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BEFORE THE HEARING EXAMINER  
FOR THE CITY OF SEATTLE

In re: Appeal by  
  
WALLINGFORD COMMUNITY  
COUNCIL, ET AL.  
  
of the City of Seattle Citywide Implementation of  
Mandatory Housing Affordability (MHA) Final  
Environmental Impact Statement,

Hearing Examiner File:  
W-17-006 through  
W-17-014  
  
JUNCTION NEIGHBORHOOD  
ORGANIZATION’S RESPONSE BRIEF

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There are numerous, diverse Appellants to the Final Environmental Impact Statement (FEIS) for the Citywide Implementation of Mandatory Housing Affordability (“MHA EIS”). However, the arguments of Junction Neighborhood Organization (“JuNO”) are distinct and deserve to be considered independently.

**I. ERRONEOUS INTRODUCTORY STATEMENTS IN CITY BRIEF**

The City’s introduction to its Closing Brief (the “City Brief”) continues the overly broad generalizations that have plagued the MHA EIS from the beginning. As set forth in the following examples, the City repeatedly mischaracterizes and disregards JuNO’s arguments to evade its responsibility to create a SEPA-compliant document.

1           The City asserts, “[m]uch of the contested evidence and argument that Appellants  
2 advance goes to their fundamental disagreement with the proposal and is unrelated to the  
3 adequacy of the environmental review and therefore outside the Hearing Examiner’s jurisdiction.”  
4 City Brief at 1:6-9. However, JuNO’s evidence and arguments are directed solely to the  
5 inadequacy of the EIS and its failure to legally comply with SEPA, not to a disagreement with  
6 the MHA proposal itself. JuNO’s appeal is based on clear evidence that the environmental  
7 impacts to the West Seattle Junction Urban Village (“WSJ Urban Village”) were inadequately  
8 analyzed and/or ignored, creating a likelihood of irreparable harm to the WSJ Urban Village.

9           Decision makers relying on the MHA EIS would move forward with a proposed  
10 alternative (an “Action Alternative”) without information as to its fundamental inconsistency  
11 with the WSJ Urban Village Neighborhood Plan (“WSJ NP”). They would not have accurate  
12 baselines and impact analyses of Transportation, Historic/Cultural, Biological, Open Space,  
13 Aesthetics, or Public Services issues. Furthermore, JuNO will be unable to effectively engage in  
14 conversations with decision-makers with proposals to meet City objectives with alternatives that  
15 further reduce impact levels if the impacts themselves are not documented.

16           The City asserts, “[e]ven in those instances where Appellants have advanced another  
17 possible reasonable approach, they have not met their burden of proving that the City’s approach  
18 was unreasonable”. City Brief at 1:13-15. JuNO has offered an Action Alternative concept to  
19 achieve the MHA proposal’s goals and be of less impact to the environment in the WSJ Urban  
20 Village.<sup>1</sup> But JuNO does not ask the Examiner to direct the City to implement this specific  
21 concept. We cite this concept to refute the City’s claim that JuNO had not presented an example

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<sup>1</sup> An action that concentrates growth in the Triangle (as defined in *Miller Testimony*), and which refrains from zoning current single-family parcels beyond residential small lot (RSL), and which minimizes impacts to the WSJ Urban Village commercial core (as defined in Neighborhood Plan WSJ P-1), would minimize many of impacts that the MHA EIS neglected to document.

1 of any other reasonable alternative that *could* exist. As JuNO has proven, the MHA EIS has  
2 failed to properly document and analyze the environment of the WSJ Urban Village. Had the  
3 MHA EIS done so, an alternative concept like that in Footnote 3 would likely rise to the  
4 forefront, either through the recommendation by the lead agency or during future discussion of  
5 legislative action.

6 The City asserts, “[a]ppellants seek to distinguish this proposal from other nonproject  
7 actions, mischaracterizing the proposal as being akin to a project action on a grand scale because  
8 the proposal will change zoning “parcel-by-parcel.” City Brief at 6:16-19.

9 This assertion mischaracterizes JuNO’s position. JuNO’s arguments have consistently  
10 drawn comparisons to other programmatic EIS (*e.g.* the University District Urban Center EIS)  
11 and highlighted *programmatic-level* flaws that will lead to irreversible damage to the WSJ Urban  
12 Village. These include the cumulative impacts of projects that follow from the Action  
13 Alternatives, especially those impacts that arise from SEPA-exempt projects or which are  
14 unlikely to be managed at the project level. Were this not a possible outcome of a programmatic  
15 action, no EIS would be necessary in the first place.

16 The City asserts that “[a]nother related and similarly specious theme of Appellants’ case  
17 is their belief that the City should have prepared a separate EIS for each urban village.” City  
18 Brief at 7:8-9. Regardless of any “belief,” the City was obligated to prepare an EIS at an  
19 adequate level of depth for the areas that it studied. Each urban village bears more unique  
20 characteristics that are sensitive to impact than the MHA EIS has superficially acknowledged.  
21 An EIS for each urban village would be a fine approach to correct this issue. It would be in line  
22 with past efforts for neighborhood planning as described in the City’s urban village strategy. It  
23 is not the only approach that could remedy the MHA EIS deficiencies. For example, groups of

1 urban villages with similar geographies (*e.g.* all five West Seattle urban villages) or similar  
2 characteristics (i.e., hub urban villages or urban villages with neighborhood plans that share  
3 similar themes) could be studied with a handful of EISs. The City further asserts:

4 Appellant witnesses argued that the FEIS for the citywide rezone proposal should  
5 mirror the approach undertaken in environmental review of neighborhoods where MHA  
6 has been implemented – primarily in the EIS for the Uptown and University District  
7 neighborhoods and suggest that the City failed to provide the same level of detail in the  
8 FEIS that is the subject of this appeal. City Brief at 49:5-9.

9 JuNO cites these documents, and the University District EIS in particular, to rebut the  
10 City’s frequent claims that: (1) a certain depth of study, such as a street-level LOS analysis or  
11 aesthetic profile, is not typical for a programmatic EIS, and that (2) an EIS that is focused on an  
12 individual neighborhood is impossible or infeasible. These EISs are focused on a programmatic  
13 action that is nearly identical to the MHA EIS. They make excellent points of reference as to  
14 what is feasible, typical, appropriate and practical given the potential for impact of dramatic  
15 zoning changes in a concentrated geographic area like the WSJ Urban Village.

16 **II. CITY’S CONSIDERATION OF ALTERNATIVES WAS NOT REASONABLE**

17 **A. No Formally Proposed Proposal Preceded the MHA EIS.**

18 The City Brief identifies discrete activities and events that it asserts, when cobbled  
19 together retroactively, constitute a “formally proposed proposal” and free it from considering  
20 reasonable alternatives beyond upzoning every single-family parcel in every urban village. City  
21 Brief at 8:5 – 10:12.

22 The formally proposed proposal is a fiction. Undoubtedly, Mayor Murray decided to  
23 orchestrate a rezone of all single-family areas in all urban villages in 2015 and foreclosed  
24 consideration of any other alternatives in connection with executing the Grand Bargain. Ex. 279;  
25 *Brand Testimony, Day 17, Part 2 at 24:44-26:36.* That approach does not equate to a formal

1 proposal. To the contrary, the lack of a formal proposal is evidenced by the incomplete and  
2 misleading HALA/MHA materials provided by the City to impacted neighborhoods such as the  
3 WSJ Urban Village in 2015 and 2016, materials that failed to disclose the City planned to rezone  
4 all single-family areas in its urban village.<sup>2</sup>

5 Lacking a true formal proposal, the City is reduced to speaking in generalities of “key  
6 elements” raised or considered by a collection of separate individuals and/or groups on totally  
7 separate occasions sporadically over the course of 13 months, none of which, separately or  
8 combined, constitute any kind of formal proposal. City Brief at 9:3-7. The recommendations  
9 made to Mayor Murray by his HALA Advisory Committee did not constitute a formal proposal  
10 of the MHA EIS Action Alternatives by the City. The private Grand Bargain agreement did not  
11 constitute a formal proposal, nor did the superficial “Roadmap,” with its single sentence  
12 regarding rezoning single-family areas in urban villages. Exs. 279 and 266. Enactments by the  
13 City Council do not constitute formal “proposals” – they constitute legislative activity. Exs. 267,  
14 268 and 269. Moreover, the cited City Council resolutions and ordinance explicitly excluded  
15 consideration of the specific zoning changes and/or determination of specific areas to which such  
16 changes would be definitively applied, and did not endorse any particular course of action. *Id.*  
17 The *only* formal proposal providing for the rezone of all single-family areas in urban villages is  
18 the MHA legislation itself, which the City transmitted to City Council in February 2018, long  
19 after it issued the MHA EIS.<sup>3</sup>

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2 Brand Testimony, Day 17, Part 2 at 28:36-37:25; Ex. 287; Comment to Appendix B EIS Summary of Community Input West Seattle Junction Urban Village (Analysis of Junction Urban Village Feedback to Proposed MHA Upzones at pages 5-12, detailing misleading materials and information provided by City).

<sup>3</sup> See February 2018 OPCD Director’s Report to City Council at [www.seattle.gov/Documents/Departments/HALA/Policy/Directors\\_Report\\_MHA\\_Citywide.pdf](http://www.seattle.gov/Documents/Departments/HALA/Policy/Directors_Report_MHA_Citywide.pdf)

1           The cases cited by the City illustrate the nature of an actual formal proposal. *In the*  
2 *Matter of the Appeal of Citizens for Livability in Ballard*, W-16-003, September 7, 2016, the  
3 hearing examiner found that the five alternatives studied in the EIS for the Seattle 2035  
4 Comprehensive Plan were formally proposed in the Mayor’s May 2016 Recommended Plan,  
5 *Seattle 2035 Comprehensive Plan – Managing Growth to Become an Equitable City* and thus,  
6 the EIS did not need to consider additional alternatives. The formal proposal was itself **the 535**  
7 **page draft Comprehensive Plan.**<sup>4</sup> *Id.* at Finding of Fact 1 and Conclusion of Law 6. *Citizens*  
8 *Alliance to Protect Our Wetlands v. City of Auburn*, 126 Wn.2d 356 (1995), involved a  
9 developer’s proposal to amend the City’s zoning code.

10           In contrast to these true formal proposals, the activities the City tries to retroactively  
11 cobble together do not constitute a clearly defined or formal proposal that would relieve it of  
12 considering reasonable alternatives that do not involve upzoning all single-family areas in all  
13 urban villages in contravention of multiple policies in the Seattle 2035 Comprehensive Plan.

14           Notably, various neighborhoods **did** make formal proposals in their proposed  
15 Comprehensive Plan Amendments to ensure consistency with the MHA proposal, and the  
16 proposals are docketed for consideration along with the ultimate MHA legislation. Ex. 244.  
17 Nonetheless, the MHA EIS failed to even reference those formal proposals.

18           **B. Failure to Incorporate Neighborhood Planning Policy and Context Was Not**  
19 **Reasonable.**

20           Crucially, none of the documents identified by the City as part of its “formally proposed  
21 proposal” direct the City to void the Comprehensive Plan and its Neighborhood Planning  
22 component. The lead agency improperly chose to disregard the Neighborhood Plans in both its

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<sup>4</sup><http://www.seattle.gov/Documents/Departments/OPCD/OngoingInitiatives/SeattlesComprehensivePlan/SeattleMaysRecommendedPlan.pdf>.

1 analysis and in its development of Action Alternatives. As established by JuNO’s evidence, this  
2 approach is both a deviation from the City’s planning context and policy and a reversal of the  
3 direction of the prior phase EIS.

4 The City asserts, “SEPA does not require that the FEIS consider every conceivable  
5 alternative. The alternatives evaluated in the FEIS give decision-makers the information needed  
6 to make choices about other combinations of zoning changes.” City Brief at 14:16-18. However,  
7 as the City notes, SEPA rules require that “[r]easonable alternatives shall include actions that  
8 could feasibly attain or approximate a proposal’s objectives, but at a lower environmental cost or  
9 decreased level of environmental degradation.” SMC 25.05.440.D.2, WAC 197-11-440(5)(b).

10 Without an accurate baseline, which includes the Neighborhood Plan as a relevant  
11 existing plan (WAC 197-11-440(6)d(i) and 197-11-444(2)b(i)), the impact to the WSJ Urban  
12 Village environment is not disclosed. Every Action Alternative affects the WSJ NP similarly  
13 and in key ways – specifically by breaching established policies regarding single-family areas,  
14 small-town character, and commercial core. It is impossible to judge whether the alternatives  
15 actually differ in their respective impacts to the WSJ NP policies, or whether other alternatives  
16 could have been equally effective at a lower impact. Decision-makers do not have the  
17 information needed to make choices about zoning changes in light of established policy to  
18 implement neighborhood plans.

19 **C. Considering Three Fundamentally Identical Alternatives is Not Reasonable.**

20 *Theodore Roosevelt Conservation P’ship v. Salazar*, 661 F.3d 66 (D.C. Cir. 2011) makes  
21 clear that deference will only be granted to the lead agency where its selection of alternatives is  
22 “reasonable *in light of* [its defined] objectives.” *Id.* at 73 (emphasis added). As the MHA

1 objectives <sup>5</sup> do *not* require specific zoning changes, proposing three variations containing the  
2 identical primary means for achieving the objectives – upzoning every single-family zoned  
3 parcel in every urban village in contravention of the Comprehensive Plan – is not reasonable.<sup>6</sup>

4         In *League of Wilderness Defenders-Blue Mts. Biodiversity Project v. U.S. Forest Serv.*,  
5 689 F.3d 1060 (9<sup>th</sup> Cir. 2012) the Court of Appeals noted that presenting fundamentally similar  
6 EIS alternatives is generally not adequate (“two action alternatives that differed only in proposed  
7 acreage would likely be inadequate”). *Id.* at 1071 (emphasis added). The Court of Appeals only  
8 approved a narrow range of alternatives due to the special circumstances that “‘necessarily  
9 narrowed the consideration of alternatives.’” *Id.* citing *Muckelshoot Indian Tribe v. U.S. Forest*  
10 *Serv.*, 177 F.3d 800, 812-813 (9<sup>th</sup> Cir. 1999). See also *Concerned Taxpayers Opposed to*  
11 *Modified Mid-S Sequim Bypass v. State Dept. of Transp.*, 90 Wn. App 225, 230, 951 P.2d 812  
12 (1998) (the court understandably did not require the EIS to include a two-lane highway as an  
13 alternative in its EIS when the objective of the proposed project was a four-lane highway). *Id.*

14         In contrast, the four broad objectives set forth in the MHA EIS do not justify, and the  
15 case law cited by the City does not support, limiting the consideration of alternatives to three that  
16 upzone every single-family zoned parcel in every urban village in contravention of the  
17 Comprehensive Plan.

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<sup>5</sup> The MHA EIS states the objectives as follows: (1) Address the pressing need for housing affordable and available to a broad range of households; (2) Increase overall production of housing to help meet current and projected high demand; (3) Leverage development to create at least 6,200 net new rent- and income-restricted housing units serving households at 60 percent of the area median income (AMI) in the study area over a 20-year period; and (4) Distribute the benefits and burdens of growth equitably.

<sup>6</sup> In attempt to legitimize the MHA EIS’ evaluation of essentially a single alternative with minor variations, the City mischaracterizes *King Cty. v. Cent. Puget Sound Growth Mgmt. Hr’gs Bd.*, 138 Wn.2d 161, 185, 979 P.2d 374 (1999) as interpreting SMC 25.05.440.D.2 (the corollary to WAC\_197-11-440(b) to “require that alternatives present greater impacts in some impact areas, and fewer impacts in other impact areas.” City Brief at 14:11-13 n. 77. While the alternatives in that case did present greater impacts in some areas and fewer in other areas, the court did not hold that to be a requirement.



1       **III. THE ACTION ALTERNATIVES AND SECTION 3.1 (LAND USE) CONFLICT**  
2   **WITH THE COMPREHENSIVE PLAN**  
3

4               The City asserts “[a]ppellants incorrectly argue that SEPA requires a very specific policy-  
5 by-policy analysis to determine whether the proposal is consistent with the comprehensive plan.”  
6 City Brief at 30:13-14. JuNO does not argue that a policy-by-policy analysis is necessary but  
7 rather, as required by SEPA, that Comprehensive Plan provisions must be summarized and the  
8 City must disclose how the proposal is “consistent **or inconsistent with them.**” WAC 197-11-  
9 440(6)d(i), emphasis added. An illustrative selection of those policies that are most relevant is  
10 certainly called for, as outlined in JuNO’s Closing Brief.

11              The City’s contention that it adequately and accurately described the relationship  
12 between the MHA proposal and the Comprehensive Plan is unsupportable. The MHA EIS fails  
13 to disclose that the MHA proposal represents a marked departure from the Comprehensive Plan’s  
14 explicit policies regarding growth within urban villages and its fundamental growth principles.

15              The Comprehensive Plan’s urban village strategy is based upon a continuation of the  
16 holistic urban village strategy commenced in the 1990s. Yet the MHA proposal selectively  
17 focuses on a lone aspect of the urban village strategy, namely, focusing growth in urban villages.  
18 At the same time, the MHA proposal is directly contrary to the Comprehensive Plan policies that  
19 specifically provide what that growth should look like. Ex. 3 at Land Use Policies 7.2, 7.3 and  
20 7.5. The MHA proposal further attempts an end-run around the neighborhood planning process  
21 that has always been a central component of the urban village strategy and remains the single  
22 largest section of the Comprehensive Plan. Ex. 3 at 12; Ex. 3 at Neighborhood Planning Section.

23              The Land Use Section of Comprehensive Plan states that growth within urban village  
24 single-family areas should be accomplished through *maintaining* the single-family character  
25 while allowing additional housing types of the same *low height and bulk* in the form of detached

1 accessory units, *cottage* developments and/or *small* duplexes or triplexes. Ex. 3 at Land Use  
2 Policies 7.2, 7.3 and 7.5. The MHA EIS’s proposed rezone of single-family areas to 30, 40 and  
3 50-foot, apartments (“LR1”, “LR2” and “LR3) is directly contrary to these policies. City witness  
4 Geoff Wentlandt of the OPCD only addressed MHA’s proposed Residential Small Lot (“RSL”)   
5 zoning and its alleged consistency with the Comprehensive Plan. *Wentlandt Testimony, Day 14,*  
6 *Part 3 at 0:03:00 – 0:04:40.* RSL zoning is the only proposed rezone category that could  
7 conceivably fit within the Comprehensive Plan Land Use policies. However, RSL comprises  
8 only approximately 10% of the single-family rezones for the WSJ Urban Village under any  
9 Action Alternative. The remaining 90% are proposed for LR1 and LR2.

10           Moreover, the MHA proposal is directly contrary to central goals and policies of the WSJ  
11 Urban Village Neighborhood Plan (Ex. 3 at 402-404, WSJ-G1 and WSJ-P13) providing for  
12 retaining single-family zoning and negatively undercuts numerous others (*see, e.g.,* Ex. 3 at 402-  
13 4-4, WSJ-G6, WSJ-P15, WSJ-P12, WSJ-P20).

14           The City erroneously asserts that “[o]nly 7 of the **listed** policies would require  
15 amendment to implement MHA (the same seven<sup>7</sup> neighborhood policies that the City proposes to  
16 amend).” City Brief at 30:18-19 (emphasis added). Policies the City claims to be listed are *not*,  
17 in fact, listed in the MHA EIS. They may appear in some separate document not cited within the  
18 MHA EIS. This omission highlights a critical flaw in the MHA EIS: its general and inaccurate  
19 references cannot be considered an adequate analysis of Neighborhood Plans, and belies the fact  
20 that, contrary to policy, the Neighborhood Plans were not even considered in the formulation of  
21 Action Alternatives.

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<sup>7</sup> In fact the City proposes to amend the policies of nine neighborhood plans (not seven). These are Aurora-Licton Springs, Fremont, Morgan Junction, North Rainier, Northgate, Roosevelt, Wallingford, West Seattle Junction and Westwood-Highland Park.

1           The City’s suggestion that WAC 197-11-440(6)(d)i) and SMC 25.05.440.E.4 do not  
2 require the City to inform decision makers that its proposal is in direct contravention to the  
3 Comprehensive Plan policies and, indeed, the very foundation of the urban village strategy is  
4 nonsensical.

5           **IV.    MHA EIS SECTION 3.4 (TRANSPORTATION) IS DEFICIENT**

6           In its defense of its Corridor 7 (West Seattle Bridge) transportation baseline, the City  
7 hides behind credentials and loose, irrelevant generalities in the face of direct commuter  
8 experience and hard data produced by repeating the City’s exact methodology. To recap, the  
9 MHA EIS offers a PM Peak transit time of 8.5 minutes, for a LOS of D. The City is  
10 misrepresenting the baseline and misleading decision makers by presenting such a faulty analysis  
11 of this Corridor. A witness with direct commuter experience presented SDOT advisory data and  
12 repeated the City’s analysis in the AM, presenting a transit time of 20 minutes and a LOS of F.

13           The City asserts, “[a]ppellants presented testimony about transportation impacts from fact  
14 witnesses only and failed to support their claims. The City’s expert addressed all of Appellants’  
15 criticisms and demonstrated that the analysis is adequate. City Brief at 50:12-14. The City  
16 disparages JuNO as supported only by fact witnesses. The City’s *appeal to authority* is an  
17 argumentative fallacy betrays the weakness of its position. The City errs in relying on expert  
18 credentials in place of presenting contrary data and facts. JuNO data and facts were not refuted  
19 and reveal significant deficiencies in the transportation analysis.

20           On whether a PM Peak analysis should be considered adequate, even in the face of direct  
21 evidence presented that the AM Peak is substantially worse, the City stated: “Ms. Davis testified  
22 that transportation analyses typically use PM peak hour data, because traffic is generally worse  
23 during PM peak, resulting in a more conservative analysis. DPD Director’s Rule 5-2009 uses

1 only PM peak hour data to calculate capacity and level of service (LOS) standards.” City Brief  
2 at 50:19 – 51:2.

3 This statement is not an accurate summary of Ms. Davis’ testimony. Ms. Davis testified  
4 that, in her experience, “ [p].m. peak hour volumes are generally higher than the a.m. peak hour  
5 volumes”. *City Witness Transcript vol. 16, 131:22 – 133:3*. She does not state “traffic is  
6 generally worse.” This distinction is critical, because the MHA EIS characterizes each Corridor  
7 as an LOS that is based on a transit time metric, captured via a Google query, *not* a volume  
8 metric. The witness did not address the connection between volume and transit time on this  
9 corridor. Further, the witness is relying on high-level generalizations and policy rather than on  
10 the specific data about Corridor 7 that JuNO offered. The words “typically” and “generally”  
11 belie the inadequacy of the analysis in the face of the facts presented. The City also stated:

12 Ms. Davis also reviewed AM and PM peak hour data for the West Seattle Bridge,  
13 where Mr. Koehler anecdotally claimed had worse traffic during the morning. Ms.  
14 Davis testified that existing data indicated worse conditions during the PM peak.  
15 Further, even assuming certain areas have worse traffic conditions during the AM peak,  
16 these anomalies would not warrant or require analysis of AM peak data. City Brief at  
17 51, Footnote 280.

18 The City again misrepresents the testimony. Ms. Davis actual testimony was:

19 So we looked back at some data that we had on hand, and we found three days where  
20 we had both a.m. and p.m. peak hour **counts**. And in two of the three, the p.m. peak  
21 hour was higher than the a.m. peak hour. And in the third one, the a.m. peak hour was  
22 slightly higher than the p.m. peak hour. *City Witness Transcript vol. 16, 133:4-13*  
23 *(emphasis added)*.  
24

25 This argument is defective. First, the City’s witness did not provide the actual data she  
26 references and it was not entered as an Exhibit. We are left to wonder what days were used,  
27 what the counts were, and what bias may have been present within the data set she cites. These  
28 three days could have been weekends, for example; we can only speculate. The JuNO witness  
29 provided specific, detailed data and evidence for the Examiner’s review, which precisely

1 repeated the transit time methodology of the MHA EIS. The City’s vague reference to “some  
2 data we had on hand” cannot be given equal weight to JuNO’s hard data and witness testimony.

3 Second, the City’s witness continues to rely on volume counts without directly  
4 connecting them to Corridor transit time (and LOS) or the methodology used to analyze it in the  
5 MHA EIS. Corridor 7 traffic suffers from asymmetric flow constraints due to ingress into the  
6 downtown area on SR-99 and I-5 eastbound (AM rush hour). These constraints were described  
7 by JuNO’s witness and depicted in the JuNO witness exhibits. *Koehler Testimony, Day 8, Part 1*  
8 *at 1:21:00 – 1:23:05 and Ex.173, 174.* The flow constraints are not experienced during  
9 westbound flow. This asymmetry could cause flow rate issues on Corridor 7 that are not  
10 correlated to volume, and which could even *negatively* correlate to volume. A corridor saturated  
11 with slow-moving traffic by definition will carry lower volume than fast-moving traffic over the  
12 same corridor. The City has not shown the relationship between volume and the transit times  
13 used in the MHA EIS. Significant questions remain open as to their accuracy and reliability.  
14 JuNO’s evidence must be given greater weight, as it has followed the MHA EIS methodology to  
15 compute transit time.

16 On the subject of interior street analysis the City states, “Ms. Davis testified that none of  
17 the nonproject analyses she has done for the City included intersection-level analysis.” City  
18 Brief at 50:15-18.

19 At no time did Ms. Davis make that statement. In fact, her testimony is a general  
20 characterization of the differences between a project-level versus programmatic EIS. While she  
21 may have stated that an internal study of streets or intersections was not typical, she admitted on  
22 cross-examination that she performed a detailed street-level analysis for the University District  
23 EIS, which was also programmatic. *Davis Testimony, Day 16, Part 2 at 0:12:00 – 0:15:00.*

1           The City has not refuted JuNO’s data and testimony regarding Corridor 7 flow rate in the  
2 AM. Per the City’s definition of LOS impact from the U District EIS, any impact on an LOS  
3 corridor constitutes a significant impact. Ex.162 at 3-21. The Examiner should find that the  
4 MHA EIS inadequately analyzed Corridor 7, leading to a mischaracterization of its baseline  
5 condition and a missed significant impact.

6           The City has not refuted JuNO’s assertion of the inadequacy of study of internal streets  
7 and arterials, which are appropriate at the programmatic level, and that significant impacts could  
8 be discovered. The Examiner should find that the MHA EIS is inadequate in failing to analyze  
9 interior streets and critical intersections, especially on the high-volume arterials and in the streets  
10 that are alternative routes to Corridor 7.

11           The City has not refuted JuNO’s assertion that parking data was not provided for the WSJ  
12 Urban Village, despite witness testimony of potential parking issues due to car-to-bus commuter  
13 activity. The Examiner should find the MHA EIS deficient in this regard.

14           **V. MHA EIS SECTION 3.5 (HISTORIC RESOURCES) IS DEFICIENT**

15           With regards to the baseline of historic resources, the City professes concerns about the  
16 implications of using historical survey data, because some neighborhoods have no survey. “The  
17 FEIS describes potential impacts to historic resources in a manner that is not skewed by  
18 overreliance on data resulting from the unequal cataloging of historic resources city wide.” City  
19 Brief at 41:4-6.

20           This statement does not address JuNO’s concerns. The City’s own registered landmarks  
21 in the WSJ Urban Village, including the historic Hamm and Campbell buildings, were excluded  
22 from its analysis. This omission is another example of a poor and cursory analytic approach.

1           The City does not dispute that it failed to identify the West Seattle Junction commercial  
2 core, centrally located on and near California Ave, and described in the WSJ NP, as an area of  
3 concentrated historic and cultural assets. Even a cursory analysis of cultural activities,  
4 landmarks or small/historic businesses would have identified this concentration. This analytical  
5 failure is not a site-specific issue. The commercial core is a broad area that is appropriate for  
6 programmatic consideration: without a proper baseline of historic and cultural assets, decision-  
7 makers will be blind to the impact of zoning alternatives that affect the area.

8           The City has not refuted JuNO’s argument that the MHA EIS failed to use reasonable  
9 methods of analysis that would have revealed the concentration of historic and cultural assets in  
10 the commercial core, located on and near California Avenue. The Examiner should find the  
11 MHA EIS inadequate in this regard.

12           Regarding its methodology, the City asserts it “[r]easonably relied upon estimated growth  
13 rates as indicators of potential impacts to historic resources when comparing alternatives.  
14 Applying their experience and professional judgment, the City’s consultants determined that  
15 growth rates of 50 percent or greater could result in significant impacts to Historic Resources.”  
16 City Brief at 42:20 – 43:2.

17           The methodology the City attributes to its experts is *not* the one used in the MHA EIS.  
18 This omission precisely illustrates JuNO’s criticism of the City’s growth-rate analysis. The  
19 MHA EIS used a growth rate of *50 percent higher than the baseline growth rate of the no action*  
20 *alternative*. Ex.2 at 3.304. Had the City used the methodology its experts recommended, the  
21 MHA EIS would have identified the WSJ Urban Village as among the highest risk; despite an  
22 actual growth of 83%, it was not included among urban villages with risk of historic impact.  
23 Ex.2 at 3.310. The City has not refuted that the MHA EIS used a deficient growth rate analysis;

1 instead, it has supported JuNO’s position. The Examiner should find it at fault and require a  
2 correction.

3 **VI. MHA EIS SECTION 3.6 (BIOLOGICAL DIVERSITY) IS DEFICIENT**

4 Section 3.6 is superficial and deficient in its analysis of the WSJ Urban Village  
5 environment. Unlike sections on traffic, historic and cultural assets, land use, parks and open  
6 space and public services and utilities, it provides no baseline data. This lack of information puts  
7 the City in an awkward argumentative position: instead of applauding itself for its analysis, as it  
8 does the aforementioned sections, it tries to waive away responsibility.

9 Appellants’ claim that the FEIS should have included an individualized tree canopy  
10 assessment for every urban village also has no merit. The data SAL provided to the  
11 City was on a citywide level only. Analyzing impacts for each urban village would  
12 have required additional research, including performing calculations for each urban  
13 village. City Brief at 53.

14 The City’s description of the canopy data is misleading as it implies a non-existent  
15 analytical challenge. The data is simply one of many layers of information the City can overlay  
16 on a parcel, street, neighborhood or urban village to take a snapshot of the existing environment.  
17 As Mr. Guess testified, the canopy layer is available through the City’s Open Data Portal. *Guess*  
18 *Testimony on “Biological Diversity” at 5-7; Ex. 114.* Similar layers for streets, wetlands, and  
19 other environmental data are also available through the portal and at *citywide level*.<sup>8</sup> The nature  
20 of the SAL data poses no barrier to a canopy analysis of the WSJ Urban Village.

21 As to the “additional research” and “calculations” necessary, the City obfuscates what  
22 little work is really needed. JuNO created, from scratch, a precise measurement of the canopy in  
23 the WSJ Urban Village. The City possesses Geographic Information System (GIS) staff,  
24 mapping and computing resources, and has *already drawn* the boundaries for each Action

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<sup>8</sup> See Open Data Portal at <https://data.seattle.gov/>.



1 Alternative in the WSJ Urban Village; it simply needs a few mouse clicks to fill in the canopy  
2 for each alternative and calculate the coverage. Its protestations the contrary, the City's burden  
3 to measure WSJ Urban Village canopy is light, and certainly meets the cost-effectiveness  
4 component of the rule of reason.

5 The City also asserts, “[a]ppellants failed to demonstrate why that level of effort is  
6 required, especially in light of the uncontroverted testimony that tree canopy assessments at any  
7 level are not commonly included in nonproject EISs. Moreover, the City does not have any LOS  
8 standard that requires urban village-specific data.” City Brief at 53.

9 Again, the City ignores JuNO's testimony and its evidence. To recap, the City admits 72  
10 percent of Seattle's tree canopy lies in single-family areas. Ex. 2 at 3.316 to 3.317. It does not  
11 challenge JuNO's evidence that between 410 and 484 single-family parcels in the WSJ Urban  
12 Village are slated to be upzoned. Exs. 97 and 98. It does not challenge JuNO's evidence of  
13 16.26% canopy coverage in the WSJ Urban Village *prior to upzoning*, well below the City's  
14 target of 28%. *Guess Testimony on “Biological Diversity” at 8; Ex. 114*. The urgency in  
15 assessing canopy in the WSJ Urban Village is that an already-degraded canopy will become  
16 more so because of the hundreds of single-family parcels slated to be upzoned. That the City  
17 cannot connect those dots strains credulity.

18 The assertion that tree canopy assessments are uncommon in a non-project EIS has no  
19 merit. Past practice is no excuse for skirting SEPA's requirements to describe the existing  
20 environment, analyze significant impacts, discuss proper mitigation consistent with the “hard  
21 look” requirements established by the courts and as argued in JuNO's Closing Brief – especially  
22 as JuNO has demonstrated the canopy degradation in the WSJ Urban Village is significant.

1           The argument that no City LOS requires canopy measurements at the urban-village level  
2 is without merit. That the lead agency failed to establish an LOS to meet the requirements of  
3 WAC 197-11-440(6), WAC 197-11-030(2)(c), WAC 197-11-400 and WAC 197-11-  
4 440(6)(b)(iv) is its own error. The City further states:

5           This analysis also shows a less than one percent change across all action alternatives,  
6 while providing decision-makers with information about the amount of tree coverage in  
7 the aggregated urban villages. The members of Mr. Leech and Ms. Graham’s team  
8 determined, based on their professional judgment, that a change of less than one percent  
9 is not a significant impact. City Brief at 54.

10          The City confuses the size of a number with its significance. As the City admits, it has  
11 no standard for significant tree loss. If it did, the assertions of Mr. Leech and Ms. Graham’s  
12 team could be judged on their merits. If the Examiner were to accept the argument that a number  
13 less than one percent, in and of itself, is reason enough to decide a course of action, JuNO would  
14 assert that the \$13 million required to produce an EIS for every urban village is perfectly  
15 reasonable as it constitutes only two-tenths of one percent of the City’s \$5.6 billion budget.

16          As for informing decision-makers, the City is simply wrong. Seattle City Council  
17 members representing geographic Districts 1-5 cannot evaluate the impact of the MHA EIS on  
18 the canopy of their constituents because of the document’s superficial analysis.

19          **VII. MHA EIS SECTION 3.7 (OPEN SPACE & RECREATION) IS DEFICIENT**

20          Like a great stage illusionist, the MHA EIS relies heavily on misdirection in Section 3.7,  
21 hoping a reader will not notice what is missing – namely anything resembling a reasonable  
22 discussion regarding the mitigation of the significant, adverse impacts on parks and open space  
23 that the MHA EIS openly admits. The bulk of this misdirection comes in the touting the urban-  
24 village level analysis in the MHA EIS, analysis that shows the WSJ Urban Village, and the West  
25 Seattle Peninsula, are dramatically underserved in terms of parks and open space.

1           What this analysis cannot hide is a list of mitigation measures that are non-specific or  
2 simply not credible. As argued in JuNO’s Closing Brief, the measures contain no examples,  
3 estimates, guidelines or illustrations showing how any combination of them would create the 434  
4 new acres of parks and open space required to meet the Citywide LOS. The City’s expert  
5 admitted to performing open-space analysis in a programmatic document for the Sammamish  
6 Town. *Graham Testimony, Hearing Day 17, Part 3 at 01:39:15*. She admitted site visits were  
7 performed for the project to assess parks gaps. *Id. at 01:52:21 to 01:52:28*. The City should  
8 undertake such an analysis so decision makers, particularly those in geographic Districts 1-5, can  
9 evaluate the impact of the MHA EIS on the parks and open space of their constituents.

10                           **VIII. MHA EIS SECTION 3.3 (AESTHETICS) IS DEFICIENT**

11           The City’s conclusory statements as to sufficiency cannot obscure what is clear from a  
12 plain reading of MHA EIS Chapters 3.2 and 3.3: the MHA EIS fails to provide – and, in some  
13 cases attempts to disguise and/or bury – the significant and certain aesthetic and land use impacts  
14 to the four single-family areas within the WSJ Urban Village.

15           **A. The City Does Not Dispute the MHA EIS’ Deficiencies.**

- 16           The City does not dispute JuNO’s evidence that, among other things, the MHA EIS:
- 17           - The MHA EIS’ sole description of existing WSJ Urban Village land use is to state the  
18           percentage of the area currently zoned single-family. Ex. 2 at 3.106.
  - 19           - The MHA EIS fails to identify or describe the WSJ Urban Village’s four discrete, single-  
20           family zoned neighborhoods, each of which has distinct aesthetic characteristics. *Tobin-  
21           Presser Testimony, Hearing Day 11, Part 2 at 42:43- Part 3 at 5:46*.
  - 22           - The MHA EIS provides no specific development context for where the proposed upzones  
23           would occur within the WSJ Urban Village. Two of the four neighborhoods are adjacent  
24           to the Historic Junction, one is adjacent to the historically light-industrial Triangle area,

1 now experiencing significant multi-family residential and other development, and one is  
2 adjacent to Avalon Way, the likely site of a Sound Transit light rail station.<sup>9</sup>

- 3 - The MHA EIS’ depictions are not representative of the character of the WSJ Urban  
4 Village’s existing single-family homes or new single-family development. Ex. 2 at  
5 3.163; *Tobin-Presser Testimony, Part 2 at Part 3 at 1:42-3:33*; Exs 241-1, 241-2, 241-3,  
6 241-4, 241-8, 241-9, 241-10 and 242.
- 7 - The MHA EIS deceptively implies an equivalence of design, bulk and height in its  
8 depiction of multi-family development vis-a-vis new single-family infill development.  
9 Ex. 2 at Exs. 3.3-2, 3.3-3 and 3.3-4.
- 10 - The MHA EIS acknowledges no distinction between the architectural character of homes  
11 of varying ages that define the different WSJ Urban Village neighborhoods (i.e., turn of  
12 the (20<sup>th</sup>) century versus mid-century architecture. Ex. 242.
- 13 - THE MHA EIS Fails to identify or address the significantly hilly topography of the WSJ  
14 Urban Village and/or the shading and privacy impacts, among other things, that would be  
15 exacerbated by those conditions in the event of a 10-foot increase in height allowance.<sup>10</sup>
- 16 - THE MHA EIS fails to identify the prevalent views in the single-family areas in the WSJ  
17 Urban Village including Downtown Seattle, Puget Sound and Mount Rainier, or to advise  
18 of the almost certain impacts to those views when single-family structures are replaced  
19 with the significantly taller and wider structures permitted under the MHA proposal.  
20 *Tobin-Presser Testimony, Part 3 at 6:34-7:18 and 31:03-31:06.*

21 **B. “Zoning Suffixes” Enabled the Omission Of Important Analyses.**

22 The City’s assignment of (M), (M1) and (M2) tiers of “rezone suffixes” to identify  
23 different proposed rezone jumps allowed it to lump the impacts of distinctly different rezones  
24 into the same category and to omit a full discussion of them. For example, rezoning a single-  
25 family parcel to L21 (30-foot townhomes) versus LR2 2 (40-foot apartments) is significantly  
26 different, yet both fall under the City’s (M1) designation with no distinction between impacts.

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<sup>9</sup> The MHA EIS’ sole reference to the nursing home relates to potential mitigation of *transition impacts* under Alternative 3 and does not appear in the Aesthetics Chapter 3.3.

<sup>10</sup> *Tobin-Presser Testimony, Part 2 at 48:41-50:48; Part 3 at 30:52-31:12*; Exs. 241-5 and 241-7 (west and east sides of 41<sup>st</sup> Avenue SW between SW Edmunds Street and SW Hudson Street)

1           **C.     The City Brief Does Not and Cannot Identify Any Meaningful Analysis of**  
2           **WSJ Urban Village Within the MHA EIS.**

3           The City continually insists that the MHA EIS provides decision makers with analysis as  
4           to specific urban villages (*see, e.g.,* City Brief at 7:10-13, n. 37 and 25:1-12). The minimal  
5           references to the WSJ Urban Village in the Land Use and Aesthetic chapters fail to reflect any  
6           “analysis.”

7                     **1.     Land Use Chapter 3.2.** The MHA EIS fails to identify the four WSJ  
8           Urban Village single-family neighborhoods or to describe the land use and development patterns  
9           to which they are adjacent or the topography of the areas. It confines itself to (a) reciting the  
10          geographic location of the zoning proposed to replace the single-family areas (which can already  
11          be seen on the rezoning maps and does not constitute an analysis); and (b) assigning the resulting  
12          unidentified impacts a wholly subjective designation of “minor,” “moderate,” or “significant”  
13          without providing any context to evaluate what those terms mean for a given area. For example,  
14          rezoning a single-family area, with a current height limit of 30 feet, to LR 2, with an MHA  
15          height limit of 40 feet, is identified as “moderate,” notwithstanding that most would characterize  
16          a 33% height increase as “significant.” JuNO provided photographs reflecting the very  
17          significant nature of such a rezone. Exs. 241-12, 241-13 and 241-14.

18          The citations in the table below comprise the *only* references to the WSJ Urban Village in  
19          MHA EIS Chapter 3.2 (Land Use). The chapter itself includes a single paragraph each for  
20          Alternatives 2 and 3 and two brief paragraphs for the Preferred Alternative.

	<b>Page</b>	<b>Extent of Reference to WSJ Urban Village</b>
Affected Environment	.106	“Single-family residential use ranges from just 5 percent of land use in Bitter Lake and Lake City, to over one-quarter of land in North Rainier and West Seattle Junction.”
Impacts of <b>Alternative 2</b>	.119	“Areas of existing single family zoning at the edges of existing commercial and multifamily zones would be changed to lowrise multifamily, resulting in <b>moderate land use impact</b> . Much of the village would potentially experience <b>minor or moderate impacts</b> to scale with height increases of up to 15 feet. A 24-acre expansion area would see single family residential areas increase in density without a change in the residential

	Page	Extent of Reference to WSJ Urban Village
		use. One portion of the urban village expansion at the southeast of the village would be rezoned to Lowrise, however this area is almost completely bounded by an existing senior housing complex and lowrise and neighborhood commercial zoned lands, which mitigate potential transitions conflicts.”
Impacts of <b>Alternative 3</b>	.136	All areas of existing single family zoning within the urban village would be changed to varied Lowrise multifamily zones, creating potential for use, density and scale impacts, resulting in <b>moderate and some significant impacts</b> . These areas surround the commercial core extending to the urban village boundary, which would expand south and east to a greater degree than in Alternative 2. Several blocks of existing single family zoning would change to Lowrise multifamily, creating potential for scale, density and use impacts. The 47-acre expansion area in Alternative 3 would include both (M) and (M1) Tier changes and would result in height impacts of zero to 15 feet. A band of single family zoning on the east frontage of 32nd Ave. SW, and a several blocks between SW Edmunds St. and SW Hudson St., would change to Lowrise 3 zoning resulting in <b>significant land use impact</b> . Transitions to single family areas at all edges of the urban village would be reduced, as more Lowrise zoning would be located adjacent to single family zoned areas.
Impacts of <b>Preferred Alternative</b>	.148	Zoning changes under the Preferred Alternative would be similar to the pattern described for Alternative 3, though reduced in intensity. Unlike Alternative 3, not all existing single family zoning within the urban village would be changed to varied Lowrise MHA Final EIS Nov. 2017 3.149 multifamily zones; some areas in the north and northeast of the urban village, further from existing transit service, would be rezoned to RSL resulting in <b>minor land use impacts</b> that are less than Alternative 3. Some single family areas close to the neighborhood’s commercial core proposed to be rezoned to LR3 in Alternative 3 (SW Edmunds St. vicinity) would be rezoned to LR2. And other existing single family areas at the edges of existing commercial and mixed use zones proposed for LR2 in Alternative 3, would be rezoned to LR1 in the Preferred Alternative. Density, use and scale impacts would still result in <b>moderate or greater land use impacts</b> , but the degree would be less than Alternative 3.  The urban village expansion area would nearly match the boundary under Alternative 2, which is smaller than under Alternative 3. The Preferred Alternative would include a block west of California Ave SW and south of SW Dawson St in the expansion area as in Alternative 3. Overall, the expansion area would include both (M) and (M1) Tier changes and would result in allowed height increases of zero to 25 feet. Single family areas outside of the urban village would be most affected near the Neighborhood Commercial areas at the west edge of the village, which would allow heights of 55 feet and 75 feet.

1  
2           **2. Aesthetics.** The City emphasizes its creation of a separate chapter for  
3 Aesthetic impacts; however, a chapter wholly lacking in critical and basic information and  
4 analysis is the essence of form over substance. As previously noted, the MHA EIS provides no  
5 information as to the distinct architectural characteristics of any of the four WSJ Urban Village  
6 single-family neighborhoods. It fails to describe the development character of the adjacent to  
7 each neighborhood, such as the small-town Historic Junction area, the formerly industrial

1 Triangle area, etc. It fails to identify the prevalent views of downtown Seattle, Puget Sound and  
 2 Mt. Rainier. There is no discussion of topography to inform decision makers as to impacts of  
 3 increasing heights where, for example, houses on one side of the street are set above street level  
 4 and houses on the other side are set at or below, yet both sides are proposed to be rezoned LR2.

5 In fact, the following comprise the *only* references to the WSJ Urban Village in MHA  
 6 EIS Chapter 3.3, none of which constitute analyses. These references, alone or read in  
 7 conjunction with the paragraphs in Chapter 3.2, fail to provide meaningful and available  
 8 information or analysis from which a decision maker could and should evaluate the breadth and  
 9 magnitude of the MHA proposal’s aesthetic impacts to the WSJ Urban Village:

Page	Extent of Reference to WSJ Urban Village
3.161	WSJ UV identified with all urban villages on a City map showing allowed heights city-wide
3.167	WSJ UV included in a table of all urban villages regarding design review guidelines
3.183	WSJ UV included in list of 15 urban villages under two generic LR2 and LR3 drawings
3.187	WSJ UV included in a list of 8 urban villages under a generic drawing of NC and SF transition areas
3.192-193	Referenced in text: “Southeast and southwest Seattle urban villages would have sizeable areas of (M1) zoning, including Westwood-Highland Park, South Park, Rainier Beach, Othello, and Columbia City, and West Seattle Junction.”
3.194	WSJ UV labeled on a map reflecting location of citywide zoning changes under Alternative 2
3.195	WSJ UV identified with all urban villages on map of Alternative 2 citywide building height increases
3.197	Referenced in text: “In Alternative 3 (M2) zoning changes are concentrated in Fremont, Wallingford, Ballard, Roosevelt, Crown Hill, West Seattle Junction, Admiral, and Morgan Junction.”
3.198	Referenced in text: “Under Alternative 3, several of the largest areas of (M1) zoning changes are in urban villages north of the Ship Canal, including Crown Hill, Wallingford, Fremont, Ballard, Roosevelt, Green Lake, and in West Seattle Junction, Morgan Junction, and Admiral in West Seattle.”
3.200	WSJ UV labeled on City map location of citywide zoning changes under Alternative 3
3.201	WSJ UV identified with all urban villages on map of Alternative 3 citywide building height increases
3.203	Referenced in text: “Substantial (M1) rezoning [under the Preferred Alternative] would also occur in West Seattle Junction, Westwood-Highland Park, Columbia City, North Beacon Hill and First Hill-Capitol Hill.”
3.204	WSJ UV labeled on map reflecting location of citywide zoning changes under Alternative 3
3.205	WSJ UV identified with all urban villages on map reflect Preferred Alternative citywide building height increases.

10 **D. The City’s Purported Depictions of the Zoning Change Impacts Obscure the**  
 11 **Impacts of MHA to the WSJ Urban Village.**

12 The most the City can say about the MHA EIS’ generic drawings of RSL, LR1 and LR2  
 13 houses among single-family homes is that they are “accurate” and “complete.” City Brief at  
 14 24:3-5. While the drawings themselves may not be technically inaccurate or incomplete – after

1 all, they are simply sketched houses - they are clearly designed to disguise rather than disclose  
2 the impacts of RSL, LR1 or LR2 structures next to a single-family home. Ex. 2 at 3.179, 3.181  
3 and 3.183. The new development structures are in the background in order to appear smaller and  
4 the drawings are at an angle rather than showing a side-by-side height and/or bulk impacts. The  
5 sketches themselves are evidently derived from the aerial depictions of sterile, Lego-like cartoon  
6 buildings on flat streets in the Urban Design and Neighborhood Character Study, which  
7 themselves fail to meaningfully show the MHA proposal's impacts to a previously single-family  
8 zoned neighborhood. Ex. 2 at App. F. By comparison, JuNO easily located an actual photograph  
9 of a 40-foot apartment next to single-family home – within a previously rezoned area of the WSJ  
10 Urban Village - to show the direct and drastic impacts. *See* Exs. 241-12, 241-13 and 241-14.

11 **IX. MHA EIS SECTION 3.8 (PUBLIC SERVICES & UTILITIES) IS DEFICIENT**

12 With regards to emergency services, City's closing brief states:

13 Appellant's testimony fails to establish that the FEIS is unreasonable. Again,  
14 Appellants did not call any expert witness to challenge the adequacy of the analysis.  
15 Their fact witness argued the FEIS should have considered additional data regarding  
16 police, fire, and emergency medical services, even though that purportedly missing data  
17 may not have been readily available to the City". Instead, the FEIS presented available  
18 data using the same citywide LOS standards as the Comprehensive Plan EIS, which is  
19 reasonable. City Brief at 56-57.

20 This statement is the exact opposite of Ms. Rees' testimony. She established that all of  
21 the supporting data and reports (the Berkshire police staffing report, and the Fire Department  
22 response times) were available to the public on the City website. Ex. 202. If a fact witness can  
23 find this information easily on the City Web pages, EIS experts can and should have. The MHA  
24 EIS ignored existing conditions and provided no analysis.

25 With regard to sewer services, City's closing brief states:

26 Appellants similarly fail to establish that the FEIS's analysis of sewer and stormwater  
27 was inadequate. While Appellants expressed concerns over existing conditions



1 (including capacity issues, the combined sewer system, combined sewer outflows, and  
2 the age of the City’s Wastewater System Master Plan), the FEIS discloses these  
3 existing conditions and the potential impact of increased demand. City Brief at 57.

4 Again the MHA EIS obfuscates, or completely ignores, existing conditions by making  
5 passing mention about “some” sewer lines being less than 12 inches in diameter. Ex. 2 at 3.368.  
6 To the EIS reader, this superficial statement belittles the scale of the issue. In fact *90% of the*  
7 *citywide sewer lines are less than 12 inches in diameter.* Ex. 201.

8 **X. ADDITIONAL INADEQUACIES**

9 The City has not refuted JuNO’s claims of noncompliant response to our DEIS comments.  
10 The Examiner should find in JuNO’s favor and require correction by the City.

11 The City has not refuted JuNO’s claims of inadequacy of its housing baseline data, which  
12 neglected to account for housing pipeline data that JuNO presented as current as of March 2017.  
13 Its data is curiously identical for 2015 and 2016 despite the addition of hundreds of housing units.  
14 Further, the MHA EIS 20-year growth estimates defy logic in light of the housing pipeline data.  
15 The Examiner should find that the MHA EIS housing baseline requires rework based on  
16 incorporation of housing pipeline data.

17 DATED this \_\_10th\_\_ day of September 2018.

18  
19 JUNCTION NEIGHBORHOOD  
20 ORGANIZATION  
21

22 By \_\_\_\_\_/s/\_\_\_\_\_  
23 Richard Koehler, Legal Representative