

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

STARBUCKS COFFEE COMPANY

FILE NO. M-88-004

from a decision by the Market
Historical Commission

Introduction

Appellant appeals the decision of the Market Historical Commission to deny a certificate of approval to expand its use to allow sale of Granello.

The appellant exercised the right to appeal pursuant to Chapter 25.24, Seattle Municipal Code.

This matter was heard before the Hearing Examiner on December 6, 1988.

Parties to the proceedings were: appellant, Starbucks Coffee Company, represented by Howard Schultz and Barbara Reed, and the Pike Place Market Historical Commission, represented by Jill Novik, coordinator.

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. On September 26, 1988, Starbucks Coffee Company ("Starbucks") applied for a certificate of approval to expand its use at 1910 Pike Place in the Soames Dunn Building to include the sale of packaged and individual granola servings.

2. The Pike Place Market Historical Commission ("Commission") considered the application at its meeting on October 12, 1988, and voted to deny it. The chief reasons for denial were that sale of the product would not be consistent with Starbucks' specialty and individual servings of the product are "fast food". The Pike Place Market Historical Commission Guidelines ("Guidelines") relied upon by the Commission are I.B. (p.2) "the primary concern of the Commission shall be the perpetuation of specialty businesses throughout the market..."; I.D.1 (p.4) regarding fast food; and II.B.1 (p.6) regarding minor change of use which provides that the addition of a product line may be approved if "the addition or deletion is consistent with the character of the business (with the burden of proof upon the applicant)."

3. Starbucks' approved use is as a coffee and tea specialty shop.

4. "Granello" is a proprietary brand of granola. Its ingredients make it a high quality and high cost cereal or breakfast food. It is sold only at Starbucks outlets and by mail order. Granello is packaged in one pound bags and five ounce plastic, lidded bowls.

5. People who work in the Market are the major purchasers at this store of Granello in the individual bowls. Most of the people purchasing Granello in this form begin eating it on leaving the store.

6. Starbucks has been selling Granello at the Market for over a year, not realizing that approval was required.

7. While it can be said that granola is related to coffee because both are served at breakfast, coffee and sandwiches and coffee and desserts are related in the same way being served together at other times of day.

8. Starbucks is considered to be a "star" in the Market having started there and growing into a nationally known specialty store.

9. The Commission experiences continuing pressure from Market merchants to broaden their product lines.

Conclusions

1. The Hearing Examiner has jurisdiction over this subject matter and these parties pursuant to Section 25.24.080, Seattle Municipal Code.

2. The Hearing Examiner's review authority is limited by Section 25.24.080, Seattle Municipal Code, which allows reversal or modification only if the decision by the Commission violates the Code or Guidelines or if there was a violation of the procedural regulations.

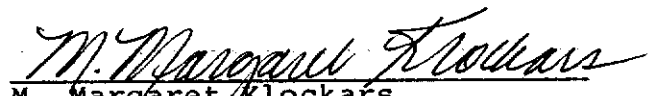
3. Appellant alleges that the decision violates the Guidelines in that Starbucks itself and/or the addition of Granello to its product line furthers two of the four major goals of the Market which are to preserve the Market as a place to shop for food and to preserve the Market as a varied shopping area with owner-operated shops. I.A.2 and 4, Guidelines. (p.2.) Appellant also sees the product as within the high priority of Market uses as a food-related use. Appellant urges that it is a first priority use as a "locally grown" product; it could be a second priority as a food item sold in bulk; and also it fits within one of the priorities for non-food uses in that Granello can be described as "hard to find" goods. Even if appellant's view of the shop and product as they relate to the Guidelines is correct, appellant has not proved a violation of the Guidelines.

4. The Commission is given discretion to exercise its judgment about uses to "assure preservation of the character of the Market and perpetuation of the cultural, economic and historical qualities of the District." Guidelines I.B. (p.2). Here, the Commission followed the Guidelines' direction where they state "the primary concern of the Commission shall be the perpetuation of specialty businesses throughout the Market...." Guidelines I.B, (p.2). In the Commission's judgment, the expansion would blur the line which delineates the specialty. Appellant has not shown that the determination made by the Commission exceeded the discretion given it so it has not proven that the Guidelines were violated.

Decision

The determination of the Commission is affirmed.

Entered this 20th day of December.


M. Margaret Klockars
Deputy Hearing Examiner

CONCERNING FURTHER REVIEW

The decision of the Hearing Examiner in this case is the final administrative determination by the City, 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 must be filed with the Superior Court pursuant to Chapter 7.16, RCW, within fourteen days of the date of this decision. Should such a request be filed, instructions for preparation of a verbatim transcript are available at the Office of Hearing Examiner. The appellant must initially bear the cost of the transcript but will be reimbursed by the City if the appellant is successful in court. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, Seattle, Washington 98104.