

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

In the Matter of the Appeal of
ESCALA OWNERS ASSOCIATION
of a decision, and adequacy of the FEIS
and Addendum issued by the Director,
Department of Construction and Inspections

Hearing Examiner Files:
MUP-17-035 (DR, W)

Department Reference:
3019699

Introduction

The Director (“Director”) of the Department of Construction and Inspections (“Department”) issued a State Environmental Policy Act (“SEPA”) Determination of Significance (“DS”) and design review approval for construction of a forty eight-story structure (“Decision”). The DS was followed by the adoption of a Final Environmental Impact Statement (“FEIS”) and issuing an associated Addendum. The Appellant exercised its right to appeal the Decision and the FEIS.

The appeal hearing was held on March 5, 6, 7, and 8, 2018, before the Hearing Examiner. The Appellant, the Escala Owners Association (“Appellant”), was represented by Claudia M. Newman and David A. Bricklin, attorneys-at-law; the Applicant, Jodi-Patterson O’Hare (“Applicant”), was represented by John C. McCullough, and Ian S. Morrison, attorneys-at-law; and the Director was represented by Elizabeth E. Anderson, attorney-at-law. The Hearing Examiner subsequently visited the site. The parties submitted written closing arguments on March 20, 2018, and the record closed on that date.

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

Findings of Fact

Site and Vicinity

1. The subject site is addressed as 1933 5th Avenue, and is located on the southwest corner of the intersection of Virginia Street and 5th Avenue. The site is approximately 16,200 square feet in size and is currently utilized by commercial spaces.
2. The site is currently occupied by three commercial buildings that are two to three stories tall.
3. The site is zoned Downtown Office Core 2 with a maximum height dependent on the proposed use.

4. A six-level parking structure occupies the site immediately adjacent to the south, and a surface parking lot occupies the remainder of the half-block to the south ending at Stewart Street. The thirty story Escala Condominium residential tower (“Escala”) is located across an existing alley to the west. The twin towers of the Westin hotel occupy the block to the east across 5th Avenue, and a seven-story parking structure is located diagonally across the Virginia Street and 5th Avenue intersection to the northeast. A four-story commercial building, and nine story hotel occupy the property to the north across Virginia Street. The elevated Seattle Monorail runs along 5th Avenue, in the center of the street right-of-way.
5. Pedestrian access is from the adjacent street, Virginia Street and 5th Avenue. Vehicle access is from the adjacent streets, and the adjacent through-block improved alley.

Proposal

6. The proposal is for a forty eight-story structure containing 1,000 square feet of retail space and 13,500 square feet of restaurant space on the first two levels. In addition, the proposal includes 155 hotel rooms, and 431 apartments. Parking for 239 vehicles is proposed to be located below grade, along with a loading dock on the west side of the structure at ground level with access for the parking and loading dock to be via an alley that fronts the property on the west side. The alley is accessed from both Virginia Street to the northwest and Stewart Street to the southeast.

Design Review

7. The Downtown Design Review Board (“Board” or “DRB”) held an Early Design Guidance (“EDG”) meeting on the proposal on July 7, 2015, at which it heard the Applicant's analysis of the site and proposal as well as comments from the public. The written and oral public comments included concerns about the project’s height and mass compared to nearby existing structures, potential for the proposal to block light to the Escala tower, proximity of the proposal to the Escala tower, privacy of Escala residents, appropriateness of proposed design and materials in consideration of neighborhood character, and other issues.
8. The Board’s discussion at the July 7, 2015 EDG meeting focused on specific issues including the following items: (1) massing of the proposal relative to the Escala tower, and specifically asked the applicant to address tower shaping, setbacks and additional massing mitigation; (2) the Board agreed that the “jewel” element of the proposal constricted light and air to both the proposal and Escala, and requested different design considerations; (3) the Board agreed that the proposal created privacy concerns with its proximity to the Escala tower, and requested design adjustments including placement of living quarter windows; (4) the Board sought further analysis of the shaping of the proposal relative to the alley to address concerns regarding ambient lighting and air penetration for both the proposal and Escala; (5) composition of materials and façades needed additional revision; and (6) the Board requested various ground floor and streetscape design improvements.

9. The Board held a second EDG meeting on November 3, 2015. Additional public comments were received; these reiterated concerns expressed at the first EDG meeting and raised additional issues related to street access to the retail floor and sidewalk setbacks, blank walls at the alley corner and visibility of the loading dock areas, and other issues. The Board's deliberations at the November 3, 2015 EDG meeting included guidance for the Applicant concerning (1) the need to continue efforts to resolve façade and materials design issues; and (2) the need to improve privacy between the proposal and Escala. The Board also had a positive response to the Applicant's (1) elimination of above-grade parking; (2) efforts to improve light and air access for the alley, but also highlighted that more work was needed to address these issues; (3) adjustments to the design to meet street level and ground floor design needs (but again called for more effort to address concerns raised); and (4) efforts to respond to the Board's requests for changes to composition and materials.
10. The Board held a first Recommendation meeting on June 28, 2016. The Board took public comment, which expressed similar concerns to those raised in the EDG meetings including issues related to building scale, massing, access to light and air, privacy, and materials. The Board also received comments in support of the proposal. The Board provided at this meeting additional revisions to the façades on the west of the proposal to address design differentiation and proximity of Escala, revisions to the east façade on floors 3-11, along with additional feedback for the Applicant. The Board also expressed support for the changes made by the Applicant in response to public comment and Board recommendations, and specifically endorsed the proposed forms and massing with no further recommendations for any further shaping, setbacks, or reduction of floorplates.
11. The Board's Final Recommendation meeting took place on December 20, 2016. The Board again took public comment and reviewed the Applicant's design packet. The Board expressed satisfaction that the design had been responsive to their earlier recommendations. The Board voted unanimously to recommend approval of the project moving forward with some conditions that it identified.
12. The Board also recommended approval of two requested development standard departures including: an increased setback along 5th Avenue, and canopy extensions.

Director's Review and Decision

13. The Director reviewed the Board's recommendations and determined that they did not conflict with applicable regulatory requirements and law, were within the Board's authority, and were consistent with the design review guidelines. The Director therefore issued design review approval for the proposal with the Board's recommended conditions.
14. Following a public comment period, the Director reviewed the environmental impacts of the proposal and issued a determination of significance ("DS") pursuant to SEPA.
15. The site of the proposal is within the geographic area analyzed in the Final Environmental Impact Statement that was published for the Seattle Downtown Height and Density Changes in January 2005 ("FEIS"). The FEIS evaluated the probable significant

environmental impacts that could result from the development following a change in zoning to allow additional height and density in the Downtown area. The Director determined that the subject proposal would have potential significant impacts that were within the range of significant impacts that were evaluated in the FEIS. As a result, the Department adopted the FEIS. In addition, an Addendum to the Final Environmental Impact Statement for the Downtown and Density Changes EIS prepared for the 5th and Virginia Development Master Use Permit No. 3019699 ("Addendum") was prepared to review more project specific information. The Department's analysis determined that the project would produce no probable, significant, adverse environmental impacts that were not already reviewed in the FEIS. The Addendum addressed the following areas of environmental impact: Energy/Greenhouse Gas Emissions; Construction; Environmental Health; Historic and Cultural Resources; Land Use; Height, Bulk and Scale; Light and Glare; Parking; Plants and Animals; Views; Shadows; and Transportation.

16. Notice of the DS was originally issued on December 15, 2016. However, a new notice was issued on July 3, 2017. Exhibit 89. The July 3, 2017 notice indicates that the Director of the Department:

has determined that the referenced proposals could have probable significant adverse environmental impacts under the State Environmental Policy Act (SEPA) on the **land use; environmental health; energy/greenhouse gas emissions; aesthetics (height, bulk and scale; light, glare and shadows; views); wind; historic and cultural resources; transportation and parking; and construction** elements of the environment.

SDCI has identified and adopts the City of Seattle's Final Environmental Impact Statement (FEIS) dated January 2005 Downtown Height and Density Changes. Seattle DCI has determined that the proposal's impacts for the current Master Use Permit application have been adequately analyzed in the referenced FEIS. The FEIS was prepared by the city of Seattle. That document meets SDCI's SEPA responsibilities and needs for the current proposal and will accompany the proposal to the decision-maker.

The current Addendum has been prepared to add specific information on **land use; environmental health; energy/greenhouse gas emissions; aesthetics (height, bulk and scale; light, glare and shadows; views); wind; historic and cultural resources; transportation and parking; and construction** impacts from the current proposal and discusses changes in the analysis in the referenced FEIS. Pursuant to SMC 25.05.625-630, this current Addendum does not substantially change analysis of the significant impacts and alternatives in the FEIS.

17. Concerning height, bulk, and scale the Director's SEPA analysis states:

The height, bulk and scale of the proposed development have been addressed during the Design Review process for the project proposed on the site. Per the Overview policies in SMC 25.05.665.D, the existing City Codes, and regulations to mitigate impacts to height, bulk and scale are presumed to be sufficient. Further, the project size does not present unusual circumstances such as substantially different site size or shape, or topography anticipated by applicable codes or zoning; the development proposal does not present unusual features, or unforeseen design; and the project is not located at the edge of a less intensive zone, which could result in substantial problems of transition in scale. The project is located in an area of downtown Seattle that was intentionally zoned to allow and encourage greater density and additional high-rise residential and commercial towers. Additional mitigation is not warranted under SMC 25.05.675.G.

18. With regard to land use impacts the Director's analysis states:

The FEIS included a discussion of land use impacts that were anticipated as a result of height and density changes in the various EIS alternatives, but concluded that the change was consistent with the Comprehensive Plan and neighborhood plans and was not a significant unavoidable adverse impact. The FEIS described potential mitigation including rezones of some areas to promote residential uses, tools to encourage retention and expansion of human service agencies, and using incentives to encourage landmark preservation.

The Addendum noted that the proposed development is consistent with development expected at this site in the Belltown Neighborhood and the Downtown Urban Center. The Addendum did not identify mitigation for this item.

Pursuant to the SEPA Land Use Policy, SMC 25.05.675.J, no significant adverse land use impacts are anticipated from the proposal and no mitigation is necessary.

19. In reviewing potential light and glare impacts the Director's analysis states:

The FEIS did not specifically address light and glare-related impacts or mitigation.

The Addendum described project-specific impacts related to light and glare. The building material reflectivity and angled facades are anticipated to have minimal glare impacts. The Addendum identified potential mitigation, including compliance with Design Review Guidelines, not using excessively-reflective surfaces, street trees to disrupt glare, pedestrian scale lighting with cut-off fixtures, and the presence of nearby buildings that will shade the proposed structure and disrupt glare. Headlights from vehicles

entering and exiting the garage are also anticipated to have minimal impacts, and the Addendum did not identify mitigation for this item.

Pursuant to the SEPA Light and Glare Policy, SMC 25.05.675.K, no significant adverse impacts are anticipated from the proposal and no mitigation is necessary.

As part of the analysis for light and glare the City considered analyses that measured the loss of light associated with the proposal. Nothing in the record demonstrates that this analysis included data concerning health impacts associated with loss of light levels identified in the analyses, or that the reviewing staff had such a level of expertise that their opinion concerning such impacts could substitute for such an analysis.

20. The Director's analysis reviewed the FEIS and Addendum transportation analyses, and in relevant part stated the following:

The FEIS analysis considered the direct, indirect and cumulative impacts of the EIS alternatives as they relate to the overall transportation system and parking demand. The subject site is within the area analyzed in the FEIS and the proposed development is within the range of actions and impacts evaluated in the FEIS.

The transportation analysis conducted for the 5th & Virginia project, as described in the Addendum and the transportation impact analysis prepared by the TranspoGroup, estimated that the project would generate a total of 1,650 new daily vehicle trips. Of these, 104 would occur during the morning peak hour, and 138 would occur during the afternoon peak hour. The study evaluated traffic operations at nearby intersections and roadway segments and on the alley adjacent to the site to determine the likely level of impact of the additional project traffic. Future-year conditions assume traffic from other developments in the vicinity of the project, including the planned development at the corner of 5th Avenue and Stewart Street.

The transportation impact analysis determined that the project's likely transportation impacts were consistent with the analysis in the FEIS. Specifically, traffic operations during the afternoon peak hour were evaluated at seven nearby intersections, including 5th/Virginia, 5th/Stewart, 4th/Virginia, and 4th/Stewart. The project is not expected to noticeably increase delay at any of the intersections, and all are forecast to operate at Level of Service (LOS) C or better. Queuing analyses were conducted at the intersections mentioned above, and indicate little increased queuing due to project traffic. Traffic operations also were evaluated on segments of Stewart Street and Olive Way near the project site. Traffic speeds and levels of service on these arterial corridors are not expected to be noticeably impacted by project traffic in either the AM or PM peak hour.

Project traffic will impact alley operations at the alley intersections with Stewart Street and Virginia Street. During the morning peak hour, the most noticeable impact will be at the alley/Virginia intersection, with a shift from LOS D to LOS F. During the afternoon peak hour, the alley/Virginia intersection will degrade from LOS E to F, and the alley/Stewart intersection will continue to operate at LOS F with an increase in delay of about eight seconds per vehicle. These impacts reflect increased delay for traffic on the alley; additional delay is not expected for traffic on Virginia and Stewart streets.

Queuing on the alley at its intersection with Virginia also will increase with project traffic. During the morning peak hour, the 95th percentile queue length is estimated to increase from 65' to 200', while in the afternoon peak hour, the 95th percentile queue length is estimated to increase from 60' to 155'. (The 95th percentile queue length represents the queue that would be exceeded only five percent of the time, and serves as a reasonable worst-case queuing condition.) Queues on Virginia Street, Stewart Street, and the alley approaching Stewart Street would not noticeably change due to traffic from the project.

Project access is proposed from the alley on the west side of the site. The width of the alley varies between approximately 16' and 22'. In some parts of the alley, garbage containers constrain the alley to as narrow as 14'. With the development of the proposed project and a nearby project at 1903 5th Avenue, portions of the alley will be widened.

Loading and unloading activity in the alley currently block traffic. Observations over two days documented a range of delays, most of them under 25 minutes but one for over three hours. Some of the alley blockage was associated with the Icon Grill, which will be removed with the project. Delivery and loading for both the proposed project and the future development at 1903 5th Avenue would occur from access via the alley and could result in increased loading activity in the alley or potential short-term blockages. The proposed loading bays for both projects would accommodate the expected loading demand and truck lengths without blocking the alley, resulting in less long-term alley blockage. Loading docks at the project site are designed to accommodate an SU-30 vehicle. Turning templates demonstrate that two SU-30 vehicles could be accommodated side-by-side in the loading dock. In the occasional circumstance where a larger vehicle (such as a residential moving van) needs to access the site, they would be directed to obtain a street use permit from SDOT so that the truck could be parked on the adjacent street during move-in or move-out.

To mitigate potential impacts from increased delivery activity on the alley, a dock management plan will be required. The objective of the management plan will be to coordinate deliveries among the residential and the

commercial tenants. The management plan will provide protocols on the scheduling and timing of deliveries to minimize alley impacts of trucks waiting to access loading berths. If dock management plans are developed for other projects taking access from the segment of the alley bounded by 4th Avenue, 5th Avenue, Virginia Street, and Stewart Street, these plans shall be taken into consideration by the dock management plan prepared for this project, with goals of avoiding delivery schedule conflicts and minimizing waiting times for trucks accessing loading berths from the alley. The Addendum and the Transportation Impact Analysis (TIA) listed a dock management plan to coordinate deliveries for the proposed project, to minimize alley impacts of trucks waiting to access loading berths. No other mitigation was listed in the Addendum.

The SDCI Transportation Planner reviewed the information in the TIA and determined that a dock management plan is warranted to mitigate potential traffic impacts from alley blockages, consistent with per SMC 25.05.675.R.

21. The City has not adopted any traffic level of service standards for alleys, and vehicular mobility is not considered a function of alley access. Instead, alleys are intended to primarily serve the functions of access for parking, freight loading, and utility services (including waste and recycling services).
22. The Applicant analyzed transportation impacts of the proposal on the alley adjacent to the proposal. The Applicant's analysis included a review of: current alley operations; existing alley conditions; peak hour level of service for existing alley operations and for future level of service with the proposal; anticipated queuing of vehicles; and AutoTurn analysis of access to the proposal's loading dock.
23. In considering the impacts of the proposal on parking, the Director's representative testified that he reviewed the traffic study and considered the opinion of the Department's Senior Transportation Planner, and public comments concerning the project's potential traffic and parking impacts. The Department's Senior Transportation Planner testified that he reviewed the traffic study, and other information provided in the record.
24. The Director's determination identified a dock management plan as a condition on the proposal to minimize potential impacts of the proposal.
25. Following review of the FEIS, the SEPA checklist, and the Addendum and its supporting information, the Department determined that the proposal would have no new probable significant negative impacts to the environment, including but not limited to impacts related light, transportation and land use.

Appeal

26. The Appellant filed a timely appeal of the Director's Decision, and the DS. Appellant's notice of appeal raised a list of twenty-three issues, one of which was dismissed by prehearing motion.¹ The following appeal issues were addressed at the hearing:

- a. The FEIS is not adequate to address new significant impacts created by the proposal. (Notice of Appeal Issue 1a). Including the following sub-issues raised in closing:
 - i. As a Programmatic EIS, the FEIS does not satisfy SEPA requirements for the proposal.
 - ii. The FEIS does not meet SEPA requirements for the proposal, because:
 1. It does not contain a detailed analysis of alternatives to the proposal (Notice of Appeal Issue 1p);
 2. it does not contain a detailed analysis of the existing environment, the environmental impacts, or mitigation for the proposal;
 3. the FEIS fact sheet and summary are inadequate (Notice of Appeal Issue 1i);
 4. the FEIS transportation analysis is inadequate;
 5. the FEIS land use analysis is not accurate;
 6. the FEIS and Addendum did not adequately identify mitigation measures for the proposal (Notice of Appeal Issue 1e); and
 7. the FEIS height, bulk, and scale impacts including light impacts is inadequate.
- b. The Design Review process did not result in sufficient review and mitigation of height, bulk, and scale impacts of the proposal. (Notice of Appeal Issue 1c).
- c. The Design Review process violates SEPA regulatory and case law requirements that disclosure and analysis of environmental impacts must occur before a decision maker commits a particular action (Notice of Appeal Issue 1k and 2d).
- d. The Addendum cannot substitute for an EIS or an SEIS (Notice of Appeal Issue 1l).
- e. The Design Review decision was made without meaningful public input, and was inconsistent with specific Design Guidelines (Notice of Appeal Issues 2a and 2c).
- f. Improper SEPA review and design review foreclosed consideration of mitigation necessary to address the probable significant adverse impacts of the proposal (Notice of Appeal Issue 2b and 2g).
- g. SDCI erred in its exercise of its substantive authority under SEPA issues, including failure to adequately mitigate the significant adverse impacts described above pursuant to SMC 25.05.675 and other SEPA regulations. SDCI erred when it failed to consider and/or exercise its authority under those provisions to mitigate the proposal. The City has the authority and should have exercised the authority to place an increased limitation on lot coverage, require a greater alley setback, and/or modify the bulk and scale of this project to address the significant adverse impacts to Escala (Notice of Appeal Issue 1j).
- h. SDCI cannot rely the 2003 DEIS and 2005 FEIS for environmental review of the 5th and Virginia Proposal because they do not adequately address environmental

¹ Notice of Appeal Issue b.

considerations for the 5th and Virginia Proposal set forth in SEPA as is explicitly required by RCW 43.21.030 and .034 (Notice of Appeal Issue 1m).

- i. The Department should have issued a Supplemental Environmental Impact Statement, and not an Addendum.
 - j. SDCI erred when it concluded that the decision and recommendation of the Design Review Board was consistent with the Downtown and Belltown Design Review Guidelines (Notice of Appeal Issue 2f).
 - k. SDCI erred when it approved the Design Review Board recommendation because the recommendation conflicted with conditions and mitigation that should have been applied by SDCI pursuant to SEPA and because the recommendation itself violated SEPA (Notice of Appeal Issue 2g).
27. Some of the Appellant's issues listed in its notice of appeal were not addressed in its closing argument except by reference which stated:

Due to time limitations for preparing this closing argument, some legal arguments and issues that apply to this matter may not have been raised or discussed in this Closing brief. Appellant does not intend to waive those issues. For the purpose of reserving all of the issues presented in the Notice of Appeal, Appellant incorporates herein the arguments and points made in the comment letters that were submitted on behalf of Escala throughout the land use review process that were included as exhibits in the Hearing Examiner appeal record.

Appellant's Closing Argument at 36 fn. 4.

The following issues in the notice of appeal were not addressed by the Appellant's closing arguments:

- a. SMC 25.05.675.G violates SEPA as it was applied to the proposal (Notice of Appeal Issue 1d);
- b. The Design Review Board violated SMC 23.41.014 because the members of the Board did not review the written public comments that were submitted regarding design review issues (Notice of Appeal Issue 2e).
- c. The Addendum's statement that the substantive SEPA policies in SMC 25.05.675 limit the scope of procedural disclosure and analysis of environmental impacts is incorrect. The scope of procedural disclosure and analysis of impacts that is required under SEPA is broader than and goes beyond substantive limitations in SMC 25.05.675 (Notice of Appeal Issue 1f).
- d. The scope of impacts that were addressed by the Addendum and FEIS was incomplete. SDCI failed to follow the proper scoping process for a proposal that receives a determination of significance (Notice of Appeal Issue 1g).
- e. SDCI failed to adequately analyze, disclose and mitigate the cumulative impacts (Notice of Appeal Issue 1h).
- f. SDCI cannot rely the 2003 DEIS and the 2005 FEIS for environmental review of the 5th and Virginia Proposal because they are not accurate and are not reasonably up to

date as is required by SMC 25.05.600. The information in the old review is 15 years old. It is outdated and no longer accurate (Notice of Appeal Issue 1n).

28. At the hearing the Appellant presented testimony concerning transportation impacts related to the proposal by Ross Tilghman. Mr. Tilghman prepared comments on the Addendum (Exhibit 47), graphics of existing and potential future conditions, and additional comments on the proposal (Exhibits 48-52, 55, 56, 59, and 60). Mr. Tilghman's analysis of the proposal's transportation impacts was wide ranging, and included: an analysis of the Applicant's traffic reporting; the proposal's loading dock operations; ques developing from vehicles utilizing the alley especially for parking access purposes; AutoTurn analysis, and existing conditions in the alley.
29. The Appellant presented testimony and evidence at the hearing regarding light impacts through its expert Joel Loveland. Mr. Loveland testified concerning loss of daylight in residential units in Escala. He prepared reports concerning his findings. Exhibit 43 and 44. A copy of Mr. Loveland's report was submitted at a meeting of the Design Review Board, and he also testified as to his findings and concern regarding daylight levels in Escala residential units following development of the proposal. His findings included an indication that at the fifth floor of Escala facing the alley between Escala and the proposal, residential units would see daylight reductions in the range of 75% or more. His findings indicated some units would experience adequate daylight conditions for only 12% of daytime hours, and that in winter months there would be less. Mr. Loveland's analysis also raised the issue of health impacts that result from loss of light. However, Mr. Loveland's analysis and testimony did not demonstrate the specific level of health impacts that might or might not result from loss of light from the proposal, and did not exclusively measure for light upon which humans depend for health. At the hearing, the Applicant's light expert Christopher Meeks firmly indicated that loss of light is associated with negative health impacts, but he disagreed with Mr. Loveland as to whether Mr. Loveland's analysis demonstrated that health impacts would result from the proposal.

Applicable Law

30. SMC 23.76.022 provides that appeals of Type II MUP decisions are to be considered de novo, and that the Hearing Examiner "shall entertain issues cited in the appeal *that relate to compliance with procedures for Type II decisions as required in this Chapter 23.76*, compliance with substantive criteria," (emphasis added) and various determinations under SEPA.
31. In an appeal of an FEIS "the decision of the governmental agency shall be accorded substantial weight." RCW 43.21C.090.
32. "The requirement that only reasonable alternatives be discussed in an EIS is intended to limit the number of alternatives considered, as well as the detailed analysis required for each alternative. WAC 197-11-440(5)(b)(i). The discussion of alternatives in an EIS need not be exhaustive if the impact statement presents sufficient information for a reasoned

choice of alternatives.” *Solid Waste Alternative Proponents v. Okanogan County*, 66 Wn.App. 439, 446, 832 P.2d 503 (1992).

33. SMC Chapter 25.05 details the City’s environmental policies and procedures, and SMC Chapter 25.05 Subchapter IV identifies requirements for an Environmental Impact Statement.
34. SEPA provides that a threshold determination shall be prepared "at the earliest possible point in the planning and decision making process, when the principal features of a proposal and its environmental impacts can be reasonably identified." SMC 25.05.055 B. "A proposal exists ... when an agency has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal, and the environmental effects *can be meaningfully evaluated*." SMC 25.05.055.B.1 (emphasis added). "The fact that proposals may require future agency approvals or environmental review shall not preclude current consideration, as long as proposed future activities are specific enough to allow some evaluation of their probable environmental impacts." SMC 25.05.055.B.1.a.
35. SMC 25.05.330 directs that, in making a threshold determination under SEPA, the responsible official shall determine “if the proposal is likely to have a probable significant adverse environmental impact” “Probable” means “likely or reasonably likely to occur....” SMC 25.05.782. “Significant” means “a reasonable likelihood of *more than a moderate adverse impact* on environmental quality.” SMC 25.05.794 (emphasis added). “If the responsible official determines that a proposal **may** have a probable significant adverse environmental impact, the responsible official shall prepare and issue a determination of significance (DS) substantially in the form provided in Section 25.05.980.” SMC 25.05.360.A (emphasis added).
36. SMC 25.05.335 directs the lead agency to “make its threshold determination based upon information reasonably sufficient to evaluate the environmental impact of a proposal,” and where “the agency concludes that there is insufficient information to make its threshold determination” calls for the lead agency to take additional steps that may include seeking additional information from the applicant, or making its own further study.
37. SMC 25.05.402 calls for the following in EIS preparation:

EISs need analyze only the reasonable alternatives and probable adverse environmental impacts that are significant. Beneficial environmental impacts or other impacts may be discussed.

The level of detail shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or referenced.

Description of the existing environment and the nature of environmental impacts shall be limited to the affected environment and shall be no longer