact.

17. The Seattle Engineering Department study has not been officially adopted as City policy.

18. Appellant also presented that the International Transportation Engineer handbook figure of 6.1 average vehicle trips per day per unit was low; that the 1982 revisions show a range of 0.5 to 12.3; and that 10 trips per unit was a reasonable estimate. According to appellants, the narrow, hilly street system will be heavily taxed by the addition of the resulting 300 additional trips that would result from the proposed construction (30 units x 10 trips per unit).

19. Directly north of the Queen Anne High School and gymnasium sites is a playfield that may be the site of the relocated John Hay Elementary School. No specific testimony was given on the date of the move, or on its traffic or parking plan.

20. In terms of other vicinity development, there is a variety. Exhibits 51 and 53. South of Lee Street between First and Second Avenues North single family development clearly predominates. The exception is multifamily development at the southeast corner of Lee Street and First Avenue North.

21. North of Lee Street the uses include single family, multifamily, and nonresidential uses. North adjacent of the subject site is single family development which applicant proposes to separate from the proposed development by landscaping and the vehicle access ramp. There is a 3 ft. distance between the access ramp's retaining wall and the applicant's north property line. Although landscaping particulars are yet to be finalized, the proposed initial 18-30 in. vegetation is designed to grow to a solid 6-8 ft. hedge. Applicant has agreed to explore additional ways of buffering the north adjacent properties. Development between Lee Street and north parallel Galer consists of a four-plex (1420 Warren) and a duplex (1426 Warren). North adjacent to the 1426 Warren property is a large site on which is located the KOMO TV office and a "several hundred foot high" transmitter. Across Orange Place to the west of the KOMO site is the gymnasium. South adjacent to the gymnasium site are a duplex, 1410-12 Orange Place, and an apartment building (1421 Second N.). Across the street and east of the gymnasium is the former Queen Anne High School building, approximately 55 ft. high.

22. Looking west of the subject site, across Warren Avenue to First Avenue N., there are single family houses, two duplexes, a radio tower and water tanks. Fire Station No. 8 is located at the northwest corner of Warren Avenue and Lee Street. Its height is estimated as between 30-35 ft.

23. The single family homes in the vicinity are generally well maintained. Some are undergoing renovation and remodeling and some structures were designated as "houses of architectural significance" by the late Victor Steinbreuck. A blend of bungalow, Tudor and colonial styles is present in the vicinity. The single family structures are generally 1.5 to 3 story buildings and have average heights approximating 30 ft. See appellants' slide Exhibit 28, applicant's photo Exhibit 26.

24. Except for the Queen Anne High School building, the proposed structure would be the largest multi family building in the immediate area. Its proposed height, however, will not exceed that of many existing structures in the immediate vicinity.

25. The subject site is located within the Lowrise 2 (L-2) zone. Land Use height, setback and other bulk provisions are met by the development as presently proposed.

26. The subject site was zoned from its former RD-5000 designation to L-2 as part of a 1982 City-wide rezoning of multifamily areas. With the exception of the gymnasium at Orange Place and Galer, the site of the KOMO radio tower and Fire Station No. 8 and water towers, the land between Lee and Galer Street and between First and Second Avenues N. is zoned L-2. The exceptions retain RD 5000 zoning as public facility properties. Otherwise, the general area is zoned single family.

27. The subject L-2 zone was classified as Second Residential between 1923 and 1947, Second Residential District B (R2-B) between 1947 and 1957 and RD 5000 from 1957 to August 1982 when its present classification was implemented. See Exhibits 42 (a-c).

28. Apartment house use was permitted in the Second Residence District. Under RD 5000 zoning (Duplex Residence High Density) two dwelling units were permissible on a 5,000 sq. ft. area lot.

29. The environmental impact statement (EIS) for the Multi-Family Land Use Policies included projections on the impact of the new zoning. Exhibit 35, for example is from p. 80 of the EIS and offers a comparison of densities permitted under current versus proposed multi-family zoning. It shows that an RD 5000 lot of 5,000 sq. ft. area had a theoretical maximum of 3 (townhouse) units, and that an L-2 zoned, 5,000 sq. ft. area lot would have a density of 4 units. Applicant's lot is roughly 3.5 times that of a 5,000 sq. ft. area lot. By applying the 3.5 figure to the Exhibit 35 expected density, appellants suggest 12-14 as the predicted and recommended maximum number of units for the subject site, i.e.  $3.5 \times 4$ . Using the RD 5000 zoning, appellants suggest that  $3.5 \times 3$  or 7-11 units would have been allowed.

30. Appellants similarly point out that the EIS gave 37.6 as the number of possible units per acre under L-2 zoning, Exhibit 39, and that the applicant's proposal for 30 units approximates 75 units per acre.

31. Exhibit 38 is a Table from the EIS which shows that for the subject multifamily zone (number 271) that net additional units under the proposed multifamily policies would be 57. Adding this to the 159 existing units in the map area yields a capacity under the proposed policies of 216. See Columns 12, 22 and 25, Exhibit 38.

Combining the 159 existing units; the 30 units proposed for 160 Lee Street, and 9 units for 1430 First Avenue N. (DCLU Application No. 8503630), yields 337 units. According to appellants, the 216 capacity figure was intended to be reached over a number of years; and impliedly set a limit on development for the 271 study area. Appellants specifically declined to suggest that the 271 capacity related to public service capacity.

32. As was assessed by the DCLU representative, the Queen Anne High School site (139 of the 337 units) was not included in the 271 study area.

33. Applicant pointed to excerpts from the EIS which show as an anticipated impact of multifamily zoning that "If the developer meets parking, bulk, height, and open space requirements, the number of units that can be built is left open". Exhibit 57. Further, in response to concerns of the Seattle Chapter of the American Institute of Architects, Inc., EIS comment 39 indicates as follows:

...average unit sizes are decreasing...In accordance with our previous review of the market, a zoning change which permits the choice to construct small units and to achieve a larger number of units on a site...is more consistent with the nature of demand for new housing. (Emphasis in original.)

34. DCLU solicited input from the Seattle Engineering, Fire and Water Departments concerning the subject proposal. Engineering noted:

...It is especially important to provide enough onsite (sic) parking for residents and visitors because the parking on neighboring streets is in high demand. We recommend a parking ratio closer to 1.25 spaces/unit (1.02 space/unit for residents plus .39 space/unit for visitors - as shown in multifamily parking...)...

Exhibit 48.

35. Concerning water pressure, the Water Department determined that ample volume was present to "provide the necessary additional approximate 29.76 gallons per day...we estimate a building of this size would use" (emphasis in original). Exhibit 44. The Water Department letter also acknowledged potential service from a Lee Street 20 in. watermain, and the proximity of the project to "several large capacity pump stations..." and "to two water storage tanks containing 1.2 million gallons located in the next block". Thus, they concluded, "water pressure drop caused by this additional building would not be measurable". Finally, the Water Department cited Section 1007 of the Seattle Plumbing Code which would require the property owner to install a booster pump and tank as necessary to provide water pressure of at least 20 pounds per square inch. Exhibit 44.

36. In response to a resident's letter of concern the Seattle Fire Department Fire Marshal indicated that department input regarding access, parking and other issues would await receipt of construction plans.

### Conclusions

1. The Hearing Examiner has jurisdiction of these proceedings pursuant to Chapters 23.76 and 25.05, Seattle Municipal Code.
2. Seattle Municipal Code Section 23.76.36(B)(7) requires that the Director's environmental determination be accorded substantial weight. That section also specifies that it is appellant's burden to establish a position contrary to that of the DCLU Director. See also Seattle Municipal Code Section 25.05.680(1)(c). Therefore, appellants here must show that the DCLU conditioned DNS was clearly erroneous.
3. Appellants urge that DCLU should have required an EIS, or in the alternative, should have conditioned the proposal to respond to parking, height, bulk, scale and other expected impacts of the proposed 30 unit structure.
4. If a proposal may have probable adverse environmental impacts that are significant, a declaration of significance and an EIS are required. Seattle Municipal Code Section 25.05.360(1). If not, a DNS is appropriate. Seattle Municipal Code Section 25.05.340. The term "significant" has been read to mean "of more than a moderate effect". Norway Hill Preservation and Protection Association v. King County Council, 87 Wn.2d 267, 552, P.2d 674 (1976).
5. Although an increase in population, traffic, and parking demand will be generated by the proposal, appellants did not meet the burden of proving that the DNS was clearly erroneous. Therefore no EIS is required.
6. The most salient objections to the DNS related to density, parking and the proposed height, bulk and scale. The record reflects that the subject vicinity is one of narrow, steep streets and narrow driveways. Much of the street area allows no parking. Some vehicles are presently parked across driveways and on curbs. To this scenario applicant proposes to add 30 units (with attendant vehicular counts). Notwithstanding same, appellants presented insufficient evidence that any additional vehicles would present a significant adverse impact on this existing street environment. No evidence showed that levels of safety would be prohibitively impacted by additional vehicles. Additionally, applicant is proposing 36 on-site parking spaces for 30 units. This would detract from the proposal's effect on vicinity parking, and hence on vicinity street safety. The Hearing Examiner is not persuaded that any potential overflow could not be accommodated or would constitute a significantly adverse impact.
7. Having also considered the evidence of record on land use, public utilities, and other appellant concerns the Hearing Examiner concludes that no significant adverse impacts will result from the proposal.
8. As to impacts that will not be significant, and to responsive conditions, Seattle Municipal Code Section 25.05.660 requires that all mitigation measures be based on specific plans or policies designated in Section 25.05.902.
9. One of the Seattle Municipal Code Section 25.05.902 SEPA policies states as to parking and traffic that it is the City's policy to modify off-street parking requirements to mitigate adverse impacts. Seattle Municipal Code Section 23.45.32 states that in the L-2 zone one off-street parking space per dwelling unit is required. Seattle Municipal Code Section 23.54.20 allows the Director to require up to 1.25 spaces per unit if specific criteria are met. They are not met in this case since less than 40 percent of the units will have more than 1,200 sq. ft. of living space. Seattle Municipal Code Section 23.54.20(D).

10. Appellant Queen Anne Community Council specifically urges that the DCLU Director had the option, paragraph 1, Seattle Municipal Code Section 23.54.20(D), of requiring more parking whereas paragraph 2 requires DCLU review. The Hearing Examiner concludes that prior Council decisions are dispositive of the issue as indicated further herein.

11. In re Elmer, C.F. 293040, MUP-83-077, states the Council's view that DCLU was "prohibited from using SEPA policies to require more than one parking space per dwelling unit for projects with twenty or fewer dwelling units". This conclusion was based upon the legislative history of the multifamily policies and code provisions. In re Elmer, supra. The Council affirmed this general proposition in In re Appeal of Oden Investment and Kinneer Park Condominium Association, C.F. 293557, MUP-84-057,58(W) by declaring that

...in the case of parking there was clear legislative history showing that parking in multi-family areas was to be governed by the specific provisions in the multi-family code.

12. The Seattle Engineering Department study suggests a parking ratio of 1.02 spaces per apartment unit with an additional .39 per unit for guests with higher numbers for weekends and condominiums. However, that Seattle Engineering Department report has not been specifically adopted. Secondly, Council pronouncements on the subject of parking ratio are clear and unambiguous. Third, there is no support in the Code or other body of law for the proposition that in order to attain a parking ratio in excess of the code that the number of units may be reduced. To require more than a 1:1 parking ratio would rate as an impermissible invasion into the legislative arena. Since the parking to be provided by applicant is in accord with and in fact exceeds the Code requirement, the Hearing Examiner is without authority to condition the project to require more parking. The rather extensive findings on the subject were included only as background data and reference for any reviewing body.

13. The only remaining SEPA policy specifically urged for this case relates to landscaping. Seattle Municipal Code Section 25.05.902(5)(b)(i) states that landscaping may be required as a buffer between incompatible land uses. The condition to the DNS requires that landscaping be provided "per approved plan" before final occupancy of the building. Applicant is proposing initial 18-30 in. growth that will result in a solid 6-8 ft. hedge between the subject site and the north adjacent single family residence. Although applicant is encouraged to consider more extensive buffering, the Hearing Examiner cannot conclude that further landscaping is required pursuant to the SEPA Policies.

14. A more generalized SEPA policy relates to cumulative effects. Seattle Municipal Code Section 25.05.902(3)(a)(i) acknowledges that the effects of a single development in conjunction with prior development impacts may ultimately "adversely affect public facilities and services, natural systems, or the surrounding area". It therefore notes that it is City policy to condition or deny such adverse environmental impacts. The Policies, Seattle Municipal Code Section 25.05.902(3)(b), indicate that the analysis of the cumulative effects is to include a reasonable assessment of the present and planned capacity of such public facilities as streets, utilities and parking areas; a reasonable assessment of the present and planned police, fire and other public services; and a reasonable assessment of the capacity of the air, water, light and land systems "to absorb the direct and reasonably anticipated indirect impacts of the proposal". The subsection concludes:

Based in part upon such analysis, a project may be modified to lessen its demand for support services and facilities or its impact on natural systems.

Modifications may also be required to provide for subsequent projects which can be expected to share the need for support services, and facilities or use of the natural systems' capacity.

15. The Hearing Examiner is not persuaded that the street system is unable to absorb the impacts of the proposal whether the proposal is considered singly or in conjunction with other existing development. Again, required on-site parking, which has not shown to be inadequate, will be provided. No evidence suggests that the number of expected vehicles will overburden the street system. At most, appellants' evidence suggested that if a parking spillover were to occur, drivers would be required to park farther away. Further, it is noted that Seattle Municipal Code Section 25.05.902(3)(a), "Cumulative Effects", speaks to assessment of a proposal with prior development, as distinguished from possible, planned, or future development.

16. Additionally, comments from the Seattle Fire, Water and Engineering Departments fail to support a conclusion that the proposal should be further conditioned per Seattle Municipal Code Section 25.05.902. The Water Department specifically addressed the concern with water pressure by noting the access and proximity of adequate supply systems and by noting that requirements of the Seattle Plumbing Code respecting minimum water pressure would have to be met. It is also of some significance that the Fire Department expressed no immediate concern with respect to the project, but decided to await further building specifics.

17. The remaining issue relates to height, bulk, scale and density. Appellants urge that the project should be limited to roughly two stories; restricted to 12-15 units; and be built in general accord with the architectural ambiance of the immediate vicinity. The Hearing Examiner has previously addressed the question of the number of units as it relates to parking impacts. In addition, no SEPA policy authorizes reduction in this proposal's height, bulk or scale. To the degree that the Policies Overview Section, Seattle Municipal Code Section 25.05.902(2)(b), allows consideration of Appendix A items that speak to compatibility of height, bulk and scale, it is concluded that the Policies do not authorize a reduction in height or density of the proposed structure.

18. As an overview, the height of the proposed structure is within the L-2 code parameters and is similar to many of the single family and other structures in the vicinity. The vicinity is one of mixed development. In addition to single family homes south of the subject site, in the SF 5000 zone, the area north of Lee Street is developed with a transmitter tower, a fire station, a gymnasium, multifamily structures and other uses. Thus, there is no homogeneity of use in the area north of Lee Street in which the subject property is located. The concerns of architectural compatibility are however, noted for the record and should be given due consideration by applicant.

19. With specific reference to scale and density, the Council stated in In re Oden, supra, that

It is inappropriate to require a reduction in scale merely because the surrounding buildings in the same midrise zone are developed to a lower height. The Council decision to zone for midrise was a decision that as a general matter midrise heights are appropriate for this area. If they are not, a downzone is the appropriate recourse. In order to



justify a reduction in height below the zoned maximum, it must be shown either that the project presents unusual circumstances which would not have been contemplated as part of the rezoning of the area or that the project is on the edge of a zone where the problems of transition are not fully accommodated by the zoning.

C.F. 293557, Conclusion 3.

20. Where a proposed tower was "totally inconsistent" with the existing land use pattern and would have had a "devastating impact on the neighborhood", the City Council concluded that "a reduction to eight stories would reasonably mitigate the adverse impact of the tower's height, bulk and scale..." In re Appeals of Queen Anne Community Council et al., C.F. 293623, MUP-82-080(W)-85(W).

21. No "devastating impact" on the neighborhood would be presented by the proposal; neither is the proposed apartment "totally inconsistent" in use or scale with the existing land use pattern. Cf. In re Appeals of Queen Anne Community Council et al., supra. Neither is support for appellants' requests found in the Council's Oden decision, supra. Buildings surrounding the subject site are not all developed to a consistent lower height than applicant is proposing. Absent special exception, the Hearing Examiner must acknowledge that as "a general matter" the Council considered L-2 heights, which incidentally are the same as single family heights, "as appropriate for this area".

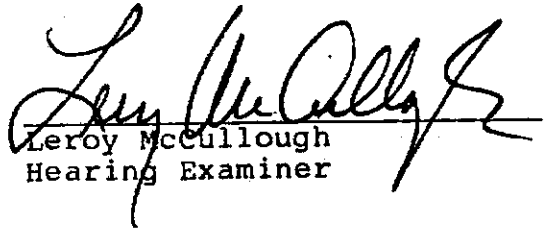
22. Appellants urge that the project presents "unusual, untemplated circumstances", and that therefore a reduction in height and scale is appropriate. First, the fire station, tower, duplex and other development north of Lee Street militates against appellants' contention that this project presents unusual circumstances. Additionally, the project accords with the height of many vicinity properties. Secondly, the proposal will meet modulation, and other L-2 requirements. Third, the project is not in discord with the L-2 locational criteria. The L-2 classification "provides a transition between single family structures and multi-family buildings of moderate size", Seattle Municipal Code Chapter 23.16, p. 16.02.20, and is for areas that feature a mix of single family dwellings, duplexes, and apartment buildings with a prevailing height of 25-30 ft. (locational criteria (a)). Locational criteria (f) states that L-2 areas are those that are not in close proximity to arterials where a substantial portion of the traffic generated by the new proposal would travel through...lower intensity areas.

23. Finally, although EIS documents relative to the multifamily zoning may have projected or suggested a lower density for the subject area, the site has been historically designated for multifamily use. No authority was cited for the proposition that the EIS projections should be viewed as a compact, such that development at variance with the projections should be denied. Stated EIS densities were theoretical. The EIS acknowledges that an increased number of smaller units could be built as a consequence of the new zoning. The subject proposal is in consonance with that prediction. Thus, neither Oden nor its review of the zoning history provides authority for the Hearing Examiner to condition the proposal for height, density or bulk.

Decision

The decision of the Department of Construction and Land Use is  
AFFIRMED.

Entered this 18th day of October, 1985.

  
Leroy McCullough  
Hearing Examiner

Concerning Further Review

Pursuant to Section 25.05.680(2), Seattle Municipal Code, a party to the hearing before the Hearing Examiner may file an appeal with the City Council no later than the fourteenth day after the date of the decision appealed from is filed with the SEPA Public Information Center. The City Council's review on appeal shall be limited to the exercise of the City's substantive authority to condition or deny the proposal under SEPA as authorized by Section 25.05.660. The appeal statement must be filed with the City Clerk on the first floor of the Municipal Building. The City Council should be consulted regarding their appeal procedure.

If an appeal is taken pursuant to Section 25.05.680(2), the time for filing a request for judicial review of the underlying governmental action and/or other SEPA issues is stayed until the City Council renders a final decision on this Section 25.05.680(2) appeal.

If no appeal is taken pursuant to Section 25.05.680(2), the decision of the Hearing Examiner in this case is final and is not subject to reconsideration except to correct errors of fraud, mistake, or irregularity in vital matters. Any request for judicial review of the decision on the underlying governmental action must be filed in King County Superior Court within fourteen days of the date of this Hearing Examiner decision. Seattle Municipal Code Section 23.76.36(B)(11). 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 within 30 days after the date of this 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, 400 Seattle Municipal Building, Seattle, Washington 98104, within fourteen days of the date of this decision. Section 25.05.680(3)(d).

If the Superior Court orders a review of the decision, the person seeking review must arrange for and bear the cost of preparing a verbatim written transcript of the hearing but will be reimbursed if successful in court. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, 5th Floor, Seattle, Washington 98104. As an alternative to the written transcript, RCW 43.21C.075(6)(b) provides that a tape may be used for court review. If a taped transcript is to be reviewed by the court the record shall identify the location on the taped transcript of testimony and evidence to be reviewed. Parties are encouraged to present the issues raised on review, but if a party alleges that a finding of fact is not supported by evidence, the party should include in the record all evidence relevant to the disputed finding. Any other party may designate additional portions of the taped transcript relating to issues raised on review.