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4 BEFORE THE HEARING EXAMINER  
FOR THE CITY OF SEATTLE

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6 In the Matter of the Appeal by  
7 JENNIFER GODFREY,

8 Appellant

9 From the Office of Planning and Community  
10 Development's Final Environmental Impact  
Statement on the One Seattle Plan

Nos. W-25-006 (Consolidated for  
Hearing with Nos. W-25-001 through  
W-25-005)

APPELLANT JENNIFER GODFREY'S  
ISSUE CLARIFICATION

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12 I. INTRODUCTION

13  
14 The City of Seattle's Executive, through the Mayor's Office and the Office of Planning  
15 and Community Development ("City"), endeavored to comply with the State Growth  
16 Management Act, Chapter 36.70A RCW ("GMA"), by updating the City's Comprehensive  
17 Plan. That update is subject to review for compliance with the State Environmental Policy  
18 Act, Chapter 43.21C. RCW ("SEPA"). Jennifer Godfrey ("Appellant") represents a significant  
19 constituency of City residents who wish to ensure that the City adopts comprehensive plan  
20 policies that will effectively identify and lead to development regulations that mitigate or  
21 avoid likely environmental impacts.

22  
23 This issue clarification is intended to refine both the specific elements of the  
24 environment that the City's challenged Final Environmental Impacts Statement ("FEIS") fails  
25 to properly address, and to address the City's improper expansion of the scope and content of  
26 the proposed action after the completion of the Draft Environmental Impact Statement  
27 ("DEIS") by expanding the scope of the proposed action to include development regulations  
28

1 that were not noticed for or evaluated in the DEIS. The City failed to properly conduct SEPA  
2 phased review.

## 3 II. ISSUE CLARIFICATION

### 4 A. Original Appeal Issues

5 Appellant retains and brings forward her original statement of issues, summarized as  
6 follows:  
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- 8 1. The FEIS fails to identify or mitigate the probable significant adverse impacts  
9 of the proposed action on the remaining 73 Southern resident killer whales  
10 (SRKW), a Distinct Population Segment listed as critically endangered under  
11 the federal Endangered Species Act (ESA). The FEIS fails to identify or  
12 analyze the impacts on the City's proposed actions existing guidance and  
13 direction from agencies with expertise regarding the SRKW.  
14
- 15 2. The FEIS fails to properly identify or mitigate the numerous probable  
16 significant adverse impacts to Seattle's tree canopy, including differences  
17 among alternatives. Among other deficiencies, the FEIS does not identify the  
18 significant probable significant adverse impacts of changes to Seattle's tree  
19 canopy that will lead the City to fail to meet the proposed tree canopy policies  
20 and goals in the draft One Seattle Plan and cause considerable harm to  
21 residents of and visitors to the City of Seattle.  
22
- 23 3. The FEIS fails to properly identify or mitigate the probable significant  
24 adverse impacts of the proposed action on stormwater and the water quality  
25 thereof, including pollution impacts on Lakes Washington and Union and  
26 Puget Sound, impacts of that pollution on numerous species of anadromous  
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28

1 fish and other lacustrine and marine fish and wildlife, and the cost to the City  
2 to mitigate for these impacts likely to result from failure to comply with the  
3 ESA and state and federal Clean Water Acts. The FEIS fails to identify or  
4 analyze the impact on the City's proposed actions of existing guidance and  
5 direction from agencies with expertise regarding stormwater management.  
6

- 7 4. The FEIS fails to properly identify or mitigate the probable significant  
8 adverse impacts of proposed development regulations, including zoning, on  
9 the natural and built environments due to the likely reduction in the quantity  
10 and quality of the City's urban forest, impacts on stormwater quantity and  
11 quality (pollution), and other harms to the built and natural environments.  
12

13 The remaining statements in the original appeal are references to portions of the factual  
14 evidence and arguments that Appellant Godfrey will present at hearing. Requests for relief are  
15 retained for future proceedings.  
16

17 B. Checklist Elements

18 Appellant Godfrey challenges the City's compliance with SEPA with respect to the  
19 identification of impacts and adequacy of mitigation regarding the following elements of the  
20 environment listed in SMC 25.05.444:  
21

- 22 1. Parts of A: Natural Environment, subparts 1, 2 (except "odor"), 3, and 4.  
23 2. Parts of B: Built Environment, subparts 1 c, 2, and 4 d, e, f, g, h, and i.

24 C. Phased SEPA Review.

25 The FEIS for the "One Seattle Comprehensive Plan Update" is part of a phased SEPA  
26 review under SMC 25.05.060(E): "phased review assists agencies and the public to focus on  
27 issues that are ready for decision and exclude from consideration issues already decided or not  
28

1 yet ready.” From the very beginning of the process of updating the City’s comprehensive  
2 plan—required by the GMA, the initial phase was intended to include only the comprehensive  
3 plan and implementation policies, not development regulations. The latter include designation  
4 of specific areas to accommodate higher density zoning for housing and related development  
5 and infrastructure:  
6

7 "Development regulations" or "regulation" means the controls placed on development or  
8 land use activities by a county or city, including, but not limited to, **zoning** ordinances,  
9 **critical areas** ordinances, shoreline master programs, official **controls**, **planned unit**  
10 **development** ordinances, **subdivision** ordinances, and binding **site plan** ordinances  
11 together with any amendments thereto.

12 RCW 36.70A.030(13) (emphasis added). Every one of the listed examples of a development  
13 regulation is a site specific action. Comprehensive plans are not site specific, they are

14 a **generalized** coordinated land use **policy statement** of the governing body of a county  
15 or city that is adopted pursuant to this chapter.

16 RCW 36.70A.030(8) (emphasis added).

17 The use of phased review to move start with the comprehensive plan and move to  
18 development regulations afterwards is explicitly stated in the City’s November 2022

19 Environmental Impact Statement (EIS) Scoping Report (“Scoping Report”):

20 [T]he City is now conducting **the first phase of EIS analysis** and expects to publish a  
21 Draft EIS in May 2023. After another comment period, the City will begin analysis of a  
22 final proposal, including a preferred alternative, and will publish a Final EIS in Spring  
23 2024.

24 Page 1 (emphasis added). The term “development regulations”—a term defined in the GMA  
25 and subject to SEPA phased review—does not appear in the Scoping Report.

26 Regarding “development regulations,” the Draft Environmental Statement (“DEIS”)  
27 states:

28 As part of the One Seattle Plan Update, the City **will consider updates to zoning and**  
**development regulations to implement the Plan.**

1 Page iii (emphasis added). In the FEIS, the City changed that language to read:

2 As part of the One Seattle Plan Update, the City will **also** consider updates to zoning and  
3 development regulations to implement the Plan.

4 Page ii (emphasis added). None of the five alternatives considered and evaluated in the DEIS  
5 addressed or evaluated “development regulations.” The FEIS added a “Preferred Alternative”;  
6 in the following description of that “Mayor’s Recommended Plan,” the FEIS adds:

7  
8 the Preferred Alternative includes the Mayor’s Recommended Growth Strategy  
9 reflected in the proposed One Seattle Comprehensive Plan and the implementing  
10 zoning and development regulations. The plan **and implementing zoning and  
development regulations were considered by the public during the Draft EIS  
and Draft Plan comment periods** and public engagement opportunities.

11 Page iv (emphasis added).

12 The FEIS does not explain how its un-noticed “consideration” of development  
13 regulations complies with SEPA’s phased review process. The City has inappropriately  
14 bootstrapped consideration of development regulations into an FEIS that did not properly  
15 inform the public or conduct analyses consistent with the notice that was given in both the  
16 Scoping Report and the DEIS.

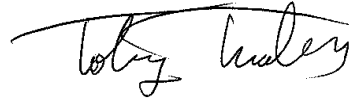
17  
18 D. Jurisdiction Over Claims Related to Housing Density

19 Because appellant Godfrey’s issues explicitly include items on the checklist directly  
20 related to “probable significant adverse impact on fish habitat” as well as to actions and  
21 impacts that are likely to occur inside designated critical areas, the Hearing Examiner’s SEPA  
22 jurisdiction over this claim is expressly preserved by RCW 36.70A.070(2)(h), copied in the  
23 margin.<sup>1</sup> Appellant Godfrey should have the opportunity to demonstrate the causal relationship  
24  
25

26  
27  
28 <sup>1</sup> The adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions taken by a city that is required or chooses to plan under RCW 36.70A.040 that increase housing capacity, increase housing affordability, and mitigate displacement as required under this subsection (2)

1 between the City's failure to adequately consider the impacts of development regulations in a  
2 properly noticed phased SEPA process.  
3

4 Dated this 10<sup>th</sup> day of March, 2025.  
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Toby Thaler. WSBA #8318  
10 [toby@thaler.org](mailto:toby@thaler.org)  
11 206 697-4043  
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27 and that apply outside of critical areas are not subject to administrative or judicial appeal under chapter [43.21C](#)  
28 **RCW unless the adoption of such ordinances, development regulations and amendments to such  
regulations, or other nonproject actions has a probable significant adverse impact on fish habitat.** (emphasis  
added)

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**CERTIFICATE OF SERVICE**

I certify that on the <sup>th</sup> day of , 2025, I caused a true and correct copy of the foregoing

**Issue Clarification** to be served on the following in the manner indicated below:

Elizabeth E. Anderson  
Assistant City Attorney  
[liza.anderson@seattle.gov](mailto:liza.anderson@seattle.gov)

Laura Zippel  
Assistant City Attorney  
[laura.zippel@seattle.gov](mailto:laura.zippel@seattle.gov)

John M. Cary  
[john.cary@comcast.net](mailto:john.cary@comcast.net)

Chris R. Youtz  
[chris@sylaw.com](mailto:chris@sylaw.com)

Hawthorn Hills Community Council  
[PJ1000@aol.com](mailto:PJ1000@aol.com)

Trevor Cox and Jake Weyerhaeuser  
[trevor@trevorcox.com](mailto:trevor@trevorcox.com)

Jake Weyerhaeuser  
[jweyerhaeuser@gmail.com](mailto:jweyerhaeuser@gmail.com)

Friends of Madison Park  
Octavia Chambliss  
[president@friendsofmadisonpark.com](mailto:president@friendsofmadisonpark.com)

Dated this 10<sup>th</sup> day of March, 2025.



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Toby Thaler