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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
BEACON HILL COUNCIL OF SEATTLE
CLOSING BRIEF

(Appellant in No. W-17-012)

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Appellant Beacon Hill Council of Seattle (“BHCS”) hereby submits its Closing Brief for its
appeal.

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I. INTRODUCTION

The Environmental Impact Statement of the proposed city-wide MHA plan is the most
consequential document for neighborhood development in Seattle’s recent history. This EIS should
provide analysis of the effects of the proposed zoning changes, describe the potential growth and show
how the impacts of the changes can be dealt with.

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The Beacon Hill Council of Seattle appealed the adequacy of the city-wide MHA proposal
FEIS on the grounds that it does not provide an adequate study of the impacts of the proposed
expansion and rezoning of the North Beacon Hill Urban Village. All of the alternatives will cause
known direct, indirect, and cumulative impacts to the Beacon Hill neighborhood but are not disclosed
or analyzed in the FEIS. The FEIS does not adequately describe the existing environment of North
Beacon Hill for each element of the environment that may be affected by the proposal and therefore it

1 cannot adequately discuss reasonable mitigation measures. The FEIS instead provides a non-specific
2 summary of the existing environment, impacts, and mitigation for a generic urban village.

3 With this proposal the City is not moving from a programmatic EIS to a site specific EIS with
4 the impacts to be addressed later. The impacts will never be discussed and analyzed if not done so
5 now. The City’s approach illustrates its lack of any targeted, neighborhood specific planning or
6 collaboration over the four years of the HALA/MHA process.

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8 **II. THE MHA FEIS FAILS TO INCLUDE THE NORTH BEACON HILL NEIGHBORHOOD**
9 **PLAN AS REQUIRED BY SMC 25.05.440(E)(4)(a)**

10 Neighborhood plans are a public investment - they are important and have consequences.
11 They set the framework for growth in a neighborhood for coming years and describe how the City
12 intends to deal with the impact of that growth. Furthermore, they are an expression of the
13 conversation undertaken by a neighborhood in how it’s residents want it to grow. Neighborhood
14 plans are an investment of the people in terms of time, energy and commitment to their community.
15 Ignoring, changing or reversing previously developed plans should not be undertaken carelessly.

16 Neighborhood plans are a major component of the Comprehensive Plan, the urban village
17 strategy and have been a guiding principal of the City’s growth policy for over 20 years. SMC
18 25.05.440(E)(4)(a) states that Chapter 4 of an EIS shall incorporate “a summary of existing plans (for
19 example: land use and shoreline plans) and zoning regulations applicable to the proposal, and how the
20 proposal is consistent and inconsistent with them”. The MHA EIS does not include nor reference the
21 North Beacon Hill Neighborhood Plan, the updated neighborhood plan, nor any of the various plans
22 and documents that resulted from that planning (Hearing Examiner Exhibit 146, 147, 148, 149 and
23 150).

1 The testimony of Roger Pence demonstrated that North Beacon Hill has done extensive
2 neighborhood planning. The Beacon Hill community actively participated in comprehensive
3 neighborhood planning for over 20 years. Hundreds of community members and stakeholders worked
4 to develop the North Beacon Hill Neighborhood Plan in 1999. That collaboration was part of a
5 citywide effort to preserve the qualities of Seattle's distinct neighborhoods while allowing them to
6 grow.

7 During his testimony, Roger Pence described the relationship of the Comprehensive Plan and
8 the early neighborhood planning on North Beacon Hill in the 1990's:

9 *"The city comp plan was adopted in July of 1994 and included the urban village concept*
10 *where we would the city would encourage increased density in and around identified*
11 *neighborhood centers around the city and north of the North Beacon Hill commercial district*
12 *there the Beacon and Lander was one of those urban villages and that fit very well. That*
13 *concept fit very well with what we and the neighborhoods were we're talking about the Beacon*
14 *Hill neighborhood in particular because we wanted more development in our little business*
15 *district, so we could reach a more sustainable level having more development around there*
16 *more residential units within walking distance of those shops providing built in customer base*
17 *for those businesses that was really the ideal that we were working towards. But in our*
18 *neighborhood planning on Beacon Hill both back in the early 1990s when we were doing it*
19 *ourselves and then back to that same attitude continued we were going in under the city*
20 *sponsored program."*

21 Mr. Pence also described the meetings that occurred during the neighborhood planning
22 process:
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1 *“Over a period of years, there were probably hundreds of meetings. They varied in size from*
2 *people meeting in a conference room on a particular issue to the larger community sessions*
3 *where scores of people would be involved and in the concluding sessions on some of these*
4 *neighborhood planning efforts we could have two or three hundred people come in to read or*
5 *hear about the final product and provide their feedback.”*

6 Since 1999, there were significant changes in the North Beacon Hill neighborhood, including
7 the addition of light rail service, a new library, and improvements to Jefferson Park. In addition, the
8 City of Seattle committed to engaging historically underrepresented communities in neighborhood
9 planning. Based on this background, the Mayor and City Council mandated a review and update of the
10 North Beacon Hill neighborhood plan. As a result, the City of Seattle and Beacon Hill’s diverse
11 community collaborated to create goals, policies, and strategies to guide the future of the
12 neighborhood. The neighborhood plan update process from 2008-2011 included extensive outreach
13 and community engagement to reach a broad cross-section of neighborhood stakeholders. From that
14 process, a shared vision emerged to update the neighborhood plan and develop design concepts and
15 zoning changes for the neighborhood core.

16 The North Beacon Hill Town Center Urban Design Framework was developed to create a
17 vibrant town center around the light rail station. In April 2012, **Ordinance 123852** (Hearing
18 Examiner Exhibit 151) was approved by the Seattle City Council for North Beacon Hill zoning and
19 land use amendments. The Official Land Use Map, Chapter 23.32 of the Seattle Municipal Code,
20 was amended on pages 131 and 132 to rezone certain land and to expand the boundaries of the North
21 Beacon Hill Station Area Overlay District.

1 The Seattle MHA Final EIS proposes the expansion of the North Beacon Hill Urban Village
2 (MHA FEIS Hearing Examiner Exhibit 2, H-55). The only criterion given is a ten-minute walking
3 distance from the light rail station algorithm. The MHA Final EIS states (p. 246):

4 *“Seattle 2035 considered expansions of certain urban villages with very good transit service. The*
5 *Plan includes new land use policies that support aligning urban village boundaries generally*
6 *with a 10-minute walk of light rail and other very good transit.” (GS 1.12)*

7 The City could have chosen to build on the extensive neighborhood planning done in North Beacon
8 Hill to accomplish the goal of providing affordable housing both within and beyond the urban village
9 boundaries. Instead the City chose to use an arbitrary criterion to expand the urban village ignoring
10 the geography, character and historic attributes of the North Beacon Hill neighborhood that were all
11 taken into account in neighborhood planning. OPCD specifically did not include the neighborhood
12 plan in the MHA outreach meeting, even though other various plans were included.

13 Mark Holland described his experience at one of the MHA outreach meetings in Southeast
14 Seattle in testimony:

15 Latoszek: *“So could you describe some of the meetings that you went to and what you saw*
16 *there?”*

17 Holland: *“There were a lot of people there from all various City departments. It was one that*
18 *I think might have been DPD, but there was one display that had a board and it had all the plans that*
19 *they were working from. And I noticed that there was no neighborhood plan on there. And when I*
20 *asked the city employee ‘where is the neighborhood plan in this series of plans?’ they just kind of*
21 *shrugged. They just didn’t really use the neighborhood plans in the MHA or HALA at all.”*

22 Latoszek: *“So there was no mention of the neighborhood plan. There was no mention of the*
23 *Town Center?”*

1 Holland: *“Except by me”*

2 Latoszek: *“But the official City board that was being displayed? What other types of displays*
3 *were there and what other plans were referred to?”*

4 Holland: *“Comp plan, greenways.”*

5 Latoszek: *“Approximately how many plans were listed?”*

6 Holland: *“Maybe 10 or 12”*

7 Latoszek: *“But the neighborhood plan was not?”*

8 Holland: *“It was not”*

9 Given the extensive history and depth of the previous planning and the fact that much of it was
10 update less than 10 years ago, the City cannot argue that it is inappropriate to incorporate a summary
11 of the North Beacon Hill neighborhood plan documents and land use amendments and include a
12 discussion of how the MHA proposal is consistent and inconsistent with them. If that were to be the
13 case, then any type of land use planning is effectively null and void the moment it is published based
14 on the arbitrary whim of the moment.

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16 **III. THE MHA FEIS FAILS TO ADEQUATELY ADDRESS THE IMPACTS TO THE**
17 **NORTH BEACON HILL COMMUNITY**

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19 Commentators to the EIS, pointed out that there are parcels and areas within the community
20 which could be re-zoned for more intensive development because there are properties that were
21 allowed to substantially deteriorate; there are vacant lots; and there are existing hidden residences
22 such as homes subdivided into apartments, mother-in-law apartments, and converted garages.
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1 Additionally, as was pointed out in the testimony of Frederica Merrell and Mira Latoszek, on
2 Beacon Hill there are unique affordable housing solutions within the racially and culturally diverse
3 community. Many minority families that make Beacon Hill their home, provide their own answer to
4 housing affordability by living as extended families in single family homes. Many of these families
5 make these living situations even more affordable by growing their own food in the space and light
6 afforded by single family lots. Testimony from Mira Latoszek:

7 *“Beacon Hill has a lot of immigrant families who tend to live in. A lot of them own homes and*
8 *they tend to live in extended family groups many of them garden, like their entire property is*
9 *devoted to food production for their families. My neighbors a few doors down that's exactly*
10 *what they do. They produce their own food. Much of the zoning changes could really affect*
11 *their ability to do that, not just because their own lot could change. Like okay they could sell*
12 *and move somewhere else, but if you have a large town home development built next to the*
13 *property of a house like that, it changes the potential for your ability to grow that food. So, you*
14 *know, they're basically. there's this sort of cultural displacement that could occur because*
15 *their way of life, their, you know the way the way that they want to live, is going to be affected*
16 *by the surrounding development that is likely to occur. I don't see anything in the EIS that talks*
17 *about Beacon Hill in the way that people live on Beacon Hill.”*

18 Larger single-family homes such as the one shown in the photo in Hearing Examiner Exhibit
19 193 may not appear or have the style of newer multifamily as envisioned by the MHA FEIS, but for
20 many multi-generational households on Beacon Hill, these homes function in the same way. The
21 types of multi-family buildings that the zoning changes proposed in the MHA FEIS for the current
22 single-family areas in the urban village expansion area on Beacon Hill promote a density of buildings,
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1 but they will not necessarily provide a greater density of people. However, there is no way to know,
2 because the existing conditions are not analyzed in enough detail.

3 The FEIS also does not analyze the way that single family homes on Beacon Hill are used for
4 small home-based businesses. Frederica Merrell provided testimony and a list of just some of the
5 home-based business on Beacon Hill that are run from single family homes. These are not businesses
6 that could be run from a townhome or apartment because they require space for equipment and
7 vehicles. The list is provided as Hearing Examiner Exhibit 199.

8 Furthermore, the proposed FEIS does not provide an adequate study of the impact on buildings
9 and areas potentially eligible for historic significance in the North Beacon Hill Urban Village. Despite
10 the requirement that the City has an on-going obligation to identify buildings and areas of historic
11 significance, the City concedes it has done none and has not done any for decades. (MHA Final-EIS,
12 section 3.5.1 (pp. 441- 442) and various responses to comments (*e. g.*, pp.1018-1019).

13 The City is required to identify buildings of historic significance in the EIS process; SEPA
14 (chapter RCW 43,21C; WAC-197-11-444(1)(vi); WAC-197-11-960B-13(a) ("over 45 years old listed
15 in or *eligible for listing* in national, state or local preservation registers" (emphasis added)). The City
16 has not complied with this requirement. Despite the list of mitigation measures that would be needed
17 to preserve significant historical areas and buildings, the MHA FEIS paragraph describing significant
18 unavoidable adverse impacts (page 3-256) for historic resources states that "no changes will occur to
19 existing policies and regulations regarding review of historic and cultural resources under any
20 alternative."

21 Without enacting policy/regulation changes, properties that fall below the current SEPA
22 review threshold would not be assessed for landmark eligibility per current regulations. The "gap"
23 between non-project level and project-level SEPA review will cause adverse impacts on, or loss of,

1 historical and cultural resources on smaller properties that fall below SEPA review thresholds. It will
2 adversely decrease the historic fabric of older areas in the North Beacon Hill Urban Village. Many of
3 these potentially landmarkable buildings still exist without much change (photos on pages 34 to 40 of
4 Hearing Examiner Exhibit 191).

5 Additionally, there are many buildings and homes that add to the historic character of the
6 neighborhood but may not rise to the level of landmark eligibility. Two such examples were provided
7 during the testimony of Frederica Merrell – a church at 1722 S. Forest St. and a home at 2817 14th
8 Ave S. (Hearing Examiner Exhibits 196 and 197). These two examples are properties that are in the
9 North Beacon Hill expansion area. Many more such buildings exist on Beacon Hill and are listed in
10 the City historic properties database (Hearing Examiner Exhibit 195).

11 The City MHA FEIS treats currently designated buildings or neighborhoods of historic
12 significance differently from future buildings or neighborhood areas potentially eligible for listing in
13 national, state or local preservation registers. Those historic buildings or areas currently designated are
14 grandfathered in and cannot be destroyed or rezoned whereas newly designated buildings or areas can.
15 There is no rationale given in the MHA Final EIS for this disparity in treatment, which is arbitrary and
16 capricious and violates SEPA requirements to identify and protect historical significant buildings in
17 the EIS process precisely because they are irreplaceable.

18 But even if there were a rationale, the City for years inadequately funded surveys to determine
19 the existence of significant historic buildings and areas throughout Seattle. As demonstrated by the
20 testimony of Spencer Howard, there are many potentially historically significant properties all over
21 Seattle including Beacon Hill (Hearing Examiner Exhibit 194). Many of these properties are not
22 identified in the City's own historic database.
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1 Beacon Hill has fewer landmarked buildings, but there are many that could be eligible, such as
2 the Garden House (Hearing Examiner Exhibit 198). This disparity is due to its history as a gateway
3 community for immigrant populations, which continues to this day. Barriers of language and
4 socioeconomic resources resulted in far fewer buildings and areas from being landmarked and
5 protected. Thus, the historic buildings and character of the neighborhood on Beacon Hill would be
6 disproportionately affected by the City’s policy of providing protection to only those that are already
7 designated and landmarked.

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9 **IV. SUMMARY**

10 Beacon Hill Council of Seattle fully supports affordable housing. We are already witnessing
11 the effects of displacement in our community. One of our own board members, Esther “Little Dove”
12 John, testified to multiple displacements from various neighborhoods as rents rose, most recently on
13 North Beacon Hill (Hearing Examiner Exhibit 152).

14 The City has identified Beacon Hill as a community that should include affordable housing,
15 but it has not adequately explained or examined the environmental impacts of the proposed North
16 Beacon Hill Urban Village expansion. In good faith, BHCS commented and brought up our unique
17 issues and provided the City and the Council with data on the demographics and socioeconomics of
18 Beacon Hill (Hearing Examiner Exhibit 127, 128, 129, 130). However, the Final EIS was not
19 amended nor mitigation provided for our specific issues.

20 For the reasons stated above and for the reasons addressed by other Appellants, and based on
21 the testimony, the Appellant requests that the Hearing Examiner remand the FEIS to the City with
22 instructions to prepare Supplemental EIS(s) as necessary to adequately address the environmental
23 impacts and mitigation for the alternatives, including an assessment of the impacts and potential

1 mitigations of the proposal that are associated with each area in the “project area”, including the North
2 Beacon Hill Urban Village.

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4 DATED: September 24th, 2018 at Seattle, WA.

5 BEACON HILL COUNCIL OF SEATTLE

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7 By _____
8 Mira Latoszek, Representative for BHCS

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CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that this Preliminary Witness and Exhibit list was served on all the parties' attorneys of record or on their authorized representatives of record at the email addresses listed below:

Friends of Ravenna Cowen jebendich@comcast.net; Coalition for Affordability newman@bnd-law.com; Fremont NC toby@louplop.net; Friends of North Rainier masteinhoff@gmail.com; PCD_MHAEIS MHAEIS@seattle.gov; Daniel B Mitchell Daniel.Mitchell@seattle.gov; Geoffrey Wentlandt Geoffrey.Wentlandt@seattle.gov; Jeff S Weber Jeff.Weber@seattle.gov; Alicia Reiss alicia.reise@seattle.gov; Tadas Kiselius tak@vnf.com; Cara Tomlinson cat@vnf.com; Amanda Kleiss ack@vnf.com; Dale Johnson dnj@vnf.com; Clara Park cpark@vnf.com; SUN booksgalore22@gmail.com; Wallingford CC lee@lraaen.com; West Seattle Junction rkoehler@cool-studio.net; West Seattle Junction Gen admin@wsjuno.org.

This document has been filed by E-file with the Seattle Hearing Examiner's Office, Ryan Vancil, Deputy Hearing Examiner.

Dated: September 24th, 2018 at Seattle, Washington.

By: _____
Mira Latoszek, Declarant