BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeals of: FRIENDS OF MADISON PARK, TREVOR COX & JAKE WEYERHAEUSER, HAWTHORNE HILLS COMMUNITY COUNCIL, CHRIS R. YOUTZ, JOHN M. CARY, and JENNIFER GODFREY et. al.	Hearing Examiner File: W-25-001,-002,-003,-004,-005, and-006 (consolidated) **MEMORANDUM IN OPPOSITION TO OPCD'S MOTION TO DISMISS ON BEHALF OF APPELLANTS IN APPEAL W-25-004**

I. INTRODUCTION

In March 2024, Respondent Office of Planning and Community Development (OPCD) issued the Draft One Seattle Plan to update Seattle's comprehensive plan for growth through 2044. The proposed plan sought to increase housing availability in Seattle, including the addition of "middle housing" to neighborhoods to comply with House Bill 1101 enacted in 2023. At the same time, OPCD released a Draft Environmental Impact Statement (DEIS) for public comment to evaluate the potential environmental impacts of the proposed changes.

The DEIS studied five alternatives. Alternative 1 reflected the current growth strategy, which projected the addition of 40,000 new homes by 2044. Alternatives 2

through 5 considered progressively higher growth scenarios. The most aggressive option, Alternative 5, envisioned up to 120,000 new housing units.

The comment period for the DEIS closed on May 6, 2024. Concerned about the direction of the proposed plan, one of our appellants—Friends of Ravenna-Cowen (FORC)—submitted comments on both the Draft One Seattle Plan and the DEIS. One of FORC's key concerns was the potential impact on the Ravenna-Cowen North National Historic District, which is listed on the National Register of Historic Places. *See*, Declaration of Larry Johnson in Opposition to OPCD's Motion to Dismiss ("Johnson Decl.").

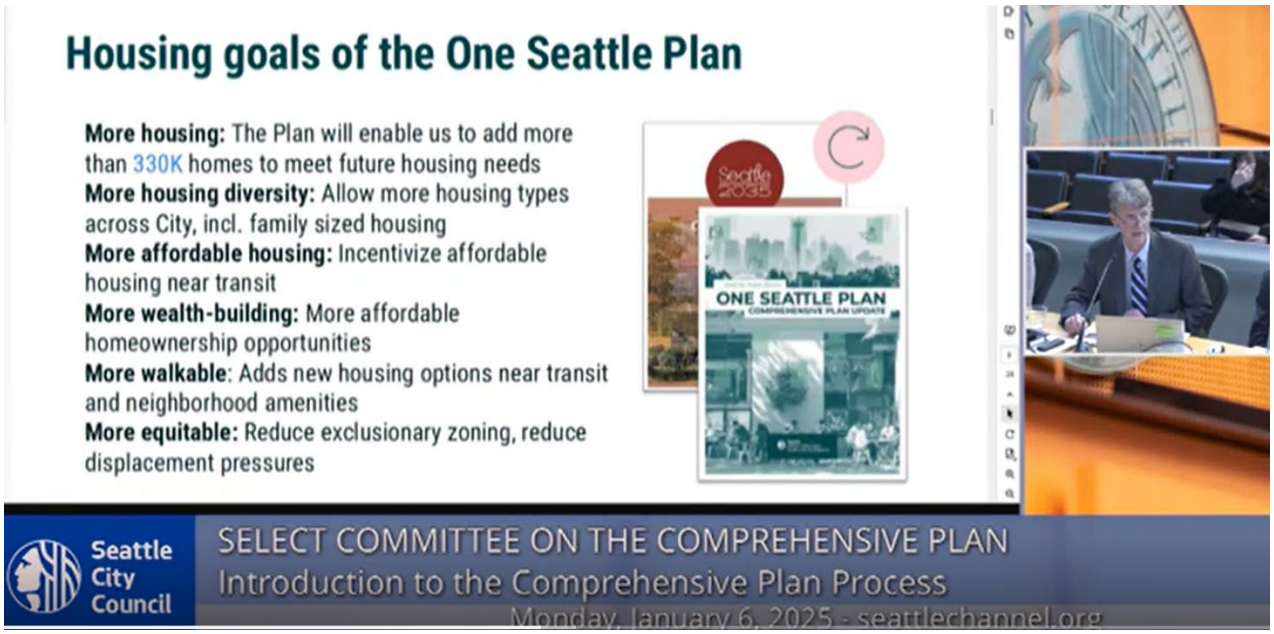
In October 2024—months after the comment periods had ended—OPCD announced a major change: the number of new housing units proposed under the plan would jump from the 120,000 studied in the DEIS to 330,000:

> 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.

OPCD, October 17, 2024 at https://dailyplanit.seattle.gov/mayor-harrell-releases-details-of-one-seattle-comprehensive-plan-update/ (emphasis in original).

After the revised version of the One Seattle Plan was announced, Mr. Johnson received an "Updated Neighborhood Residential Report" that revealed how the changes would affect density in his neighborhood and across the city. As he explained, "The new maps added block after block of LR3, 5-story buildings in the Ravenna section of the Ravenna-Cowen North National Historic District." Johnson Decl. ¶ 6. Despite his ongoing efforts to stay informed about the One Seattle Plan following his earlier comments on the proposal and the draft EIS, he did not receive any information indicating this level of impact on his neighborhood until October 2024. *Id*.

The final plan presented to the City Council Select Committee on January 6, 2025, included a slide noting and emphasizing the increase in housing units to 330,000 in the revised One Seattle Plan:



Video, Select Committee on Comprehensive Plan, January 6, 2025, at 1:21:08

Mr. Johnson received a newsletter from Councilmember Maritza Rivera, a member of that Select Committee, stating: "I too have questions about this process and want to acknowledge that the information I have received from OPCD over the past few months has been confusing and incomplete. The department has put forth its strategy for increased density without accompanying plans for transportation, utilities and other infrastructure, and climate goals." Johnson Decl at ¶ 6.

On January 30, 2025, OPCD issued the Final Environmental Impact Statement (FEIS) for the One Seattle Plan. Despite the dramatic increase in housing units announced months earlier, the FEIS contains no mention—let alone analysis—of the plan's expanded scale. The 330,000-unit figure is never referenced. Instead, the FEIS relies on the original data and planning from the Draft EIS, offering no updated review of the impacts that City Council will now have to consider.

The FEIS, however, introduced Revised Development Regulations and Rezoning, including new Phase 2 rezoning proposals for Neighborhood Centers, expansion of urban centers, and increased building heights and density along transit corridors — none of which were fully evaluated in the DEIS but should have been.

Indeed, this level of growth is not achievable without sweeping changes to Seattle's zoning code to permit widespread construction of 5-6-story apartment buildings throughout the city—including in historically significant neighborhoods. This includes areas like Ravenna's historic district and the Mount Baker properties with designated historic homes. That plan was also not revealed until October 2024. When it was issued, and the impact of the plan became apparent, it received 9,221 comments compared to the 504 comments received for the draft EIS.[1]

"WAC 197-11-600(3)(b) provides that a supplemental EIS is required if there are either: '1 Substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts . . . ; or 2 New information indicating a proposal's probable significant adverse environmental impacts. *(This includes discovery of misrepresentation or lack of material disclosure.)*'" *Kiewit Constr. Grp. v. Clark Cty.*, 83 Wn. App. 133, 142 (1996) (emphasis in original).

In *Kiewit*, it was determined that the "failure to disclose the full effect of truck traffic on bicyclists and other trail users" was not adequately disclosed in an EIS and that a supplemental EIS was required. *Id*. The omission of the 330,000-unit figure here is far more consequential. It is not a minor oversight or technicality—it is central to every impact area assessed in the environmental review. Traffic, air quality, noise, public services, utility demand, greenhouse gas emissions, demolition activity—all affected by the amount of development proposed.

[1] OPCD, Public Engagement Summary at 17, 20. (https://www.seattle.gov/documents/Departments/OPCD/SeattlePlan/OneSeattlePlanEngagementSummary.pdf)

Rather than comply with SEPA's requirements, OPCD bypassed the obligation to prepare a supplemental EIS and instead issued a Final EIS largely based on data and circumstances from when the DEIS was issued, effectively foreclosing any meaningful analysis or public comment on the impacts of the actual plan. SEPA's public participation requirements, set forth in RCW 43.21C and its implementing regulations, are clear: when a proposal changes significantly, additional environmental review and public input are required.

OPCD now seeks to avoid that scrutiny by asking the Examiner to dismiss this appeal entirely or narrow its scope to only the Mount Baker neighborhood. These motions should be denied. The Examiner should instead require OPCD to revisit and revise the EIS—or issue a supplemental EIS—to honestly and transparently evaluate the full scope of the One Seattle Plan and its intended density.

OPCD's primary motion is a motion to dismiss, analogous to a CR 12(b)(6) motion under the Washington State Superior Court Civil Rules. HER 1.03(d) permits the Examiner to refer to those rules for guidance. Under CR 12(b)(6):

> Dismissal is proper only if the court concludes "the plaintiff cannot prove 'any set of facts which would justify recovery.'" We presume all facts alleged in the complaint to be true and may consider hypothetical facts supporting the plaintiff's claims.

Wash. Food Indus. Ass'n v. City of Seattle, 1 Wn.3d 1, 524 P.3d 181, 190 (2023) (citations omitted). This motion is not the proper vehicle for resolving whether the new information, changes, or omissions are significant enough to require a revised or supplemental EIS—that determination must be made at the hearing. In arguing its motion to dismiss, OPCD must assume these contentions to be true. OPCD's motion to dismiss or limit this appeal should be denied.

II. OPCD'S MOTION TO DISMISS THIS APPEAL SHOULD BE DENIED.

A. The statutory exemptions asserted by OPCD are inapplicable

OPCD argues we are barred from bringing our appeal under statutes prohibiting SEPA appeals of "ordinances, development regulations and amendments to such regulations, and other nonproject actions taken by a city…" that increase housing capacity, increase housing affordability, and mitigate displacement" OPCD motion at 13 (quoting, in part, RCW § 36.70A.070) (emphasis added by OPCD).[2]

Because the goals of the proposed One Seattle Plan include increasing housing capacity, OPCD contends no one can contest the adequacy of any environmental impact review conducted while the One Seattle proposal is under consideration. As shown by the underlining in its quoted passage, OPCD assumes issuance of an environmental impact statement is a "nonproject action taken by a city" covered by the exemption. It is not.

"Nonproject actions are ***decisions*** on policies, plans or programs, such as 'the adoption or amendment of comprehensive land use plans or zoning ordinances.' WAC 197-11-704(2)(b)(ii)." *King County v. Friends of Sammamish Valley*, 556 P.3d 132, 143 (Wash. 2024) (emphasis added). As that court noted, "nonproject action" is a defined term in the SEPA:

> **(b)** ***Nonproject actions.*** Nonproject actions involve decisions on policies, plans, or programs.
> **(i)** The adoption or amendment of legislation, ordinances, rules, or regulations that contain standards controlling use or modification of the environment;
> **(ii)** The adoption or amendment of comprehensive land use plans or zoning ordinances;
> **(iii)** The adoption of any policy, plan, or program that will govern the development of a series of connected actions (WAC 197-11-060), but not including any policy, plan, or

[2] OCPD contends the appeal exemption is available under the following statutes: RCW 36.70A.070(2), RCW 36.70A.600(3), RCW 36.70A.680(3) and RCW 43.21C.095. All contain the requirement that the appeal must be from an ordinance, regulation, or other "nonproject action."

> program for which approval must be obtained from any federal agency prior to implementation;
> **(iv)** Creation of a district or annexations to any city, town or district;
> **(v)** Capital budgets; and
> (vi) Road, street, and highway plans.

WAC § 197-11-704.

An EIS does not fit within any of these categories. It is a procedural requirement under SEPA, designed to inform decision-makers and the public about the environmental consequences of a proposed plan before any action is taken. The City Council has not yet acted on the One Seattle Plan. It remains under review and is not a final, binding action. Therefore, there is currently no nonproject action that would be subject to the exemption sought by OPCD.

OPCD cites *City of Olympia v. W. Wash. Growth Mgmt. Hr'gs Bd.*, 27 Wn. App. 2d 77, 78-79, 531 P.3d 816, 818 (2023), to support its claim that our appeal is barred. However, this case confirms that the exemption only applies when an ordinance has been adopted to implement provisions specified in RCW 36.70A.600(1). That court determined that a SEPA appeal should be dismissed under RCW 36.70A.600(4), satisfying the requirement "that the Ordinance must have been adopted to implement actions or enact provisions specified in RCW 36.70A.600(1)." *Id*. at 81 (emphasis added). The court further noted the legislature "decided to shield **ordinances** that increase residential building capacity." *Id.* at 85 (emphasis added) and referenced other administrative hearings exempting appeals to challenges to **ordinances** passed by a city. *Id.*, at 82-83, discussing *Hendrickson v. City of Kenmore*, No. 23-3-0001 (Wash. Growth Mgmt. Hr'gs Bd. Apr. 4, 2023).

To repeat: the exemptions apply only to final, adopted zoning ordinances or development regulations, not to procedural studies such as an EIS.

OPCD's interpretation of the statutory exemption would effectively allow it to issue an inadequate, misleading, or incomplete EIS and then claim that the EIS is

immune from review. This contradicts SEPA's fundamental purpose: ensuring informed decision-making by requiring environmental review before adopting policies or plans with significant environmental impacts. The legislature intended to limit appeals only from ordinances, regulations, and other final actions to prevent delay in implementing those actions after they have been fully vetted; it did not intend to foreclose procedures intended to ensure those decisions are fully informed.

OPCD also seeks support from *In re Belltown Livability Coalition*, Seattle Hearing Examiner, File No. W-24-001, in which an appeal of a Determination of Nonsignificance (DNS) for development regulation amendments was dismissed. The hearing examiner cited RCW 36.70A.070(2) to conclude that the proposed amendments were exempt from SEPA appeal. However, the decision is flawed for two reasons:

First, it fails to consider whether a DNS is a "nonproject action" subject to exemption. It isn't. The ruling assumes the exemption applies without analysis.

Second, it incorrectly assumes that the *City of Olympia* court applied a SEPA exemption to a ***proposed*** ordinance, when the ordinance at issue ***had already been enacted*** when the contested appeal was filed.[3]

Because the exemptions apply only to enacted legislation, the hearing examiner's decision in *Belltown* was based on an incorrect premise and is not persuasive. This appeal cannot be dismissed on the grounds that it is prohibited by the asserted statutes.

B. This appeal is not barred by SMC 25.05.545

1. Introduction.

OPCD argues that our appeal must be dismissed under SMC 20.05.545 because we did not submit comments on the Draft EIS issued in March 2024 before the comment

[3] The ordinance at issue was passed on November 13, 2018. *City of Olympia*, 27 Wn. App. 2d at 81. The administrative appeal that was dismissed was filed on January 11, 2019. *Id.* The city incorrectly argued in its motion that the *Olympia* court allowed the "exemption for a proposed ordinance," Department's and Intervenor's Joint Motion to Dismiss, File No. W-24-001 at 6 (September 6, 2024). The appellant did not challenge that representation. And neither side addressed whether a DNS was a nonproject action.

period closed on May 6, 2024. It relies on SMC 20.05.545(B), which states that a lack of timely public comment on "environmental documents…shall be construed as a lack of objection to the environmental analysis." However, this argument is flawed for at least two reasons.

First, an appellant in this appeal, FORC, submitted comments on the draft EIS, rendering OPCD's argument irrelevant.

Second, SMC 20.05.545(B) merely states that objections to the analysis in the Draft EIS are waived if no comment is submitted. It does not mandate dismissal of an appeal that challenges substantive changes and additions to the proposal that arose months after the comment period closed, which should have been examined in a supplemental EIS before a final EIS was issued.

2. This appeal is not barred under SMC 20.05.545(B) because Appellant FORC commented on the draft EIS.

OPCD concedes that appellant FORC timely submitted comments on the draft EIS: "Larry Johnson submitted a public comment on behalf of FORC on the DEIS on May 4, 2024." OPCD Motion at 16, fn. 9. Faced with this fact, OPCD pivots to a different argument, claiming FORC must be dismissed as an appellant because it includes Ravenna residents, while co-appellant Chris Youtz lives in Mount Baker. Really?

As FORC's president describes, it did not have counsel and after reviewing a draft of this appeal requested to join and continue challenging OPCD's inadequate analysis. It expressly adopted Objections 1 and 2 of this appeal as its own. Johnson Decl. ¶ 8. OPCD contends that FORC cannot adopt those objections because "the Youtz appeal is limited to the Mount Baker neighborhood" and "focused on the Mount Baker neighborhood." Motion at 19. Absolutely wrong.

OPCD deliberately ignores Objection 1, which is titled: "***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.***" This objection directly challenges the fundamental

changes and new information announced in October 2024—a citywide zoning revision aimed at increasing housing capacity to 330,000 units, far beyond the 120,000-unit maximum analyzed in the DEIS and FEIS, and exceeding Growth Management Act (GMA) targets, even though the plan analyzed by the DEIS was based on simply satisfying those requirements, not dramatically exceeding them.

This is not a Mount Baker issue. It is not a Ravenna issue. It is a citywide issue. OPCD itself acknowledges elsewhere in its motion that this objection is not limited to Mount Baker. Motion at 32, lines 11-12. The failure to account for this drastic increase in housing capacity impacts every aspect of the environmental analysis—traffic, air quality, public services, utility demand, greenhouse gas emissions, and demolition impacts through all the neighborhoods.

OPCD next argues that FORC cannot be an appellant because it supposedly failed to include "a brief statement of appellant's issues on appeal noting appellant's specific objections to the decision or action being appealed," as required under HER 5.01(d)(3).

As already noted, FORC explicitly adopted Objections 1 and 2 from Exhibit B of the appeal. OPCD's implication that FORC must restate these objections under its own name is faulty and petty. There is no requirement—nor any practical reason—for FORC or our other appellants to duplicate these objections verbatim simply to satisfy some perceived formality.

OPCD next argues that FORC should be dismissed for allegedly failing to provide an adequate "statement of its interest in the matter appealed," as required by HER 5.01(d)(2). This argument is also meritless.

FORC's interest in the matter is well established. It submitted timely comments on the Draft EIS, directly engaging with the SEPA process. In joining this appeal, FORC expressly stated that the adverse impacts identified in Objections 1 and 2 were "also applicable to" its members. *See* Exhibit B; Johnson Decl. ¶ 8. That statement—tied

directly to the content of the appeal—is more than sufficient to demonstrate FORC's interest.

Moreover, OPCD acknowledges FORC includes residents of the Ravenna neighborhood, one of many areas of Seattle significantly affected by the revised One Seattle Plan. Objection 1 of the appeal addresses citywide impacts resulting from the plan's expansion to 330,000 housing units, announced in October 2024. These impacts—on zoning, traffic, air quality, services, and infrastructure—are not limited to Mount Baker. All Seattle residents have a legitimate interest in how this plan was developed and evaluated under SEPA.

Dismissing a party from a SEPA appeal on hyper-technical grounds—especially when that party actively participated in the environmental review process—undermines SEPA's express goal of promoting public participation. See WAC 197-11-030(f) ("Agencies shall to the fullest extent possible: … Encourage public involvement in decisions that significantly affect environmental quality.") OPCD's attempt to exclude FORC based on a narrow reading of the filing requirements should be rejected.

FORC should continue to be an appellant in this appeal, and this appeal should not be dismissed on the grounds that a comment was not made to the DEIS.

3. SMC 25.05.545(B) Does Not Require Dismissal Where an Appeal Raises Issues Outside the Scope of the Environmental Analysis in the DEIS.

OPCD argues this appeal must be dismissed under SMC 25.05.545(B) because other appellants did not submit comments during the DEIS comment period. That argument misinterprets the plain language of the code, especially considering the objections raised in this appeal.

The full text of SMC 25.05.545 distinguishes clearly between "consulted agencies" and "members of the public." Subsection A provides that if a consulted agency fails to comment, it is ***barred*** from later alleging defects in SEPA compliance. In contrast,

subsection B states that failure to comment by members of the public shall merely be "***construed as lack of objection to the environmental analysis.***" There is no language barring an appeal; that sanction was intentionally not applied to members of the public.

Further, the code expressly allows objections to be made that were not contained in comments to the DEIS:

> Appeals to the Hearing Examiner are considered de novo; the only limitation is that the issues on appeal shall be limited to those cited in the notice of appeal…

SMC 20.05.545(B).

That standard is particularly applicable here where OPCD failed to perform a complete environmental analysis of the impacts of the overhauled One Seattle Plan and its new, ambitious zoning program disclosed in October 2024 in either the final EIS that it was preparing or a supplemental EIS. Instead, three months later OPCD simply provided a redlined version of the draft EIS as the final EIS with virtually no mention of these significant changes and new information.

An appeal of those deficiencies—which could not be addressed during the comment period for the DEIS—is expressly contemplated by SMC 20.05.545(B) with its provision for *de novo* review without being limited to comments provided during that time.

This interpretation is consistent with the Examiner's decision in *In re Smart Growth Seattle*, No. W-14-001 (Order on Motion to Dismiss, Sept. 2, 2014), where the Examiner rejected the argument that public comments are a prerequisite to appeal, explaining that no "frustration of SEPA's purposes" occurs when non-commenters appeal, because appeals are limited to the issues set forth in the notice of appeal—not those raised in prior comments. *See also In re Citizens for Livability in Ballard*, No. W-16-003 (Order on Motion to Dismiss, July 29, 2016). This principle is also consistent with the SEPA and

SMC rules on intervention, which do not require an intervening party to have submitted a DEIS comment to participate.

Our appeal is distinguishable from *In re Friends of Chasity*, No. W-23-002, cited by OPCD. There, the appellant sought to raise objections to a DNS despite having full access to the relevant information during the comment period and failing to comment. In that case, the analysis was already available. Here, the OPCD's plan was fundamentally changed months after the comment period had ended, and the public had no opportunity to review or respond to the revised proposal or its impacts.

Moreover, allowing OPCD to shield the Final EIS from challenge for not submitting a comment on an outdated and substantially changed proposal would frustrate SEPA's core objective to ensure that environmental impacts are disclosed, analyzed, and open to public scrutiny before decisions are made. SEPA's implementing regulations require agencies to "encourage public involvement in decisions that significantly affect environmental quality." WAC 197-11-030(1)(f).

This appeal is also procedurally necessary. Under the Seattle Municipal Code, there is no separate process to challenge an agency's failure to prepare a supplemental EIS. The only appeal route provided is through a challenge to the adequacy of the FEIS itself (SMC 25.05.680). If OPCD's argument is accepted, there would be no available procedure to review whether OPCD improperly failed to supplement the EIS, which would effectively insulate such failures from any review and contradict SEPA's mandate for ongoing environmental disclosure and accountability.

This appeal is not barred by SMC 25.05.545.

III. THE EXAMINER HAS JURISDICTION TO CONSIDER THE ISSUES IN THIS APPEAL.

OPCD attempts to put a spin on various objections and arguments made in the appeals to argue the Examiner lacks "jurisdiction" to consider them because they are irrelevant to the claim of inadequacy of the environmental impact statements prepared

by OPCD. This additional effort to pick apart and narrow the appeals should be rejected. OPCD's hunting expedition extends to the following issues raised by us:

A. Growth Management Act issue

OPCD contends that the Examiner does not have jurisdiction to adjudicate GMA claims, including our Objection 3 that "***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.***" Exhibit B at 4.[4]

FEIS has two sections that describe the impacts of the One Seattle Plan. Under the general heading of "Impacts," OPCD represents that the plan will "protect critical areas and historic resources consistent with the GMA." FEIS at 1-68. It makes the same statement under the heading of "Impacts Common to All Our Alternatives (3.7.2 Impacts)." FEIS at 3.7-15. Now that the full scope of the actual plan has been released without any additional analysis being performed, it is clear those statements are not true and their inclusion in a final environmental report to be provided to the City Council is a misrepresentation. Under WAC § 197-11-600, a Supplemental EIS is required when "New information indicating a proposal's probable significant adverse environmental impacts. (***This includes discovery of misrepresentation or lack of material disclosure***)." (Emphasis added).

The FEIS issued on January 30, 2025, represents that OPCD adequately investigated the GMA protections afforded historical resources to confirm those conditions were met. There is no indication that an appropriate analysis was performed to verify that representation, particularly when the proposal was substantially changed in October 2024, which we expect will be confirmed by discovery. The Examiner has jurisdiction to consider this argument.

[4] In this memorandum, "Exhibit B" refers to the Exhibit B for this appeal, which contains the objections raised by our Appellants.

B. Restrictive covenants

OPCD mistakenly contends that we are asking the Examiner to enforce or resolve disputes over restrictive covenants that prohibit construction of the buildings and units proposed by the plan. We are not. The problem is that OPCD does not consider the effect of these covenants in determining the amount of property available to support 330,000 new housing units. As noted in our Objection 5, 200 acres in the Mount Baker area alone have these covenants yet the October 2024 plan assumes that five-story buildings and other multiple housing units can be built throughout that area. That means to reach the goal of 330,000 units, that housing must be placed into other areas, but this is not recognized by any study done under the FEIS. This is a city-wide problem that simply was not addressed, although OPCD knows the problem exists.[5]

C. Dismissal is not appropriate for "policy arguments"

OPCD argues that "claims and request for relief seeking different policy preferences must be dismissed." We have not made such a request; the relief we seek in our appeal is preparation of a revised, adequate FEIS or a supplemental EIS to address the actual, current plan. The Examiner should not edit statements or objections we have in our appeal simply because they may also question whether a proposal in the plan makes sense or not. The Examiner will obviously disregard arguments intended to change policies in the plan that will be decided by the City Council but should not be required to revise appeal statements in advance of those arguments to delete what may be thought of as a "policy argument."

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[5] OPCD contends that "contrary to Youtz's and Cary's claim the FEIS acknowledges it is aware of such covenants." This statement was not made in the text of the FEIS but in response to a comment, which is quoted in our objection. *See,* Exhibit B, page 7. The problem is that it was never evaluated to determine its impact on the plan.

IV. OPCD'S MOTIONS TO NARROW LIMIT OF THE SCOPE OF OUR APPEAL SHOULD BE DENIED.

Except for Objection 1 of our appeal, OPCD has moved to limit the remaining five objections to either the Mount Baker neighborhood or to the single issue of mitigation efforts to reduce the impact to tree canopies. It apparently intends to limit its discovery responses in the same manner. The examiner should not sanction these limitations. Our responses to OPCD's effort to limit the objections in our appeal are as follows:

Objection 1: OPCD acknowledges that our Objection 1 (discussed previously) is applicable to the entire geographical scope of the plan.

Objection 2: OPCD argues that issues concerning the potential destruction of historic homes should be limited to actual physical demolition of the homes and not the historical or cultural aspect of their removal. However, the objection is broader than that:

> 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.

Exhibit B, page 3 (emphasis added). The references to old, historic homes encompass concerns for losing their cultural and historic value. *See*, SMC 25.05.444(B)(2)(f); WAC § 197-11-444(2)(vi) (Historic and cultural preservation). Like a complaint filed in court, the statements in the appeal should be treated liberally and broadly. These concerns are also consistent with Objection 3 regarding the need to preserve structures that have historical or architectural significance.

Objection 3: This objection addresses OPCD's misrepresentation that the One Seattle Plan complies with the GMA (also discussed above). OPCD contends that it should be limited to homes in Mount Baker because the examples in the narrative

involve homes in that area where the appellant has personal knowledge. It is clear from the objection, however, that the concern is for "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." Exhibit B, page 4 (emphasis added). OPCD's misrepresentation is applicable to all neighborhoods, not just Mount Baker.

Objection 4: OPCD acknowledges that this objection, which addresses mitigation measures that do not meet the requirements of WAC § 197-11-768, applies to all neighborhoods. However, OPCD then claims that Objection 4 should be limited to mitigation efforts for tree canopies because the example of an improper offer of mitigation involves tree canopies, even though the sentence began "For example…" Further, the next sentence made it clear the mitigation problem was not limited to tree canopies: "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." Exhibit B, page 5.

Objection 5: (also discussed previously) faults OPCD for not considering the impact of restrictive covenants in evaluating the plan. Mount Baker is a prime example of this issue since it involves 200 acres of housing that is limited by covenants to single family housing. But using Mount Baker as an example does not limit the concern only to that neighborhood. The objection is intended to apply generally to the analysis performed by OPCD, not just any analysis it might have done for Mount Baker.

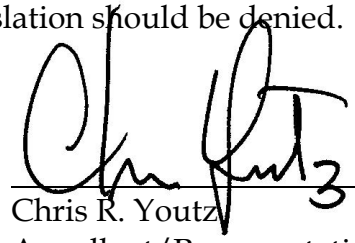
Objection 6: this objection is entitled "one size does not fit all" because it criticizes OPCD's failure to consider the unique circumstances of each neighborhood it was evaluating in determining the impact citywide. It specifically states that the "FEIS does not adequately cope with differences among multiple areas of the city where the proposed development is neither legal nor feasible." The objection states "Mount Baker

is a perfect example of that failure." That should not limit the objection as being applicable to only Mount Baker.

V. CONCLUSION [6]

The purpose of the SEPA process is to allow full vetting of all possible, significant environmental impacts that could result from the implementation of the proposed plan. That process includes public comment and a right to challenge the adequacy of the analysis through the administrative and judicial process. OPCD's efforts to deny or severely limit the challenges to the report that will be provided to the decision-makers considering this important piece of legislation should be denied.

DATED: March 21, 2025.



Chris R. Youtz
Appellant/Representative for appeal W-25-004

[6] OPCD also seeks to have the Examiner realign appellants who appear in more than one appeal and to consolidate issues. At the prehearing conference we offered on behalf of all appellants to develop a list of issues to be presented to the Examiner to eliminate duplication and are willing to meet with OPCD's counsel to discuss these administrative details. We suggest the Examiner direct the parties to confer regarding the organization of the appeals and issues and not involve the Examiner unless there are disputes that need to be resolved.

CERTIFICATE OF SERVICE

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

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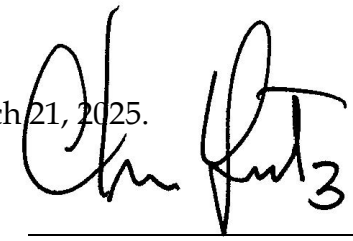
DATED: March 21, 2025.



Chris R. Youtz