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4 BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

5 In the Matter of the Appeal by

6 JENNIFER GODFREY,

7
8 Appellant

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

No. W-25-006 (Consolidated for
Hearing with Nos. W-25-001
through W-25-005)

RESPONSE TO CITY MOTION
TO DISMISS BY APPELLANT
GODFREY

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12 I. INTRODUCTION

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14 The City has moved to dismiss all of Appellant Godfrey's claims as restated in her Issue
15 Clarification filed on March 10, 2025.

16 The City mischaracterizes the Clarification as a Motion to Amend under HER 5. The City
17 misapplies the prohibition of appeals under SEPA of project actions with the nature of
18 Godfrey's SEPA claims as project.

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20 II. ARGUMENT

21 A. INCORPORATION BY REFERENCE

22 Godfrey incorporates by reference the arguments in these portions of MEMORANDUM
23 IN OPPOSITION TO OPCD'S MOTION TO DISMISS ON BEHALF OF APPELLANTS IN
24 APPEAL W-25-004 sections II.A. "The statutory [SEPA] exemptions asserted by OPCD are
25 inapplicable", III.C "Dismissal is not appropriate for "policy arguments," and IV. "OPCD'S
26 motions to limit of the scope of our appeal should be denied.

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1 B. GODFREY’S CLARIFIED STATEMENT OF ISSUES ARE APPROPRIATE

2 Appellant Godfrey stated her appeals in a short three paragraphs. Every one of the issues
3 in her Clarification is based on explicit language in the appeal filed on February 13, 2025:
4

5 A.1. “identify or mitigate the probable significant adverse impacts of the
6 proposed action on the remaining 73 Southern resident killer whales (SRKW)” is based
7 on a clearly stated reference in the filed appeal:

8 ...identify or mitigate the probable significant adverse impacts of the proposed
9 action on the remaining 73 Southern resident killer whales (SRKW). ... Follow
10 the federal NOAA Southern Resident Killer Whale Recovery Guidelines and
Southern Resident Killer Whale Recovery Plan ...

11 A.2. “identify or mitigate the numerous probable significant adverse impacts to
12 Seattle’s tree canopy” is based on clearly stated references in the filed appeal:

13 no plan to protect and retain the most powerful bio-remediators and bioretainers,
14 large trees ... no plan to protect and retain the most powerful bio-remediators
15 and bioretainers, large trees

16 A.3. “identify or mitigate the probable significant adverse impacts of the proposed
17 action on stormwater and the water quality thereof, including pollution impacts on Lakes
18 Washington and Union and Puget Sound, impacts of that pollution on numerous species
19 of anadromous fish and other lacustrine and marine fish and wildlife” is based on clearly
20 stated references in the filed appeal:
21

22 ... including the impacts of increased stormwater from tree removals on the
23 SRKWs. The NOAA Southern Resident Killer Whale Recovery Plan states that
24 pollution is one of their top threats and areas of higher population must take
greater measures to reduce polluted runoff.

25 A.4. “identify or mitigate the probable significant adverse impacts of proposed
26 development regulations, including zoning, on the natural and built environments due to
27 the likely reduction in the quantity and quality of the City’s urban forest, impacts on
28

1 stormwater quantity and quality (pollution)” is based on clearly stated references in the
2 filed appeal:

3 The FEIS has many inaccuracies including incorrectly assessing Elliott Bay
4 Water Quality, identifying ESA listed species, and states it's not feasible to
5 maintain past species population...

6 The addition of standard of proof language “The FEIS fails to properly...” in front of
7 each resource impact issue does not alter their accuracy or clarity.

8 Similarly, the addition of the reference to “Phased SEPA Review” in the Clarification is
9 linked to appellant Godfrey’s stated relief request regarding the need to “Study the impacts of
10 the new One Seattle Plan zoning...”

11 The City’s phased SEPA review process is explicitly stated in the Scoping Notice for the
12 Comprehensive Plan: “the City is now conducting the *first phase* of EIS analysis and expects to
13 publish a Draft EIS in May 2023.” Scoping Report, One Seattle Comprehensive Plan Update,
14 November 2022, p. 1. (emphasis added) (This document does not appear to be in the Core
15 Documents: it should be included.)

16 With the exception of issues surrounding the two new Link Station Areas, the DEIS
17 does not include impact analyses of new zoning or other development regulations needed to
18 implement the new proposed plan. All references in the DEIS are either to how “existing
19 development regulations ... are anticipated to be sufficient to reduce impacts” (FEIS, p. 3.6-
20 118) or to future actions: “the City *will consider* updates to zoning and development
21 regulations to implement the Plan.” DEIS p. iii (“Fact Sheet”)(emphasis added).
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24

25 There is no analysis of impacts of the significant changes in the nature and scope of the
26 City’s proposed action submitted to the public in October 2024 and to the City Council in
27 January 2025.
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1 The addition in Clarification Section II.B., the reference to “elements of the
2 environment,” is a limitation on the scope of Appellant Godfrey’s appeal. As the Hearing
3 Examiner directed, we carefully identified the elements of the environment possibly relevant to
4 the listed claims.
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7 III. CONCLUSION

8 OPCD’s complaints about Appellant Godfrey’s Clarification are not well grounded in
9 applicable law, nor do they provide any basis for crafting alternatives that would promote an
10 efficient hearing. Similarly, OPCD’s attempt to dismiss all appeals in this consolidated
11 proceeding are contrary to the purposes of both SEPA and the GMA to help Seattle develop and
12 implement appropriate plans and development regulations that will provide a healthy and
13 affordable community.
14

15 Godfrey remains willing to consider alternative ways to frame the legal issues so long as
16 they do not diminish her clearly stated concerns in her February 13 appeal.
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19 Dated this 21st day of March, 2025.
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CERTIFICATE OF SERVICE

I certify that on the 21st day of March, 2025, I caused a true and correct copy of the foregoing **Notice of Appearance** to be served on the following in the manner indicated below:

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Dated this 21st day of March, 2025.



Toby Thaler