

BEFORE THE HEARING EXAMINER

CITY OF SEATTLE

In the Matter of the Application of

Winco Foods, LLC

for approval of a Master Use Permit for demolition of a portion of an existing building located at 13550 Aurora Avenue North

Hearing Examiner File:

W-25-008

Department Reference:

3042320-LU

In the Matter of the Appeal of

LAKE WASHINGTON WORKING FAMILIES

from a Determination of Non-Significance issued by the Director, Seattle Department of Construction and Inspections

**DEPARTMENT OF CONSTRUCTION
AND INSPECTIONS CLOSING
STATEMENT**

I. SUMMARY OF DECISION UNDER APPEAL

This appeal challenges the Seattle Department of Construction and Inspections' ("SDCI" or "the Department") Determination of Nonsignificance (DNS) issued pursuant to SMC Chapter 25.05, the City's State Environmental Policy Act (SEPA) ordinance, for Master Use Permit No. 3042320-LU.

As reflected in the Director's Decision (Exhibit 21), the proposal consists of partial redevelopment of an existing commercial site, including demolition of a portion of an existing structure, reconfiguration of parking, grading, landscaping, and stormwater infrastructure improvements. The only discretionary approval required is the SEPA threshold determination.

The appeal raises challenges to the adequacy of SEPA review relating to transportation, air quality and greenhouse gas emissions, stormwater quality (including 6PPD-quinone), archaeological resources, and alleged inconsistencies in the environmental checklist. For the reasons set forth below, the appeal fails as a matter of law and fact.

II. STANDARD OF REVIEW AND BURDEN OF PROOF

This appeal is an administrative appeal of a SEPA threshold determination and is governed by the clearly erroneous standard of review.

Under Hearing Examiner Rule 10.03 and SMC 25.05.680 (*Appeals*), the Director's DNS is entitled to deference. The burden of proof rests entirely with the appellant to demonstrate that the Examiner is left with a definite and firm conviction that a mistake has been committed.

The scope of review is limited. The Hearing Examiner does not reweigh evidence or substitute judgment for that of the Director, but instead evaluates whether the decision was based on a reasoned analysis of the record and applicable law. The existence of environmental impacts, standing alone, is not sufficient to require reversal; SEPA requires identification of probable significant adverse environmental impacts under RCW 43.21C.030(2)(c) and WAC 197-11-330.

Disagreement with the City's professional judgment, policy determinations, or reliance on adopted regulations does not establish clear error. Absent a showing that the Director misapplied SEPA or failed to consider relevant environmental information, the DNS must be affirmed.

III. LEGAL FRAMEWORK: RELIANCE ON ADOPTED REGULATIONS

A recurring premise of the appeal is that SDCI was required to go beyond the City's adopted regulatory framework to address alleged environmental impacts. That premise is contrary to SEPA.

SMC 25.05.665 (*SEPA Policies – Overview*) expressly provides that where the City has adopted regulations to address an environmental impact, those regulations are presumed adequate to mitigate that impact. Additional SEPA mitigation may only be imposed if the appellant demonstrates that:

1. The regulations are inadequate; and
2. The inadequacy results in probable significant adverse environmental impacts.

Similarly, WAC 197-11-158 and WAC 197-11-660 encourage agencies to integrate SEPA with existing regulatory authority rather than duplicate it.

The appellant's witnesses largely argued that the City's codes should be strengthened or updated. SEPA does not authorize the Hearing Examiner to revisit legislative policy choices or require ad hoc regulatory experimentation at the project level.

IV. RESPONSE TO APPEAL ISSUES

A. Transportation and Traffic Impacts

The appellant contends that traffic volumes and congestion on Aurora Avenue North and the proposed use necessitate additional SEPA analysis or a traffic impact study.

SEPA does not require an Environmental Impact Statement (EIS) based on traffic impacts unless they rise to the level of probable significant adverse environmental impacts (WAC 197-11-444). Increased traffic, even on congested arterials, is a common and anticipated consequence of urban development and is regulated through adopted transportation codes.

The Director properly relied on SMC Title 11 (*Vehicles and Traffic*) and SMC Title 15 (*Street and Sidewalk Use*) to address both construction and operational impacts, as expressly authorized by SMC 25.05.665 (*SEPA Policies – Overview*) and SMC 25.05.675.B (*Construction Impacts Policy*). The appellant failed to demonstrate that these regulations are inadequate or that the project would create unsafe or system-failing conditions.

B. Air Quality and Greenhouse Gas Emissions

The DNS acknowledges that construction and operational activities will generate greenhouse gas emissions but concludes that no additional mitigation is warranted (Exhibit 21).

This determination is squarely authorized by SMC 25.05.675.A (*Air Quality Policy*), which allows the City to determine significance based on adopted policy rather than requiring pollutant-specific modeling or project-level climate analysis. SEPA does not require elimination of emissions, nor does it mandate an EIS whenever emissions are present.

The appellant presented no evidence that emissions would exceed regulatory thresholds or that reliance on existing air quality regulation—such as Puget Sound Clean Air Agency requirements—is inadequate.

C. Stormwater, Water Quality, and 6PPD-Quinone

The appellant devoted substantial testimony to concerns about stormwater pollutants, particularly 6PPD-quinone.

SEPA requires project-specific review, not a generalized evaluation of emerging environmental science. The applicant submitted technical drainage documentation (Exhibits 2, 22, 23 and 24). Stormwater quantity and quality impacts are regulated through SMC Chapter 22 (*Building and Construction Codes; Grading Code, Stormwater Code*) and reviewed by SDCI and Seattle Public Utilities. Pursuant to SMC 25.05.675.C (*Drainage Policy*), compliance with the stormwater code is presumed sufficient absent a showing of inadequacy.

SEPA does not require agencies to anticipate or mitigate every possible constituent of stormwater runoff, nor does it require experimental mitigation measures not embodied in adopted standards. The appellant failed to demonstrate that the City's stormwater regulations are inadequate or that this project presents unique, unmitigated risks.

D. Environmentally Critical Areas and Technical Record

The appellant alleged inconsistencies between the SEPA checklist and technical reports relating to slopes and site conditions.

As established in the record, there is one small area of mapped steep slope erosion hazard area along the east property line, outside the area of proposed work. SDCI relied on professional geotechnical studies (Exhibit 26) and review and applicable regulations under SMC Chapter 25.09 (*Regulations for Environmentally Critical Areas*) and SMC Chapter 22 (*Building and Construction Codes*). SEPA does not require perfect consistency among documents; it requires a reasoned decision based on the full record. See WAC 197-11-340(3).

No evidence was presented that any alleged inconsistency results in a probable significant adverse environmental impact.

E. Archaeological Resources

The appellant argued that potential archaeological resources warranted further SEPA review or an EIS.

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on this date I sent true and correct copies of the attached **Department of Construction and Inspections Closing Statement** to each person listed below, or on the attached mailing list, in the matter of **Lake Washington Working Families** Hearing Examiner File: **W-25-008**, in the manner indicated.

Party	Method of Service
Appellant’s Authorized Representative Karl Anuta Kga@lokga.net	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
Hearing Examiner Hearing.Examiner@seattle.gov	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
Department, SDCI Carly Guillory Carly.Guillory@seattle.gov	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
Applicant and Property Owner Legal Counsel, CSD Attorneys as Law P.S. Timothy Schermetzler Tschermetzler@csdlaw.com Megan Holmes mholmes@csdlaw.com Shannon Duhon sduhon@csdlaw.com	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger

Dated: February 11, 2026

/s/ Carly Guillory

Carly Guillory, Senior Land Use Planner

Seattle Department of Construction and Inspections