

## FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

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In the Matter of the Appeal of

DON PAULSON, JOHN P. GREENWALD AND  
ELLEN H. WATERS

SEPA  
PUBLIC INFORMATION CENTER

FILE NO. MUP-88-022(W)  
APPLICATION NO. 8705485

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

### Introduction

Appellants appeal the decision by the Director, Department of Construction and Land Use, on a master use permit application for an apartment building at 530 Melrose Avenue E.

The appellants exercised the 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 July 21, 22, 25, 26 and 27, 1988.

Parties to the proceedings were: appellants, by their attorney, Samuel M. Jacobs; the Director, Department of Construction and Land Use, by Leslie Lloyd, senior land use specialist; and the applicant, Cosmos Development, by its attorney, George A. Kresovich, Hillis, Clark, Martin & Peterson, P.S.

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

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

### Findings of Fact

1. The Jackson Court Partnership filed a master use permit application to demolish two existing structures and to construct a 53-unit apartment building at 530 Melrose Avenue East. After environmental review and corrections to the plans, the Director issued a determination of nonsignificance and approved the project subject to a series of conditions. This appeal followed.

2. The site of the proposed building is a parcel comprised of two lots containing a total of approximately 14,400 sq. ft. of area located on the south side of E. Mercer Street between Melrose Avenue E. and an alley on West Capitol Hill. The site slopes steeply, an average of approximately 24 percent, down from the east to the west, and also slopes from the south to the north. The subject site is covered with mature vegetation.

3. The proposal is to demolish the existing structures on the site and construct an apartment building with 53 units and parking spaces on three lower levels to accommodate a total of 72 cars. Because of the use of tandem parking spaces, these spaces are counted for code purposes as only 65 spaces.

4. The existing development on the site consists of a single family residence and a structure which was built as a single family residence and converted and legally established as a duplex. A resident testified that there are actually three units in the structure. Current rents range from \$230 plus utilities to \$510.

5. The site is zoned Midrise Residential (MR). The MR zone continues to the south and east, across the alley. To the west is the Interstate 5 right of way. A Lowrise 3 (L-3) zone begins

on the north side of E. Mercer Street to the north. The area shows a progression of zones from the MR on the south to the L-3 to a single family residence zone beginning at the Harvard Belmont Special Review District.

6. Development nearby in the MR zone consists of a four story, older apartment building across the alley to the east; another smaller apartment building, a single family type structure and an apartment building south along the alley; a single family residence-type structure south of the subject site on Melrose; and a large, approximately ten-story, apartment building south of that. The area just south of E. Mercer Street and west of Belmont, to the east of the subject block, contains several very large apartment buildings ranging between five and twelve stories, small and medium-sized apartment buildings and numerous single family structures in single family or multi-family use.

7. The L-3 zone also consists of a mix of single family structures, small and medium-sized apartment buildings and large apartment buildings, five to twelve stories high, remnants of the earlier RMH 350 zoning. The block face on the north side of E. Mercer Street between Bellevue and Melrose contains one older, three-four story apartment building on the west end and three large structures built as single family residences to the east and a nonconforming grocery store with dwelling units above at the east end of the block.

8. The height from grade of the three-four story structure at the northeast corner of Melrose E. and E. Mercer is 45 ft. The other structures on the north side of the street are somewhat lower than that but climb up the hill so are visible over the first structure.

9. The Marwood Apartments, across the alley to the east of the subject site, are 42 ft. in height as measured from the alley. The proposed building would rise five stories above the alley, approximately one story higher.

10. The E. Mercer Street right of way is 60 ft. wide but is paved, curb to curb, to a width of 27 ft. east of the alley and 18 ft. west of the alley along the subject site. Parking is restricted at this time to the south side of the street. With parking on one side, two cars cannot pass forcing one car to wait at an opening or back down the hill. The street slopes down from Bellevue Avenue E. and is steepest, a 19 percent grade, west of the alley along the subject site. The street is paved with cobblestones.

11. The proposal includes widening E. Mercer Street by 9 ft. on the south side to make the street the same width as it is to the east of the alley. The additional width would require a jog or curve at the alley. Under the proposal, parking would be moved from the south side of Mercer to the north side.

12. The Engineering Department witness at hearing offered that a jog in the street can be designed without jeopardizing traffic safety. The improvement could result in the loss of on-street parking. Shifting parking to the north side of the street could increase the amount of parking, however. The Engineering Department has not yet been presented with conceptual plans for the street configuration and improvements for approval. If the proposal is not approved, the Director would treat any new proposed street design as a plan change.

13. Melrose Avenue E. is paved to a 27 ft. width with parking on one side. It is relatively flat.

14. The maximum standard grade for a residential access street is 17 percent desirable and 20 percent maximum with special exemption.

15. The minimum standard pavement width for a residential access street in an MR zone is 36 ft., however, the project is entitled to an automatic exemption from the street standard to

widen only one-half of the street because fewer than 60 residential units are proposed.

16. Many of the east-west streets on the west slope of Capitol Hill have steep gradients similar to E. Mercer Street. The next two streets to the south, E. Republican and E. Harrison Streets, do not allow vehicular access from Bellevue to Melrose.

17. James, Cherry and Columbia Streets between 4th and 5th Avenues downtown have grades similar to that of E. Mercer Street west of the alley. Each has entrances to or exits from parking for large office buildings.

18. Bellevue Avenue E., one-half block to the east of the subject site, is classified as a collector arterial and provides access to both Denny Way and Olive Way. A Metro transit route uses Bellevue Avenue E.

19. Peak hour volume of traffic on E. Mercer Street in the subject block is very low.

20. Two curb cuts for two access points to the three levels of parking are proposed on E. Mercer Street. By using the slope of the site, access can be gained to each level without internal ramps from floor to floor which allows a greater number of parking spaces to be incorporated in the building.

21. The easternmost proposed access ramp would be 30-40 ft. from the west line of the alley. The Engineering Department found that the required sight triangles would be provided by the proposed access.

22. Appellants' architect reviewed the plan and concluded that access and egress to and from E. Mercer Street is undesirable because the steepness of the grade would increase the stopping distance and the curve in the road would impair visibility.

23. Increasing the width of E. Mercer Street will improve emergency vehicle access.

24. The alley adjacent to the site is 16 ft. wide.

25. The minimum standard pavement width for an alley serving the MR zone is 18 ft. within a 20 ft. wide right of way.

26. The Engineering Department determined that since the alley is not to be used for access by the subject project, an exemption would be granted for the project from dedicating further right of way for the alley as long as the building is set back far enough that the option to widen the alley is available in the future.

27. A parking study was done by TPE, the traffic consultant to the proponent, which found that utilization of on-street parking within an 800 ft. walking distance was at 121 percent on a December weekday evening.

28. A parking study was conducted by residents of the neighborhood. The area surveyed comprised the block faces within a three block radius of the subject site. Surveys were made at 21 different times covering all the days of the week and all times of day. The neighbors found a supply of 256 spaces in the study area defined by proponent's consultant. Use of the spaces range from 213 (83.2 percent) on a Wednesday afternoon to 461 (180.1 percent) on a Monday night. The average utilization over the 21 surveys was 126.3 percent and for the evening hours, 133.8 percent.

29. The effective capacity for on-street parking is approximately 85 percent.

30. Extensive illegal parking occurs in the study area in the form of cars too close to intersections, too close to drive-ways, too close to fire hydrants, cars in "no parking" zones,

cars on planting strips, etc.

31. The proponent's traffic consultant used the figure .92 for projection of vehicle ownership per unit. That figure was the average ownership for First Hill apartments from an Engineering Department study. The Engineering Department advised the Director's staff that the .92 figure would not necessarily be applicable to the subject site and suggested that documentation of this figure be required or the more general 1.5 vehicles per unit should be used.

32. The Engineering Department transportation planner testified at hearing that 1.5 vehicles per unit is reasonable to use for this project if the occupancy is not expected to be unusual.

33. The Director's land use specialist concluded that using a vehicle ownership ratio of 1.5 vehicles would be conservative given the proposed unit size, proximity to services and to a transit route and the existing parking congestion.

34. The spillover parking onto the streets that may be produced would be between five and 13 spaces.

35. As many as eight of the proposed parking spaces in the building would require several movements to enter or could create a conflict with incoming cars because visibility is impaired by a column, the wall of the elevator core, etc. .

36. The installation of convex mirrors in the garage could improve the safety of the parking spaces where visibility is restricted.

37. Several of the tandem spaces are designated for handicapped parking. Not only may those spaces be difficult for a handicapped person to use if shared by a second vehicle which is not equipped for the handicapped but there may not be two vehicles associated with a handicapped driver's unit so the second space may be wasted. Those designations may have to be changed to assure full utilization of the spaces.

38. The Engineering Department takes the position that a restricted parking supply has an effect on the demand for parking.

39. Even though some parking spaces may require maneuvering to enter, the garage is likely to be fully utilized because of the parking congestion in the area.

40. Appellants' real estate consultant found thirteen sites containing single family structures and parking lots within three blocks of the subject site which he concluded have the potential for redevelopment. Most sites combine several lots without regard for ownership patterns. He assumed an overflow parking demand of .25 vehicles per unit for the net additional units. Where the number of existing units could not be determined, the consultant assumed that there was one unit. A check with City Light, during the course of the hearing, disclosed that there are at least 52 existing units on the 13 sites instead of the 37 he assumed. But basing the increase on the 37 existing units, if the sites zoned L-3 were to be developed under the interim controls and those zoned MR to the density predicted in the EIS for the Multi-family Land Use Policies, the consultant found that the additional parking demand would be for 62 parking spaces. If the development in the MR zones were to occur at the density of the adjusted average of those projects which have been developed in 1986 and 1987, he found the addition would be 61 cars. If all parcels zoned MR were to be developed to the density of the proposed project, he projects the additional demand to be for 80 parking spaces.

41. The actual on-site parking supplied on each of the parcels for redevelopment was not considered by the real estate consultant. He assumed that each unit had the same available

parking as the new units would have. Since some of the units may have no parking, the net effect could be an improvement unit for unit. The greater number of units may offset that improvement, however.

42. The net additional demand for parking from the potential development of the 13 identified sites cannot be added to the existing utilization figure for the study area since the sites, in some cases, and the likely area affected, in others, are outside the study area.

43. No assumption was made as to the time period of the potential redevelopment.

44. The unusual characteristic of the subject site, the use of the steeply sloping street for access to different parking levels, was used to maximize the parking on the site and greater parking supply allows more density. Only one other of the identified sites in the MR zone offers any substantial frontage on a steep street and that street is inaccessible to autos. The density proposed for the subject site would be more difficult to replicate on the other MR sites.

45. The final environmental impact statement for the Multi-family Land Use Policies anticipated a density of roughly one unit for 472 sq. ft. of lot area in the MR zone. Exhibit 21. As proposed, the subject project would have one unit for 272 sq. ft. The density of the Melrose Terrace Apartment structure nearby is 180 sq. ft. per unit.

46. There is no evidence that construction of the proposed building will cause other redevelopment to occur. The driving factors in redevelopment are supply/demand, interest rates, availability of capital, etc.

47. The structure at 309 E. Mercer, one of those proposed to be demolished, was built in 1906 and in some of its architectural details resembles the Louis Hill residence, a house designed by Hornblower and Marshall, noted architects. The house on the subject site was first owned by Henry Pigott, a pioneer printer in Seattle who ran unsuccessfully for mayor and county commissioner. The structure has not been nominated or designated a Seattle landmark nor is it on the National Register of Historic Places.

48. The difference in scale between the proposed building and the maximum allowed in the L-3 zone is exacerbated by the proposed sun/wind screen on the downslope side of the building which may give the appearance of a full story because of its design even though height is limited by zoning to a story less on that side of the building.

49. From certain angles, the viewer below will see sky or light through the openings in the sun/wind screen which would indicate to the viewer that the roof has stepped down, however from greater distances the screen will give the appearance of a full story.

50. Approaching E. Mercer Street by driving along Bellevue Avenue E., along Melrose, or along Mercer from farther east, a viewer would see a mixture of building sizes from larger to smaller than that proposed. Once the viewer arrives on the 300 block of E. Mercer, facing west, the overall scale of development is smaller and the proposed building would be the largest in view and the tallest by one story.

51. A panoramic view of the west slope of Capitol Hill from a distance shows the proposed building to mirror the scale of the larger buildings. See Exhibit 46.

52. After reviewing the proposal, the Director found long-term adverse impacts on air quality, from light and glare, on aesthetics from view impairment, from increased traffic and parking demand and on public services.

53. The Director imposed a series of conditions of approval to mitigate the identified impacts. Those conditions required supervision of design for slope stability by a geotechnical engineer; supervision of a concept approval plan defining any extraordinary measures required to manage subsurface drainage and unstable soils by geotechnical and structural engineers; bonding to protect adjoining properties; supervision of construction by a geotechnical engineer; restriction of the time of construction; landscaping; shielding of exterior light and lighting of parking areas; and assigning tandem parking spaces to two-bedroom units.

54. The applicant added to its proposal steps that would be taken prior to and during demolition of the structures to handle any asbestos on the site.

55. A geotechnical report was prepared for review by the Director's staff which showed that the project would be in compliance with Director's Rule 2-87. In response to concern about additional load on the retaining wall, the engineer indicated that the weight of the soil removed would be greater than the weight of the new construction.

56. The Director determined that no mitigation of height, bulk or scale is needed because of the 60 ft. wide street right of way separating the zones, the mix of building sizes and heights in the L-3 zone, the 45 ft. high building across the street on the edge, the transition through the use of the progressively less intense zoning and the design of the building with facade modulation, rounded corners and sculpting at the top.

57. Because the proposal would meet the requirement of the Land Use Code for parking under Resolution 27708, the Director's land use specialist did not consider whether any mitigation of parking impacts would otherwise be appropriate.

58. The Director's land use specialist did not find the impacts from the street access and curb cuts in need of mitigation because of the low volume of traffic on E. Mercer and coming out of and going into the garage.

59. The code development standards themselves provide transition between L-3 and MR zoning. The maximum width of a building with modulation in the L-3 zone is 90 ft. and 150 ft. in the MR. The building as proposed would be 10 ft. wider than the maximum allowed in the L-3. The difference in permitted heights is 23 ft. The same site assembly is permitted in both zones.

60. Appellants seek a one third to one half reduction in density of the project to reduce the parking spillover; removal of the top floor, terracing to reflect the topography and stepping back from north to south beginning at 30-37 ft. to reduce the bulk and scale and effect a transition between the zones; and restriction of access to the alley or a combination of the alley and Melrose Avenue E. to avoid any safety impacts from access on E. Mercer.

61. Assigning tandem parking spaces to two bedroom units may not assure the most efficient use of the spaces. Because of the extreme parking congestion, maximum flexibility is required to assure the most vehicles are accommodated.

62. Policy 1 of the Multi-family Residential Areas Policies (MFRAP) cites two objectives: 1) "...to increase opportunities to new housing development in order to ensure that there will be adequate capacity for future housing need" and 2) "...to ensure that new development is compatible with neighborhood character." p.23-16. The policy states that to achieve these two objectives will require "sensitively increasing the scale and intensity of development while attempting to minimize the impacts on existing character." Policy 3, MFRAP, addresses the classifications of the various housing types and states that "development standards regulating these elements (height, bulk, setbacks, open space, parking) are intended to provide for a transition in scale between multi-family and single family areas...and encourage new

development which is compatible with existing neighborhood character...." pp. 23-17, 18.

63. Policies relating to height include Policy 4, MFRAP. The intent is to "...require that the building heights reflect the topography of the site, reduce view blockage...and facilitate roof top recreation...." p.23-27. A consistent maximum height throughout the building envelope is intended to "maintain scale relationships with adjacent buildings and under varying topographic conditions and protect views." p.23-27.

64. Goals for Seattle, 2000 Commission Report, Goal A Diversity, Diversity sub-goal 4, states "The City of Seattle shall recognize that private or public multiple unit housing must be built in scale with the neighborhood."

65. The MFRAP for parking and access provides:

Access to parking in areas with platted and improved alleys:

Access to parking shall be from the alley except where topographic changes make alley access infeasible and when the alley borders on a single family, Lowrise 1 or 2 area, in which cases it shall be from the street.

Access to parking areas without alleys or with platted but unimproved alleys:

Access to parking may be from the street. Where the alley is platted but unimproved, alley improvement and alley access is encouraged and may be required by the DCLU as part of routine project review, following guidelines to be developed.

In all cases where there is access from the street, curb cut widths are limited as provided in Policy 9, Guideline 5.

p.23-24.

66. Policy 9: Location and Appearance of Required Offstreet Parking, MFRAP, provides that:

The location and appearance of off-street parking for multifamily structures shall maintain an attractive environment at street level, continue the existing pattern of landscaped front yards, facilitate traffic flow, and sustain on-street parking capacity.

To achieve those goals parking is to be placed in the rear or side or built under the structure and

access to parking shall be required to be from the alley, where alleys are improved and accessible, except in specified cases where a high intensity area borders on a lower intensity area. Alley improvement is encouraged but not generally required.

p.23-38.

### Conclusions

1. The Hearing Examiner has jurisdiction over these parties and this subject matter pursuant to Section 23.76.022C.3.

2. The Director's decisions are to be given substantial weight by the Hearing Examiner on appeal. Section 23.76.022C.7. To overcome that weight appellants must prove that her decisions are clearly erroneous. Brown v Tacoma, 30 Wn. App. 762, 637 P.2d

1005 (1981).

3. Appellants allege in their appeal letter that the Director erred in failing to require an environmental impact statement for the proposal. Section 25.05.340 provides that she is to issue a determination of nonsignificance (DNS) if she determines there will be no probable adverse environmental impacts from the proposal. "Significant" is defined in Section 25.05.794 as a "reasonable likelihood of more than a moderate adverse impact on environmental quality."

4. In their presentation, appellants emphasized impacts on aesthetics from height, bulk and scale, on parking and on traffic safety from access. None were shown to be more than moderate in degree so the Director's determination to issue a DNS should be affirmed.

5. The Director is authorized to impose conditions pursuant to SEPA to mitigate environmental impacts subject to certain limitations. Those limitations are that the measures must be based on policies formally adopted pursuant to SEPA for the exercise of substantive authority; they must relate to environmental impacts that are clearly identified in the environmental document; the measures must be reasonable and capable of being accomplished; responsibility for implementation must relate to the degree the impact is attributable to the proposal; and she is to consider whether local, state or federal requirements and enforcement would mitigate the impact. Section 25.05.660.

6. Appellants did not ask for a specific condition to mitigate impact from loss of the house with possible historic value but that the matter be remanded to the Department of Construction and Land Use for additional evaluation of that value. Appellants' burden is to prove that the Director erred by failing to pursue the matter further and imposing conditions. The evidence presented does not show that error.

7. Appellants assert that the rents charged for the existing dwelling units are such that the units qualify under the SEPA Housing Policy for special treatment. That condition was not proved.

8. Appellants did show that there is policy basis in favor of alley access, however they failed to prove that there will be an adverse impact in the form of traffic hazard or any other impact that would allow the Director to invoke that policy to require a change in the proposed access. Therefore, no error was proved.

9. The record shows no dispute as to a parking situation in the area. Because the legal spaces are fully utilized there is extensive illegal parking which, in many cases, is unsafe. The record also shows probability of some spillover from the proposed building, between 5 and 13 spaces. The evidence shows that the proposal will cause an adverse parking impact.

10. If there were parking available on the street, that level of demand for on-street parking would not be unreasonable. Given the existing congestion, there is not adequate supply to accommodate spillover from this project and from future development and redevelopment of properties in the area.

11. The only issue as to the parking demand impact is whether the Director has authority to impose conditions to mitigate that impact. Resolution 27708 amended the Multifamily Land Use Policies. It established new parking ratios and required that the code be changed to reflect those ratios. The resolution stated that the new ratios represented a balance between the need for new development to meet approximate parking demand on site against the need to minimize the cost of housing and to recognize the city's energy policies which discourage the use of automobiles. The Council recognized that the parking ratio would mitigate the most significant parking impacts. The resolution states "no additional mitigation of parking impacts



shall be required under SEPA review or any other administrative review procedure." Based on that language, the Director imposed no mitigating condition. Appellants argue that the language does not restrict the Director's authority to mitigate parking impacts in a cumulative sense, i.e., the Director is only prohibited from mitigating the impact from the discrete spillover of this project, not from mitigating the combined impact of the proposal spillover, the existing congestion and spillover from future development. Appellants urge that the Council recognized that there are differences from neighborhood to neighborhood and did not intend to limit the use of the cumulative impacts policy.

12. The examiner concludes that the language used in the resolution does not allow for distinction between the discrete parking impacts of the proposal and the cumulative parking impacts of the proposal with the existing and future demand. The Council's recognition of differences between neighborhoods resulted in Implementation Guideline 3 which directs the executive to study differences in parking demand among the neighborhoods and propose recommendations for dealing with those differences. Since the Director was without authority to mitigate the spillover parking demand, her decision was not clearly erroneous.

13. Appellants seek mitigation of the height, bulk and scale of the project to effect a clearer transition between it and the L-3 zone. The Director's decision recognized that the proposed building would have greater height and bulk than the structures immediately across the street but found that it would be within the range of height and bulk exhibited by development existing in the area in both zones. She found no unusual circumstances of the project which would not have been contemplated at the time of zoning. While the project is on the edge of the zone she found that the separation provided by the street right of way and the mix of sizes allows for adequate transition. The Director has not found an adverse impact in need of mitigation.

14. If only the two block faces are considered, as suggested by appellants, the change of size from the project to that which could be developed on the L-3 side of the street could be regarded as abrupt but if the greater area is considered, as done by the Director, it is apparent that transition is not required in that there are buildings as large as that proposed in the L-3 zone. That there are conflicting opinions about compatibility of scale does not mean that one is clearly erroneous. The examiner cannot find from the evidence presented that the Director's determination is in error. Where there is no adverse impact, no condition may be imposed to mitigate.

15. If the examiner were to determine that there was an adverse impact, then it would be necessary to consider whether there are policies authorizing mitigation. The policy on designation establishes the locational criteria. Since those were applied by the Council in determining to zone this area MR and the opposite side of the street L-3, development under the existing zoning would not conflict with that policy. The policy on residential classifications refers to a transition in scale between multi-family and single family areas, not between different multi-family zones, as pointed out by the applicant. Application of this policy to the transition between two multi-family areas would be appropriate only if there were unusual circumstances or transitional problems not accommodated by the zoning. In re Oden, C.F. 293557 (1985). In this case the policies would not necessarily support conditioning of the project.

16. If the conclusion were different as to the existence of a impact and of policy authority, the examiner would have to consider whether the conditions requested are reasonable. Appellants suggest that the height of the building nearest the street should be equal to that permitted in the L-3 zone and then step up to a height below that permitted by the development standards for the zone. Since the Council contemplated some difference in scale when it designated the south side of the street for MR, it would be unreasonable to restrict the height to

that of the L-3 zone so any condition should allow for greater height even at the edge, e.g., perhaps beginning at four or five stories and stepping up to the maximum height allowed in the zone. However, since the Director's determination as to absence of adverse impact and authority was not shown to be clearly erroneous, the examiner must affirm the decision that no condition is appropriate.

17. The record shows no error in the Director's determination as to the effect on slope stability and further, appellants have not shown substantive authority for imposing additional conditions.

18. Appellants urged that the Director erred in failing to allow for a 15 day comment period after the issuance of the DNS under Section 25.05.340B. Because the demolition of any residential structure with four or fewer dwelling units is categorically exempt, a "comment" DNS is not required. The only exception would be for a structure with recognized historical significance but that has not been established in this case. Therefore, there was no procedural error as to notice.

19. Except for the possible designation of handicapped spaces and assignment of tandem spaces, appellants have failed to overcome the substantial weight the Hearing Examiner is required to give to the Director's decision. The decision, with modification of the parking condition, must be affirmed.


#### Decision

Condition No. 2 (Permanent for the Life of the Project) is modified to require:

Assign tandem spaces to units with more than one vehicle.

In all other respects, the decision is affirmed.

Entered this 11th day of August, 1988.

  
M. Margaret Klockars  
Deputy Hearing Examiner

#### CONCERNING FURTHER REVIEW

Pursuant to Seattle Municipal Code Section 23.76.024, a party to the hearing before the Hearing Examiner may file an appeal with the City Council no later than the fifteenth day after the date of the decision appealed from is filed with the SEPA Public Information Center, 5th Floor Municipal Building, 684-8322. The decision is filed with the SEPA Public Information Center the same day that the decision is signed by the Examiner. The SEPA Public Information Center telephone number is 684-8322. The appeal statement must be filed with the City Clerk on the first floor of the Municipal Building. The City Council's review on appeal shall be limited to the issue of compliance with Section 25.05.660. The City Council Land Use Committee should be consulted regarding further appeal specifics.

If an appeal is taken pursuant to Section 23.76.024, 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 the City Council appeal.

If no appeal is taken to the City Council, the decision of the Hearing Examiner in this case is final and is not subject to reconsideration except to correct errors on the ground 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 fifteen days of the date of this Hearing Examiner decision. Seattle

Municipal Code Section 23.76.22(C)(12)(c). Judicial review under SEPA shall without exception be of the decision on the underlying governmental action together with its accompanying environmental determinations. 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 fifteen days of the date of this decision. See Chapter 43.21C, RCW and Chapter 25.05, Seattle Municipal Code.

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 for 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.