

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

In the Matter of the Appeal of

People and Business Standing Together  
(PABST)

FILE NO MUP 84-094(W)  
APPLICATION NO. 8403823

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

Introduction

Appellant challenged a DCLU environmental determination of non-significance dated December 6, 1984, for a proposal to relocate and enclose a portion of an existing building, add a second story and change the use from a freight terminal to a repair garage, warehouse and office use. The proposal address is 54 and 55 South Dawson Street.

Appellant exercised the right to appeal pursuant to Chapter 23.76, Seattle Municipal Code.

The matter was heard before the Hearing Examiner on February 20, and 28 and on March 1, 1985. The record closed on March 4, 1985. Appellant was represented at the hearing by Samuel M. Jacobs, attorney at law; applicant Hudson Street Association by Linda R. Larson, attorney at law; and the DCLU Director by Amy Luerson. Subsequent to the hearing and the Hearing Examiner decision, PABST responded pro se and the DCLU Director by Clay Leming.

On March 18, 1985, the undersigned remanded the subject application to DCLU for further consideration of the proposal's impact on vicinity streets.

On March 18, 1985, the undersigned also remanded Application 8401911 to DCLU for further consideration of that proposal's impact on vicinity streets. The 8401911 proposal was for a solid waste recycling center and refuse transfer station to be established at 80 South Hudson Street, near the 54-55 South Dawson Street property. Both evaluations were to be done conjointly.

Pursuant to proponent's letter dated October 16, 1985, indicating that the 80 South Hudson Street proposal would be withdrawn, the undersigned dismissed Application 8401911 and related Hearing Examiner Appeal MUP 84-093 on November 4, 1985.

DCLU then issued a supplemental report on the 54 and 55 South Dawson project on November 21, 1985. The report added two conditions to their December 6, 1984, decision:

1. That South Dawson Street be improved to a width of 40 feet with 4 inches of asphalt over 6 inches of compacted crushed rock between Colorado Avenue South and Utah Avenue South.
2. Drainage and detention may be required, the extent of which shall be determined by the Seattle Engineering Department during review of the Building/Street Use Permit.

Neither appellant nor applicant submitted any request for hearing or otherwise responded to the DCLU supplement by the seven day deadline given by October 8, 1985, Order of the undersigned. And to date of this Order, no response has been received by the Office of Hearing Examiner from appellant or applicant.

The record therefore closed on November 28, 1985, effectively December 2, 1985, because of the intervening November 28 and 29 City holiday.

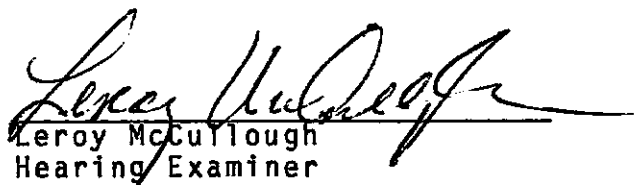
Findings and Conclusions

The Hearing Examiner Findings and Conclusions of March 18, 1985, are restated and incorporated by reference herein except that sentence one of Finding 12 is corrected to state that "Secondary access will be from Colorado Avenue and South Hudson Street."

Decision

As modified by the DCLU Supplement of October 21, 1985, the DNS is AFFIRMED.

Entered this 11th day of December, 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 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 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.