

LAND USE/SEPA DECISION APPEAL FORM

APPELLANT INFORMATION (Person or group making appeal)

1. **Appellant:**

If several individuals are appealing together, list the additional names and addresses on a separate sheet and identify a representative in #2 below. If an organization is appealing, indicate group's name and mailing address here and identify a representative in #2 below.

Name: Chris Youtz

Address: 2745 Mount Saint Helens Pl. S., Seattle, WA 98144

Phone: Work: _____ Home: 206-349-0303

Fax: _____ Email Address: chris@sylaw.com

Additional names in support of this appeal are attached as Exhibit A.

2. **Authorized Representative:**

Name of representative if different from the appellant indicated above. Groups and organizations must designate one person as their representative/contact person.

Same as above.

In what format do you wish to receive documents from the Office of

Hearing Examiner? Check One: *U.S. Mail* *Fax*

Email Attachment

DECISION BEING APPEALED

1. **Decision appealed** (Indicate MUP #, Interpretation #, etc.): Final Environmental Impact Statement (FEIS) issued January 30, 2025, by the Seattle Office of Planning & Community Development (OPCD)
2. **Property address** of decision being appealed: _____
3. **Elements of decision being appealed.** Check one or more as appropriate:
 Adequacy of conditions Variance

- Design Review and Departure Adequacy of EIS
 Conditional Use Interpretation (See SMC 23.88.020)
 EIS not required Short Plat
 Major Institution Master Plan Rezone
 Other (specify: for reasons described in below objections to the FEIS)

APPEAL INFORMATION

1. What is your interest in this decision? (State how you are affected by it)

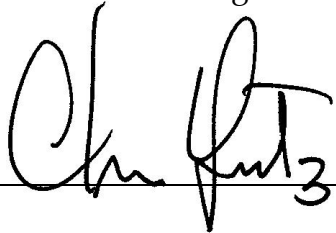
We live in the Mount Baker neighborhood of Seattle, which will be subject to the proposed zoning changes in the One Seattle Comprehensive Plan that was addressed by a Final Environmental Impact Statement from the Seattle Office of Planning & Community Development (OPCD).

2. What are your objections to the decision? (List and describe what you believe to be the errors, omissions, or other problems with this decision.)

Our objections are stated in attached Exhibit B.

3. What relief do you want? (Specify what you want the Examiner to do: reverse the decision, modify conditions, etc.)

A finding that the FEIS is inadequate and misleading and should be vacated and remanded to the Seattle Office of Planning and Community Development for further analysis and revision.

Signature 

Date: Feb. 13, 2025

Deliver or mail appeal and appeal fee to:
MAILING City of Seattle
ADDRESS: Office of Hearing Examiner
 P.O. Box 94729
 Seattle, WA 98124-4729

PHYSICAL ADDRESS: SEATTLE MUNICIPAL TOWER
 700 5th Avenue, Suite 400
 40th Floor
 Seattle, WA 98104

Note: Appeal fees may also be paid by credit or debit card over the phone (Visa or MasterCard only).

Phone: (206) 684-0521

Fax: (206) 684-0536

www.seattle.gov/examiner

EXHIBIT A to appeal submitted by Chris Youtz

Names of additional appellants:

Nancy Dabney Youtz
2745 Mt. St. Helens Pl. S
Seattle, WA 98144

John M. Cary
3704 S. Ridgeway Place
Seattle, WA 98144

Ronald Suter
3310 S Dose Terrace
Seattle, WA 98144

Friends of Ravenna-Cowen
Larry Johnson, President
1754 NE 62nd St.
Seattle, WA 98115

Joins in objections 1 and 2 as also applicable to the Ravenna-Cowen North National
Historic District

EXHIBIT B to appeal submitted by Chris Youtz

Introduction

This appeal is made on behalf of residents living in the Mount Baker neighborhood where the proposed One Seattle Comprehensive Plan (“One Seattle Plan”) would zone certain areas as LR3 and the remaining areas as NR. Both forms of zoning would allow 4-6 Plex buildings in an area that consists entirely of single family homes, most built between the years 1907-1930. We appeal the issuance of the Final Environmental Impact Statement (FEIS) issued January 30, 2025, by the Seattle Office of Planning & Community Development (OPCD).

“The purpose of environmental impact statement required by the State Environmental Policy Act (SEPA) under Chapter 43.21C RCW, is to control the expansion of our population upon the land in such a way as to harmonize the interaction between humans and the environment and to protect nature.” *Cougar Mt. Assocs. v. King County*, 111 Wn.2d 742, 753, 765 P.2d 264, 270 (1988). “A basic purpose of SEPA is to require local governments *to consider total environmental and ecological factors to the fullest extent* when taking ‘major actions significantly affecting the quality of the environment.’” *Lassila v. Wenatchee*, 89 Wn.2d 804, 813, 576 P.2d 54, 59 (1978)(emphasis added). *See also*, RCW 43.21C.030(2)(c).

The FEIS provided by Seattle’s OPCD does not satisfy those requirements. The FEIS fails its required mission of examining the environmental impacts of the proposed One Seattle Plan and providing a thorough and understandable description of the impacts of the proposed action to the public and the City Council decision makers. Among other things, the FEIS: (1) fails to examine the actual housing density sought by the Mayor in his One Seattle Plan proposal, (2) fails to consider the environmental effects of demolition of old, historical homes in the Mount Baker area, (3) incorrectly concludes as a matter of policy that the alternatives it considered – which were based on incorrect presumptions of new housing units – comply with the Growth Management Act (GMA), including its requirements of maintaining historical districts and existing neighborhoods, (4) incorrectly concludes that many adverse impacts of the plan could be addressed by mitigation measures that are either not available or do not exist, and (5) fails to address enforceable restrictive covenants prohibiting development of buildings promoted under the proposed One Seattle Plan.

The FEIS should be withdrawn and remanded to the OPCD.

1. The FEIS fails to consider and evaluate the impact of the actual number of housing units the City of Seattle intends to add under the One Seattle Plan.

The One Seattle Plan seeks to increase the density of housing throughout the city of Seattle through a change in its zoning plan. On October 17, 2024, the details of the plan were released in OPCD's Daily Plan It Blog entitled "Mayor Harrell Releases Details of One Seattle Comprehensive Plan Update." One of the bullet points emphasized the breadth of the plan:

- Mayor Harrell's proposal increases **zoning capacity** to **over 330,000 new units**, more than doubling the city's housing capacity, exceeding the growth targets set out by the Growth Management Act, and focusing on expanding housing supply. Understanding current cost pressures and anticipated growth, increasing capacity for more housing is essential for lowering housing costs and increasing affordability.

<https://dailyplanit.seattle.gov/mayor-harrell-releases-details-of-one-seattle-comprehensive-plan-update/> Dated Oct 17, 2024 (emphasis in original).

This goal has been reported widely by the media, including through January 29, 2025:

- "As Seattle grapples with skyrocketing home prices, Mayor Bruce Harrell's "One Seattle" plan aims to double the city's housing capacity over the next two decades. The plan, which proposes the creation of 330,000 new housing units by 2044, has sparked a mix of support and skepticism among city leaders and residents." KIRO News RadioHost, Seattle's Morning News, Jan. 15, 2025
<https://mynorthwest.com/mynorthwest-politics/smn-seattle-city-council-member-rivera-concerns-over-harrell-one-seattle-plan/4028899>
- "The city's proposed One Seattle Comprehensive Plan increases zoning capacity to more than 330,000 new housing units, which more than doubles the city's current housing capacity." Spencer Pauley, Queen Anne & Magnolia News, Jan. 29, 2025.

Despite OPCD's involvement in releasing this information to the public, its FEIS does not mention this goal for 330,000 housing units. Instead, it bases its 1,300 page report on the assumption that the total maximum planned increase in density by 2044 is 120,000 housing units: "Alternative 5 and the Preferred Alternative assumes growth of 120,000 housing units (40,000 more than the No Action Alternative)." FEIS at 1-17.

This omission is critical. The impacts described in the FEIS are based on an increase in housing that is 210,000 units less than the plan sought by the Mayor. An increase of 175% of the amount of increased housing assumed by the FEIS unquestionably, and substantially, would increase the adverse effects of the plan. It is remarkable that that the figure of 120,000 housing units can be found 66 times through the FEIS while the Mayor's (and OPCD's) figure of 330,000 housing units is not mentioned once. This flaw alone requires a complete remake of the FEIS.

2. The FEIS fails to consider the environmental effects of demolishing old, historical homes in the Mount Baker area.

There are few, if any, vacant lots in the Mount Baker area, which is included in Area 8 of the maps included in the FEIS. Using the assumed (but incorrect) figure of 120,000 additional housing units, 10,680 of those homes under the Preferred Alternative or 13,920 under Alternative 5 are to be built in Area 8, of which Mount Baker is a substantial part.¹ Although the FEIS does not explain where this new housing will be built in Area 8, a significant part of the new development is likely intended for Mount Baker as portions of it are zoned for the higher density of LR3. That requires demolishing a significant number of old, historic homes to build the four-plexes/six-plexes called for by the plan.

In addition to the adverse impact of removing historical and desirable homes from the neighborhood, the environmental issues are significant. Many of these homes still have asbestos on pipes and heating systems. Many are located on slopes, and removal of the homes and retaining walls will cause substantial ecological damage. The FEIS ignores the environmental impact of that work when it involves older housing. It simply comments that: "Redevelopment can sometimes pose a risk of exposure from contaminated sites or motivate additional clean-up and protection, depending on project scale. The City regulates development around known contaminated sites." FEIS at 3.1-26. That is neither a sufficient analysis of the impact of demolishing these homes nor adequate support that the impact can be mitigated. The FEIS insufficiently examines

¹ See Exhibit 2.4-34 at page 2-55 of the FEIS.

the impact of replacing old, historical homes with the new housing units described in the FEIS which are configured very differently than the homes being demolished.

3. The FEIS incorrectly concludes that the One Seattle Plan complies with the Growth Management Act, including its requirements of maintaining historical districts and existing neighborhoods.

Mount Saint Helens Place South, where we live, is a short, 2.5-block street, where over 83% of the 30 homes abutting the street are found in the survey of Seattle Historic Sites to “appear to meet the criteria of the Seattle Landmarks Preservation Ordinance.” These homes, built between 1910 through the late 1920s and early 1930s, reflect significant architectural and historical value. Some of these homes, including ours (completed in 1912), also “appear to meet the criteria of the National Register of Historic Places,” according to the survey. Additionally, the survey notes, “this property is located in a potential historic district (national and/or local).” The Seattle Historical Sites for the Mount Baker neighborhood are listed at:

<https://web.seattle.gov/DPD/HistoricalSite/QueryResults.aspx?QRY=ATTR&YEBUS=&YEBUE=&ST=&NE=Mount+Baker&AR=>

Under RCW 36.70A.020(13), the GMA requires jurisdictions to “identify and encourage the preservation of lands, sites, and structures that have historical or archaeological significance”, such as the homes on our street and throughout the Mount Baker neighborhood. The FEIS claims “The plan would continue to...protect critical areas and historic resources consistent with the GMA.” FEIS at p. 3.7-15. That is incorrect. Nothing in the One Seattle Plan shows this requirement was met or even considered. The FEIS provides no support suggesting any effort was made to meet this requirement.

Further, the GMA emphasizes the preservation of existing housing and the retention of open and green spaces. The proposed plan would lead to the demolition of existing single-family homes, replacing them with higher-density housing incompatible in scale, form, and character with the existing development. The FEIS does not even mention this requirement.

4. The FEIS incorrectly concludes that many adverse impacts of the plan could be addressed by mitigation measures that are not available or do not exist.

After describing the adverse impacts of a proposed action, a FEIS should note whether the impacts can be avoided or lessened through mitigation. For example, pollution from smokestacks can be mitigated through filtering systems which, if sufficient, would allow the facility to operate. But a mitigating factor must be real, not imagined or hoped

for. What constitutes appropriate mitigation for purposes of a FEIS is described by statute:

“Mitigation” means:

- (1) Avoiding the impact altogether by not taking a certain action or parts of an action;
- (2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
- (3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- (4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
- (5) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or
- (6) Monitoring the impact and taking appropriate corrective measures.

WAC § 197-11-768 (December 18, 2024). Few of the mitigation measures proposed in the FEIS meet these requirements.

For example, the FEIS apparently recognizes there is a serious problem with the declining tree canopy throughout the city that will worsen with the adoption of the One Seattle Plan. That is certainly true for Mount Baker since the types of housing called for by the plan, including the demolition of historic homes, will remove many long existing trees and other vegetation. While somewhat recognizing the adverse impact, the FEIS says, among other things, it can be mitigated by “Develop[ing] a comprehensive plan for investment in the equitable distribution and resilience of the urban forest” or by “collaborating with Seattle Public schools and organizations” “to increase tree cover on school grounds.” FEIS at 1-44. As with most of the mitigation proposals in the FEIS there is no assurance that these hoped-for and often vague arrangements will be realized to actually mitigate adverse impacts. These and similar divinations are not legitimate mitigation measures and should be removed from a proper FEIS.

5. The FEIS fails to address enforceable restrictive covenants that do not allow development of the buildings authorized by the proposed One Seattle Plan.

The Mount Baker neighborhood was developed from 200 acres of lots sold through the Hunter Tract Improvement Company beginning in 1907. Approximately 800 of the lots sold as part of that development have restrictive covenants that state:

This sale is made subject to the following restrictions;
nothing but a single, detached residence, costing not less than _____ thousand dollars (\$) shall be built on any one lot described in this deed, and when built it shall be used for residence purposes only.

Johnson v. Mt. Baker Park Presbyterian Church, 113 Wash. 458, 459 (1920). That case affirmed an injunction against an owner who proposed to use his lot for a church. More recently, the Washington Supreme Court enforced a similar covenant “that provided that only one dwelling may be built on each one-half acre of land.” *Viking Props., Inc. v. Holm*, 155 Wn.2d 112, 123 (2005). A developer in that case argued that “public policy favoring higher densities as set forth in the GMA, the City's comprehensive plan, and the City's zoning regulations conflict with the density limitation in the covenant, thereby rendering it unenforceable.” *Id.* at 118. The court rejected that argument, relying on an earlier decision that “contravenes Viking's assertion that covenants are to be construed liberally only when they are in harmony with land use regulations. *See also Riss*, 131 Wn.2d at 622-24 and *Metzner v. Wojdyla*, 125 Wn.2d 445, 450, 886 P.2d 154 (1994) (both concluding that the enforcement of residential restrictive covenants is favored in Washington, notwithstanding land use regulations).” *Id.* at 122.

A search for “covenant” in the FEIS produces results that pertain primarily to discussions of racially restrictive covenants and zoning laws. *See* FEIS at 3.6-7; 3.8-6, 24, 28; 3.9-15. The covenant in *Viking* also contained a race restriction that the court found had long been unenforceable under Washington and federal law and whose presence had no effect on enforceability of the other restrictions on the property. *Viking*, 155 Wn.2d at 123. The only reference to a different type of restrictive covenant restricting use of land appears in response to a comment from a person named Alexander to the draft EIS:

86	Alexander	
86-1	Concern for housing increase, and lack of recognition to existing Covenants that says you cannot build a structure to impede views of Puget Sound in Sea-Lawn Acres Add of Broadview.	The City is not responsible for enforcing or mapping preexisting private covenants, easements, or deed restriction; however, the City is aware that some preexisting private covenants, easements, CC&Rs, and other deed restrictions may prevent developing to the maximum density allowed by proposed zoning controls even if not included in the various maps, Comprehensive Plan, or development regulations.

FEIS at 4-63.

In its response, OPCD recognizes the *Viking* court’s directive that pre-existing private covenants prohibiting development allowed under the zoning laws are enforceable, but does not factor that maxim into its analysis, making the FEIS further flawed.

6. One size does not fit all.

The failure to consider the effect of enforceable restrictive covenants highlights one of the major problems with the FEIS: one size does not fit all, and the FEIS does not adequately cope with differences among multiple areas of the city where the proposed development is neither legal nor feasible. Arbitrarily dividing the city into eight areas for purposes of this project does not solve that problem. Mount Baker is a perfect example of that failure. The plan proposes both increased residential density (NR) and high density (LR3) that impact the environmental, historical, and character of the neighborhood. Unique issues arise from destroying historic homes, removing and building homes on slopes with accompanying tree and vegetation loss, and losing open space used not only by Mount Baker residents but by members of other neighborhoods and communities.

A City of Seattle design review for the Mount Baker Town Center noted the significance of areas that will be impacted by the One Seattle Plan that were not adequately considered by the FEIS:

The Mount Baker Town Center is surrounded by a variety of parks and green spaces. These include the 35-acre Cheasty Greenbelt, the Martin Luther King Jr. Memorial, the historic Mount Baker Boulevard and the greenbelt bordering Martin Luther King Way north of McClellan. Projects that abut the Cheasty Greenbelt should not only minimize negative impacts to the unique character of this “forest within a city,” but also explore ways to enhance the beauty and function of

the greenbelt.... Preservation of significant trees on private property is highly encouraged.

Mount Baker Town Center, Neighborhood Design Guidelines (2017).

Other neighborhoods, including those in Area 8, may not have those issues but have additional issues unique to their neighborhoods. In short, a housing plan that does not look closely at individual neighborhoods to determine what can and should be accomplished in those neighborhoods instead of simply declaring a cookie-cutter citywide plan is unworkable and meaningless for preparing an informative FEIS to provide accurate information to the City Council regarding the impacts of these proposals on Seattle neighborhoods.

Conclusion

The examiner should find that that the FEIS is inadequate and misleading and should be vacated and remanded to the Seattle Office of Planning and Community Development for appropriate deletions, analysis, and revisions.