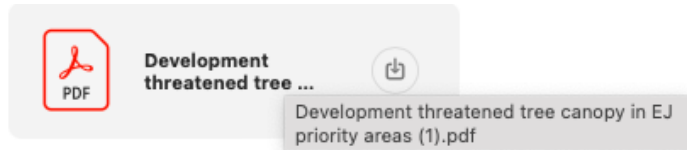


Attachment 1
May 6, 2024 Thaler Comment Email on DEIS

From: Toby Thaler <toby@thaler.org>
Subject: Comments on OneSeattlePlan/DEIS
Date: May 6, 2024 at 4:09:23 PM PDT
To: OneSeattleCompPlan@seattle.gov
Cc: Council@seattle.gov



To: OneSeattleCompPlan@seattle.gov

Cc: Council@seattle.gov

Date: May 6, 2024

Re: Comments on DEIS for Draft Comprehensive Plan (“One Seattle Plan”)

Thank you for the opportunity to submit comments on the City of Seattle’s (City) State Environmental Policy Act (SEPA) required Draft Environmental Impact Statement (DEIS) for the City’s proposed comprehensive plan update required by Washington State Growth Management Act (GMA), titled “One Seattle Plan” (Plan Update).

The DEIS for the Plan Update contains a large quantity of material covering many subjects. My comments are focused on a few environmental and natural resources issues, and the City’s need for more housing affordable to low income households as part of a concerted effort to redress over a century of inequity and increasing levels of displacement and segregation.

Unfortunately, notwithstanding the volume of material, I find the impact analyses and conclusions in the DEIS to be deficient in a number of areas.

1. The Plan Update is part of a series of City decisions that fall within SEPA “phased review.”

State SEPA regulations require that “When a lead agency knows it is using phased review, it shall so state in its environmental document.” [WAC 197-11-060\(5\)\(e\)](#).

Washington State GMA regulations provide:

- (a) The growth management process is designed to proceed in phases, moving, by and large, from general policy-making to more specific implementation measures. Phased review available under SEPA can be integrated with the growth management process through a strategy that identifies the

points in that process where the requirements of the two statutes are connected and seeks to accomplish the requirements of both at those points.

(b) In an integrated approach major emphasis should be placed on the quality of SEPA analysis at the front end of the growth management process - the local legislative phases of plan adoption and regulation adoption. The objective should be to create nonproject impact statements, and progressively more narrowly focused supplementary documents, that are sufficiently informative. These impact statements should reduce the need for extensive and time consuming analysis during subsequent environmental analysis at the individual project stage.

[WAC 365-196-620](#)(3) (“Phased environmental review”)

The Fact Sheet for the DEIS states “As part of the One Seattle Plan Update, the City will consider updates to zoning and development regulations to implement the Plan.”

The DEIS does not contain a specific explanation of how SEPA will be applied to implementation of the Plan Update by City Council adoption of major amendments to development regulations (land use and zoning ordinances) under the GMA. See, e.g., the discussion of “Future Land Use and Zoning” at DEIS p. 3.6-13. Section 1.2 “SEPA Process” of the DEIS starts “This document is a non-project EIS that analyzes a range of legislative changes that will implement the One Seattle Plan across the study area.” This statement is confusing since this DEIS does not in fact “analyze a range of legislative changes *that will implement* the [Plan Update].” (emphasis added) Many if not most of those “legislative changes” are separate ordinance actions—land use and zoning code changes—which are likely to require a new SEPA impact review, assessment, and threshold determination.

The City Council (which adopts the development regulations) and the public need to know the specific range of potential actions and the scope of SEPA analyses that will be required for those actions, as well as which potential implementing actions may require additional Comprehensive Plan amendments, in addition to a preliminary assessment of the scope of needed SEPA review to support those actions. If more SEPA review is going to be needed for specific implementation policies, such as inclusionary zoning, the City Council and public need to see that in this DEIS.

The needed inverse of the above, is a listing in the new phased review discussion of potential mitigation measures that are not included in the Plan Update and not evaluated in the DEIS.

The City’s Final EIS (FEIS) for the Plan Update should include a more accurate and complete description of the SEPA process, including a discussion of how SEPA phased review applies to later implementing development regulation ordinances.

2. Reliance on implementation of existing law does not adequately support conclusions of no “significant unavoidable adverse impacts.”

The EIS repeatedly says that significant unavoidable adverse impacts will be “managed by the application of existing development regulations.” These claims avoid the issue of the effectiveness of the mitigation measures set out in prior SEPA processes to prevent, mitigate, or avoid impacts. Effectiveness assessments were to be included in this DEIS according to the City’s EIS preparation contract PC022-002 with BERK Consulting, Inc.: “Throughout the process, the Consultant team’s engagement will: ...Address engagement fatigue and **questions about lack of concrete results**

from prior plans.” Scope of Work: Seattle Comprehensive Plan Update, contract between City and BERK Consulting, Inc.”

A list of relevant prior City SEPA reviews is also noted in the BERK contract: “The Industrial and Maritime EIS, relevant programmatic EISs (MHA, ADU, Uptown, U District, South Lake Union, 2015 Comprehensive Plan, etc.), as well as the [Berk 2021] Market Rate Housing Needs and Supply Analysis will set a good foundation for the Comprehensive Plan Update EIS to be prepared 2022-2024.” The accuracy of outcome projections and effectiveness of mitigation measures of these prior related City policy reviews is not comprehensively included in the DEIS. Some such analyses are present in various sections, but it is not well synthesized or discussed in terms of actions needed to evaluate the likely effectiveness of proposed mitigation measures for the new proposed plan.

3. The DEIS disparate impact and displacement analyses are deficient.

A. I concur in the detailed review and comment of DEIS anti-displacement measures submitted by Representative Gerry Pollet. Pollet’s comments on the lack of any alternative with substantial inclusionary housing provisions are particularly important. The City’s failure to assess the impacts and effectiveness of City-wide mandatory inclusionary zoning in the EIS would probably make it impossible for the City Council to consider development regulations to implement proposed Policy H 3.12 without further SEPA review, delaying potential use of that mitigation tool for years.

B. Another deficiency is the failure to properly cite sources. One clear example is displayed in this recent email exchange with OPCD about a specific source document:

Q. Why didn't OPCD incorporate data and analyses from [BERK 2021](#) (Market Rate Housing Needs and Supply Analysis) in the Housing section or Appendix to the DEIS? OPCD's contract with BERK to prepare the EIS for the Comp Plan update says that BERK 2021 is to be used for the housing impact analyses (see Contract pdf pp. 14-15, Scope of Work pp. 1-2), but the Comp Plan DEIS doesn't even cite that study on that topic.

A. (OPCD) Much of the analysis included in the Market Rate Housing Needs and Supply Analysis was in fact included in the EIS although with updated numbers. We didn't site the previous work since updated analysis was included in the EIS itself.

OPCD’s methodology makes it extremely difficult for reviewers or the City Council to know which data from the Market Rate Housing Needs and Supply Analysis was incorporated into the DEIS, and which data was updated, with what methodology or source, and by whom. Failing to “show the work” violates SEPA rules:

Material incorporated by reference (a) shall be cited, its location identified, and its relevant content briefly described; and (b) shall be made available for public review during applicable comment periods.

[WAC 197-11-635\(2\)](#)

C. There is a paucity of high resolution spatial analyses of actual displacement and displacement risk. In another email exchange OPCD responded to “Why didn't OPCD do a disparate impact analysis like Appendix M in the [MHA FEIS](#)?” as follows:

OPCD did a disparate impact analysis which is contained in the [Housing Appendix](#), starting on p.37. However, Appendix M of the MHA FEIS was actually a "correlation between new housing development and various household groups". Statistical analysis of this nature is not required for EIS and is in fact highly unusual.

Displacement risk analyses are by definition neighborhood specific. The more granular the data, the more accurate the analysis. The City's own reports clearly indicate that mapping of displacement risk is an essential component of the analysis. E.g., [Equitable Development Community Indicators Report](#) (2020). The City retained the Urban Displacement Project to prepare a "[Heightened Displacement Risk Indicators](#)" (2019) report 2019 (discussed at pp. 37 et seq. of Draft One Seattle Plan Housing Appendix): "The Displacement Risk Index in the Equity Analysis was designed to identify *geographic areas* where marginalized people are at a risk of displacement currently and over the longer term." And "This index is a fundamental tool for guiding the City's anti-displacement work and should be refreshed with ample lead time to meaningfully inform the next update of the City's Comprehensive Plan." p. 2

The State Department of Commerce has similar [guidance](#); a disparate impact analysis is intended in part to: "Analyze[e] the ratios of different groups of people *between a smaller area, such as a census tract, and the whole jurisdiction.*" (emphasis added) And "**Concentration or dispersion of affordable housing** or housing choice voucher usage within the jurisdiction." P. 23 (emphasis in original).

The "[Appendix M](#)" referenced in the question to OPCD is a high resolution set of maps prepared for the EIS for the MHA program that assess the actual change in demographics in specific census tracts. It is exactly the type of data that would help improve the quality of information available to the City Council and the public concerning disparate impacts, displacement trends, future risks, and targeted mitigation measures.

4. The analyses of impacts to and from City trees and urban forest canopy is grossly inaccurate

Following are a few key selections from the DEIS's impact analyses for Seattle's trees

Tree Canopy Cover

3.3.2 Impacts

Under any of the alternatives, *the potential for adverse effects on plants and animals would be avoided, minimized, documented, and mitigated to the greatest extent possible through regulatory reviews and permitting processes that apply to individual projects* (see **Section 3.3.3**). None of the alternatives propose any modifications to those processes.

...

As discussed in **Section 3.3.1**, areas with disadvantaged populations tend to have less canopy cover than other areas. In addition, *these area lost more canopy cover, on average, compared to other neighborhoods*, during the 5-year study period of the City's tree canopy assessment. For these reasons, alternatives with a higher likelihood of contributing to canopy cover loss in areas with a combination of disadvantaged populations and low canopy cover would have an *elevated risk of adverse effects on disadvantaged populations*. Many

areas with extensive multifamily development (e.g., apartment complexes) have this combination. Therefore, alternatives that concentrate growth in areas where extensive multifamily development is already present may have a *higher likelihood of contributing to canopy cover loss in areas with disadvantaged populations.*

...

3.3.4 Significant Unavoidable Adverse Impacts

Under any of the alternatives, population growth in Seattle will drive development and redevelopment of residential and commercial properties. As discussed above, differences in the availability or distribution of habitats in the city would be *unlikely to result in any appreciable impacts on regional populations of plants* or animals.

(Emphasis added]

The repeated statements in Section 3.3.3 (Mitigations Measures) that “the action alternatives include policies to maintain and enhance tree canopy” are all based on no effectiveness monitoring data for the new ordinance. It is well-known in Seattle’s urban forestry advocacy community, and documented in press reports, that the City’s new tree ordinance does not “protect trees” and is explicitly designed not to do so.

Not only was there ***no SEPA analysis of major changes in the current tree code between the time of introduction and adoption by the City Council***, but the lack of consideration of disparate impacts is stark. [fn, Morris 2024 attached] Furthermore, using the standard of “impacts on regional populations” (DEIS p. 3.3-29) of trees as the measure for determining if there are impacts on Seattle’s trees and urban forest is patently erroneous.

In short, it is clear that if the City Council does not correct the mistakes made by the prior Council last summer, the City’s tree canopy will continue to decline and the disparate impacts on less wealthy and less White communities will increase. These significant adverse impacts will accelerate as a result of climate change; I discuss this problem in the next section.

5. The Plan Update and DEIS inadequately evaluate climate change risks and impacts

I did not review every aspect of climate change impacts and future risks. It is clear however, that the DEIS does not address long term trends. With a planning horizon of 20 years, it is difficult for the City government to anticipate impacts likely to result from continued population growth and development. One example of impacts likely to occur that are not mentioned in the DEIS concerns water supply:

None of the alternatives are anticipated to adversely impact water supply. As stated in **Section 3.12.1 Affected Environment, SPU does not have any planned efforts to increase water supply during the 20-year planning horizon** for the comprehensive plan. As reported in its Official Yield Estimate and Demand Forecast, SPU forecasts that future demand will remain relatively flat well below the available water supply beyond 2060 despite anticipated population and employment growth, due to continued efforts to conserve water and planned reductions in service to its wholesale water customers (SPU 2018, 2019a).

DEIS p. 3.12-17 (emphasis added). While SPU has done an amazing job managing our water supply, it is going to become increasingly difficult to meet demand with its current sources. Not cited in the DEIS is the National Climate Assessment 2024, which concludes:

Interannual variability in precipitation is projected to persist, and observed lower streamflows in summer are expected to decrease even further due to reduced snow storage, increased evapotranspiration, and longer lags between summer precipitation events.^{18,19,20} Increasingly low precipitation in drought years has driven extremely low streamflows.²⁰ Some currently permanent streams will transition to ephemeral streams, affecting aquatic species and regional water supply (KMs [27.2](#), [27.4](#)).

[National Climate Assessment 2024, Chapter 27](#)

6. Addendum for City Council—Policy Options to improve the City’s ability to respond to displacement and environmental inequity

A. Fix the tree ordinance. Here is a list of priority areas that should be addressed:

Plan for trees:

- 1—move tree planning to front end of development
- 2—set aside space for trees
- 3—restore code flexibility (through alternative site design authority, and removing 85/100% hardscape guarantees)

Close loopholes:

- 1--remove "basic" TPA—restore flexibility
- 2--remove minimum 15-ft wide structures—no basis in LUC
- 3--remove "elderly & disabled" exemption—vague, unenforceable
- 4--require replacement for dead trees—fuels tree killing

Establish congruence with existing and future land use code:

- 1—applies to all zones
- 2—lookback period
- 3—clarify vesting for removals

B. Create a City Department of the Environment

The City needs an empowered department with responsibility for advocating for long term sustainability, quality of life, and equitable sharing thereof. The current departmental structure

empowers development; environmental quality enforcement has no cabinet level power, and is often housed in departments with other and conflicting priorities. For example, the City Auditor (part of the Legislative Department) recommended rationalizing tree management in 2009 and it still has not happened.

C. Institute a rent roll in the Rental Registration and Inspection Ordinance

The RRIO requires all rental housing to be registered with the City. Requiring rent roll data as part of annual registration would fill a large gap in housing market data needed to more accurately assess displacement on a granular level City-wide. See [CB 120325](#)

Attachment 2
February 2025 Email Exchange with OPCD

From: Toby Thaler <toby@thaler.org>
Subject: Re: Comments on DEIS
Date: February 27, 2025 at 9:54:29 AM PST
To: "Holmes, Jim" <Jim.Holmes@seattle.gov>
Cc: "Hubner, Michael" <Michael.Hubner@seattle.gov>

Thank you.

Toby Thaler

On Feb 27, 2025, at 9:52 AM, Holmes, Jim <Jim.Holmes@seattle.gov> wrote:

Hi Toby:

Our apologies for not including this comment letter in the FEIS. We will be publishing an EIS addendum that will include this letter and provide a response to the issues raised.

Thank you.

-----Original Message-----

From: Toby Thaler <toby@thaler.org>
Sent: Thursday, February 13, 2025 11:01 PM
To: Hubner, Michael <Michael.Hubner@seattle.gov>
Subject: Comments on DEIS

[You don't often get email from toby@thaler.org. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

CAUTION: External Email

I would like to know why my name does not appear on the list of people who commented on the One Seattle Plan DEIS by May 6, 2024 does not appear in the list of commenters.

Was I mislabeled as "Toby Thomas", no. 451? For your reference, I'm attaching a pdf of the email I sent.

Thank you for your attention to this question,

Toby Thaler