

LAND USE/SEPA DECISION APPEAL FORM

You do not have to use this form to file an appeal. However, if you do not use it, please make sure that your appeal includes all the information requested on this form. The appeal, along with any required filing fee, must reach the Office of Hearing Examiner, no later than 5:00 p.m. of the last day of the appeal period.

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HEARING EXAMINER

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 ~~Wasa~~ Citizens for Livability in Ballard
Address 8714 87th NW Seattle
Phone: Work: Home:
Fax: Email Address:

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.

Name Joseph E. West
Address 8714 87th NW Seattle, WA
Phone: Work: Home: 206-819-9457
Fax: Email Address: Joe.West53@gmail.com

DECISION BEING APPEALED

- 1. Decision appealed (Indicate MUP #, Interpretation #, etc.): Seattle Comp Plan Update EIS
- 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 [X] Adequacy of EIS
Conditional Use Interpretation (See SMC 23.88.020)
EIS not required Short Plat
Major Institution Master Plan Rezone
Other (specify:)

APPEAL INFORMATION

Answer each question as completely and specifically as you can. Attach separate sheets if needed and refer to questions by number.

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

See Attached

- 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.)

See Attached

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

See Attached

Signature Joseph E. Went

Date 5/20/2016

Appellant or Authorized Representative Joseph E. Went

Deliver or mail appeal and appeal fee to:

**City of Seattle
OFFICE OF HEARING EXAMINER
P.O. Box 94729
Seattle WA 98124-4729**

**SEATTLE MUNICIPAL TOWER - 700 5th Avenue, Suite 4000
Phone: (206) 684-0521 Fax: (206) 684-0536
www.seattle.gov/examiner**

Date: May 20, 2016

Appellant Information

Name: Citizens for Livability in Ballard; contact—Joseph E. Wert

Address: 8714 – 87th Ave NW, Seattle

Phone: 206-819-9447

Email: joewert53@gmail.com

Decision being appealed: Adequacy of Draft and Final EIS for the Seattle Comprehensive Plan Update, released on May 4, 2015 and May 5, 2016 respectively.

Appeal Information:

What is your interest in this decision?

The Appellants have standing as an aggrieved party because the appellants are residents of Seattle and adversely affected by changes to the Comprehensive Plan and inadequate analysis in the EIS.

What are your objections to the decision?

See below

What relief do you want?

Hearing Examiner should direct city to prepare a new DEIS and FEIS to address inadequacies. We request that the Hearing Examiner retain jurisdiction until after the city submits a new scope and detailed methodology and provides public input and is approved by Hearing Examiner

II. ACTIONS FOR WHICH REVIEW IS SOUGHT

- A. Adequacy of the Draft and Final EIS for the Seattle Comprehensive Plan Update
- B. The appeal is filed pursuant to SMC 25.05.680.B.1.B Section 3.02.125.B.1 Decisions Not Related to Master Use Permits or Council Land Use Decisions.
- C. Relief requested to require the city to prepare a new Draft EIS using appropriate methodology and reaching supportable conclusions prior to taking any action on the proposed Comprehensive Plan.

III. ISSUES PRESENTED FOR REVIEW

- A. Alternatives presented do not meet the requirement of WAC 197-11.
- B. Elements of the Alternatives presented, in specific cases, do not meet the requirements of a Comprehensive Plan as defined in RCW and therefore are not valid alternatives.
- C. The analysis presented does not address the impacts of proposed specific provisions of the proposed Comprehensive Plan.
- D. The analysis presented does not meet minimal standards of professionally accepted analysis of specific impacts, in some cases does not meet the city's standards or provide the type of analysis presented by previous EISs prepared by the city.

- E. The EIS analysis as presented deprives the appellant, and the general public, of due process, substantive due process and the rights recognized in 43.21C.020.

Specific issues are enumerated below:

- A. Alternatives presented do not meet the requirement of WAC 197-11.

- 1. SEPA/GMA integration. The City has not indicated that this EIS is prepared pursuant to WAC 197-11-210 through 197-11-235 and therefore those provisions do not apply.
- 2. The EIS does not meet the requirements of WAC 197-11-442.(4)

The EIS's discussion of alternatives for a comprehensive plan, community plan, or other areawide zoning or for shoreline or land use plans shall be limited to a general discussion of the impacts of alternate proposals for policies contained in such plans, for land use or shoreline designations, and for implementation measures. The lead agency is not required under SEPA to examine all conceivable policies, designations, or implementation measures but should cover a range of such topics. The EIS content may be limited to a discussion of alternatives which have been formally proposed or which are, while not formally proposed, reasonably related to the proposed action.

- a. The FEIS states the following on page2-20

The City has identified four alternatives for consideration in this the Draft EIS, and an additional alternative in this Final EIS. The alternatives are structured to evaluate differing levels of growth emphases that may occur in various areas of the city, and with differing levels of resulting land use intensities. Each alternative emphasizes different patterns of projected future growth amount and intensity among the urban centers, urban villages and areas well-served by transit-related areas.

The EIS analyzes different growth allocation alternatives, not the specific policies proposed and the impacts that will result from those policies.

- b. The EIS does not, in fact, analyze the specific provisions of the Comprehensive plan, or the impacts that will result from those provisions, as enumerated in Section C, below.
- c. The Alternatives considered in the EIS do not meet the criteria of WAC 197-11-440(5)(b):

Reasonable alternatives shall include actions that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation.

There is no alternative that reduces the impacts of the proposal, based on analysis of impacts, if such an analysis had been prepared, as enumerated in Section C, below.

d. The Alternatives do not meet the requirements of WAC 197-11-402 (10):

EISs shall serve as the means of assessing the environmental impact of proposed agency action, rather than justifying decisions already made.

The alternatives considered in this EIS are designed to justify decisions made by the planning staff by providing unsubstantiated conclusions that the preferred alternatives would result in a lower level of environmental impact.

- B. The Alternatives presented, in specific cases do not meet the requirements of a Comprehensive Plan as defined in RCW 36.70a.070(6) and therefore are not a valid alternative.

The proposed policies are:

GOAL TG 9 Use LOS standards as a gauge to assess the performance of the transportation system.

POLICIES

- T 9.1 Define arterial and transit LOS to be the share of drive-alone trips made during the late-afternoon peak period (3:00 to 6:00 p.m.).
 - T 9.2 Provide a menu of transportation-demand management tools for future development to meet non-drive-alone mode share targets.
 - T 9.3 Pursue strategies to reduce drive-alone trips in order to increase the ability of the city's transportation network to carry people.
 - T 9.4 Assess the mode share LOS standards over time and adjust as necessary, based on review of other City transportation measures.
1. Use of the "share of drive-alone trips" as the definition of LOS does not meet the requirements of RCW 36.70a.070(6)(iii) Facilities and services needs, including:
 - (B) Level of service standards for all locally owned arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;
 2. The proposed LOS standard does not assess the "performance of the system." The "share of drive-alone trips" is one component of the inputs that result in "performance of the system" but provides no information about how the facility actually performs, or operates.
 3. A useful perspective on the intended use of the term "level of service" in the statute is the cross reference provided in RCW 36.70a.070 (6)(iii)(C) to RCW 47.06. The statutory provision, in RCW 47.06.050(1)(c) refers to:

A capacity and operational improvement element, which shall establish operational objectives, including safety considerations, for moving people and goods on the state highway system, identify current and future capacity, operational, and safety deficiencies, and recommend program funding levels and specific improvements and strategies necessary to achieve the operational objectives. In developing capacity and operational improvement plans the department shall first assess strategies to enhance the operational efficiency of the existing system before recommending system expansion. Strategies to

enhance the operational efficiencies include but are not limited to access management, transportation system management, demand management, and high occupancy vehicle facilities...

It is clear that the "operation" of the system must be analyzed in terms of its ability to move people and goods.

4. The Final EIS on page contains on page B3-6 the following statement that clearly indicates that other alternatives to the proposal are available:

In mid-2014, the City hired a consultant, Fehr & Peers, to assist in the evaluation of alternative LOS frameworks. City staff and Fehr & Peers conducted a literature review of LOS approaches by other cities and reported these findings in a series of staff workshops that spanned early 2015. Staff also considered the policy direction in the regional Vision 2040 plan to establish a multi-modal LOS measure. These workshops included representatives from SDOT, OPCD, and the Mayor's Office and evaluated approaches ranging from maintaining the City's existing screenline-based LOS metric to approaches measuring mode share, vehicle miles traveled (VMT) per capita and system completeness. Upon evaluation of these approaches, staff expressed support for SOV mode share as the best metric for Seattle, given its alignment with the City's transportation priorities.

The City staff's preference is an interesting fact, but presenting only one alternative in a case where many options are available, is contrary to the provisions of WAC 197-11-402 (9):

The range of alternative courses of action discussed in EISs shall encompass those to be considered by the decision maker.

The range of alternatives should be considered by the City Council, the decision-maker. All information developed and presented to the staff should be presented in the EIS to allow the decision maker and the public to fully consider alternatives.

Inclusion of only the staff recommendation is also certainly a case of an action prohibited by WAC 197-11-402 (10)

EISs shall serve as the means of assessing the environmental impact of proposed agency action, rather than justifying decisions already made.

- C. The analysis presented does not address the impacts of proposed specific provisions of the proposed Comprehensive Plan.

1. The EIS focuses on the following alternatives, as provided on page 1-5 of the FEIS

The City has identified five alternatives for consideration in this EIS. The alternatives assume the same level of total growth, but evaluate differing levels of growth emphases that may occur in various areas of the city, and with differing levels of resulting land use

intensities. Each alternative emphasizes different patterns of projected future growth amount and intensity among the urban centers, urban villages and transit-related areas.

- Alternative 1, Continue Current Trends (No Action), would plan for a continuation of current growth policies associated with the Urban Village Strategy along with a continuation of assumed trends that distribute growth among all of the urban centers and urban villages.
- Alternative 2, Guide Growth to Urban Centers, prioritizes greater growth concentrations into the six existing urban centers—Downtown, First/Capitol Hill, University District, Northgate, South Lake Union and Uptown.

The emphasis in alternatives 3 and 4 is on providing opportunity for more housing and employment growth in areas closest to existing and planned transit service. Specifically:

- Alternative 3, Guide Growth to Urban Villages near Light Rail, prioritizes greater growth concentrations around existing and planned light rail transit stations.
- Alternative 4, Guide Growth to Urban Villages near Transit, prioritizes greater growth concentrations around light rail stations and in specific areas along priority bus transit routes.

For this Final EIS, the City has identified a Preferred Alternative. Compared to the Draft EIS alternatives, the Preferred Alternative is most similar to Alternative 4 in that it guides growth toward urban villages and centers with light rail stations and places with very good transit service. The Preferred Alternative also seeks to address the equity and displacement issues identified in public comment and the separate Growth and Equity Analysis. In order to reduce the potential for displacement, the Preferred Alternative reduces the amount of estimated future growth that would be guided toward several of the urban villages where the Equity Analysis showed a high risk of displacement and low access to opportunity and distributes this growth to other urban villages and to areas outside of the urban villages.

2. The FEIS offers an interesting presentation of growth strategies, but doesn't address the wide range of changes made to policies in the proposed Comprehensive Plan. The only policy changes that are discussed are:
 - a. DEIS page 1-10 FEIS Page 1-21: Land Use Element. A change in the land use designations used on the Future Land Use Map (FLUM) for urban villages is being considered.
 - b. DEIS Page 3.4-27, FEIS Pages 1-21 and 3.1-15: Elimination of Policies LU59 and LU60 containing criteria for rezones of single-family properties.
 - c. DEIS Page 3.4-31: Elimination of urban villages mapped land use designations.
 - d. FEIS Page 2-4: Revise Single Family Land Use Goals (LUG8, LUG9, LUG10) and Policies Addressing Rezone Criteria (LU59, LU60).
 - e. FEIS Page 2-4: Policy H2.2 to "Identify publicly owned sites suitable for housing, and prioritize use of sites, where appropriate, for rent/income-restricted housing for lower-income households"

- f. FEIS 2-5 and 3.2-19: Parks and Open Space Goals. Proposed revisions would discontinue the quantitatively-expressed goals for parks/open space in the current Urban Village Appendix, and replace them with a more general commitment to expand open space to meet the needs of the community, with additional details about goals and commitments to be defined at a later date.
3. Policies with potential adverse impacts include the following
- a. DEIS page 1-10 FEIS Page 1-21: Land Use Element. A change in the land use designations used on the Future Land Use Map (FLUM) for urban villages is being considered.

The Draft EIS on page 1-19 states:

Land Use Element. A change in the land use designations used on the Future Land Use Map (FLUM) for urban villages is being considered. A single designation may be applied to each type of urban village, and this would be accompanied by policies that clearly describe the desired mix of uses and density. This change would be consistent with existing Comprehensive Plan policy (LU1 and LU2). A redundant policy containing criteria for rezones of single-family properties could also be eliminated; these criteria are currently contained in the Land Use Code (SMC 23.34), and this simplification would be consistent with adopted policy (LU3).

MITIGATION STRATEGIES

Because no significant adverse impacts are identified with respect to consistency with plans and policies, no mitigation strategies are required or proposed.

SIGNIFICANT UNAVOIDABLE ADVERSE IMPACTS

No significant unavoidable adverse impacts are anticipated. This issue is also discussed in Section 3 on pages 3.5-7 and concludes that

The potential change in map designations would be consistent with the intent of policies LU1 (use broad categories of land uses on the map) and LU2 (require map changes only when the functions of large areas change). The change in designation could reduce the need for Comprehensive Plan amendments to permit changes in land use within urban villages when proposals are consistent with the mix of uses and densities identified for the particular type of village.

As stated, the primary purpose is to eliminate the need for Comprehensive Plan amendment for upzones. In fact, this redesignation provides for the future upzoning of all such designated lands into the high density provided for in the zoning code with no guidance from the Comprehensive Plan. The result is the likely elimination of lower ranges of zoning and much higher intensities in the urban villages.



The impacts of this higher density and intensity of use and higher and larger scale buildings must be analyzed for the specific geographic areas where the combined designation is proposed and the difference between the existing designation and the top of the range identified. The impacts must be identified for Land Use Compatibility and Height, Bulk and Scale.

For example, the Ballard Urban Village is 425 acres, about the size of Bellevue's downtown. Bellevue has defined several comprehensive plan and zoning districts within the downtown, reflecting an intention to focus growth and to ensure that development form and uses are compatible within each district. What are the implications of delineating large areas with no distinctions or direction about appropriate zoning? The impact of this proposed action raises questions which the FEIS should address.

- b. DEIS page 3.4-23 addressing elimination of Policies LU59 and LU60 containing criteria for rezones of single-family properties states that:

The Land Use Code contains regulations that are very similar to these policies. Removal of these policies from the Comprehensive Plan does not remove any of the procedures or steps required to change designated zoning of a given area, especially if the code provisions remain. However, by removing approval criteria, it would provide more flexibility for zoning in single-family areas and multifamily areas nearby, potentially allowing a greater variety of residential uses in and near single-family areas. While this could lead to a small increase in conversion of uses and location of differing development intensities in close proximity, as described in the previous sections, the practical effects of this change are anticipated to be minor. Proponents of future upzones would be expected to show compatibility with the comprehensive plan and Land Use Code requirements for any given area. Also, the revised comprehensive plan would include policies to reinforce the need for gradual transitions, so drastic changes in use or intensity are not likely to occur as a result of this policy change.

The more likely impact of this change is elimination of the criteria in the Land Use code because it would not be required to be included because of the Comprehensive Plan provisions. There would be no need to eliminate these policies if the staff did not also anticipate removing them from the code. Having similar policies is not a problem, they simply reinforce one another. The compatibility criteria presumed in the text above should be eliminated and the potential impact of future upzones being subject to totally different criteria, leading to extensive elimination of single family zoning in Urban Villages must be presumed.

c. The FEIS states on pages 2-5 and 3.2-19: Parks and Open Space Goals. Proposed revisions would discontinue the quantitatively-expressed goals for parks/open space in the current Urban Village Appendix, and replace them with a more general commitment to expand open space to meet the needs of the community, with additional details about goals and commitments to be defined at a later date. This also relates to elimination of current Policy UVG14 regarding provision of parks in urban villages.

There is, however, no discussion of impacts. The statement that “A more general commitment ...is to defined at a later date” is not analysis of impact.

This radical change in policies requires an assessment of options, not merely a staff decision to give up the Comprehensive Plan goal of providing a standard to judge adequacy. The City Council and public must be provided an assessment of alternatives as outlined below.

An accurate description of impacts would Include:

1. Description of park needs
 - a. Current park needs and deficiencies
 - b. Park needs and deficits by geographic areas, particularly for Urban Villages where the primary growth is targeted
 - c. Costs of providing facilities and potential revenue, including potential development fees.
2. Discussion of impacts of the proposed policy, including
 - a. Park deficits by geographic areas, particularly for Urban Villages where the primary growth is targeted
 - b. Effects on quality of life, specifically goals of the current park plan that would not be met
 - c. Resulting impacts on other elements of the environment, such as traffic impacts of persons travelling to more distant parks or recreation facilities
3. The lack of a LOS standard would preclude the city from collecting development fees for parks impacts. This would be contrary to the city’s current efforts to develop impact fees, as outlined in the program on the city’s website at http://www.seattle.gov/dpd/cs/groups/pan/@pan/documents/web_informational/s010015.pdf

d. There is no specific discussion of the impacts of policies LU 6.1, LU 6.2 and LU 6.1 that propose establishing parking requirements at levels that further the plans goals of increasing non-SOV use, modify residential parking to recognize differences in auto ownership, and to rely on market prices to determine the amount of parking needed.



The lack of discussion must be remedied in analysis and specifically externalities of shifting parking to on-street and resulting impacts on utilization and the viability of neighborhoods and neighborhood businesses assessed in accordance with D-2.

The policy that parking be set by “market forces” would let each land developer determine parking supply for a site based on their perception of the economic return of providing a particular amount of parking. The analysis must acknowledge that providing less parking than demanded – particularly for residential use – is not necessarily an economic disincentive for the developer because he can rely on the externality of shifting parking demand to on-street parking. As indicated in the DEIS pages 3.7-10 and following document that nearly every area of the city over the 85% of occupation of spaces considered full utilization.

This policy would have adverse impacts not only on the quality of life of surrounding areas, but also on the viability of businesses dependent on on-street parking, because the city does not require retail parking in most cases.

e. Proposed Replacement of UVG4.

Current policy UVG4 states

“Direct the greatest share of future development to centers and urban villages...”

The proposed “equivalent” policy GS G3 states “Accommodate a majority of the city’s expected household growth in urban centers and urban villages...”

The DEIS and FEIS is remiss in not defining the impacts of this change, comparing the difference in growth targets between the existing Plan and the proposed Plan, and defining and analyzing the impacts of these changes.

For example, in the Ballard Urban Village, residential growth over next 20 years (2015-2035) is assumed to be approximately 5500 units. How does that compare with the most recent Plan assumptions and what impact would that have on demands for transit and schools, for example. GMA does not require that the city provide funding to address these impacts, but the Plan or EIS should analyze them so the City decision makers and the decision makers at Metro/Sound Transit and the Seattle School district have an idea of what facilities will be needed so that different funding approaches can be analyzed.

f. Proposed replacement of UVG8.

Existing policy UVG8 states

“Maximize the benefit of public investment ...by focusing new infrastructure and services...in areas expecting to see additional growth.”

The replacement policy GS 2.2 states “Encourage investments and activities in urban centers and urban villages that will enable those area to flourish...

The new policy includes no reference or commitment to “public” investment. What is the implication of this? What level and types of investment is assumed appropriate to serve growing areas? How will these be funded?

g. Elimination of LU-11.

Existing policy LU-11 states

“In order to maintain the character of Seattle’s neighborhoods and retain existing affordable housing, discourage the demolition of residences and displacement of residents, while supporting redevelopment that enhances its community and furthers the goals of the Plan.”

This policy is proposed for elimination. What are the impacts of changing this policy? The current policy suggests that there should be trade-offs when thinking about demolition and displacement, and by extension, the rezoning of single-family zoned property to a more intense use. Removal of the policy eliminates this as a possible consideration in the rezone process.

h. Proposed replacement of LU-95.

Existing policy LU-95 states

Use moderate-density multifamily areas to provide additional housing opportunities...”

The “equivalent” proposed policy LU 8.11 says “Use midrise multifamily zones to provide greater concentrations of housing in urban villages and urban centers”

The change from “moderate-density” to “midrise” could be important; at the least it signals a shift from a density cap to a form-based cap (with no relationship to density). There is no definition in the Comprehensive Plan for either of these terms, and therefore no analysis in terms of the impacts of this change, in terms of population or employment growth or visual form.

i. No definition of process for expanding urban village and urban hub boundaries.

On a more general note, the process for expanding urban village and hub residential village boundaries has not be defined, nor have the impacts of the expansions been analyzed. Is the expansion going to occur through the HALA implementation process? If so, there needs to be an analysis of the impacts of the change in the EIS. If the expansion is going to occur through a Comprehensive Plan amendment, then there should be a Plan policy addressing that and the EIS can refer to the policy as mitigation.

D. The analysis presented does not meet minimal standards of professionally accepted analysis of specific impacts, in some cases does not meet the city's standards or provide the type of analysis presented by previous EISs prepared by the city.

1. Level of Service: Analysis in DEIS Pages 3.7-17 states:

The standards included in the current Comprehensive Plan are used to determine significant transportation impacts in this EIS. The Comprehensive Plan sets the PM peak period level of service (LOS) standards for locally-owned arterials and transit routes. The City uses "screenlines" to evaluate autos (including freight) and transit since buses generally travel in the same traffic stream as autos.

It further sets a threshold for significance on DEIS page 3-7-31 only in reference to those screenlines.

This statement and the methodology used is not consistent with professional standards for transportation impact analysis, or the methodology used in other city impact analysis.

- a. Impacts are defined by WAC 197-11-752 as "the effects or consequences of actions." A "significant impact" is defined in 97-11-794 "as a reasonable likelihood of more than a moderate adverse impact on environmental quality." The key is environmental quality. It would completely frustrate the purpose and intent of SEPA in RCW 43.21C.020 to avoid disclosure of consequences by using a methodology known to be inaccurate and misleading.
- b. The screenline analysis is used by the city for concurrency. It does not meet professional standards established by the Transportation Research Board (TRB) of the National Academies for computing the capacity and quality of service of arterials provided in the Highway Capacity Manual. This methodology is based on driver experience for operational analysis and a planning methodology directly applicable to plans such as this. There is also a TRBD Transit Capacity and Quality of Service Manual which provides analysis tools for the specific needs of that mode.
- c. Although the city can use the screenline analysis methodology, it does not absolve the city of the responsibility for a "reality based" analysis of actual operation of facilities.
- d. The city, in fact, recognizes the need for operational analysis by routinely requiring HCM LOS analysis for development projects and provides SEPA policies in SMC 25.05.675.R.
- e. The EIS, in fact, includes additional metrics to help illustrate the differences between existing conditions and each of the future year alternatives. The EIS states that they are not used to identify deficiencies or impacts within this environmental document. In fact, they do identify impacts – defined by WAC 197-11-752 as "the effects or consequences of actions."



- f. A variety of analysis methods are available for the performance of corridors, such as the SYNCHRO and VISSIM models. Although these are usually used for project level analysis, they can be used for key corridors to accurately assess future conditions and provide an accurate description of impacts.
- g. The screenlines used by the City of Seattle and shown on DEIS Figure 3.7-10 bear little or no relationship to the routes of actual trips or alternatives available to a driver making a trip from one destination to another. As indicated in Appendix A:
 - 1. A.4-11 Screenline 1.1 includes 3rd Avenue NW, Greenwood Avenue N and Aurora Avenue North.
 - a. These streets are not close enough to be alternative routes for north-south trips.
 - b. This screenline is also chosen to be south of 145th Street, so that the congestion related to the intersection is avoided in the calculation of LOS. The use of lane capacity rather than intersection capacity provides an inaccurate depiction of impacts.
 - c. This screenline provides little or no indication of actual experience of a driver on a roadway. The city can choose a deceptive standard for regulatory purposes, but SEPA does not allow deception in the description of impacts.
 - 2. An even more egregious case is provided for screenline 5.1, the Ballard Bridge.
 - a. This screenline is also chosen to be south of the major congested intersection, Market Street, so that the congestion related to the intersection is avoided in the calculation of LOS. The use of lane capacity rather than intersection capacity provides an inaccurate depiction of impacts.
 - b. This screenline is calculated at .99 of capacity northbound and .52 percent of capacity southbound. However, any motorist who drives it will observe queues from the intersection of Market Street that result in queues extending far to the south at peak hours. For southbound traffic, queues extend to the north from Market, but since the intersection is to the north, trips across the bridge flow relatively freely.
 - c. As with other cases, this screenline provides little or no indication of actual experience of a driver on a roadway. The city can choose a deceptive standard for regulatory purposes, but SEPA does not allow deception in the description of impacts.

3. The Montlake/University Bridge screenline 5.16 is another case where the analysis model results in inaccurate descriptions of impacts.
 - a. The two bridges are not alternative options for north south traffic. The main difference is that Montlake provides access to the regional freeway system while the University Bridge does not. Traffic can't easily switch between one and the other because they serve different destinations and the east west connections to go from one to the other either don't exist because of topography or are congested.
 - b. The theoretical capacity of southbound lanes is meaningless because traffic backs up routinely. The city information sign on NE 45th routinely indicates a 10 to 15 minute trip from 45th Street to the bridge.
 - c. As with other cases, this screenline provides little or no indication of actual experience of a driver on a roadway. The city can choose a deceptive standard for regulatory purposes, but SEPA does not allow deception in the description of impacts.

The City Council has the authority under GMA to adopt the standard they believe is appropriate (with the exception noted in B. above for using "share of drive-alone trips" as LOS), but the legislative body must be fully apprised of the actual impacts of what they are adopting. The appellants contend that in this case, the issued EIS provided an incomplete and misleading analysis.

2. Parking analysis: The analysis on DEIS page 1-23 and FEIS page 1-25 that No significant unavoidable adverse impacts to transportation and parking are anticipated. This conclusion contradicts the analysis in DEIS pages 3.7-9 to 13 and 3.7-45 to 47.

Furthermore, the analysis is not supported by analysis or reference, is speculative, and justifies a decision already made rather than accurately describing the environmental impact of the proposal as required by WAC 197-11.

The analysis must specifically address the provisions of proposed policies LU6.1, LU6.2 and LU6.3 which would allow unlimited shifting of private parking supply to public streets.

- a. An accurate description of impacts would state and conclude that these policies will result in entirely unpredictable parking supply in private development because the city policies make no commitment to development meeting parking demand. The reliance on "market forces" for parking supply will result in developers shifting demand as an externality to public streets. This will undercut the viability of Urban Villages, have adverse impacts on transportation capacity, air quality and greenhouse gases from excessive driving looking for parking, and would undercut the viability of Urban Villages providing business destinations because small businesses viability would be compromised by

inadequate parking supply because of spillover from residential use not required to provide parking.

- b. The analysis presumes that a variety of management strategies can reduce parking demand. It fails to account for the fact that all these strategies are applicable only for the parking supply at the employment destination. They have almost no effect on residential parking demand and retail parking demand.

Residential parking demand is determined by one factor – auto ownership. Travel mode choice for work or shopping trips has little effect on the individual choice of automobile ownership. A resident may take transit to work and may walk for shopping trips, but may still choose to own an automobile for a variety of other trips. One of the attractions of the Pacific Northwest is a variety of year-round recreational opportunities. Most of those opportunities for hiking, skiing and other activities are only accessible by private automobile. A range of studies of automobile ownership shows very weak correlation between any predictive variables and automobile ownership.

- a. As one study summarizes “considering a building or development outside of the context in which it is built, one cannot accurately estimate parking ratios. And conversely, the built environment alone cannot fully account for variation in parking ratios. To accurately estimate parking ratios or utilization, both the building itself and the location in which it is constructed must be taken into consideration. (CNT 2013)
- b. In the Seattle area, automobile ownership is growing in the areas in which density and transit availability would predict lower rates of automobile ownership. (Balk 2014)
- c. A low correlation has been found between parking demand and measures of transit service, indicating a complex of factors affecting such demand. (Rowe 2010) This study also has validity issues resulting from a methodology that did not include on-street parking overflow from buildings.
- d. Income appears to have a substantial influence on car ownership. As income increases car ownership incidence increases. (Plath quoted in Healy 2014, Sivek 2013, 2014)
- e. Non-car-ownership is a status symbol for people with post baccalaureate education (Goetz 2012)
- f. Other reasons for regarding car ownership as necessary or desirable may be as significant as those that can be measured. (Plath quoted in Healey 2014)

Consequently, the transportation and parking management programs outlined in DEIS pages 3.7-47 to 51 will have little or no ability to affect the choice of individual residents of whether to own an automobile. Such program may affect whether they use the

automobile for work trips, but not whether they own an automobile and therefore will demand parking.

3. The lack of a LOS standard would preclude the city from collecting development fees for parks impacts. This would be contrary to the city's current efforts to develop impact fees, as outlined in the program on the city's website at http://www.seattle.gov/dpd/cs/groups/pan/@pan/documents/web_informational/s010015.pdf

- E. The EIS analysis as presented deprives the appellant, and the general public, of due process, substantive due process and the rights recognized in 43.21C.020.
 1. RCW 43.21C.020 (3) The legislature recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.
 - a. The means of attaining this right, in part, is the provision of information to the public and decision-makers pursuant to RCW 43.21C.03(c) to "Include in every recommendation or report on proposals for legislation and other major actions significantly affecting the quality of the environment, a detailed statement by the responsible official on:[section not reproduced]"
 - b. The provision of incomplete and inaccurate information deprives the appellant and the public of this right.
 2. RCW 36.70A.070 provides that "A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140.

The provision of inaccurate or incomplete information in the Draft and Final EIS for this Comprehensive Plan proposal abrogates the applicant's and the public's right to participation.

References

- Balk, Gene. 2014. The surprising places where car ownership is up in Seattle. Seattle Times. July 11, 2014 Available on the Internet at <http://blogs.seattletimes.com/fyi-guy/2014/07/11/surprising-places-car-ownership-is-up/>
- CRT (Center for Neighborhood Technology) 2013. Right Size Parking Project, King County Metro Transit, Literature Review, Statistical Methods, Technical Memo. February 7, 2013. Available on the Internet at: http://metro.kingcounty.gov/programs-projects/right-size-parking/pdf/rsp-litreview_11-2011.pdf
- Goetz, Frank 2012 Separating contextual from endogenous effects in automobile ownership models. Environment and Planning A 44(5) · April 2012 Available on the internet at: https://www.researchgate.net/publication/238048722_Separating_contextual_from_endogenous_effects_in_automobile_ownership_models

Healey, James R. 2014 Analyst: Auto boom foundering. USA Today. January 23, 2014. Available on the Internet at: <http://www.usatoday.com/story/money/cars/2014/01/22/auto-boom-over-fewer-households-with-cars/4734157/>

Rose, Joseph. 2014. Study: Seattle still beats Portland when it comes to households giving up cars (poll The Oregonian. January 27, 2014. Available on the Internet at http://www.oregonlive.com/commuting/index.ssf/2014/01/seattle_still_beating_portland.html

Sivak, M. (2013). Has motorization in the U.S. peaked? Part 2: Use of light duty vehicles (Report No. UMTRI-2013-20). Ann Arbor: The University of Michigan Transportation Research Institute. Available on the Internet at: <http://deepblue.lib.umich.edu/bitstream/handle/2027.42/98982/102950.pdf>

Sivak, M. (2014). Has motorization in the U.S. peaked? Part 4: Households without a Light-Duty Vehicle (Report No. UMTRI- 2014-5). Ann Arbor: The University of Michigan Transportation Research Institute. Available on the Internet at: <https://deepblue.lib.umich.edu/bitstream/handle/2027.42/102535/102988.pdf>