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2026 APR 28 03:00 PM
KING COUNTY
SUPERIOR COURT CLERK
E-FILED
CASE #: 26-2-13995-4 SEA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

JSA CIVIL, LLC; and WINCO FOODS, LLC,

No.

Petitioners,

v.

**PETITION FOR REVIEW OF LAND USE
APPEAL UNDER CHAPTER 36.70C RCW**

LAKE WASHINGTON WORKING FAMILIES;
and CITY OF SEATTLE,

Respondents.

COMES NOW Petitioners JSA Civil, LLC ("JSA"), and WinCo Foods, LLC ("WinCo" or "Applicant") (collectively "Petitioners"), by and through their undersigned counsel of record, petitions this Court for review of a final land use decision by the City of Seattle (the "City") pursuant to Chapter 36.70C RCW.

I. NAME AND MAILING ADDRESSES OF PETITIONERS

1.1 JSA Civil, LLC
111 Tumwater Blvd SE, Ste. B203
Tumwater, WA 98501

1.2 WinCo Foods, LLC
PO Box 5756
Boise, ID 83705-0756

II. NAME AND MAILING ADDRESS OF PETITIONERS' ATTORNEYS

2.1 Timothy D. Schermetzler
Megan D. Holmes
CSD Attorneys at Law P.S.
1500 Railroad Avenue
Bellingham, WA 98225

1 **III. NAME AND MAILING ADDRESSES OF LOCAL JURISDICTION**
2 **WHOSE LAND USE DECISION IS AT ISSUE**

3 3.1 City of Seattle
4 Attn: City Clerk
 PO Box 94728
 Seattle, WA 98124-4728

5 3.2 City of Seattle
6 Attn: Mayor's Office
 PO Box 94749
 Seattle, WA 98124-4749

8 **IV. IDENTIFICATION OF LOCAL JURISDICTION ACTION AT ISSUE**

9 4.1 Petitioners are appealing the Hearing Examiner's decision of April 9, 2026 (the
10 "Decision"), reversing the City of Seattle's Department of Construction and Inspections ("SDCI")
11 Determination of Non-Significance ("DNS") associated with Petitioners' Master Use Permit
12 ("MUP") to allow Petitioners to renovate and partially replace a portion of an existing commercial
13 building with a new exterior wall, enhanced stormwater treatment, reconfiguration of parking, and
14 other improvements (the "Project"). A copy of the Hearing Examiner's Decision to reverse the
15 DNS is attached hereto as **Exhibit A**.

16 **V. IDENTIFICATION OF PERSONS TO BE MADE A PARTY**
17 **UNDER RCW 36.70C.040(2)(a)-(d)**

18 5.1 The local jurisdiction under RCW 36.70C.040(2)(a) is:
19 City of Seattle

20 5.2 The entities identified as the Applicants for the permit at issue under RCW
21 36.70C.040(2)(b)(i) are:

22 WinCo Foods, LLC
23 PO Box 5756
 Boise, ID 83705-0756

24 And

25 JSA Civil, LLC.
26 111 Tumwater Blvd SE, STE B203
 Tumwater, WA 98501

1 Applicants are the Petitioners in this matter and have standing to file this petition per RCW
2 36.70C.060(1). Service of pleadings in this matter should be made to the undersigned counsel.

3 5.3 The owner of the Property under RCW 36.70C.040(2)(b)(ii) is Benderson
4 Development Company, LLC, a limited liability company registered in New York.

5 5.4 While they do not qualify as a “person,” as defined by RCW 36.70C.020(4), Lake
6 Washington Working Families (“LWWF”) filed an appeal to the local jurisdiction quasi-judicial
7 decision maker (the City of Seattle Hearing Examiner) regarding the land use decision at issue
8 under RCW 36.70C.040(2)(d). LWWF is not a registered legal entity in Washington, or any state,
9 and does not have a registered agent. Petitioners will attempt service on LWWF’s counsel who
10 appeared at the administrative appeal before the Hearing Examiner. That attorney’s information
11 is below:

12 Law Office of Karl G. Anuta, P.C.
13 Attn: Karl Anuta
14 735 SW First Avenue
Portland, OR 97204

15 **VI. FACTS DEMONSTRATING THAT THE PETITIONERS HAVE STANDING TO SEEK
16 JUDICIAL REVIEW UNDER RCW 36.70C.060 AND VENUE**

17 6.1 Petitioners have standing pursuant to RCW 36.70C.060(1) as the applicants to
18 which the land use decision was directed.

19 6.2 Venue is proper in this Court pursuant to RCW 36.70C, which provides for judicial
20 review of local land use decisions by the Superior Court. Venue is proper in King County.

21 6.3 Petitioners timely filed this action pursuant to RCW 36.70C.040(3).

22 **VII. A CONCISE STATEMENT OF EACH ERROR COMMITTED**

23 7.1 The Hearing Examiner erred by reversing SDCI’s DNS determination.

24 7.2 The Hearing Examiner erroneously applied the law for standing in an appeal
25 proceeding required by Seattle Municipal Code (“SMC” or “City code”) 23.76.022(C)(2) –
26 Standing and other legal authority on standing.

1 7.3 The Hearing Examiner erroneously applied Seattle Municipal Code (“SMC” or “City
2 code”) 23.76.022(C)(2) and other legal authority on standing.

3 7.4 The Hearing Examiner erroneously applied the law to the facts by disregarding the
4 requirements of organizational or associational standings for LWWF, and failing to analyze
5 whether LWWF had exhausted its administrative remedies as required by City code.

6 7.5 The Hearing Examiner erroneously applied the law regarding the requirements for
7 the local jurisdiction’s evaluation of the existing conditions or baseline conditions of the Project
8 site.

9 7.6 The Hearing Examiner erred by making a decision not supported by the evidence
10 viewed in light of the whole record and erroneously applying the law to the facts by failing to
11 consider the testimony of SDCI staff and WinCo, along with documents detailing the existing
12 and/or baseline conditions of the Project site within the administrative appeal record.

13 7.7 The Hearing Examiner erred by making a decision not supported by the evidence
14 viewed in light of the whole record by concluding that SDCI and WinCo testified that they did not
15 analyze the existing baseline condition of the property, incorrectly summarizing their testimony as
16 follows:

17 The Project site has been in its current vacant condition since 2018.
18 The Department and Applicant witnesses testified that neither the
19 Department nor Applicant analyzed what current traffic, stormwater,
20 noise or other environmental conditions (e.g. a partly vacant
 abandoned site) are in the area of the Proposal as part of the
 threshold determination.¹

21 7.8 The Hearing Examiner erroneously interpreted the law by failing to give SDCI’s
22 DNS decision the deference afforded by RCW 43.21C.090.

23 7.9 The Hearing Examiner erroneously interpreted the law by conflating uses
24 allowed under City code with permitted uses at the Project site.

25 _____
26 ¹ Hearing Examiner Decision, Conclusion 5, at 10.

1 **VIII. A CONCISE STATEMENT OF FACTS UPON WHICH PETITIONERS RELY TO**
2 **SUSTAIN THE STATEMENT OF ERROR (RCW 36.70C.070(8)).**

3 8.1 Petitioner, WinCo, submitted a MUP Application, Application No. 3042320-LU, to
4 allow for the replacement of a portion of an existing building with new exterior walls, sidewalks,
5 paving, and landscape, and reconfiguration of the parking lot to SDCI on March 17, 2025 (the
6 “Application”).

7 8.2 SDCI staff reviewed the Application and issued a DNS on October 20, 2025.

8 8.3 LWWF appealed SDCI’s DNS decision on November 2, 2025.

9 8.4 The Hearing Examiner held an open record appeal hearing on February 3, 2026, in
10 which testimony was received by representatives of WinCo, SDCI, and LWWF.

11 8.5 WinCo, SDCI, and LWWF submitted post-hearing closing briefs on February 11,
12 2026.

13 8.6 WinCo and LWWF submitted closing response briefs on February 18, 2026.

14 8.7 The Hearing Examiner found that the LWWF did not meet its burden for any of the
15 issues raised to show that there would be a probable significant adverse impact. The Hearing
16 Examiner concluded: “[T]here is no evidence in the record that the Proposal would have a
17 significant adverse environmental impact”—and specifically that no evidence of significant
18 adverse impacts was presented in the record as it relates to aesthetics, lighting, odors (Hearing
19 Examiner Decision, Conclusion No. 12), 6PPD-quinone (Conclusion No. 11), noise (Conclusion
20 No. 10), greenhouse gas emissions (Conclusion No. 9), and traffic (Conclusion No. 8).

21 8.8 The Hearing Examiner rejected WinCo’s argument that LWWF did not have
22 standing to bring the appeal and determined that LWWF had standing under Seattle Municipal
23 Code (“SMC” or “City code”) to challenge SDCI’s DNS, stating in part:

24 The Applicant’s argument is largely based on standards of judicial
25 standing and does not properly consider SMC standing
26 requirements for a SEPA appeal. In this forum, the standards
provided in the Code prevail. Under the SMC, appeals may be
initiated by “any person significantly affected by or interested in the

1 permit." SMC 23.76.022(C)(2). An "Interested Person" is defined as
2 "any individual, partnership, corporation, association, or public or
3 private organization of any character significantly affected by or
4 interested in proceedings before an agency..." SMC 3.02.020. This
5 is a very broad standard and is the only one the Examiner is
6 charged with applying in the context of a SEPA appeal under the
7 Code. The Appellant is an "organization of any character" that is
8 "interested" in the proceedings and therefore has standing under
9 the Code for a SEPA appeal. If the City Council had intended for
10 the standards of judicial standing to be applied by the Examiner to
11 SEPA appeals, it would have stated so in the Code. Instead, the
12 City Council adopted specific language in SMC 23.76.022 as a
13 threshold for interested persons to appeal certain SEPA
14 determinations including the DNS at issue. To read the Code as
15 requiring application of the standards of judicial standing would
16 render portions of SMC 23.76.022(C)(2) meaningless as a merely
17 "interested" would no longer be able to appeal a DNS, because they
18 would have to demonstrate injury-in-fact and other elements of
19 judicial standing. It is the Examiner's responsibility when
20 interpreting Code to give full effect to the Code as stated on its face.

21
22 The Applicant also seemed to argue that an appellant organization
23 must have some legal formation in order to proceed with an appeal.
24 As stated in the Applicant's briefing "citizen groups often file
25 administrative and superior court appeals," and they do so
26 frequently in the forum of the Office of the Hearing Examiner.
27 However, Applicant's assertion that "they most often do so as either
a public or private organization lawfully established as a non-profit
corporation," is simply not accurate and is not established as a
requirement in the Code. Unincorporated citizen groups frequently
file appeals with the Office of Hearing Examiner, and they are not
turned away for failure to incorporate or otherwise form a legal
entity.²

8.9 LWWF's lone lay witness, Benjamin Brostrom, testified that he is a member of
LWWF, but that he did not personally submit comments to SDCI on the Project during the
applicable comment period or at any time prior to the City's DNS. Mr. Brostrom testified that he
found out about the Project in "November or December" but that he could not recall if he had ever
seen the comment letter or the notice of appeal submitted by LWWF. Mr. Brostrom further
testified that he could not recall when he found out about the Project and whether he knew about
this Project at the time that LWWF filed an appeal.

² Hearing Examiner Decision, Conclusion 2, at 6-7.

1 8.10 The Hearing Examiner’s Decision on standing disregards witness testimony, case
2 law, the administrative appeal pathway required by SMC under LUPA, and LUPA’s clear direction
3 regarding standing—including LUPA requirements for aggrieved parties and exhaustion of
4 administrative remedies necessary for land use appeals.

5 8.11 The Hearing Examiner’s Decision can only be appealed through a Land Use
6 Petition Action under Chapter 36.70C RCW. RCW 36.70C.060, which governs standing in LUPA
7 cases states the following:

8 Standing to bring a land use petition under this chapter is limited to
9 the following persons:

10 (1) The applicant and the owner of property to which the
land use decision is directed;

11 (2) Another person aggrieved or adversely affected by the
12 land use decision, or who would be aggrieved or adversely
13 affected by a reversal or modification of the land use
decision. A person is aggrieved or adversely affected within
14 the meaning of this section only when all of the following
conditions are present:

15 (a) The land use decision has prejudiced or is likely
to prejudice that person;

16 (b) That person's asserted interests are among
17 those that the local jurisdiction was required to
consider when it made the land use decision;

18 (c) A judgment in favor of that person would
19 substantially eliminate or redress the prejudice to
that person caused or likely to be caused by the land
20 use decision; and

21 (d) The petitioner has exhausted his or her
22 administrative remedies to the extent required by
law.

23 8.12 The Hearing Examiner’s Decision reversed SDCI’s DNS determination based on a
24 faulty conclusion that SDCI failed to consider/analyze the baseline conditions of the Project site.

25 8.13 The Hearing Examiner’s Decision concluded:

26 Neither the SEPA statute nor the City’s SEPA Code identify a

1 specific baseline for environmental analysis. However,
2 environmental impact analysis in relation to existing conditions is
3 the norm established by case law. See, e.g., *East County*
4 *Reclamation Co. v. Bjornsen*, 125 Wn. App. 432, 435, 105 P.3d 94
5 (2005); *Floating Homes Assoc. v. Washington Dept. of Fish and*
6 *Wildlife*, 115 Wn. App. 780, 785, 64 P.3d 29 (2003); *Thornton Creek*
7 *Legal Defense Fund v. City of Seattle*, 113 Wn. App. 34, 59, 52 P.3d
8 522 (2002); *Richland Homeowners Preservation Ass'n. v. Young*,
9 18 Wn. App. 405, 411, 568 P.2d 818 (1977). “We have also
10 established that the appropriate baseline to compare the
11 environmental impacts of the proposed action is the condition of the
12 existing environment, rather than considering the current uses of
13 the land.” (emphasis in original) *King County v. Friends of*
14 *Sammamish Valley*, 3 Wash.3d 793, 822, 556 P.3d 132 (2024)
15 (citing *Wild Fish Conservancy v. Dept. of Fish and Wildlife*, 198
16 Wash.2d 846, 502 P.3d 359 (2022)). In *King County v. Friends of*
17 *Sammamish Valley*, the Washington Supreme Court overruled a
18 decision by the Court of Appeals that had looked at allowed uses of
19 the land at issue under an ordinance and upheld a decision by the
20 Growth Management Hearings Board that called for examination of
21 the existing condition of the land at issue. Similarly, in *Wild Fish*
22 *Conservancy* the court rejected the suggestion that baseline
23 conditions should be established by examining solely what would
24 be legally allowed in the subject area under a future permit, and
25 instead indicated the baseline conditions needed to be established
26 by looking at actual existing conditions stating “[r]ather than
27 establishing the baseline on the current uses of the land . . . , the
appropriate baseline to compare the proposal's environmental
impacts is the condition of the existing environment.” 198 Wash.2d
at 872. In these cases, the term “use” was utilized to reference legal
or permitted uses, and “condition” was used to describe the physical
environment. At hearing some evidence indicated that the
Department may have an established practice of considering a
site’s allowed use to determine baseline conditions and not existing
conditions for purposes of a threshold determination. If this is the
case, the Department’s practice is inconsistent with established
SEPA caselaw and is therefore not accorded deference.

20 The Project site has been in its current vacant condition since 2018.
21 The Department and Applicant witnesses testified that neither the
22 Department nor Applicant analyzed what current traffic, stormwater,
23 noise or other environmental conditions (e.g. a partly vacant
24 abandoned site) are in the area of the Proposal as part of the
25 threshold determination. Therefore, the Department did not
26 properly determine baseline conditions of the Proposal as part its
27 threshold determination.

25 In contrast to established SEPA caselaw the Department
26 considered permitted uses of the Project area as the baseline and
27 not the existing conditions. While case law does not establish what
“current” conditions are, the passage of seven years or more and

1 the land remaining vacant of uses cannot be considered
2 comparable with the permitted use of a big-box store which
3 discontinued functioning on the site years ago. Without establishing
4 a proper baseline, the Department cannot be considered to have
5 had adequate information in order to determine that the Proposal
6 would have no likelihood of a significant negative environmental
7 impact. See e.g. *Wild Fish Conservancy v. Washington Department*
8 *of Fish and Wildlife*, 198 Wash.2d 846, 873, 502 P.3d 359 (2022)
9 (“We also consider whether the decision to issue an MDNS was
10 ‘based on information sufficient to evaluate the proposal’s
11 environmental impact.’”) SMC 25.05.030.B. requires “Agencies
12 shall to the fullest extent possible . . . [p]repare environmental
13 documents that . . . are supported by evidence that the necessary
14 environmental analyses have been made.” In the absence of a
15 proper baseline, the record does not demonstrate that
16 environmental factors were considered in a manner sufficient to
17 amount to prima facie compliance with the procedural requirements
18 of SEPA. See e.g. *King County v. Friends of Sammamish Valley*, 3
19 Wash.3d 793, 816 - 826, 556 P.3d 132 (2024). The decision of the
20 Department to rely primarily on allowed uses as a baseline
21 comparison for the threshold determination analysis, and to not
22 analyze existing conditions to determine baseline conditions is
23 clearly erroneous, and the Hearing Examiner is left with the definite
24 and firm conviction that a mistake has been committed.³

14 8.14 The Hearing Examiner’s Decision ignored numerous exhibits that discussed the
15 baseline conditions of the site, including the annotated SEPA Checklist (Exhibit 4), upon which
16 Ms. Guillory commented the following:

17 The project proposes to remove ± 17,000 sq. ft. of the existing ±
18 145,000 commercial retail building, reconstruct new exterior walls
19 along the portion to be removed, replace the removed portion of the
20 building with new sidewalks and asphalt paving, restripe/reconfigure the existing parking lot with relocated stalls and
21 cart corrals, and remodel the building for use as a WinCo Foods
22 retail store. The existing parking will be modified south of the
23 building. A lot line adjustment will also take place that will transfer
24 parking between the two parcels. The total existing parking across
25 the two parcels is 541 stalls, and total proposed parking is 556
26 stalls. The main parcel on which the proposed WinCo building is
27 located previously had 445 stalls, and after development will have
28 497 stalls. Existing landscaping islands will be removed and
29 replaced south of the building as indicated on the plans. A proposed
30 landscape plan will be included during construction permitting.
31 Exterior lighting will be modified as indicated on the photometric

3 Hearing Examiner Decision, Conclusion 5, at 7-8.

1 plan with the intent to leave existing poles, replace heads with LED
2 fixtures, and add additional poles where necessary for lighting.⁴

3 Ms. Guillory further commented:

4 The scope of the project includes the demolition of approximately
5 17,000-square feet of existing commercial building and an addition
6 of 11 vehicular parking spaces.. The proposal does not include a
change of use; the previous permitted use of the site was a similar
retail supermarket use.

7 The trips are expected to distribute on various roadways near the
8 project site, including Aurora Avenue North and would have minimal
9 impact on levels of service at nearby intersections and on the
overall transportation system. No mitigation is warranted per SMC
25.05.675.R (Traffic and Transportation Policy).⁵

10 8.15 The annotated SEPA Checklist also states the following regarding the stormwater
11 system:

12 Currently, stormwater at the site is collected via catch basins and
13 detained in a below-grade stormwater vault prior to being released to
14 a City of Seattle stormwater main. The project proposes an
expansion of the existing on-site stormwater facility, with stormwater
continuing to be collected in below-grade stormwater facilities prior to
being released to the City of Seattle's municipal stormwater system.⁶

15 . . .

16 [S]tormwater at the site is currently collected and discharged through
17 the City of Seattle's municipal stormwater system. Following project
18 completion, stormwater will continue to be collected in below-grade
19 storm facilities prior to being discharged to the City's municipal
stormwater system, following historic drainage patterns at the site.⁷

20 8.16 The Hearing Examiner also ignored testimony given during the February 3, 2026
21 hearing, in which multiple witnesses testified to the current condition of the site. This included
22 testimony by Carly Guillory, SDCI discretionary planner, who testified as to the existing baseline
23

24 _____

25 ⁴ Exhibit 4, Annotated SEPA Checklist at 3 (emphasis added).
26 ⁵ Exhibit 4, Annotated SEPA Checklist at 29 (emphasis added).
27 ⁶ Exhibit 4, Annotated SEPA Checklist at 10 (emphasis added).
⁷ Exhibit 4, Annotated SEPA Checklist at 10 (emphasis added).

1 condition of the Project site and that there would be no increase in development intensity beyond
2 what is already established and permitted, and what has historically been on site. She testified
3 that there would be no new access points added to the site as a result of the Project, no new
4 circulation patterns, and that the new WinCo store would not constitute a new traffic-generating
5 land use under City code. The hearing also included testimony by Carsen Cheung,
6 Environmental Critical Area (“ECA”) reviewer for SDCI, who testified as to the existing
7 geotechnical features and ECAs on the site. It also included testimony of Viktor Peykov, drainage
8 reviewer for SDCI, who testified to his review of current and proposed site conditions related to
9 stormwater, as well as Greg Goins, Chad Pollock, and Brandon Johnson who testified to the
10 existing conditions, including the condition of the existing building, stormwater facilities, and
11 traffic/parking lot configuration.

12 8.17 Testimony by Ms. Guillory and Mr. Johnson indicated that the Applicant could
13 open a grocery store without triggering SEPA review had WinCo chosen to utilize the existing
14 building with interior-only improvements because the current permitted use of the Project site is
15 the same as the proposed use, applying established City policy under SDCI Director’s Rule 9-
16 2023.

17 8.18 SDCI Director’s Rule 9-2023 states:

18 The purpose of this Director’s Rule is to provide interpretation of the
19 categorical exemptions associated with establishing a new use with
20 new construction, changing a use within an existing structure,
21 expanding an existing use or structure, and other SDCI approvals
22 that may be exempt from State Environmental Policy Act (SEPA)
23 review.

24 . . .

25 A proposal is considered a "change of use" for purposes of
26 determining SEPA exemption if the principal use of floor area within
27 an existing building or actively used outdoor area is changed:

- from a residential use to a non-residential use, or
- from one type of non-residential use in Table B below to a more intensive type of nonresidential use (such as from a

1 Type 1 use to a Type 2 use); provided that in an industrial
2 zone, a change to a non-residential use in an adjacent
3 more intensive category is not regarded as a "change of
4 use" for purposes of this rule. For example, if an existing
5 Type 3 use in an industrial zone is changed to a Type 4,
6 the change of use does not require SEPA review.
7 However, a change from a Type 1 use to a Type 3 use in
8 an industrial zone would require SEPA review.

9
10 8.19 For the same reason, (no "change of use") and because under SMC 23.52.008.A,
11 a traffic impact analysis is not required for this project because it applies only to "proposed new
12 development," Ms. Guillory testified that the City's regulations did not require a traffic impact
13 analysis.

14
15 8.20 The Hearing Examiner found that LWWF failed to demonstrate that SDCI's
16 decision not to require WinCo to prepare a traffic impact analysis was in error, because they did
17 not indicate the regulations relied on by SDCI were inadequate:

18 Concerning transportation and traffic impacts, the Appellant failed
19 to demonstrate that the regulations relied upon by the Director to
20 address transportation and traffic impacts caused by both
21 construction and operational impacts are inadequate. The
22 Appellant did not provide analysis indicating that the regulations are
23 inadequate.

24 IX. RELIEF REQUESTED

25 **WHEREFORE**, Petitioners request the following type and extent of relief:

26 A. The Court should vacate the Hearing Examiner's Decision and dismiss LWWF's
27 underlying administrative appeal because LWWF did not have standing to bring the SEPA appeal
and, therefore, the Hearing Examiner did not have jurisdiction to hear the appeal.

B. In the alternative to vacation and dismissal for lack of standing, the Court should
find the Hearing Examiner's Decision was in error because it was (i) an erroneous interpretation
of the law, (ii) not supported by the evidence when viewed in the light of the full record, and/or (iii)
a clearly erroneous application of the law to the facts;

C. The Court should find that SDCI's DNS is afforded substantial weight;

1 D. The Court should remand back to the Hearing Examiner, with instructions to
2 uphold the City's DNS based on the adequate baseline conditions discussed in testimony and
3 documents in the record; and

4 E. Such other and further relief, including judgments and orders, as the Court deems
5 appropriate.

6
7 **DATED** this 28th day of April, 2026.

8
9 CSD ATTORNEYS AT LAW P.S.

10
11 

12 Timothy D. Schermetzler, WSBA #49737
13 Megan D. Holmes, WSBA #61251
14 Attorneys for Petitioners

EXHIBIT A

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

In the Matter of the Appeal of

Hearing Examiner File:
W-25-008

**LAKE WASHINGTON WORKING
FAMILIES**

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

Introduction

The Seattle Department of Construction and Inspections (“Department”) issued a Determination of Non-Significance (“DNS” or “Decision”) in association with a Land Use Application to allow the replacement of a portion of an existing building with new exterior walls, sidewalks, paving, and landscape, and reconfiguration of parking lot (“Proposal” or “Project”). The Appellant, Lake Washington Working Families (“Appellant”), exercised the right to appeal pursuant to Chapter 25.05 Seattle Municipal Code.

The appeal hearing was held on February 3, 2026, before the undersigned Hearing Examiner. Parties represented at the proceeding were: the Appellant, represented by Karl G. Anuta, the applicant Nick Wheeler, JSA Civil, LLC and project proponent WinCo Foods (collectively herein “Applicant”), and the Department, by Senior Land Use Planner Carly Guillory. The parties submitted final closing briefing on February 18, 2026. The Hearing Examiner conducted a site visit on March 4, 2026 and the record was closed on that date.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code (“SMC” or “Code”) unless otherwise indicated. After considering the evidence in the record and reviewing the site, the Examiner enters the following findings of fact, conclusions and decision on the appeal.

Findings of Fact

1. The Department issued the DNS on October 20, 2025.
2. The DNS provides the following summary of the proposal:

Land Use Application to allow the replacement of a portion of an existing building with new exterior walls, sidewalks, paving, and landscape, and reconfiguration of parking lot (WinCo Foods). Project to include 550 cubic yards of grading and update of existing underground stormwater facilities. Additional parking for 11 vehicles proposed (558 total).

Exhibit 7.

3. The DNS describes the existing site as:

The site is generally rectangular in shape with street frontage along portions of the north, south, and west property lines. The existing structure is approximately 145,000 square feet in size, is currently vacant, and sits approximately in the northeast corner of the site and is surrounded by surface parking lot and load/unload area. Surrounding development includes commercial uses to the north, south, and west, and single- and multi-family residential units to the north and east.

Exhibit 7.

4. The DNS determined that the Proposal would not have probable significant adverse impacts on the environment.
5. The project proposes to remodel a former Sam's Club store into a WinCo store ("Project"). The former Sam's Club and the new proposed WinCo store are both classified as the same use under the Code - Multipurpose Retail Sales - permitted uses within the Commercial 1 ("C-1") zoning designation. No change of use is proposed.
6. The former Sam's Club store closed in 2018, and the record indicates that the structure, and significant portions of the adjacent site have remained vacant and unused since that time.
7. The Project proposes demolition of a portion of the existing structure, exterior changes to the existing building. The footprint of the building will be reduced by approximately 17,000 square feet and a new exterior wall will be created on the south side of the building along with a new entrance. The majority of the building exterior, and the 511,981 square foot site will not be significantly altered.
8. Concerning transportation and traffic impacts, in issuing the DNS, the Director relied on SMC Title 11 (Vehicles and Traffic) and SMC Title 15 (Street and Sidewalk Use) to address both construction and operational impacts, as authorized by SMC 25.05.665 and SMC 25.05.675.B (Construction Impacts Policy).
9. The DNS acknowledged that Project related construction and operational activities will generate greenhouse gas emissions but concluded that no additional mitigation was warranted.
10. The Appellant filed an appeal of the Director's decision on November 3, 2025.

11. The appeal is of a decision by the Department to approve Application 3042320-LU (a Master Use Permit) at 13550 Aurora Avenue North. That application seeks to renovate the existing vacant building and parking lot into a WinCo grocery store. The appeal challenges the adequacy of the Department's SEPA process and decision to issue a DNS.
12. In its Notice of Appeal, the Appellant raised concerns with the adequacy of the DNS, and specifically raised concerns regarding water quality, traffic impacts, air quality, and a collection of "neighborhood impacts" including but not limited to noise, aesthetics, lighting, and odors.
13. At the hearing the Appellant presented testimony by Benjamin Brostrom. Mr. Brostrom identified himself as a member of Lake Washington Working Families and testified concerning growing up and visiting family in that area and observing and driving through traffic in areas near the Project. He also expressed his concerns about various potential environmental impacts of the Project.
14. Testifying at hearing for the Appellant was Professor Ananad Jayakaran. Professor Jayakaran is a professor at Washington State University and testified as a stormwater expert. Professor Jayakaran testified concerning potential adverse impacts of stormwater pollutants including 6PPDQ¹ and the stormwater treatment system proposed by Applicant. Professor Jayakaran indicated that the treatment system selected by Applicant is less effective than the available alternatives of bioretention and permeable pavement. Professor Jayakaran prepared a report (Exhibit 15) which generally discussed the source of 6PPDQ and environmental concerns associated with the substances including potential impacts to salmonids. This report indicated in part that 6PPDQ could be distributed on the site in an amount of 1.4 grams to 500 grams or more per day for a passenger car, and 30 grams to 10,000 grams or more per day for a larger truck. These calculations indicate that 6 tons (or more) of 6PPDQ could be dropped on a single parking lot every day. These figures were developed from a study concerning multi-lane road runoff in Seattle, Los Angeles, and San Francisco, and not from parking lots. In addition, Professor Jayakaran acknowledged that his estimate leads to the potential for extremely high figures. Lastly, there was no analysis performed of the actual distribution of 6PPDQ that would occur with regard to the Project or what the

¹ "6PPD-quinone (6PPDQ) is formed from N-(1,3-dimethylbutyl)-N'-phenyl-p-phenylenediamine (Tian et al., 2021), a rubber additive used in vehicle tires to protect them from cracking, as it reacts with ozone and other oxidants in the air. 6PPD comprises about 0.4-2% of a tire's mass (Babbit, 2010). As tires abrade on pavement, they shed tire-wear particles and associated chemicals; 6PPD on or near those particles can be transformed by atmospheric oxidants (especially ozone) into 6PPDQ (Tian et al., 2021). The result is a very "road-linked" contaminant: it builds up on streets and other hard surfaces, then gets mobilized during rain as roadway runoff, with additional contributions possible from dry deposition and winter snowmelt pulses (Seiwart et al., 2022). Multiple field and lab studies have tied environmental detections of 6PPDQ to this tire-wear → oxidation → runoff pathway, while also noting that wastewater pathways are typically minor compared with stormwater in many settings." Exhibit 15 at 2.

project specific impacts would be to local waterways or other aspects of the environment. The conclusion in the report indicated:

While it is unknown without data collection the impact of 6PPDQ emanating from the WinCo parking lot to Green Lake's fish, based on available evidence of how 6PPDQ impacts species listed in Table 1, and the high loading rates of 6PPDQ on the stormwater system, it is very likely there is some ecosystem impact within Green Lake.

Exhibit 15 at 7.

Thus, the report found a likelihood of an impact but did not quantify that impact to know if it would result in a more than moderate negative impact on the environment.

Professor Jayakaran also testified concerning the stormwater treatment system proposed by the Applicant, and proposed alternatives for mitigation of stormwater impacts including bioretention and permeable pavement.

15. Rick Nys is a licensed traffic engineer and testified for the Appellant concerning potential traffic impacts of the Project. Mr. Nys testified that traffic in the vicinity of the present condition of the Project location accounts for average daily traffic of approximately 29,000 trips per day. His analysis (based in part on information provided in the SEPA checklist) indicated that there will be approximately 40,000 vehicle trips per day with the Project.
16. Senior Land Use Planner Carly Guillory testified for the Department. Ms. Guillory directly participated in the threshold determination process for the DNS. She testified concerning the Department's SEPA review process, and about various aspects of the Project. She stated that in assessing the Proposal for the threshold determination, baseline conditions were considered as for the previous threshold determination for the historic Sam's store, and for allowed uses of the site, and not for existing conditions as they were at the time of the threshold determination at issue in this case (e.g. a site with a vacant structure and abandoned for years). Ms. Guillory testified that as part of its threshold determination analysis, the Department relied on existing Code to mitigate potential negative impacts of the Project. For example, concerning potential stormwater impacts, the City of Seattle Stormwater Manual is incorporated in Code by reference and Director's Rule 10-2021.
17. Viktor Paykov is a Senior Civil Engineer with the Department. Mr. Paykov testified about Department evaluation of the Proposal's stormwater impacts including stormwater studies prepared for the project. Mr. Paykov testified that he does not evaluate projects for stormwater treatment capacity to manage 6PPDQ.

18. Carson Cheung is a Civil Engineer with the City and was called by the Applicant to testify concerning Project review.
19. Greg Goins is the Vice President of real estate for WinCo, and he testified about general aspects of the Project for the Applicant.
20. Ronald Schrieber is the Project Manager for the Applicant, and testified concerning Project design, process, and application.
21. Chad Pollock is the Project architect and testified about the architecture and design of the Project.
22. The Applicant's stormwater expert, Brandon Johnson also testified. Mr. Johnson testified that the Project site contains an underground stormwater treatment apparatus, including existing vaults. He indicated that the Project plans to provide a similar type of treatment and conveyance and will add an additional vault and a Filterra enhanced treatment system. He indicated that stormwater from the new or modified pollution generating surfaces in the Project will also be filtered through the enhanced treatment Filterra system. Mr. Johnson indicated that pavement and bioretention are not viable alternatives for stormwater treatment at the site, because the soils at the Project site are not suitable for infiltration due to the large amount of compacted fill material from preexisting improvements.
23. SMC 25.05.752 defines "Impacts" as "the effects or consequences of actions. Environmental impacts are effects upon the elements of the environment listed in Section 25.05.444."
24. "A proposal's effects include direct and indirect impacts caused by a proposal. Impacts include those effects resulting from growth *caused by a proposal . . .*" SMC 25.05.060 D. (Emphasis added.)
25. "Probable" is defined in SMC 25.05.782 as "likely or reasonably likely to occur . . ."
26. SMC 25.05.794 defines "significant" as "a reasonable likelihood of more than a moderate adverse impact on environmental quality. . . Significance involves context and intensity . . . The context may vary with the physical setting. Intensity depends on the magnitude and duration of an impact . . . Section 25.05.330 specifies a process, including criteria and procedures, for determining whether a proposal is likely to have a significant adverse environmental impact."
27. SMC 25.05.330 directs that, in making the threshold determination, the responsible official shall determine "if the proposal is likely to have a probable significant adverse environmental impact . . ." If the responsible official "reasonably believes that a proposal may have" such an impact, an environmental impact statement is required. SMC 25.05.360.

28. The City's SEPA Overview Policy states, in part, that:

[m]any environmental concerns have been incorporated in the City's codes and development regulations. Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation subject to the limitations set forth in subparagraphs D1 through D7 below.

29. SMC 25.05.665 D. Subparagraphs D.1 through D.7 cover situations where existing regulations may be inadequate or unavailable to assure mitigation of adverse impacts and thus, SEPA-based mitigation is appropriate.

Conclusions

1. The Hearing Examiner has jurisdiction over this appeal pursuant to SMC 25.05.680.B, which also requires that the Hearing Examiner give substantial weight to the Director's determination.

2. As a preliminary matter the Applicant argued that the Appellant does not have standing. The Applicant's argument is largely based on standards of judicial standing² and does not properly consider SMC standing requirements for a SEPA appeal. In this forum, the standards provided in the Code prevail. Under the SMC, appeals may be initiated by "any person significantly affected by or interested in the permit." SMC 23.76.022(C)(2). An "Interested Person" is defined as "any individual, partnership, corporation, association, or public or private organization of any character significantly affected by or interested in proceedings before an agency..." SMC 3.02.020. This is a very broad standard and is the only one the Examiner is charged with applying in the context of a SEPA appeal under the Code. The Appellant is an "organization of any character" that is "interested" in the proceedings and therefore has standing under the Code for a SEPA appeal. If the City Council had intended for the standards of judicial standing to be applied by the Examiner to SEPA appeals, it would have stated so in the Code. Instead, the City Council adopted specific language in SMC 23.76.022 as a threshold for interested persons to appeal certain SEPA determinations including the DNS at issue. To read the Code as requiring application of the standards of judicial standing would render portions of SMC 23.76.022(C)(2) meaningless as a merely "interested" would no longer be able to appeal a DNS, because they would have to demonstrate injury-in-fact and other elements of judicial standing. It is the

² The Applicant in its closing argument identified the standard for judicial standing as "Washington courts interpret the injury-in-fact prong of organization standing consistent with federal case law. The U.S. Supreme Court in *Lujan v. Defenders of Wildlife* held that, "When . . . a plaintiff's asserted injury arises from the government's allegedly unlawful regulation (or lack of regulation) of someone else, much more is needed . . . when the plaintiff is not himself the object of the government action or inaction he challenges, standing is not precluded, but it is ordinarily 'substantially more difficult' to establish." Applicant Closing Brief at 14 (citations omitted).

Examiner's responsibility when interpreting Code to give full effect to the Code as stated on its face.

The Applicant also seemed to argue that an appellant organization must have some legal formation in order to proceed with an appeal. As stated in the Applicant's briefing "citizen groups often file administrative and superior court appeals," and they do so frequently in the forum of the Office of the Hearing Examiner. However, Applicant's assertion that "they most often do so as either a public or private organization lawfully established as a non-profit corporation," is simply not accurate and is not established as a requirement in the Code. Unincorporated citizen groups frequently file appeals with the Office of Hearing Examiner, and they are not turned away for failure to incorporate or otherwise form a legal entity.

3. The party appealing the Director's determination has the burden of proving that it is "clearly erroneous." *Brown v. Tacoma*, 30 Wn. App. 762, 637 P.2d 1005 (1981). Under this standard of review, the decision of the Department may be reversed only if the Hearing Examiner is left with the definite and firm conviction that a mistake has been committed. *Cougar Mt. Assoc. v. King County*, 111 Wn. 2d 742, 747, 765 P.2d 264 (1988).
4. SEPA requires "actual consideration of environmental factors before a DNS can be issued." *Norway Hill Preservation and Protection Ass'n. v. King County*, 87 Wn.2d 267, 275, 552 P.2d 674 (1976). The record must "demonstrate that environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA." *Id.* at 276 (citation omitted).
5. Neither the SEPA statute nor the City's SEPA Code identify a specific baseline for environmental analysis. However, environmental impact analysis in relation to existing conditions is the norm established by case law. *See, e.g., East County Reclamation Co. v. Bjornsen*, 125 Wn. App. 432, 435, 105 P.3d 94 (2005); *Floating Homes Assoc. v. Washington Dept. of Fish and Wildlife*, 115 Wn. App. 780, 785, 64 P.3d 29 (2003); *Thornton Creek Legal Defense Fund v. City of Seattle*, 113 Wn. App. 34, 59, 52 P.3d 522 (2002); *Richland Homeowners Preservation Ass'n. v. Young*, 18 Wn. App. 405, 411, 568 P.2d 818 (1977). "We have also established that the appropriate baseline to compare the environmental impacts of the proposed action is the *condition* of the existing environment, rather than considering the current *uses* of the land." (emphasis in original) *King County v. Friends of Sammamish Valley*, 3 Wash.3d 793, 822, 556 P.3d 132 (2024) (citing *Wild Fish Conservancy v. Dept. of Fish and Wildlife*, 198 Wash.2d 846, 502 P.3d 359 (2022)). In *King County v. Friends of Sammamish Valley*, the Washington Supreme Court overruled a decision by the Court of Appeals that had looked at allowed uses of the land at issue under an ordinance and upheld a decision by the Growth Management Hearings Board that called for examination of the existing condition of the land at issue. Similarly, in *Wild Fish Conservancy* the court rejected the suggestion that baseline conditions should be established by examining solely what would be legally allowed in the subject area under a future permit, and instead indicated the

baseline conditions needed to be established by looking at actual existing conditions stating “[r]ather than establishing the baseline on the current *uses* of the land . . . , the appropriate baseline to compare the proposal's environmental impacts is the *condition* of the existing environment.” 198 Wash.2d at 872. In these cases, the term “use” was utilized to reference legal or permitted uses, and “condition” was used to describe the physical environment. At hearing some evidence indicated that the Department may have an established practice of considering a site’s allowed use to determine baseline conditions and not existing conditions for purposes of a threshold determination. If this is the case, the Department’s practice is inconsistent with established SEPA caselaw and is therefore not accorded deference.

The Project site has been in its current vacant condition since 2018. The Department and Applicant witnesses testified that neither the Department nor Applicant analyzed what current traffic, stormwater, noise or other environmental conditions (e.g. a partly vacant abandoned site) are in the area of the Proposal as part of the threshold determination. Therefore, the Department did not properly determine baseline conditions of the Proposal as part its threshold determination. In contrast to established SEPA caselaw the Department considered permitted uses of the Project area as the baseline and not the existing conditions. While case law does not establish what “current” conditions are, the passage of seven years or more and the land remaining vacant of uses cannot be considered comparable with the permitted use of a big-box store which discontinued functioning on the site years ago. Without establishing a proper baseline, the Department cannot be considered to have had adequate information in order to determine that the Proposal would have no likelihood of a significant negative environmental impact. See e.g. *Wild Fish Conservancy v. Washington Department of Fish and Wildlife*, 198 Wash.2d 846, 873, 502 P.3d 359 (2022) (“We also consider whether the decision to issue an MDNS was ‘based on information sufficient to evaluate the proposal's environmental impact.’”) SMC 25.05.030.B. requires “Agencies shall to the fullest extent possible . . . [p]repare environmental documents that . . . are supported by evidence that the necessary environmental analyses have been made.” In the absence of a proper baseline, the record does not demonstrate that environmental factors were considered in a manner sufficient to amount to *prima facie* compliance with the procedural requirements of SEPA. See e.g. *King County v. Friends of Sammamish Valley*, 3 Wash.3d 793, 816 - 826, 556 P.3d 132 (2024). The decision of the Department to rely primarily on allowed uses as a baseline comparison for the threshold determination analysis, and to not analyze existing conditions to determine baseline conditions is clearly erroneous, and the Hearing Examiner is left with the definite and firm conviction that a mistake has been committed.

6. Where the Appellant argues that the proposal will have significant impacts that the Department did not adequately analyze, to meet its burden of proof under SEPA, the Appellant must present actual evidence of probable significant adverse impacts from the Proposal. *Boehm v. City of Vancouver*, 111 Wn. App. 711, 719, 47 P.3d

137 (2002); *Moss v. City of Bellingham*, 109 Wn. App. 6, 23, 31 P.3d 703 (2001). As noted above, “significance” is defined as “a reasonable likelihood of more than a moderate adverse impact on environmental quality.” WAC 197–11–794. This burden is not met when an appellant only argues that they have a concern about a potential impact or expresses an opinion that more study or review could be done or is necessary.

7. The SEPA Overview Policy (SMC 25.05.665.D) states in part, "where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. See also WAC 197-11-158 and WAC 197-11-660. SMC 25.05.665.D further provides:

Unless otherwise specified in Section 25.05.675, denial or mitigation of a project based on adverse environmental impacts shall be permitted only under the following circumstances:

1. No City code or regulation has been adopted for the purpose of mitigating the environmental impact in question; or
 2. The applicable City code or regulation has been judicially invalidated; or
 3. The project site presents unusual circumstances such as substantially different site size or shape, topography, or inadequate infrastructure that would result in adverse environmental impacts which substantially exceed those anticipated by the applicable City code or zoning; or
 4. The development proposal presents unusual features, such as unforeseen design, new technology, or a use not identified in the applicable City code, that would result in adverse environmental impacts which substantially exceed those anticipated by the applicable City code or zoning; or
 5. The project is located near the edge of a zone, and results in substantial problems of transition in scale or use which were not specifically addressed by the applicable City code or zoning; or
 6. The project is vested to a regulation which no longer reflects the City's policy with respect to the relevant environmental impact because of the adoption of more recent policies, provided that the new policies are in effect prior to the issuance of a DNS or DEIS for the project; or
 7. The project creates undue impacts based on cumulative effects as provided for in Section 25.05.670.
8. Concerning transportation and traffic impacts, the Appellant failed to demonstrate that the regulations relied upon by the Director to address transportation and traffic impacts caused by both construction and operational impacts are inadequate. The Appellant did not provide analysis indicating that the regulations are inadequate.

- Appellant's traffic engineer Mr. Nys testified concerning the Project's potential negative impacts on local traffic, including indicating that the Project will result in a nearly 40% increase in total trips along an already highly congested route. However, Mr. Nys' analysis did not extend to providing any quantifiable evidence of any negative impacts this volume of traffic increase would create. Thus, the Appellant failed to demonstrate that the Project is likely to result in significant negative environmental impacts from Project generated transportation and traffic.
9. The Appellant presented no evidence demonstrating that Project related emissions would exceed regulatory thresholds considered by the Department as part of the threshold determination, or that reliance on existing air quality regulation - such as Puget Sound Clean Air Agency requirements - are inadequate to mitigate potential significant negative environmental impacts. Appellant failed to quantify or demonstrate the likelihood of a more than moderate negative environmental impact from emissions. Appellant did not demonstrate that the Project is likely to result in significant negative environmental impacts from Project generated emissions.
 10. Appellant failed to quantify or demonstrate the likelihood of a more than moderate negative environmental impact from noise. The Appellant presented no evidence to indicate the probability of a significant negative environmental impact related to noise and thus did not establish that the Department failed to adequately consider probable, significant noise impacts under SEPA's review requirements.
 11. The Appellant did demonstrate that the Department failed to examine the impacts of the Project to water quality including potential pollution from 6PPDQ. However, the Appellant did not demonstrate with reliable quantifiable evidence that the Project is likely to result in significant negative environmental impacts to water quality. Professor Jayakaran's analysis did identify a potential impact, but it is not possible to discern from the record how such an enormous amount of 6PPDQ – up to 6 tons in a single day - would be found in real world circumstances, and as such Professor Jayakaran's analysis is not reliable for purposes of determining whether the Proposal is likely to have significant negative impacts on the environment in the context of stormwater. Raising a concern that the Department failed to examine a potential environmental impact does not meet Appellant's burden of proof of demonstrating the *likelihood* of a significant environmental impact that was not examined by the Department. The impacts from 6PPDQ identified by the Appellant remain speculative in the context of the evidence provided at hearing. Further, Appellant did not quantify potential stormwater impacts such that it is possible to determine such impacts could be more than moderate and therefore did not demonstrate the presence of any significant impact that the Department should have considered as part of the threshold determination.
 12. There is no evidence in the record that the Proposal would have a significant adverse environmental impact (for any of the potential impacts listed above, and/or for potential impacts such as aesthetics, lighting, and odors that Appellant raised in its Notice of Appeal but did not address at hearing or in closing argument). It is

not sufficient for Appellant to simply allege inadequacies with the DNS environmental review. Instead, to prevail on the appeal of a DNS, Appellant must demonstrate that there are probable significant negative impacts associated with the proposal. In the absence of evidence showing any probable significant impacts associated with the Proposal the Appellant has failed to meet its burden of proof and no Environmental Impact Statement is required for the Project.

13. The Appellant raised an issue concerning a discrepancy between the Applicant's geotechnical report and preliminary stormwater report, and the DNS concerning a geotechnical environmental critical area. The record demonstrates that the Department reviewed the Applicant's geotechnical report which described the environmental critical area, and therefore considered the environmental critical area for purposes of the threshold determination. The Appellant did not identify any significant environmental impacts associated with the environmental critical area that were not considered by the Department.
14. Even where the Appellant has failed to meet its burden of proof concerning significant impacts, this is a separate issue from whether the Department should have issued a threshold determination with consideration of a baseline of existing conditions. The Department may yet find that Project impacts, when measured against the proper baseline of existing conditions, result in probable significant negative environmental impacts – or it may not – this must be determined by the Department.

Decision

The Director's decision to issue a Determination of Non-Significance is **REVERSED** consistent with this decision.

Entered April 9, 2026.

/s/Ryan Vancil
Ryan Vancil, Hearing Examiner
Office of Hearing Examiner

Concerning Further Review

NOTE: It is the responsibility of the person seeking to appeal a Hearing Examiner decision to consult Code sections and other appropriate sources, to determine applicable rights and responsibilities.

The decision of the Hearing Examiner in this case is the final SEPA decision for the City of Seattle. Judicial review under SEPA shall be of the decision on the underlying governmental action together with its accompanying environmental determination.

Consult applicable local and state law, including SMC Chapter 25.05 and RCW 43.21C.076, for further information about the appeal process.

If a transcript of the hearing is required by superior court, the person seeking review must arrange for and initially bear the cost of preparing a verbatim transcript of the hearing. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, Room 1320, 618 Second Avenue, Seattle, Washington 98104, (206) 684-0521.

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 **Notice of Prehearing Conference** 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
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 at Law P.S. Timothy Schermetzler tschermetzler@csdlaw.com Megan Holmes mholmes@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: April 9, 2026

/s/ Angela Oberhansly
Angela Oberhansly
Legal Assistant

FILED
2026 APR 28 03:00 PM
KING COUNTY
SUPERIOR COURT CLERK
E-FILED
CASE #: 26-2-13995-4 SEA

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF KING**

JSA CIVIL, LLC; AND WINCO FOODS, LLC Petitioner(s)	No. 26-2-13995-4 SEA
vs	ORDER SETTING LAND USE CASE SCHEDULE
LAKE WASHINGTON WORKING FAMILIES; AND CITY OF SEATTLE Respondent(s)	ASSIGNED JUDGE: Sandra E Widlan, Dept. 53 FILED DATE: 04/28/2026 TRIAL DATE: 10/05/2026

A Petition Seeking Review of a Land Use decision under the Revised Code of Washington (RCW) 36.70C has been filed in the King County Superior Court and will be managed by the Case Schedule as ordered by the King County Superior Court Presiding Judge.

I. NOTICES

THE PERSON (PETITIONER) WHO FILED THIS PETITION SEEKING REVIEW OF A LAND USE DECISION MUST

Serve a copy of the *Land Use Petition* and this *Order Setting Case Schedule (Land Use Petition)* (including these Notices) on all other parties to this action. See Revised Code of Washington RCW 36.70C.040(5).

NOTICE TO ALL PARTIES

All attorneys and parties should make themselves familiar with the laws of the State of Washington and the rules of the court -- especially those referenced to in this Schedule. To comply with the Schedule, it will be necessary for attorneys and parties to pursue their appeals vigorously from the day they are filed. All events must occur promptly. If they are late, the Superior Court Clerk is authorized by the *King County Superior Court Local Rules* to impose sanctions for failure to follow the case schedule.

TRANSFER JUDICIAL REVIEW TO COURT OF APPEALS

Upon consent to transfer to the court of appeals and agreement that the judicial review can occur based on the existing record, parties may request transfer without filing a motion for discretionary review with the court of appeals.

I. NOTICES (continued)

STIPULATION/MOTION TO CHANGE INITIAL HEARING

The petitioner is required to schedule an initial hearing with the assigned Judge. The initial hearing must be scheduled between 35 and 50 days after the petition is served. Parties may file a stipulation, or any party may file a motion to change the initial hearing, prior to the deadline as shown on the Schedule. Parties may also waive the initial hearing by stipulating to an alternative case schedule. A copy of the stipulation or motion must be filed with the assigned Judge. The initial hearing must be set on a Friday. Stipulated change of hearing dates must be within +/- 7 days of the original date and must be approved by the assigned judge.

CHANGE OF BRIEFING SCHEDULE

The Hearing on Merits must be set within 60 days of the date set for filing the local jurisdiction's certified record. This date and the corresponding briefing schedule, as a result, may be changed by a showing of good cause for different date or by stipulation of the parties.

MOTIONS ON JURISDICTIONAL AND PROCEDURAL ISSUES

Motions on jurisdictional and procedural issues shall comply with Civil Rule 7 and King County Local Rule 7, except that the minimum notice of hearing requirement shall be 8 days.

PENDING DUE DATES CANCELED BY FILING PAPERS THAT RESOLVE THE CASE

When a final decree, judgment, or order of dismissal of all claims is filed with the Superior Court Clerk's Office, and a courtesy copy delivered to the assigned judge, all pending due dates in this *Schedule* are automatically canceled, including the scheduled Trial Date. It is the responsibility of the parties to 1) file such dispositive documents within 45 days of the resolution of the case, and 2) strike any pending motions by notifying the bailiff of the assigned judge.

Parties may also authorize the Superior Court to strike all pending due dates and the Trial Date by filing a *Notice of Settlement* pursuant to KCLCR 41, and forwarding a courtesy copy to the assigned judge. If a final decree, judgment or order of dismissal of all claims is not filed by 45 days after a *Notice of Settlement*, the case may be dismissed with notice.

If you miss your scheduled Trial Date, the Superior Court Clerk is authorized by KCLCR 41(b)(2)(A) to present an *Order of Dismissal*, without notice, for failure to appear at the scheduled Trial Date.

NOTICES OF APPEARANCE OR WITHDRAWAL AND ADDRESS CHANGES

All parties to this action must keep the court informed of their addresses. When a Notice of Appearance/Withdrawal or Notice of Change of Address is filed with the Superior Court Clerk's Office, parties must provide the assigned judge with a courtesy copy.

NOTICE OF NON-COMPLIANCE FEES

ALL parties will be assessed a fee authorized by King County Code 4A.630.020 whenever the Superior Court Clerk must send notice of non-compliance of schedule requirements as per Local Rule 4 and/or dismissal of actions as per Local Rule 41.

King County Local Rules are available for viewing at www.kingcounty.gov/courts/clerk.

II. CASE SCHEDULE

	CASE EVENT	EVENT DATE
*	Petition for Review of Land Use Decision Filed and Schedule Issued (RCW 36.70C.040).	04/28/2026
	DEADLINE for Petitioner to Contact Assigned Judge to Schedule Initial Hearing (RCW 36.70C.080).	05/05/2026
	DEADLINE to Stipulate or File a Motion for Change of Hearing Date or Adjustment of Schedule [RCW 36.70C.080 (1); RCW 36.70.090].	05/26/2026
	DEADLINE to hold Initial Hearing on Jurisdictional (Motions that do not require review of the certified record) and Preliminary Matters (FRIDAYS ONLY) (RCW 36.70C.080).	06/26/2026
*	DEADLINE to file Certified Copy of the Local Jurisdiction Record (RCW 36.70C.110).	06/22/2026
*	DEADLINE to file Brief of Petitioner [RCW 36.70C.080 (4)].	08/31/2026
*	DEADLINE to file Brief of Respondent [RCW 36.70C.080 (4)].	09/21/2026
*	DEADLINE to file Reply Briefs [RCW 36.70C.080 (4)].	09/28/2026
	Hearing on the Merits (RCW 36.70C.090).	10/05/2026

*The * indicates a document that must be filed with the Superior Court Clerk's Office by the date shown.*

III. ORDER

Pursuant to King County Local Rule 4 (KCLCR 4), it is ORDERED that all parties involved in this action shall comply with the schedule listed above and that failure to meet these event dates will result in the dismissal of the appeal. It is FURTHER ORDERED that the party filing this action **must** serve this *Order Setting Land Use Petition Case Schedule* and attachment on all other parties.

DATED: 04/28/2026



PRESIDING JUDGE

IV. ORDER ON CIVIL PROCEEDINGS FOR ASSIGNMENT TO JUDGE

READ THIS ORDER BEFORE CONTACTING YOUR ASSIGNED JUDGE.

This case is assigned to the Superior Court Judge whose name appears in the caption of this case schedule. The assigned Superior Court Judge will preside over and manage this case for all pretrial matters.

COMPLEX LITIGATION: If you anticipate an unusually complex or lengthy trial, please notify the assigned court as soon as possible.

APPLICABLE RULES: Except as specifically modified below, all the provisions of King County Local Civil Rules 4 through 26 shall apply to the processing of civil cases before Superior Court Judges. The local civil rules can be found at www.kingcounty.gov/courts/clerk/rules/Civil.

CASE SCHEDULE AND REQUIREMENTS: Deadlines are set by the case schedule, issued pursuant to Local Civil Rule 4.

THE PARTIES ARE RESPONSIBLE FOR KNOWING AND COMPLYING WITH ALL DEADLINES IMPOSED BY THE COURT'S LOCAL CIVIL RULES.

A. Joint Confirmation regarding Trial Readiness Report

No later than twenty one (21) days before the trial date, parties shall complete and file (with a copy to the assigned judge) a joint confirmation report setting forth whether a jury demand has been filed, the expected duration of the trial, whether a settlement conference has been held, and special problems and needs (e.g., interpreters, equipment).

The Joint Confirmation Regarding Trial Readiness form is available at www.kingcounty.gov/courts/scforms. If parties wish to request a CR 16 conference, they must contact the assigned court. Plaintiff's/petitioner's counsel is responsible for contacting the other parties regarding the report.

B. Settlement/Mediation/ADR

a. Forty five (45) days before the trial date, counsel for plaintiff/petitioner shall submit a written settlement demand. Ten (10) days after receiving plaintiff's/petitioner's written demand, counsel for defendant/respondent shall respond (with a counter offer, if appropriate).

b. Twenty eight (28) days before the trial date, a Settlement/Mediation/ADR conference shall have been held. FAILURE TO COMPLY WITH THIS SETTLEMENT CONFERENCE REQUIREMENT MAY RESULT IN SANCTIONS.

C. Trial

Trial is scheduled for 9:00 a.m. on the date on the case schedule or as soon thereafter as convened by the court. The Friday before trial, the parties should access the court's civil standby calendar on the King County Superior Court website www.kingcounty.gov/courts/superiorcourt to confirm the trial judge assignment.

MOTIONS PROCEDURES

A. Noting of Motions

Dispositive Motions: All summary judgment or other dispositive motions will be heard with oral argument before the assigned judge. The moving party must arrange with the hearing judge a date and time for the hearing, consistent with the court rules. Local Civil Rule 7 and Local Civil Rule 56 govern procedures for summary judgment or other motions that dispose of the case in whole or in part. The local civil rules can be found at www.kingcounty.gov/courts/clerk/rules/Civil.

Non-dispositive Motions: These motions, which include discovery motions, will be ruled on by the assigned judge without oral argument, unless otherwise ordered. All such motions must be noted for a date by which the ruling is requested; this date must likewise conform to the applicable notice requirements.

Rather than noting a time of day, the Note for Motion should state “Without Oral Argument.” Local Civil Rule 7 governs these motions, which include discovery motions. The local civil rules can be found at www.kingcounty.gov/courts/clerk/rules/Civil.

Motions in Family Law Cases not involving children: Discovery motions to compel, motions in limine, motions relating to trial dates and motions to vacate judgments/dismissals shall be brought before the assigned judge. All other motions should be noted and heard on the Family Law Motions calendar. Local Civil Rule 7 and King County Family Law Local Rules govern these procedures. The local rules can be found at www.kingcounty.gov/courts/clerk/rules.

Emergency Motions: Under the court’s local civil rules, emergency motions will usually be allowed only upon entry of an Order Shortening Time. However, some emergency motions may be brought in the Ex Parte and Probate Department as expressly authorized by local rule. In addition, discovery disputes may be addressed by telephone call and without written motion, if the judge approves in advance.

B. Original Documents/Working Copies/ Filing of Documents: All original documents must be filed with the Clerk’s Office. Please see information on the Clerk’s Office website at www.kingcounty.gov/courts/clerk regarding the requirement outlined in LGR 30 that attorneys must e-file documents in King County Superior Court. The exceptions to the e-filing requirement are also available on the Clerk’s Office website. The local rules can be found at www.kingcounty.gov/courts/clerk/rules.

The working copies of all documents in support or opposition must be marked on the upper right corner of the first page with the date of consideration or hearing and the name of the assigned judge. The assigned judge’s working copies must be delivered to his/her courtroom or the Judges’ mailroom. Working copies of motions to be heard on the Family Law Motions Calendar should be filed with the Family Law Motions Coordinator. Working copies can be submitted through the Clerk’s office E-Filing application at www.kingcounty.gov/courts/clerk/documents/eWC.

Service of documents: Pursuant to Local General Rule 30(b)(4)(B), e-filed documents shall be electronically served through the e-Service feature within the Clerk’s eFiling application. Pre-registration to accept e-service is required. E-Service generates a record of service document that can be e-filed. Please see the Clerk’s office website at www.kingcounty.gov/courts/clerk/documents/efiling regarding E-Service.

Original Proposed Order: Each of the parties must include an original proposed order granting requested relief with the working copy materials submitted on any motion. **Do not file the original of the proposed order with the Clerk of the Court.** Should any party desire a copy of the order as signed and filed by the judge, a pre-addressed, stamped envelope shall accompany the proposed order. The court may distribute orders electronically. Review the judge’s website for information: www.kingcounty.gov/courts/SuperiorCourt/judges.

Presentation of Orders for Signature: All orders must be presented to the assigned judge or to the Ex Parte and Probate Department, in accordance with Local Civil Rules 40 and 40.1. Such orders, if presented to the Ex Parte and Probate Department, shall be submitted through the E-Filing/Ex Parte via the Clerk application by the attorney(s) of record. E-filing is not required for self-represented parties (non-attorneys). If the assigned judge is absent, contact the assigned court for further instructions. If another judge enters an order on the case, counsel is responsible for providing the assigned judge with a copy.

Proposed orders finalizing settlement and/or dismissal by agreement of all parties shall be presented to the Ex Parte and Probate Department. Such orders shall be submitted through the E-Filing/Ex Parte via the Clerk application by the attorney(s) of record. E-filing is not required for self-represented parties (non-attorneys). Formal proof in Family Law cases must be scheduled before the assigned judge by contacting the bailiff, or formal proof may be entered in the Ex Parte Department. **If final order and/or formal proof are entered in the Ex Parte and Probate Department, counsel is responsible for providing the assigned judge with a copy.**

C. Form

Pursuant to Local Civil Rule 7(b)(5)(B), the initial motion and opposing memorandum shall not exceed 4,200 words and reply memoranda shall not exceed 1,750 words without authorization of the court. The word count includes all portions of the document, including headings and footnotes, except 1) the caption; 2) table of contents and/or authorities, if any; and 3) the signature block. Over-length memoranda/briefs and motions supported by such memoranda/briefs may be stricken.

IT IS SO ORDERED. FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ORDER MAY RESULT IN DISMISSAL OR OTHER SANCTIONS. PLAINTIFF/PEITITONER SHALL FORWARD A COPY OF THIS ORDER AS SOON AS PRACTICABLE TO ANY PARTY WHO HAS NOT RECEIVED THIS ORDER.



PRESIDING JUDGE

FILED
2026 APR 28 03:00 PM
KING COUNTY
SUPERIOR COURT CLERK
E-FILED
CASE #: 26-2-13995-4 SEA

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF KING**

JSA CIVIL, LLC; AND WINCO FOODS, LLC

No. 26-2-13995-4 SEA

VS

**CASE INFORMATION COVER SHEET AND
AREA DESIGNATION**

LAKE WASHINGTON WORKING FAMILIES;
AND CITY OF SEATTLE

(CICS)

CAUSE OF ACTION

LUP - Land Use Petition

AREA OF DESIGNATION

SEA

Defined as all King County north of Interstate 90 and including all of Interstate 90 right of way, all of the cities of Seattle, Mercer Island, Issaquah, and North Bend, and all of Vashon and Maury Islands.