

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

In the Matter of the Appeal of

CONCERNED MADISON VALLEY RESIDENTS

FILE NO. MUP-89-080(W)
APPLICATION NO. 8708530

from a decision of the Director of
the Department of Construction and
Land Use on a master use permit
application at 3001 E. Madison St.

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Introduction

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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 February 28 and March 2, 1990. A site inspection by the Hearing Examiner occurred on March 10, 1990.

Parties to the proceedings were: appellants, appearing through and represented by Suzanne Wilson; intervenors, Harrison-Denny Community Council, appearing through and represented by Jerry Sussman; applicant Robert Regan, represented by Melody B. McCutcheon, attorney at law; and the Director, Department of Construction and Land Use, appearing through and represented by Cristina Van Valkenburgh, Land Use Specialist.

A prehearing conference was scheduled for February 5, 1990 and because of illness of one of the parties, was reset for and held on February 14, 1990. As a result of that conference, simplification of appellant's issues were as follows: (a) parking impacts; (b) traffic impacts; (c) drainage and sewage impacts; (d) soils stability impacts; (e) height, bulk and scale impacts; (f) habitat impacts; (g) shadow impacts (parks); and (h) light and glare impacts. Subsequent to the prehearing conference, Jerry Sussman, on behalf of the Harrison-Denny Community Council, filed a timely request to intervene in the matter. By Order dated February 26, 1990 that request was granted subject to the limitation that intervention be limited to the issues set forth in the request to intervene. Those issues were (a) traffic impacts; (b) sewage and drainage impacts; (c) scale related impacts; and (d) habitat related impacts.

Following the March 2, 1990 morning recess of the hearing being held in this matter, appellant's representative informed this Hearing Examiner that she would be unable to attend the afternoon session of the hearing and in lieu of making a presentation offered to submit a written closing statement setting forth appellants' presentation on the issues. After reconvening the afternoon hearing session, the Hearing Examiner apprised applicant and intervenor of appellants representative's unavailability and of her offer to submit a written presentation. Intervenor did not object. Applicant did object and further moved that appellants' appeal be dismissed on the basis that appellants could not sustain their burden of producing evidence without making a presentation subject to cross-examination and other hearing rights which applicant was entitled to exercise. After consideration of argument by the representatives of the remaining respective parties, the motion to dismiss was orally granted on the record. An order to that effect was entered March 9, 1990.

A motion to dismiss the intervenor was denied. Thereupon, intervenor through its representative, Jerry Sussman, made its presentation consistent with the limitations set forth in the intervention order of February 26, 1990.

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 construct a six (6) story, thirty (30) unit apartment building with approximately thirty-six (36) basement parking spaces

on two (2) levels. The address of this proposal is 3001 East Madison Street. (Exhibit 1 and 2).

2. The site is a triangular-shaped property located on the south side of East Madison Street, approximately 130 feet west of the Lake Washington Boulevard East and East Madison Street intersection. This property is in the Madison Valley neighborhood. (Exhibit 2 and site visit). The northern facade of the proposed construction, along East Madison Street, would be four (4) stories measuring approximately thirty-six (36) feet to the top of the plate. This facade would include modulations, decks and a five (5) foot wide pedestrian bridge entrance. (Exhibits 1 and 5). The top two (2) floors would set back from the street grade with only approximately two and one half (2 1/2) observable by sidewalk passers-by.

3. The north-south change in grade causes the southern facade, along East Mercer Street, to appear to be six stories in height as the two levels below Madison grade (basement parking level A and B) would be evident when viewed from the SF 5000 zone to the south. (Exhibits 1 and 5). The two top floors (levels 3 and 4) are to step back to the north to reflect the slope. (Exhibits 1 and 5). The proposed design incorporates vertical modulations of the first four (4) levels, thereby stepping the structure back towards the northern property line and away from the single family zone. Decks are anticipated to be part of this facade. (Exhibits 1 and 5).

4. In order to provide access to the two parking levels containing the thirty-six (36) spaces the adjacent alley would be developed. Bicycle parking is also proposed. Seattle Engineering Department (SED) is requiring that a turn around be provided at the East Madison grade. Consistent with the Property Use and Development Agreement (PUDA) (see Finding No. 8), the alley will not go through. (Exhibit 1). In addition, a six (6) feet high cedar fence at the turn around will screen this portion of the site from public view.

5. The Analysis and Decision of the Director indicates that an elevator tower, measuring 49.5 feet and serving all six (6) stories would be located approximately twenty (20) feet north of the structure's southern facade. However, at the hearing DCLU stated that the project would be further conditioned in that applicant would be required to lower the elevator penthouse by one floor. As a result the top floor will not be accessible by elevator and would consist of townhouse type units.

6. The property is a split zoned site in that the northern half of the property is zoned Neighborhood Commercial 2 with a 40 foot height limit (NC2 40') while the southern half is zoned Lowrise 3 (L-3). The site has a total area of approximately 14,515 square feet. (Exhibits 1 and 2).

7. Total lot area includes a portion of Dewey Place for which a petition to vacate was submitted by the applicant in 1986 (C.F. 292473). The vacated portion of the Dewey Place right-of-way encompasses a triangular shaped area of approximately 2,800 square feet, sited immediately west of the lot. (Exhibit 2).

8. The vacation of the Dewey Place right-of-way was conditionally approved in that a Property Use and Development Agreement (PUDA) was executed containing provisions relating to open space and traffic access (Exhibit 3). The Dewey Place portion was annexed to the proposal site by Ordinance Number 114634. The specific provisions of the PUDA which set forth the conditions for development of the vacated parcel provide as follows:

A. Open Space. The project built on the Property shall not use any portion of the vacated parcel in order to satisfy the open space requirements of the project. That is, the entire open space requirement of any project proposed on the Property shall be satisfied by open space located on the Property. It is the intent of this condition that the addition of the vacated parcel to the Property shall not affect the size or intensity of the project to be built on the Property; so that, for example, the vacated parcel shall not be used to calculate the open space required for the project, or the open space provided by the project.

B. Traffic Access. Vehicle access to the parking garage of the project built on the Property shall be from an alley located along the northeastern boundary of the Property.

That alley shall initially be limited to a connection to E. Madison Street in order to avoid, to the extent possible, traffic impacts to the adjoining single-family neighborhood. That alley shall be fully graded to its final elevation all the way through to East Mercer Street; however, Owners shall not open the alley to East Mercer Street by their own action and Owners shall maintain an interim turnaround sufficient for passenger vehicles until such time, if ever, that the alley is opened to East Mercer Street.

The PUDA covenants attach to and run with the subject property.

9. The site abuts three rights-of-way. Approximately 194 feet of frontage is on Madison Street, approximately 216 feet is on East Mercer Street, and approximately 160 feet is along the underdeveloped alley. (Exhibit 1).

10. The site is located on a steep (approximately 35 to 40 degrees) southeastern facing downslope which overlooks a single family developed area zoned SF 5000 located immediately across East Mercer Street. The downward southeasterly slope at its steepest point has a total elevation drop across the site of approximately 35 vertical feet over 55 feet of lot depth. (Exhibit 1 and site visit).

11. A portion of the site is designated Environmentally Sensitive on the City's Kroll Maps. According to the soils report of applicant, the north portion of the site, adjacent to East Madison Street, is underlain by up to 40 feet of loose to medium dense silty and sandy fill. (Exhibit 8). The fill soils, according to DCLU, were probably deposited during grading for East Madison Street. (Exhibit 1). The fill soils decrease in depth towards the east. Below the fill are dense native sandy silts and silty clays. (Exhibit 8). Applicant's soils report was reviewed and approved by DCLU's Geotechnical Engineer with the comment that the proposal will require a street use sharing permit. (Exhibit 1 and 8).

12. The site is vacant and heavily vegetated with grasses, bushes and deciduous trees. There is no sidewalk along its East Madison Street border. A narrow dirt path suffices at present for foot traffic. Street trees of 4 to 6 inch caliper have been planted between the dirt path and the existing curb at a distance of approximately four feet from that curb. (Exhibit 1, 4, 14 and site visit).

13. The NC2/40' commercially zoned strip in which the subject site is located is centered along Madison Street from 27th Avenue East to 32nd Avenue East. In addition to the SF 5000 zone immediately south of the project site across East Mercer Street, there are SF 5000 zones both northwest and southeast of the NC2 strip. A Lowrise 3 (L-3) zone is located between the NC2 40' and the SF 5000 zones. This zone encompasses the southern portion of the site and extends to the east to 32nd Avenue N.E. (Exhibit 1).

14. North of the site, across East Madison Street is located the University of Washington Arboretum. (Exhibit 1 and site visit).

15. Development in the vicinity consists primarily of low scale retail, offices and multi-family residential structures along East Madison Street. Single family structures predominate along northwest and southeast of the Madison strip consistent with the SF zoning. Single family residences front on 30th Avenue East and Dewey Place East. (Exhibit 1 and site visit).

16. The East Madison Street arterial, with a 66 feet right-of-way plat, links Lake Washington, Madison Park, the East Central District, downtown and the waterfront. It is also classified as a Key Bicycle Street by the Seattle Engineering Department (SED). The arterial has been substantially, but not fully, improved with sidewalks, curbs, gutters, planting strip and street trees. (Exhibit 1 and site visit).

17. East Mercer Street is an access street adjacent to the site platted with a 60 feet right-of-way. This right-of-way is only partially improved in that there is an existing curb. Dirt and weeds cover a considerable portion of it. (Exhibits 1, 4 and site visit).

18. METRO transit route number 11 services this area. This route provides direct access to the downtown district. (Exhibit 1 and site visit).

19. On street parking is permissible on both sides of East Madison Street between 29th Avenue N.E. and Lake Washington Boulevard. There is also parking along East Mercer Street and the other residential streets. (Exhibit 1 and site visit).

20. Other development in the area, including projects recently approved and/or under review by DCLU were indicated as follows:

- (1) 3115 East Madison - A 19,400 square feet retail/office building with a total of 52 parking spaces;
- (2) 2908 East Madison - A 10-unit apartment building with 12 parking spaces and 1,700 square feet of commercial space;
- (3) 2720 East Madison - An AIDS nursing home and adult day care facility located at the intersection of East Madison Street and Martin Luther King Way with 26 parking spaces;
- (4) 2501 East Madison - A 3-story, 12-unit apartment building with basement parking;
- (5) 231 - 26th Avenue - A 3-story, 12-unit apartment building with basement parking (across alley from 2501 E. Madison);
- (6) 300 - 25th Avenue East - A 3-story, 25-unit terraced apartment building with underground parking for 33 vehicles;
- (7) 132 - 24th Avenue East - A 3-story, 12-unit apartment building, parking unknown;
- (8) 317 - 27th Avenue East - A 2-story, 2-unit townhouse and a 3-story, 2-unit townhouse with basement parking for two vehicles in each building (environmentally sensitive area);
- (9) 215 - 27th Avenue East - A 3-unit apartment building and detached 3-car garage (environmentally sensitive area); and
- (10) 100 - 23rd Avenue East - A 3-story addition to existing building and use change to retail (approximately 7,900 square feet) with one (1) residential unit and 21 parking spaces.

(Exhibits 1 and 6).

21. Applicant proposes to provide landscaping along the Mercer Street frontage consisting of trees, shrubs and ground cover. The vacated portion of Dewey Place approximately seventy (70) square feet would be retained in its natural vegetation as open spaces and pursuant to the Director's authority under the SEPA policies to mitigate earth instability impacts due to the steepness of this western portion of the site. Seattle Municipal Code Section 25.05.675.D2.Ciii. (Exhibit 1).

22. A retaining wall approximately ten and a half (10.5) feet south of the curb edge will also be constructed along the East Madison Street frontage to provide sidewalk improvements. These will consist of a five (5) feet pedestrian walkway and a five feet six inch (5' 6") planting strip to accommodate the existing street trees. (Exhibit 1).

23. Seattle Engineering Department (SED) will require a street use permit for any improvements and/or work along the public right of way. Prior to issuance of the master use permit applicant must also provide SED with full plans showing the required street improvements. (Exhibit 1).

24. Public comment period letters from site neighbors expressed concerns over the increasing rate of neighborhood development; increased residential traffic resulting from East Madison Street corridor development; inadequate number of traffic control devices to regulate traffic increase; inadequate on-street parking to meet increased demand; potential slope instability during

site excavation; potential drainage impacts; physical incompatibility of the project with existing single family housing; and loss of the "greenbelt".

25. Following the filing of this appeal and during the course of this hearing, four (4) additional public comment letters were received by this Examiner. The Harrison-Denny Community Council essentially raised height, bulk, and scale concerns as did an architect who resides in the neighborhood. In addition, the architect expressed concern that the project would impair the view corridor from Madison Valley and adjacent hillsides to the Arboretum. A third letter voiced concerns over drainage impacts and "greenbelt" loss. The last letter, from Martin Luther King Early Childhood Education Center, sought assurances that the project's close proximity to the school would not pose a safety problem for its students.

26. Having been filed March 4, 1988 this project application is not subject to any of the multi-family, housing on landscaping legislations adopted after that date. The SEPA environmental policies adopted August 14, 1988 are, however, applicable to this project.

SEPA

A. Traffic

27. The only contested SEPA related issues for which evidence was presented at the hearing were traffic, sewage and drainage, scale related and habitat related impacts. Short term impacts related to construction other than those related to sewage and drainage were not raised as issues. The Examiner finds that compliance with applicable codes, ordinances, regulations, rules and the conditions imposed by the Director will adequately mitigate these short term impacts.

28. Michael Odom, Seattle Engineering Department Assistant Traffic Engineer, reviewed traffic impacts of the property, which will access public streets solely from the East Madison driveway, with the SED plan review section. He testified that, based on the Institute of Transportation Engineers (ITE) Manual, the project would generate about one hundred eighty (180) all day trips and approximately eighteen to twenty (18-20) p.m. peak hour vehicle trips. Combined with trips from other proposed vicinity projects (specifically 2908, 2720 and 3115 East Madison Street) he determined there would be a low level of p.m. trip generation. The ITE and these vicinity projects were the most current available traffic volume data for assessing project traffic impacts.

29. On cross-examination intervenor Sussman elicited from Mr. Odom that the aggregated p.m. peak hour impact would result in level of service (LOS) D. According to Mr. Odom's testimony LOS D would not be an impediment to project driveway (unsignalized) movements. There is no eastbound a.m. backup on Madison Street, although this may occur during the peak hour. However, before this project could increase traffic impacts to LOS E (a capacity level which would adversely affect traffic movement) it would have to increase trip generation to at least ten (10) times its projected volume.

30. In SED's opinion no significant adverse cumulative traffic impacts requiring mitigation would be caused by this project. Based on this data and analysis the Director thus determined that the present and planned street capacity will not be exceeded. (Exhibit 1). The Examiner concurs in this determination.

31. Nonetheless, the Director, in order to promote the City policy to encourage ways that would decrease the reliance on single occupancy vehicles and increase use of alternative transportation modes set forth in SMC 25.05.675R, requires the applicant to provide current neighborhood bus schedules and transfer routes in the building lobby. This requirement is to be a condition of approval for the life of the project.

B. Sewage and Drainage

32. Neil Watts, Planning Review Analyst, is the SED staff person responsible for reviewing drainage issues with respect to the project during its master use and building permit stages and during any type of private drainage or sewage related work occurring on public streets. This project is located in an area where on site retention is required because its discharge point is into a combined sewer. This discharge point runs right through the property and connects with a large fifty-four inch (54") line immediately adjacent to the property site. That line runs to the north for a very short

distance where it ties into a large five feet (5') diameter METRO main line.

33. Mr. Watts further testified that since there is a discharge point and there is no known or identified capacity problem, the Grading and Drainage Control Ordinance adequately addresses this project's impacts. Although there have been some capacity problems with the large main line further north where it goes under the Montlake cut, they have been alleviated by recent SED projects in that area.

34. Some flooding does occur with some single family residences to the south of the project. These residence lie in a natural depression area and flooding occurs because there is no natural outlet. That flooding is not caused by a line backup. Combined lines in the single family area are upstream from this project. Thus, discharge from the project will not add to this flooding problem.

35. An Engineer Drainage Control Plan will be required at the building permit stage showing that all of the site runoff and that of the newly developed alley will be collected in a catch basin. This collected runoff will then be required to be tightlined to a detention system for temporary storage from where it will be metered at a controlled rate into the combined sewer. Flow rate will be limited to an approximation of the current site flow. The plan required that the detention system be able to handle a ten (10) year design storm, i.e. a storm which can be expected once every ten (10) years.

36. According to Mr. Watts this project will improve drainage. In his opinion this project with the Drainage Control Plan to be required will have no adverse significant impacts on the surrounding area. The Examiner finds that there is sufficient evidence to support this opinion.

C. Height, Bulk and Scale

37. The proposal site, being split zoned NC2/40' and L-3 on a steep hillside across the street from a SF 5000 zone has the potential to adversely impact the small single family structures over which it will loom. The DCLU presentation established that under the height, bulk and scale policies a number of conditions have been imposed to provide a sensitive edge transition between the project's more intensive zone and the lesser intensive single family zone. Those conditions are:

- (a) reduce the height of the elevator penthouse by eight feet (8') from 49.5 feet to 41.5 feet. Its roof ridge is not to exceed a final elevation of 140.5 feet thereby minimizing the towering effect it would have over the southern single family zone;

- (b) remove a notched portion of the southern side of the building to further reduce height, bulk and scale impacts along the southern single family zone (Exhibit 1 pages 10-11 and Exhibit 9B);

- (c) revise the landscaping plan to increase the landscaping strip five feet (5') to ten feet (10') with ten (10) Incense Cedar trees to be planted approximately fifteen feet (15') apart along the southern edge of the planting strip. A minimum of five (5) Dogwood and five (5) Bowhall Maple trees, twenty (20) Rhododendrons and other shrubs and groundcover are to be planted along this frontage within the ground level set back areas; and

- (d) install the six feet (6') high view obscuring cedar fence around the proposed turnaround area as previously noted above.

38. These conditions soften the impact of the proposed project's bulk as accentuated by its elevation over the adjacent single family zone to the south due to topography. In addition, an intervening right-of-way and the existing vertical modulation design would further facilitate a sensitive edge transition. Also the existing single family structures do not face the proposed project; therefore, only the side yards of two (2) residences directly south of the proposed structure would be exposed to the close proximity of the structure's scale related impacts.

directly south of the proposed structure would be exposed to the close proximity of the structure's scale related impacts.

39. These conditions do not entirely mitigate the project's height, bulk and scale impacts. It will be prominently visible from the end of 30th Avenue East which is lined with single family homes. Nonetheless, the Examiner finds that, as conditioned, a sensitive transition between the project zones and the single family zone has been achieved.

D. Habitat

40. The heavy vegetation of grasses, bushes and deciduous trees provides protection for a number of birds. Although the site is small in size, it is similar to the Harrison Greenbelt which is four to five (4-5) blocks away. Development will displace the existing birds to other sites as the building footprint would disrupt the site's "caring capacity".

41. Species presently using this site include Ruby Crown Kinglets, House Finches and Sparrows, among others. In addition, intervenor witness, Gerald Adams, Seattle Audubon Society, observed a Redtail Hawk briefly perch on this "island" site. None of these species are protected by law or considered to be rare or endangered. Noticeably absent from the "island" were European Starlings, a major non-indigenous species that displaces native wildlife.

42. The DCLU report did not address habitat impacts. According to the Director's representative, Cristina Van Valkenburgh, she visited the site on several occasions, and considered project impacts on flora and fauna. Mitigation measures were not imposed by DCLU to lessen impacts on flora and fauna. DCLU stated that the mitigation conditions imposed with respect to retention of seventy (70) square feet of the Dewey Place vacation in its natural state and the required landscaping would adequately mitigate habitat related impacts.

43. Mr. Adams disputes this determination. His representation indicated that adequate mitigation could be achieved by (a) reducing project scale; (b) intensely preparing remaining open space of the Dewey Place triangle; (c) excluding the European Starling and Rock Dove (another major displacement species) by not providing overhanging eaves and ledges; and (4) retaining or adding thorny thickets (to deter cats). The Hearing Examiner, however, cannot find from the record that further reduction of the project is warranted for purposes of mitigating adverse, significant impacts for species that are not threatened or endangered.

Conclusions

1. The Hearing Examiner has jurisdiction of this appeal pursuant to Chapter 23.76, Seattle Municipal Code.

2. In making a threshold determination, the responsible official shall consider whether a proposal may, to a significant degree adversely affect "traffic and transportation"; "existing public services and facilities; "height, bulk and scale"; and "endangered or threatened species or their habitat." Seattle Municipal Code 25.05.675R; .6750; .675G; and .330.

3. The responsible official shall also independently evaluate the environmental checklist. Based on review of the proposed action, the checklist information and other information, the responsible official shall determine whether the proposal is "likely to have a probable significant adverse environmental impact." Seattle Municipal Code Section 25.05.330A.1.2.

4. An environmental impact is "significant" if there is a reasonable likelihood of more than a moderate adverse impact on environmental quality. Seattle Municipal Code Section 25.05.794; Norway Hill v. King County Council, 87 Wn. 2d 267, 278, 552 P.2d 674 (1976). "Probable" means likely or reasonably likely to occur. Seattle Municipal Code Section 25.05.782.

5. If the responsible official determines there will be no probable significant adverse impacts from a proposal a determination of non-significance (DNS) shall issue. Seattle Municipal Code Section 25.05.340A.

6. The determination appealed from shall be accorded substantial weight and the burden of establishing to the contrary shall be upon the appealing party. Seattle Municipal Code Section 25.05.680A.3; and Section 23.76.22C.7.

7. The standard of review is "clearly erroneous" meaning that the Hearing Examiner must have a definite and firm conviction that a mistake has been made in order to overturn the Director's determination. Hayden v. Port Townsend, 93 Wn. 2d 870, 613 P.2d 1164 (1980).

8. Here, the Director has determined this project will not have probable significant adverse environmental impacts as conditioned and as such has issued a DNS with conditions. Although a fairly large site at 14,515 square feet with domineering topographical features in relationship to the SF 5000 zone to the south, the presentation made to the Hearing Examiner is inadequate on this record to conclude that the Director's determination is erroneous.

9. It is clear from the record that the proposed structure's envelope will reduce in size the "care giving" capacity of this "island" with respect to wildlife, particularly bird species. However, none of the cited species impacts are subject to mitigation pursuant to applicable SEPA policies. Nonetheless, the Hearing Examiner recommends that the Director and applicant carefully review the landscaping plans to determine whether it is reasonably feasible to increase the amount of vegetation and greenery to minimize the extent to which displace of bird species are likely to occur.

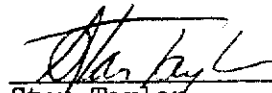
Conditions

The conditions set forth at conclusion number 37 shall be satisfied prior to the issuance of the master use permit. Those conditions are stated in more explicit detail as conditions one (1) through four (4) at pages sixteen (16) through seventeen (17) of the Director's report (Exhibit 1) and, therefore, need not be restated here. All remaining conditions imposed during construction, prior to occupancy and for the life of the project (conditions seven (7) through fifteen (15)) shall also be imposed.

Decision

The Declaration of Non-significance as conditioned is Affirmed.

Entered this 22nd day of March, 1990.



Stan Taylor
Acting 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 5:00 p.m. of 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 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 this 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, 408 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 order 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 1320 Alaska Building, 618 Second Avenue, 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 findings. Any other party may designate additional portions of the taped transcript relating to issues raised on review.