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BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In the Matter of the Appeals of
**WALLINGFORD COMMUNITY COUNCIL, ET
AL.,**

of the City of Seattle Citywide Implementation of
Mandatory Housing Affordability (MHA) Final
Environmental Impact Statement,

Hearing Examiner Consolidated File:
W-17-006 through
W-17-014

APPELLANT FRIENDS OF NORTH
RAINIER NEIGHORHOOD PLAN'S
CLOSING ARGUMENT BRIEF

(Appellant in No. W-17-014)

Appellant Friends of North Rainier Neighborhood Plan (“FNR”) hereby submits its Closing Argument, and joinder in the Closing Arguments of SCALE and other Appellants. This brief incorporates by reference the legal analyses and standards of the other briefs, including the summary judgment motions previously filed. Rather than memory, this relief relies in large part on a collective volunteer effort by appellants to informally transcribe witness testimony. Given the scope of the hearing, FNR is not able to provide official transcripts or page numbers. However, FNR believes that the statements are substantively accurate and, if needed, FNR will supplement this Closing Argument with the specific locations of testimony in the Hearing Examiner record.

1 **I. INTRODUCTION**

2 This matter involves a fundamental debate on the future shape of Seattle. The proposal involves
3 what may be the most sweeping set of parcel by parcel upzones the City has ever attempted to
4 implement. It is in this climate of intense development, growth, residential and economic
5 displacement and increasing density, that SEPA’s role is most important. The City’s obligation to
6 take a sincere and hard look at environmental impacts must occur at the earliest possible stage. The
7 failure to do so opens up the current and future generations of Seattle to a dense urban landscape that
8 is blighted and unlivable, impacting the physical, psychological and social well-being of the entire
9 generations. There is no question that bold action is required to manage growth, and there is no
10 dispute that the City’s proposal is bold and sweeping. The more bold the action, the more important
11 is SEPA’s mandate that the City Council have the information needed to understand the likely impacts
12 and options for avoiding and minimizing impacts in an intelligent way. Blind action is unlawful.
13 That is what we have hear – a SEPA process that is self-defeating and takes a battering ram to the
14 City’s framework for growth, as carefully outlined in the Comprehensive Plan, and the associated
15 goals and policies of the Neighborhood Plans within that Comprehensive Plan.

16 Through the hearing, the Friends of North Rainier Neighborhood Plan (FNR) provided a clear
17 and detailed picture of the existing physical conditions and challenges in North Rainier’s Town
18 Center, and the City’s own continuous assessment of an open space gap that has historically been
19 referred to as the “worst open space gap” in Southeast Seattle. The photo of the preschool play area
20 reflects the existing conditions.

21 FNR’s motion also identifies the City’s own specific plan to bridge this continuing gap,
22 through the North Rainier Town Center Park acquisition project. FNR has shown how the City
23 ultimately launched this important project in coordination with the King County Conservation

1 Future’s program, with the support of multiple City departments, as well as community stakeholders
2 and nonprofits. The witnesses and exhibits presented at the hearing reveal the bleak and unlawful
3 reality of the City’s environmental analysis of open space as it relates to the MHA proposal for the
4 North Rainier Town Center. A comparison of the City’s open space planning and project with the
5 City OPCD’s MHA proposal and open space analysis leads to one inescapable conclusion: The City’s
6 FEIS offers up an open space analysis that fails to disclose that the MHA proposal is manifestly
7 inconsistent with its own open space plans, policies and project. This lack of environmental review is
8 absurd. This lack of review is also frightening for the current and future children of the North Rainier
9 Town Center.

10 The fact that OPCD’s open space analysis does not even mention its upzone to the proposed
11 North Rainier Town Center Park is a frightening reflection of what can happen when a Grand Bargain
12 of Citywide upzones is rushed through a SEPA process without even mentioning that, with regard to
13 the environmental “livability” of the citizens in North Rainier, the City’s long-awaited parks project
14 has been upzoned to 95-foot high. The fact that the City proposes upzones into an unnoted historic
15 district destined for the National Register of Historic Places, is an additional example of how a blind
16 bold action can ruin the livability and fabric of a jurisdiction. And the City’s ignorance of
17 socioeconomic conditions and risks by relying on a “draft” Growth and Equity analysis, reveals this
18 EIS for what it is – a short cut around true SEPA review in order to rubber stamp a political objective
19 identified in the “Grand Bargain”. The Grand Bargain does not repeal SEPA. The City’s Council
20 and its Citizens deserve more. And SEPA requires more. The City has, can and must do better.

1 **II. CLOSING ARGUMENTS**

2 **A. The City’s OPCD Cannot Use the “Programmatic” Nature of Its EIS to Avoid**
3 **Meaningful Review of the Proposal’s Staggering Environmental Impacts.**

4 SCALE has explained why the City cannot use the label of a “Programmatic” EIS to avoid
5 meaningful environmental review for a sweeping set of specific upzones that will impact virtually
6 every parcel within the North Rainier Urban Village. That argument is incorporated here.

7 FNR and the other Appellants have shown how the City’s FEIS fails to comply with the most
8 fundamental principles of environmental review established under SEPA. The level of environmental
9 analysis must be commensurate with the level of planning for the proposal. The environmental review
10 must occur at the earliest stages possible. The standards for the Rule of Reason are also not repeated
11 here. This brief highlights a few selected examples of record evidence supporting the conclusion that
12 the City has not fulfilled its obligations under SEPA.

13 **1. Neighborhood Level Upzones Deserve Neighborhood Level Review, As The City**
14 **Demonstrated When It Analyzed The MHA Proposals For The Uptown and**
15 **University of Washington Neighborhoods.**

16 One of the most clear examples of the City’s failure under SEPA, is its intentional
17 abandonment of neighborhood level review utilized in the University District and Uptown, for the
18 very same MHA proposal. In this case, the agency’s own implementation of SEPA with regard to the
19 very same MHA proposal demonstrates the fundamental flaw of the sweeping Citywide FEIS. An
20 agency’s implementation of its SEPA regulations is itself evidence of what is reasonable, and
21 required, to fulfill its obligations.

22 The City’s unlawful approach to the “Programmatic” EIS is also illustrated by the complete
23 failure to provide any meaningful environmental analysis of open space at the neighborhood level. It
is impossible for this FEIS to serve its fundamental purpose under SEPA. Open Space is a critical

1 element of livability in any neighborhood that is facing a successive set of upzones and density. For
2 the City to take a “hard look” at impacts, it must at the very least appreciate how OPCD’s proposed
3 upzones will affect the North Rainier Urban Village. To do so, it must first be informed about the
4 nature and extent of the open space gap within the urban village boundaries. This is not provided.
5 The Council must also understand whether there are any projects underway to address the worst open
6 space gap of Southeast Seattle. This is not provided. There should also be a map showing how the
7 alternatives relate to and impact the critical resource of open space. This is not provided. And, last
8 but not least, the City Council should be alerted to the fact that all of the MHA alternatives (except the
9 no action alternative) propose a 75 foot to 95 foot upzone to the only parcels targeted for open space.
10 The City Council is flying blind under this FEIS. This FEIS does not even alert the public or a City
11 Council member to the fact that the “preferred” alternative seeks the greatest upzone for the City’s
12 own park project! Summary judgment will allow the City to avoid the needless costly delay of a
13 hearing. The homework needs to be done sooner rather than later.

14 **Peter Steinbrueck.** Peter Steinbrueck’s testimony was persuasive and powerful with regard
15 to the City’s misguided and uninformed attempt to sideline environmental review for the MHA.

- 16 • **Bricklin:** ... what’s your concern here regarding the level of detail in this citywide EIS.

17 **Peter Steinbrueck:** Yeah, sure. Well it’s interesting to me to note that the Uptown EIS for
18 example was over 1,400 pages long... **Bricklin:** Hold on, what’s the Uptown EIS? **Peter**
19 **Steinbrueck:** That was the EIS done for the rezone... the MHA proposal as it applies to one
20 of the city’s six urban centers, Uptown being an urban center. This preceded the citywide
21 upzone to several urban centers – University District, Uptown, and some others...
22 Downtown.... and I just note this difference in terms of level of detail.
23

1 • **Bricklin:** . . . what was the contrast you were drawing? **Steinbrueck:** Well, the level of
2 detail... and again, Uptown is not a single neighborhood. It comprises a larger area with more
3 complexity and intensity. But it is a definable subarea of the city, and it's also designated as an
4 urban center. But I just note that the extent of analysis on a wide range of topics was far more
5 extensive in that EIS than in the citywide analysis... including historic resources and other
6 issues.

7 • **Bricklin:** . . . going back to the general point here regarding the level of detail in this EIS, the
8 citywide EIS, let me ask you this way: Do you have an opinion as to whether the EIS reflects
9 the difference... the different impacts that occur, neighborhood by neighborhood?

10 **Steinbrueck:** It doesn't.

11 • Mr. Steinbrueck identified several examples of significant impacts at a neighborhood level that
12 were not addressed in the EIS. **Steinbrueck:** I don't know where to begin with that because
13 there are so many. But I can cite some specific examples that... off the top of my head.
14 Referring back to North Rainier, a hub urban village, has undergone very little private
15 investment with new development. It is the location centrally of a site... of a light rail station.
16 And Within the Rainier neighborhood plan. It has a longstanding objective of establishing
17 a town center with the concurrent open space there, and it was identified as an area of the city
18 with one of the worst dearth of open space in Southeast Seattle. that very objective would
19 be negatively impacted by this very proposal.

20 **Spencer Howard.** Spencer Howard also testified as an expert on the issue of programmatic
21 EIS. Specifically, Spencer was able to testify to his work on behalf of the City of Seattle with regard
22 to the MHA upzones in the University District. He had also prepared a programmatic EIS for Port
23

1 Gamble, on a project that sought to increase developability while complying with the dictate of
2 adequately addressing historic resources.

3 • **Question:** And do the alternatives in this FEIS in anyway allow that weighing and balancing of
4 the interests of density and historic resource. **Howard:** [00:08:29] No they did not.”

5 • Mr. Howard explained the important and simple function of environmental review of historic
6 resources at the neighborhood level. This level of analysis is necessary if the City Council will be
7 able to meaningfully evaluate “alternative areas either around or in other areas that hadn't been as
8 highly developed or didn't have potential historic properties to guide redevelopment to those areas.
9 So using again using that baseline information to try and guide development where it will have the
10 least impact to historic properties.”

11 • During the hearing, the Hearing Examiner questioned Mr. Howard about his expert experience
12 in preparing programmatic EIS's for other proposals to increase density at the neighborhood
13 level. **Hearing Examiner:** Are you saying that the EIS should have gone to this level of
14 detail throughout the city? **Howard:** Yes. **Hearing Examiner:** And with that match the
15 level of detail you experienced with the programmatic EIS that you did at Port Gamble?
16 **Howard:** It would. Yes. And for the University District. **Hearing Examiner:** And tell me that
17 the university district, what does that study? I haven't had witnesses describe this for me yet
18 but it sounds like there were other EIS done in relation MHA for specific areas where they
19 done after or before this EIS. **Howard:** It was done before this EIS. And so I can't describe
20 adequately that a rationale for why it moved ahead. But the intent of the University District
21 EIS was to increase density within the University District. And so it was looking at the same
22 factors in terms of a series of alternatives and proposed land use and zoning changes. And for
23 us what the impacts of those would be on historic properties. **Hearing Examiner:** Thank you

1 **Sharese Graham.** The City’s witness also highlighted the lack of important information in the
2 EIS, noting that a neighborhood level visit or review was not within the scope of the Citywide EIS
3 budget. Her testimony also revealed an embarrassing amount of misinformation about a so-called
4 “theoretical” park that the City ignored. During her cross-examination, Ms. Graham confirmed the
5 importance of open space as an essential element of livability to be addressed during times of
6 significant upzone. She ultimately conceded that she was relying upon inaccurate information
7 provided by Geoff Wentlandt to the effect that the City’s North Rainier Town Center Park project was
8 “theoretical” and could be ignored. The testimony of Michael James, Craig Cundiff and Talis
9 Abolins demonstrated this oversight beyond dispute. The City’s upzone of North Rainier Town
10 Center Park project to 95 feet high without any mention of the location of North Rainier park gaps or
11 projects is a shameless destruction of environmental livability without excuse. During cross-
12 examination Ms. Graham was forced to admit the inadequacies of her misinformed Open Space
13 analysis, acknowledging that the Open Space section: (1) fails to identify the location of the North
14 Rainier Urban Village open space gap (undisputed fact); (2) does not identify what parcels within the
15 North Rainier Urban Village open space gap may still be available to bridge the open space gap
16 (undisputed fact); (3) does not mention the nature or existence of the North Rainier Town Center Park
17 project (undisputed fact); (4) does not call attention to the fact that the parcels identified for
18 acquisition by the City’s North Rainier Town Center Park project are proposed for upzones to 95-foot
19 high (undisputed fact); (5) does not explain how a 95-foot high upzone to the only proposed park
20 project will or will not impact the open space needs for the citizens who will live in the North Rainier
21 Town Center (undisputed fact); (6) fails to identify the relationship of alternative proposals to either
22 the open space gap, or the existing park acquisition project (undisputed fact); (7) does not offer any
23 explanation of how the unidentified impact of upzoning the City’s park acquisition project to 95-foot

1 high might reasonably be mitigated through any of the alternative proposals, or through an alternative
2 park location where acquisition would still be feasible (undisputed fact); and (8) fails to offer any
3 explanation of how a 95-foot high upzone of proposed park parcels within the Town Center’s open
4 space gap will or will not impact the feasibility of acquisition for open space (undisputed fact). See
5 FEIS App. H, Exhibit H-56, H-57, and H-58.

6 During her testimony, it became clear Graham’s suffered from a series of disturbing
7 inadequacies, arising from a truncated “scope of work”, misleading information about park conditions,
8 and a complete failure to recognize the location of the North Rainier Hub Urban Village park gap, and
9 a funded park project that had been carefully developed and integrated into the plans for the
10 \$20,000,000 Accessible Mount Baker transportation project.

- 11 • **Bricklin:** All right and you could have used that parcel-by-parcel analysis, and laid next to,
12 compared it with the gap analysis and the policies in the open space, in the Comprehensive
13 Plan and Neighbourhood Plans, to determine where parcels were that were identified with
14 open space gaps, or cure open space gaps, and compare that with the parcel-by-parcel analysis
15 being done by others on the team in terms of where development was most likely going to
16 occur? Right? **Graham:** We could have done, that but that was not part of our charter.
- 17 • Ms. Graham was also unable to support her curious position that it would be “inappropriate” to
18 notify the City Council of the North Rainier Town Center Park Project because it was merely
19 theoretical and had no funding associated with it. However, in another programmatic EIS
20 referenced on her resume, Ms. Graham contradicted herself, demonstrating precisely the type
21 of neighborhood level analysis that an EIS is able to provide for a City looking to increase
22 density in a manner that meaningfully addresses environmental conditions. See Exhibit 303
23 (Sammamish Programmatic EIS).

1 **Peter Steinbrueck.** With regard to the North Rainier Neighborhood Plan, Mr. Steinbrueck
2 explained the Comprehensive Plan’s role in addressing issues of open space and tree canopy while
3 increasing growth in the Hub Urban Village. Mr. Steinbrueck had this to say about the Open Space
4 Planning policies of the Comprehensive Plan: **Steinbrueck:** Well, as the city grows, and as reflected
5 in many of the City’s Comprehensive Plan policies and goals, as well as the Seattle Parks
6 Department's own Master Plan and Gap Analysis. With regard... open space is a human need and it is
7 one that is essential to the health, vitality, and livability of the neighborhoods. The City has a fairly
8 complex set of metrics and targets for ensuring the adequacy of open space and parks throughout the
9 city, particularly in areas receiving more density of growth such as the urban villages.

10 The City’s imposition of a 95’ upzone for parcels identified by the City to address North
11 Rainier’s parks gap was particularly troubling. **Steinbrueck:** Well, the gap analysis for the city
12 identifies specific areas that lack open space at the urban village level. And it also relates to hubs and
13 urban centers. And there is a map, which is here somewhere, that illustrates the gaps. And I use North
14 Rainier as an example. One area of the city, a hub urban village, that the City Parks Department's gap
15 anaysis identified as having the lowest level of open space of any urban village in Southeast Seattle.
16 It's a relationship of the amount of the quantity and the distance to that open space within the denser
17 urban areas. **Question:** Does the EIS anywhere discuss any of these open space policies as to how
18 they relate to the proposal or whether the proposal is consistent or inconsistent with any of these
19 policies? **Steinbrueck:** No, I couldn't find any

20 **Talis Abolins:** As a resident and nonprofit activist in North Rainier, Mr. Abolins testified on the
21 unique historic and open space features of the North Rainier neighborhood that were ignored in the
22 EIS, as well as the Comprehensive Plan goals and policies that were intended to guide growth in
23 relation to those features – also ignored.

- 1
- 2 • **Abolins:** moving on to the open space relevant comp plan features, we have the community
3 life goals NRG-8 - "North Rainier Valley's network of parks, recreational facilities, open
4 spaces, and arts and culture programs are functioning and well utilized." So really you know
5 consistent with what we heard about the fabric of the Olmsted system - this goal contemplates
6 there would be a network of parks that are functioning well. And then the goal 9, this is again
7 related to housing and socio economic "ethnic and cultural diversity is a continued presence in
8 the business and the community." So its business oriented.
 - 9 • **Abolins:** "when the purpose of this environmental impact statement is to allow the City
10 Council to ensure that it takes an action that is going to consider open space resources which
11 are essential to livability, this is an embarrassment. Because after years of effort working with
12 the city in an interdepartmental function as Bruce Harrell called for, and getting the city to
13 actually create an open space acquisition project targeting specific parcels, in harmony with
14 the Olmsted historic and open space resource itself - as Jennifer Ott ... referenced that they
15 had even called for an open space adjacent to Cheasty green space on the on the valley floor at
16 this key intersection.
 - 17 • . . . things that logically a decision maker would want: know where the gaps are, because it
18 makes sense to locate the city's investments and concurrent open space in the areas where it's
19 needed, which is logically in a Hub urban village that's being upzoned. And then - and then
20 secondly, you should at the very least know if there's already a project to do that on identified
21 parcels, so that you can harmonize your - the intensity of your zoning - so that you don't have
22 edge effect problems. You're not putting you know 95-foot-high buildings next to a landmark
23 green space or on top of a park that the Hou Mei children would like to play in.

1 Mr. Abolins (and others) walked through a number of exhibits illustrating the important information
2 neglected in the FEIS, including: Exhibit 61 – Gaps in open space – historically in North Rainier;
3 Exhibit 41 – Letter by FSOP on the area to the City; Exhibit 42 – photo of the play area “pen” for the
4 Hao Mai Preschool; Exhibit 43 – North Rainier Town Center Park project: upzoned to 95 feet without
5 a mention in the EIS.

6 **2. The City’s Environmental Analysis Of Historic Resources and Edge Effects Was**
7 **Inadequate and Self-Defeating.**

8 Against a meager FEIS analysis, the appellants provided a series of compelling experts who
9 elaborated in great detail on various shortcomings in the City’s analysis of historic resources and edge
10 effects. These witnesses included Peter Steinbrueck; Spencer Howard; Jennifer Ott; Eugenia Woo;
11 Talis Abolins. Much of this testimony included neighborhood level evidence from the North Rainier
12 Urban Village, demonstrating how the proposed parcel by parcel upzones are presented to the City
13 Council without reference to critical information needed to allow decisionmakers to even remotely
14 understand the relationship of the proposal to the historic shape and fabric of the neighborhood.

15 **Spencer Howard.** Spencer Howard of Northwest Vernacular left the City’s EIS in tatters,
16 with regard to historic resource analysis. His testimony was based on extensive experience analyzing
17 historical resources, including the research and analysis of such resources in programmatic EIS
18 prepared under SEPA. For example, Mr. Howard’s firm was hired by the City of Seattle to address
19 the historic resources section for the UW MHA EIS, which presented a parcel by parcel analysis
20 allowing the City to compare its parcel by parcel upzones for that particular neighborhood. Exhibit
21 304. Exhibit 18 is a detailed outline of Mr. Howard’s basic points on the EIS and its inadequacies:
22 (1) the FEIS failed to adequately identify historic and cultural resources within the study area; (2) the
23 FEIS does not adequately identified the probable impacts on those resources; (3) the FEIS fails to

1 consider the significant historic resources of the Mount Baker Park Addition; and (4) the FEIS has
2 failed to adequately describe impacts to the Mount Baker Park Historic District. His testimony was
3 punctuated with a series of visual Exhibits painfully revealing how and why the City could and should
4 have analyzed the neighborhood level upzones at the neighborhood level – as it had already done with
5 the MHA proposal in other neighborhoods of the City.

- 6 • **Howard:** It was the discord between the level of detail in the zoning information and proposed
7 land use changes which went down to the parcel level detail, and the level of detail on historic
8 properties, which remained at a very cursory, broad overview level for the entire city and didn't
9 get into any specifics of urban village level, and certainly not down to the parcel level. **Abolins:**
10 How did that contrast with the work you've done on the University District, EIS which dealt with
11 the same MHA proposal? **Howard:** It was markedly different so in the University District EIS
12 we collected the available information on listed and potentially eligible properties and on recent
13 2002 surveyed inventory work and then we overlay this information over the proposed land use
14 and zoning changes so that we could look at those changes and understand what types of resource
15 existed at those locations to understand what the potential impacts would be. The other is that we
16 included a historic context statement that identified I believe it was six key development periods
17 for the University District. Knowing development periods is really critical to helping to
18 understand the significance of potential eligibility of historic properties, you start to understand
19 how a neighborhood or how a study area was shaped and how properties that still exist within that
20 study area relate to those different development periods. There's also an exhibit 3 that's relevant. .
21 . . . [On the UW EIS]: One last item that we'd also included there was an assessment of planning
22 and policy that existed and was relevant to historic properties within the study areas so we wanted
23 to understand how the proposed land use change is related to the broader field [?] of the

1 comprehensive plan what goals and policy elements were being forwarded by the work and the
2 land use changes that were being proposed through the U District alternatives.

3 Mr. Howard responded directly to the City’s curious position that a neighborhood based
4 analysis of historic resources was not justified, because those resources had only been inventoried in
5 some but not all of the impacted neighborhoods. This illogical approach would leave the City
6 Council flying blind, with a fundamental inability to understand what resources exist, and where they
7 are located and clustered with reference to parcel by parcel upzones increasing the impacts on those
8 resources.

9 • **Question:** And you were also questioned about neighborhoods that might not have the ability
10 themselves to try and document their historic clusters of properties or even districts. So if a
11 neighborhood lacks that information and then there's a proposal that's going to have an impact on
12 such historic resources. Whose responsibility is it to come up with the funding and ensure that an
13 appropriate analysis takes place. **Howard:** It ideally should rely on the entity proposing the
14 changes and undertaking that it's both the responsibility to understand how the changes will
15 potentially impact the existing environment and it's an opportunity if done right in terms of
16 providing that information on historic development patterns character and properties. Much like
17 we did with Port Gamble is to educate the public on what historic density levels were how those
18 relate to proposed changes and how that can be a beneficial component for neighborhoods going
19 forward if done in a compatible manner.

20 The hearing examiner was supplied with a series of excellent exhibits, which helped demonstrate
21 the lack of regard for historic resources, as well as the ease with which information on historic
22 resources could have been analyzed and supplied to the City for purposes of MHA’s neighborhood
23 level upzones:

- 1 • **Exhibit 20 - Howard:** we were putting together in one location the information that's available to
2 us in GIS and that is available publicly to be able to convey that yes that data is available
3 generically speaking here's how it looks across the city wide so the key in the lower left has a
4 legend for the what all the colored dots mean but basically all of the black dots are city of Seattle
5 inventory properties and then the different lines are the individually listed properties national
6 register listed properties. So what our intent was on this was to basically compare that and the
7 richness of that data spread with the exhibits 3.5.2 and 3.5.3 in the FEIS to show there's a lot of
8 data that's missing that is really important for the analysis. . . . it's all built in GIS so you can
9 zoom in on down to the individual parcel you could even go within a parcel but it's yeah the level
10 of detail that's there is highly detailed.
- 11 • **Exhibit 21** – With Exhibit 21, Spencer Howard illustrated how the City could identify which
12 historic parcels or areas of historic value are subject to the highest FAR increases of the proposal,
13 and thereby gauge the most likely impacts. This Exhibit contrasted with the analysis of the EIS,
14 where “there's no impact analysis of what that really means what these proposed changes could
15 how they could affect those properties and surrounding properties.”
- 16 • **Exhibit 22** – Exhibit 22 illustrated how, unlike the UW programmatic MHA EIS, the Citywide
17 EIS abandoned all hope for the protection of historic resources, completely failing to identify
18 major clusters of historic resource throughout the City’s neighborhoods.
- 19 • **Exhibit 23** – The City had easy access to a variety of historic resource information, including the
20 historic inventories and context statements that were artfully prepared for that purpose. Both Mr.
21 Howard and Ms. Woo highlighted the EIS’s ignorance of these useful resources.
- 22 • **Exhibit 26 – Howard:** . . . a fair amount of things going on in a single map but we're trying to
23 bring all of those parts together. Again the yellow line is the historic boundary, blue areas with the

1 diagonal crosshatch are the urban village expansions proposed urban village expansions. The
2 zoning for those is the proposed zoning is residential small lot. The historic photos and actually
3 the red shading that goes over the top of Mount Baker Boulevard which is that serpent time
4 boulevard that kind of runs across through the bottom center portion and then wraps up to the right
5 a key part of the Mount Baker Historic District development was the involvement of the Olmsted
6 Brothers. They did not do design work but they were consulting to the developers who platted the
7 district. A large part was the Mount Baker Boulevard as part of a larger system of connectivity
8 with the proposed Olmsted system more specific to Mount Baker John Charles had had to work
9 with the civil engineer to get him comfortable with the idea that yes, you could put Mount Baker
10 Boulevard here and run that down and that that would be a shared amenity for the properties on
11 other side it would be a gateway into the Rainier Valley and also looking at it from the other
12 direction, it would be a gateway from the valley, into the historic district or into the residential
13 district at that time. going back to the role of Mount Baker Boulevard as a gateway into the
14 district, what we were concerned about was the proposed residential small lot zoning on either side
15 of that gateway which there's [historically] contributing properties in both of those areas and
16 losing those properties to development pressure and having new development um what
17 substantially changed the character and approach into the historic district and this historic
18 connection.

- 19 • **Exhibit 27 – Howard on disregarded and impacted resources in North Rainier:** So the
20 orange footprints are contributing properties within the historic district. You can see how they
21 relate to the proposed upzone areas. The photos along the side and along the bottom are some
22 sample photos of contributing properties within both of those up zone areas. So as you can see,
23 they're smaller single family residences. If the proposed upzone goes through for the residential

1 small lot, there are four subcategory designations within the residential small lot that allow for
2 increased development. Those typically require a reconciliation with the neighborhood plan.
3 Well, it was our understanding from earlier testimony from Mr. Steinbrueck that, uh, that
4 requirement may go away with approval of the MHA FEIS in which case it's unknown what
5 designation would apply to these, if they would be a residential small lots, but the force of
6 designations it's not known which one of those would apply and how that would change the
7 character of these urban village expansions. **Abolins:** Is it fair to say that someone considering
8 an expansion and upzone of this area is necessarily contemplating changes in character and use of
9 the properties? **Howard:** Yes.

- 10 • **Exhibit 28 – Howard on Edge Impact To Ignored Historic District From Urban Village**
11 **Expansion:** So this was again looking at the decade of construction in the period of construction
12 within the within the historic district so the proposed urban village expansion areas would take out
13 a large swath of properties that were built between 1920 and 1929 so after the neighborhood, after
14 the Mount Baker plat was platted in 1907, lots were sold properties, properties developed. There
15 were waves and patterns of growth and development. One element that was unique was along this
16 outer strip was a high concentration of the 1920 to 1929 properties that were built along there so
17 loss of those properties through development pressure would significantly change the character of
18 that edge of historic district. Loss of it can also depending to the severity and degree and
19 jeopardize the listing status of the district.
- 20 • **Howard on State Department of Archeology and Historic Preservation Focus On Historic**
21 **District Boundaries.** The State DAHP representative “wanted to make sure that we had not lost
22 or that the neighborhood had not suffered development changes along those outer edges that he
23 was anticipating that we would have had less integrity along the outer edges due to development

1 pressures in just attrition over time which it is not uncommon with residential neighborhoods
2 commercial districts you typically kind of have the edges get chewed away and kind of worked in.
3 He was very surprised to see that our level of integrity is quite high for this district and in terms of
4 the architectural character has start properties number of properties that were designed by
5 architects it's really quite extraordinary district.” See also **Exhibit 29:** Certificate of designation
6 of Mount Baker Park Addition “given to the friends of Mount Baker Town Center when from the
7 governor's advisory council on historic preservation when the historic district was listed to the
8 Washington Heritage Register.” The historic district’s nomination the the National Register of
9 Historic Places is pending.

- 10 • **Howard on EIS Analysis Of Impacts To Historic District -- Question:** For a decision maker
11 reviewing the impact of the proposed urban village expansion into the Mount Baker Park
12 Addition, is there anything in this [EIS] that would alert them to what those impacts would be?

13 **Howard:** No.

- 14 • **Howard on Ease and Necessity of Identifying Historic Resources In EIS:** . . . So it was
15 examples like those two [Exhibits 21 and 22] where you can quickly see where the proposed
16 changes, and even filter out areas of high intensity for potential redevelopment and compare that
17 with the available data on historic properties to understand if you're going to be placing properties
18 that have potential historic potential under high development pressure. And so [the Exhibit] it was
19 it's, an effective planning tool.

- 20 • **Howard Responding To City Arguments About Mapping Infeasibility:** Howard -- It took us
21 a little over forty hours to prepare it. And that included downloading the data from the public
22 portals, being able to load it into and build the database, and then running our analysis on it,
23 (53:09), being able to pull in the city's excel data on the redevelopment potential, and then being

1 able to create the maps that were turned into the exhibits, doing all the photography and the
2 symbology on those, and then making some revisions on that as well. So, generally, it went pretty
3 fast **Bricklin:** Is there anything blocking the city from doing something like what you did in
4 about forty hours time? (53:52) **Howard:** No, not that I'm aware of. No, that data is all publicly
5 available. The only data set that took a little bit more time was the surveyor eligibility
6 recommendations from the state department of archaeology and historic preservation. For that one,
7 I actually had call the department of archaeology and historic preservation GIS analyst, and ask
8 her if she could just export us a copy. She exported out the whole database and sent it over to us.
9 And so then we worked through that. But that was the most complicated part of it. Otherwise,
10 everything else was on publicly accessible websites and already available in a database of
11 databases or shaped-layer file format. So it was very easy.

- 12 • **Howard Responding to City Cross – Howard:** Technically the GIS database that we have, and
13 with the GIS software, we can see every parcel in the city. And all of the data and historic data and
14 all that information that's in these maps, it's there and visible. We didn't export out a whole series
15 of static maps to convey that information. We just did the overall one, and then the insets.
16 We had thought about doing it just for the appendix H maps. So, in the same way that the EIS did
17 for the proposed land use and zoning changes. And so those maps would be an ideal series to have
18 had. That base data, and then overlay the historic and to be able to export those out. So you'd be
19 able to see clearly the proposed land use changes and the existing historic resource data. **City:**
20 How many pages would it require for you to put data reflecting this level of detail for every urban
21 village within the city? **Howard:** Um it depends. And we could probably do it in the same
22 amount of pages that appendix H was.
23

1 **Peter Steinbrueck:** Peter Steinbrueck also identified the EIS’s alarming disregard of
2 Seattle’s historic features, speaking eloquently about the historic underpinnings of Seattle’s
3 neighborhoods, and how that historic context represents the heart of what makes Seattle great today.

4 • **Steinbrueck:** Well, you might look at Seattle as a collection of historic neighborhoods - some
5 of which were in fact, cities. Columbia City, Georgetown, Ballard... These were actual cities
6 that were subsequently annexed by the city of Seattle, over time. And from that standpoint,
7 Seattle's human, physical, and historic cultural assets are unique to our entire region. That's
8 why it's so popular a place to live. We are not the west side of a subdivision in Bellevue. We
9 are not the Issaquah Highlands. We have that distinction from virtually all other areas outside
10 of the city - well not with all other areas - but it's what makes Seattle unique. It's the character
11 of our neighborhoods, it's what people talk about what they love about Seattle and what they
12 come here for, and they move here for. And that's what we collectively have identified
13 through... extensively through our commitment to historic preservation, as reflected in many
14 of the Comprehensive Plan policies and goals.

15 • **Steinbrueck on the Comprehensive Plan, Re: Historic Resources: Steinbrueck:** [The gist of
16 the historic resource provisions reflects] A commitment to protecting, enhancing and rehabilitating
17 our cultural and historic assets in the city, throughout. **Question:** ... does the proposal discuss
18 whether or to what extent it is consistent or inconsistent with these any of these historic resource
19 related policies? **Steinbrueck:** No.

20 • **Steinbrueck On Lack Of Post-Upzone Protection: Steinbrueck:** . . . it falls short of
21 identifying the range of historic and cultural resources in the city, much of which has been
22 inventoried, but not all. Maybe half of our city, or less, through specific context reports and
23 inventories. The presence of these historic districts is widely known. But beyond the historic

1 districts, I would I would take you beyond the designated landmarks and historic districts,
2 whereby our city embodies an extraordinary collection of historic resources that have no
3 protections under the current land use code, or little protection... little or no protection, because
4 there is a SEPA threshold there that kicks in at some point.

5 **Talis Abolins.** Mr. Abolins contrasted the EIS' lack of historic analysis on North Rainier,
6 against the contours of the Mount Baker Park Addition historical district, which the City proposed
7 upzone. He explained with photographs how the City failed to recognize that the proposed eastern
8 expansion of the North Rainier Urban Village boundary would needlessly impact the historic
9 landscape, boulevard, and associated historic properties along the hillside with Franklin High School
10 and the Olmsted influenced Mount Baker Boulevard. This testimony echoed testimony by Spencer
11 Howard, Peter Steinbrueck, and others.

- 12 • **Exhibit 25 – Historic District Summary Information:** Article by Friends of Mount Baker
13 Town Center – “Historic Intersection of People and Place”, discussing with Northwest Vernacular
14 mapping (Spencer Howard) the significance of the boundaries and contributing parcels that
15 justified historic designation of the Addition.
- 16 • **Exhibit 63 – North Rainier Photo Series.** A series of photos provided the hearing examiner
17 with on the ground perspective of the proposed eastern expansion area, and other features of the
18 proposed upzones in North Rainier. The EIS would leave the City Council blind to the
19 relationship of the upzone to the formally designated historic district, as well as to the
20 topographical and land use edge conditions of the series of parcels designated for upzone.

21 **Peter Steinbrueck – Edge Effects.** Peter Steinbrueck also elaborated on the EIS failure to
22 address edge effects in North Rainier.

- 1 • **Bricklin:** What does that term mean, edge effect? **Steinbrueck:** Sure. Let me turn to page 4,
2 edge... That's kind of a general planning term that addresses urban form for both built and natural
3 where there's a condition that distinguishes perhaps one neighborhood from another, one area from
4 another, one community from another, Or divides or is a dividing line where the uses may
5 radically change from a more intense mixed use or commercial or industrial to a lower intensity of
6 use. It could be anything from a busy arterial such as 15th NE or Aurora Avenue or Rainier
7 Avenue or to a row of trees such as in Wedgwood that has been identified in the Wedgwood
8 neighborhood plan, which is not included here, but is an important element a defining element as
9 an edge condition.
- 10 • **Steinbrueck on North Rainier:** ... it would alter those built form... urban form conditions. And
11 in some cases potentially violate the natural form, where there's a hillside and a flat area, such as
12 in North Rainier at MLK and Rainier Avenue. So yes, in many places I think the proposed
13 upzones don't reflect on the ground conditions and existing urban form and character.
- 14 • **Steinbrueck on Blind Expansion Impacting Edge Conditions:** ... Another example would be,
15 and I'll go back to Roosevelt here, where the area of Ravenna Cowen Park, where the City's
16 proposal, MHA, proposes to extend across an edge condition, the urban village boundary, into a
17 collection of what has been identified as a historic character neighborhood of single family, early
18 20th century Craftsman cottages. An almost cohesive, multi-block area, that would be upzoned
19 basically and put all of those houses -- which will never be designated individually as landmarks --
20 but would all be impacted with a higher potential for tear down with this proposal, and
21 replacement with infill under a different land use and development standard.
- 22 • **Steinbrueck Review of MHA Zoning Changes Relative To Edge:** [L]et's go to a H-59 – this is
23 the preferred alternative for North Rainier urban village. Again dotted line showing the expansion

1 of the urban village on the portions of the east and little pieces on the south and west side... ..
2 But in terms of the edge effect that you've been indicating concern about.... New areas, exposed
3 to new edge effects? PS: Yes, yes. And those are areas where topography changes, major
4 arterials like MLK, Cheasty Boulevard, and Rainier, create a basically a dividing line, and the
5 topography changes, and these boundary expansions move those into single family areas.

- 6 • **Bricklin:** So does the EIS discuss in any detail the effects of creating these new edges all around
7 these urban village expansions around the city? **Steinbrueck:** No.
- 8 • **Steinbrueck on Urban Village Expansion:** The original boundaries were adopted through the
9 most extensive community processes that the City is undertaking and planning in this city, in the
10 90s. And I was on the City Council when we went through the docket of neighborhood plan
11 adoption and the urban village boundaries. So... I don't want to go into the history there, but there
12 was some basis for establishing those boundaries then. There's a new basis now. It's entirely
13 different and an entirely different process or lack of process I should say, that has resulted in these
14 new boundaries that don't reflect community values, neighborhood plans, topographic conditions,
15 built conditions, historic resources conditions, natural environmental conditions....
- 16 • **Steinbrueck on Neighborhood Edge Variation:** Well, I gave us some examples there. I've
17 given the example of North Rainier here where you have historic landscape that is part of the
18 Olmsted legacy that adjoins the hub urban center there, and you have a set of a housing that is of
19 historic character and quality, single family, and you have institutional use there with the Franklin
20 High Franklin Field. And, these things play no part in the determination of the boundary, moving
21 the edge. [00:46:20] **Bricklin:** And do they get discussed in the EIS? **Steinbrueck:** No, they
22 do not.
23

1 **3. The City’s Environmental Analysis Is Flawed Because It Ignored And**
2 **Contradicted Key Provisions Of The Comprehensive Plan.**

3 As a matter of state law, the Comprehensive Plan plays a fundamental role in guiding the City
4 on matters relating to land use, development regulations, growth management, and environmental
5 resources. See Comprehensive Plan, Exhibit 3. The City’s Comprehensive Plan embodies Seattle’s
6 “Urban Village Strategy”, providing Citywide and neighborhood level goals and policies that must be
7 followed by the City in its implementation of Citywide or neighborhood level proposals and projects.
8 Numerous witnesses explained how the City’s FEIS disregarded numerous features of his ultimate
9 planning tool, in rolling out a sweeping set of upzones that is replete with inconsistencies and
10 frustrations of the governing Comprehensive Plan provisions.

11 **Peter Steinbrueck.** Mr. Steinbrueck came to the hearing with an unparalleled level of
12 expertise and experience, including three terms with the City Council, and many years subsequently as
13 a consultant hired by the City for the very purpose of helping the City implement its urban village
14 strategy. During his testimony, Mr. Steinbrueck emphasized his dismay at the City’s recent turn
15 away from decades of neighborhood planning, as reflected in the Comprehensive Plan.

- 16 • Mr. Stenbrueck discussed the Comprehensive Plan’s role with regard to urban character and
17 form, and related Neighborhood Plan examples: **Steinbrueck:** There are numerous references
18 to preserving and protecting neighborhood single family character, goals for preservation of
19 the historic aspects of some neighborhoods - not necessarily designated or not. A desire to
20 maintain the uniqueness of our city as it's reflected through its neighborhoods and through
21 these neighborhood plans. Every single neighborhood and urban village has its own distinct
22 characteristics and qualities and people value that deeply. That's why we're here.

- 1 • Mr. Steinbrueck explained how the City’s approach affirmatively undermined the critical role
2 of the Comprehensive Plan in guiding the City’s growth: **Bricklin:** You mentioned earlier
3 that part of the proposal would eliminate... would make a Code Amendment change impacting
4 the consideration of Comprehensive Plan consistency in the future. What was that about?
5 **Steinbrueck:** Yes. I think that was on the list of implementation measures that would be
6 called for. This one is particularly troubling to me... because what we have historically
7 relied on in considering upzones, anywhere in the city, has been the city's general rezone
8 criteria and locational criteria under SMC 3.34.008. And among other things, for me this has
9 always been a safeguard in considering upzones, because it provides... and I have as a
10 decision maker been directly involved in the application of this rezone criteria over countless
11 occasions. And I felt that, as... you know because we have this as a matter of law, that it
12 would serve to ensure better results in considering rezones - so that they are not arbitrary, so
13 that they're applied in a manner that addresses many longstanding important factors at the
14 neighborhood level and at the citywide level. The proposal calls for striking reference to the
15 neighborhood plans and the rezone criteria, striking it out... wiping it out. **Bricklin:** And
16 does the EIS... and what would the effect of that be, of eliminating that criteria?
17 **Steinbrueck:** Arbitrary imposition of rezones. **Bricklin:** And does the EIS analyze the
18 impact of that at all? **Steinbrueck:** No.

19 **4. The EIS And Its Unreasonably Narrow Range Of Alternatives Was Based On A**
20 **Misleading Socioeconomic Analysis Designed To Support The Predetermined**
21 **Outcomes Of The So-Called Grand Bargain.**

22 At its core, the EIS for the MHA is the City’s attempt to rubber stamp an affordable housing
23 program that was hatched in a divisive political environment, where the important policies of
environmental review under SEPA were treated as hostile and distracting impediments to the City’s

1 juggernaut pursuit of the MHA as reflected in a nearly identical set of alternatives, virtually
2 unchanged from its original pre-SEPA permutation.

3 At the hearing, the appellants presented a series of expert and other witnesses who illuminated
4 the fallacies of the City's socioeconomic analyses with regard to displacement, market forces,
5 segregation, and small business. These witnesses included Levitus, Reid, Steinbrueck, Michael Ross,
6 and Talis Abolins.

7 **Peter Steinbrueck.** Peter Steinbrueck, who previously authored the small business report that
8 ultimately saved the University Avenue ethnic and small business district from the MHA in that
9 neighborhood, described the need to refine boundaries based on livability and environmental factors,
10 and later found the City had altered his report to completely exclude such consideration based
11 explicitly on the political :

- 12 • **Steinbrueck – On City Modification To His Urban Village Report:** [The City] eliminated or
13 redacted Task 3 pages 130 through I believe 156 of the report. **Bricklin:** And what was the gist
14 of that part of the report. Evaluation, the title "evaluation of livability characteristics for the urban
15 villages." And then there are several sub areas analysis of the 2035 draft plan for livable growth
16 strategy livability goals and policies recommendations for new goals and policies, key livability
17 indicators analysis and recommendations and a literature review which I undertook of cities in
18 other parts of the country and research in this area. **Bricklin:** Did the city explain to you why
19 they had redacted a portion of your report. **Steinbrueck:** [00:10:26] This is anecdotal and a
20 recollection of a conversation I had with my project manager Tom Hauger who was the city's top
21 comprehensive plan, senior planner, and who I reported to, in the undertaking of his work. He said
22 it wasn't needed as I recall, this section because the HALA MFA agenda had leaped forward and I
23 was six months too late to be making these recommendations. It was not relevant at that point.

1 This is what I recall as the explanation. And I was concerned about that because I felt that this was
2 very important information to help inform the MHA program and I wanted them to have the
3 opportunity to consider this work. It had shifted from the planning, comprehensive planning
4 division of the city to the more political side of things which was the momentum behind MHA.

- 5 • **Steinbrueck on Central Role of City’s Growth and Equity Analysis. Bricklin:** How did the
6 Growth and Equity Strategy inform the alternatives that were developed in the EIS?

7 **Steinbrueck:** It is the primary, if not sole determinant, of all each of the alternatives other than
8 alternative 1. Well, again, [the City’s analysis] it's based on I would say a very limited
9 study based on some experimental criteria: demographics, race, incomes, households, etc. And a
10 theory was developed around what areas of the city constitute areas of high displacement, low
11 displacement – and we're talking specifically residential displacement and not unemployment
12 displacement - and areas of opportunity, where if you live in a particular neighborhood, let's say
13 Rainier Beach versus Queen Anne, you're going to have very low opportunity if you grow up in
14 Rainier Beach versus Queen Anne. top of Queen Anne. So that's the construct. It is the driver for
15 the entire MHA set of alternatives.

- 16 • **Steinbrueck on Admitted “Limitations” of Socio-Economic Analysis In EIS.** Mr. Steinbrueck

17 (as well as other witnesses) noted that the Growth and Equity Analysis, attachment “A” to the EIS,
18 acknowledged the dangerous inadequacy of its own socioeconomic construct. See EIS
19 Attachment A, page 15. The narrow and unreliable EIS is based on a foundational but self-
20 deprecating document which acknowledges that its “high level assessments [] can inform but
21 should not predetermine decisions about growth investment and policy”, and that “Greater
22 historical and qualitative context is needed to avoid simplistic conclusions”. **Bricklin:** And does
23 the EIS analyze the impact on businesses analyze the proposal’s impact on the rate of

1 displacement of minority owned businesses in areas that are impacted by the proposal.

2 **Steinbrueck:** No it does not. No.

- 3 • **Steinbrueck on Small Business, Race and Social Justice.** During the hearing, SCALE
4 discovered and revealed that the City’s superficial nod to “equity” in the Growth and Equity
5 analysis was a charade, designed to hide a complete subversion of its own Race and Social Justice
6 review processes. Mr. Steinbrueck noted that the analysis was also flawed for its myopic focus
7 on rental housing, disregarding the socioeconomic importance of retail and business activity, as a
8 component of upward mobility and economic progress – **Bricklin:** So this whole focus on race
9 and social justice, it was limited to the residential market because and did not address the retail
10 market. **Steinbrueck:** That is correct.

11 **Talis Abolins.** Talis Abolins highlighted the EIS and its disregard of socioeconomic goals and
12 policies for the North Rainier Town Center, which called for the City’s promotion of economic
13 conditions in Rainier Valley through the creation of a mixed use center on key Town Center blocks,
14 with a small and ethnic business district on the first floors, and a range of housing options above. This
15 Town Center was a core feature of the Comprehensive Plan for North Rainier. Yet the City ignored
16 the existing conditions of the area, which are profoundly challenged, and also failed to analyze the
17 segregationist tendencies of its “in lieu” payment formula.

- 18 • **Exhibit 64 – Puget Sound Business Journal Column By Peg Giffels and Huy Dang.** This
19 article provided context to the unique socioeconomic challenges and conditions of the North
20 Rainier Urban Village, and the need for City awareness of sensitivity to the Town Center plan.
- 21 • **Michael Ross:** Michael Ross also confirmed the risk of plan failure arising from the City’s
22 failure to properly analyze or understand the risk and impact of over concentration of
23 subsidized housing within the Town Center’s core parcels.

- 1 • **Steinbrueck on Economic Revitalization.** Peter Steinbrueck described the EIS failure to
2 take into account Comprehensive Plan provisions that were to guide socioeconomic analysis
3 during growth, including policies to: “Encourage rehabilitation opportunities and reinvesting
4 in vacant or underutilized historic properties to spark economic revitalization”; “Increase
5 rehabilitation of existing housing units and other building types that expand affordable housing
6 choices and contributes to market rate and workforce housing”. **Bricklin:** . . . to be more
7 specific, does the EIS ever discuss that Columbia City policy or any of the other housing
8 policies that you've listed here? **Steinbrueck:** No.

9 In conclusion, the Friends of the North Rainier Neighborhood Plan respectfully ask that the
10 FEIS be declared invalid and remanded for a review to protect the environmental features that will
11 allow our City to grow in a manner that is livable and just.

12 DATED this 24 day of September, 2018.

13 FRIENDS OF THE NORTH RAINIER
14 NEIGHBORHOOD PLAN

15 By */s/ Talis Abolins*
16 Talis Abolins, Co-Representative with
17 Marla Steinhoff
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Declaration of Service

Talis Abolins declares that on the 24th day of October, 2018, I filed with the Hearing Examiner and delivered by email as allowed by the Second pre-hearing order of February 16, 2018, Appellant FNR's Closing Arguments and Joinders:

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I declare under penalty of perjury under the laws of the state of Washington that the foregoing information is true and correct.

DATED this 24th day of September, 2018, at Seattle, Washington.

/S/ Talis Abolins

Talis Abolins, Friends of North Rainier Neighborhood Plan