BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

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| In Re: Appeal by<br><br>Seattle Coalition for Affordability, Livability, and Equity<br><br>of the City of Seattle Citywide Implementation of Mandatory Housing Affordability (MHA) Final Environmental Impact Statement | NOTICE OF APPEAL |



## I. INTRODUCTION

Appellant Seattle Coalition for Affordability, Livability, and Equity (SCALE) is an alliance of organizations that altogether represent thousands of Seattle residents who will be significantly and adversely impacted by the proposed Citywide implementation of the Mandatory Housing Affordability program. The members of SCALE include Baker Street Community Group; Beacon Hill Council of Seattle; Central Ballard Residents Association; Cherry Hill Community Council; Citizens for Architectural Diversity; Eastlake Community Council; Fremont Neighborhood Council; Friends of the North Rainier Neighborhood Plan; Friends of Ravenna-Cowen; Georgetown, Duwamish Valley Neighborhood Preservation Coalition; Greenwood Exceptional Tree Group; Jackson Place Community Council; Madison-Miller Park Community; Magnolia Community Council; Morgan Community Association (MoCA); Save Madison Valley; Seattle Displacement Coalition; Seattle Fair Growth; Seniors United for Neighborhoods; South Park, Duwamish Valley Neighborhood Preservation Coalition; TreePAC; U District Small Businesses; University District Community Council; Wallingford Community Council; West Seattle Junction Neighborhood Organization (JuNO); and Westwood Roxhill Arbor Heights Community Coalition.

SCALE supports the concept of increased density and supports the broader goal of increasing affordable housing and livability in the City of Seattle. Many members of SCALE have worked for decades with the City to plan for growth productively. They have dedicated countless volunteer hours



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towards developing, creating, and commenting on neighborhood plans, all in the interest of doing density right.

But, the City's approach with the Mandatory Housing Affordability (MHA) program has been focused purely on increasing housing development capacity, not good land use planning. The City has disregarded numerous existing neighborhood plans and has not engaged in any meaningful, targeted, neighborhood specific planning or collaboration throughout the entire HALA/MHA process. Now we have an FEIS that reinforces this approach. Rather than disclosing and studying the unique impacts to each of the neighborhoods in the study area, the FEIS provides a non-specific summary of the existing environment, impacts, and mitigation for a generic urban village. The City's approach to environmental review mirrors its complete lack of thoughtful land use planning throughout the entire HALA/MHA process.

## II. APPELLANT INFORMATION

1. **Appellant**:

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In what format do you wish to receive documents from the Office of Hearing Examiner?

Check One: _____ U.S. Mail _____ Fax __X__ Email Attachment

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## III. DECISION BEING APPEALED

1. **Decision Appealed**: SCALE is appealing the City of Seattle Office of Planning and Community Development's decision that the Environmental Impact Statement (EIS) for the Citywide Implementation of Mandatory Housing Affordability (MHA) dated November 9, 2017 (hereinafter referred to as the "MHA FEIS" or the "FEIS") is adequate.

2. **Property address of decision being appealed**: The study area for the MHA FEIS includes existing multifamily and commercial zones, areas currently zoned Single Family Residential and other areas in Seattle.

3. **Elements of decision being appealed. Check one or more as appropriate**:

| | | | |
|---|---|---|---|
| X | Adequacy of conditions | ____ | Variance (Departures) |
| ___ | 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: ) | | |

## IV. APPEAL INFORMATION

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

The Seattle Coalition for Access, Livability and Equity (SCALE) is an alliance of numerous community and neighborhood organizations that altogether represent thousands of Seattle residents who will be significantly and adversely impacted by the proposed Citywide implementation of the Mandatory Housing Affordability program. It is the mission of SCALE to seek adoption of legislation that would accomplish the goals of increasing affordable housing based on wise land use planning that would promote maintaining all the things that make Seattle a great place to live, including, adequate infrastructure (transit, roads, schools and utilities) and resources essential for a livable community, such as parks, open space, and abundant trees.

The central underpinning of the implementing land use code amendments is to increase development capacity in neighborhoods throughout the City of Seattle. Members of SCALE live and work in those neighborhoods. The proposed approach would increase the bulk and scale of development in residential and neighborhood commercial areas; reduce access to light and air; increase traffic; exacerbate parking problems; reduce tree canopy; and otherwise reduce the livability of Seattle's neighborhoods. Such impacts would make Seattle less attractive for development and, ironically, reduce the ability of HALA to provide funding for more low income housing.

The FEIS that was issued by the Office of Planning and Community Development on November 9, 2017 did not abide by SEPA rules and failed to adequately disclose and analyze the significant



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adverse impacts that the MHA Program will have on SCALE and its members. The FEIS failed to discuss reasonable alternatives that could accommodate the planned growth and generate more rent assisted housing and affordable housing with less adverse impacts to the quality of life of people who live in the city.

**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.)**

The City of Seattle Office of Planning and Community Development's decision that the MHA FEIS is adequate was made in error and was made in violation of the State Environmental Policy Act (SEPA), RCW 43.21C, for the following reasons:

1. The FEIS does not provide an adequate study of the impacts of the proposed action in each of the neighborhoods in the study area. All of the alternatives, including the no-action alternative, will cause known direct, indirect, and cumulative impacts that are unique to each neighborhood within the study area, but that are not disclosed or analyzed in the FEIS. The FEIS does not and cannot adequately describe the existing environment for each element of the environment in each of the neighborhoods that are affected by the proposal and it does not adequately discuss reasonable mitigation measures that would significantly mitigate the impacts for each element of the environment that are unique to each neighborhood. The FEIS instead provides a non-specific summary of the existing environment, impacts, and mitigation for a generic urban village. The City could have provided a village-by-village study by preparing an EIS for each neighborhood. This is not a situation where the City will first prepare a programmatic EIS and later, before any commitments are made, prepare additional impact statements of smaller geographic areas with greater detail. These impacts will never be disclosed and analyzed if they are not disclosed and analyzed now and, even if disclosed later, it will be too late to inform the consequential and largely irreversible decisions to be made at this time. The City's approach illustrates its lack of any targeted, neighborhood specific planning or collaboration throughout the entire HALA/MHA process. While a programmatic EIS may not require as much detail as a project-specific EIS, a programmatic EIS must still provide sufficient detail to allow for an informed choice among alternatives. The EIS fails to meet this standard.

2. The proposal that is the subject of environmental review has not been properly defined. Appendix F, which provides a summary of changes to the land use code that are being proposed contains a vague and unclear description of some of the changes. For example, that section states that several policies in individual urban villages contained in the Neighborhood Plan policies section of the Comprehensive Plan may conflict with elements of the proposed action. Amendments to these policies will be made to remove the potential inconsistencies. The FEIS does not identify which policies conflict with the proposal, nor does it reveal what the amendments would be. That section also provides a vague and ambiguous description of the new and modified development standards that are proposed.

3. The FEIS does not adequately consider the impacts on land use that will result from the proposal.



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a. The FEIS does not adequately describe the existing environment with respect to land use that will be affected by the proposal. The FEIS fails to adequately describe the principal features of the environment for each neighborhood that would be affected by the alternatives including the proposal under consideration. The description of the current land use in Seattle's 18 residential urban villages is vague and inadequate. The same is true for the description of existing land use in Seattle's six urban hub villages. This section also does not provide information about the existing zoning within the study area.

b. The FEIS does not adequately disclose and analyze the significant land use impacts of alternatives including the proposed action. The land use impact analysis does not provide an adequate summary of existing plans and zoning regulations applicable to the proposal and/or how the proposal is consistent and inconsistent with them. The FEIS does not disclose that the proposal is inconsistent with the current Comprehensive Plan and numerous neighborhood plans. The fact that FEIS does not even mention any of the individual neighborhood plans for the various neighborhoods, much less analyze the project's consistency with those plans, is clear error. The discussion of the 2035 Comprehensive Plan is inadequate – it lists only six policies from the plan. This analysis must include other goals and policies in the plan beyond those in the Land Use Element of the plan. The discussion of generic land use impacts is speculative, vague, and meaningless and does not provide adequate disclosure and analysis of the actual land use impacts for each neighborhood throughout the entire study area that will occur as a result of this proposal.

4. The FEIS does not adequately discuss reasonable mitigation measures that would significantly mitigate the land use impacts of the proposal. To some degree, the mitigation measures discussed will not mitigate the impacts and to another degree, the EIS fails to include other mitigation measures that could be implemented to mitigate the impacts. As one example, Design Review is not a reasonable mitigation tool for many, if not all, of the land use impacts that will be caused by this proposal. The EIS does not indicate what the intended environmental benefits of mitigation measures would be. The discussion of mitigation is not adequate for each neighborhood throughout the entire study area.

5. The FEIS does not adequately consider the aesthetic impacts (height/bulk/scale/view impacts) of the proposal.

a. The FEIS does not adequately describe the existing environment that will be affected by the proposal with respect to height/bulk/scale/view impacts. The FEIS fails to adequately describe the principal features of the environment that would be affected by the alternatives, including the proposal under consideration. The discussion on affected environment discloses the applicable regulations – i.e. what the maximum development could be under current regulations. That is not a description of the current environment, that is a description of the "no-action" alternative and the



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potential for development of the area under current regulations. This section should have had a description of the actual existing development in the area for each neighborhood. For some unknown reason, this section includes a discussion of areas that are outside of the study area. This section also, for some inexplicable reason, discusses the Design Review requirements and process. That is not a description of the existing environment that will be affected by the height/bulk/scale impacts of the proposal. To make matters worse, the description of design review is misleading and confusing.

b. The FEIS does not adequately disclose and analyze the significant height/bulk/scale/view impacts of alternatives including the proposed action. The discussion of these impacts was speculative, vague, and meaningless and did not provide adequate disclosure and analysis of the actual height/bulk/scale/view impacts that will occur as a result of this proposal. All of the alternatives, including the no-action alternative, will cause known direct, indirect, and cumulative impacts that are unique to each neighborhood within the study area. These impacts are not disclosed or analyzed in the FEIS. Describing generic aesthetic impacts to currently single family zoned areas using (M), (M1), and (M2) tiered categories is inadequate.

c. There is virtually no analysis of height/bulk/scale/view impacts of the "no-action" alternative.

6. The FEIS does not adequately discuss reasonable mitigation measures that would significantly mitigate the aesthetic (height/bulk/scale/view) impacts of the proposal. To some degree, the mitigation measures discussed will not mitigate the impacts and to another degree, the FEIS failed to include other mitigation measures that could be implemented to mitigate the impacts. The Design Review process will not be not a reasonable mitigation measure for height/bulk/scale/view impacts for many reasons. Because of the enormous size of area that is affected by the proposal, the FEIS does not adequately discuss reasonable mitigation measures that would significantly mitigate the impacts for each element of the environment that are unique to each neighborhood. The FEIS did not describe the intended and/or realistic environmental benefits of mitigation measures.

7. The FEIS does not adequately disclose and analyze the significant traffic and transportation impacts of the proposal or any of its alternatives. This includes traffic, public transportation, safety, and parking impacts.

a. The FEIS does not adequately describe the existing environment with respect to traffic and transportation impacts that will be affected by the proposal. The FEIS fails to adequately describe the principal features of the environment for each neighborhood that would be affected by the alternatives including the proposal under consideration.

b. The FEIS does not adequately disclose and analyze the significant traffic and transportation impacts of alternatives including the proposed action. The discussion



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of impacts does not provide adequate disclosure and analysis of the actual impacts for each neighborhood throughout the entire study area that will occur as a result of this proposal. Environmental impacts on traffic and transportation will not be evenly distributed or similarly defined throughout the City, yet the FEIS evaluates them as if they would be. The FEIS ignores that traffic and transportation impacts will be different in the various neighborhoods and urban villages that are impacted by the MHA proposal. The FEIS should have included an examination of the impacts that are unique to each neighborhood in order to adequately assess their intensity and significance.

8. The FEIS does not adequately discuss reasonable mitigation measures that would significantly mitigate the traffic and transportation impacts of the proposal. To some degree, the mitigation measures discussed will not mitigate the impacts and to another degree, the FEIS fails to include other mitigation measures that could be implemented to mitigate the impacts. The FEIS does not adequately discuss reasonable mitigation measures that would significantly mitigate the impacts for each element of the environment that are unique to each neighborhood. The FEIS does not describe the intended or realistic environmental benefits of mitigation measures.

9. The FEIS does not adequately disclose and analyze the significant tree canopy impacts of the alternatives, including the proposed action.

    a. The FEIS does not adequately disclose and analyze the significant impacts of Alternatives 2, 3, and Preferred related to tree canopy, because the FEIS does not provide a baseline against which to measure those impacts. The FEIS does not attempt to quantify the level of tree canopy change that would occur under Alternative 1, which the FEIS identifies as the no-action alternative. The FEIS does claim to quantify the level of tree canopy change that will occur under Alternatives 2 and 3, as well as under the Preferred Alternative, but because there was no quantification of loss under Alternative 1, the FEIS cannot assess how much more or less tree canopy change will occur under the action alternatives compared to what it claims is the no-action alternative. The FEIS therefore has no basis for its conclusion that the action alternatives will have no significant, adverse impact when compared to what the FEIS claims is the no-action alternative. The FEIS fails to adequately evaluate and compare the "no-action" alternative to other alternatives.

    b. The FEIS also fails to disclose and analyze the impact on tree canopy coverage that the proposal will have on zones that receive additional development capacity, but whose zoning designation does not change. The proposal would allow additional height, additional stories, and additional bulk to certain zoning categories, including residential small lot, lowrise, midrise, and highrise residential and commercial and neighborhood commercial zones. Under the proposal, this additional development capacity would not change the underlying zoning designation, yet would cause significant tree loss. The additional height, bulk and development incentivized by



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the proposal will have additional significant adverse impacts on tree canopy coverage.

c. The FEIS claims to use the Seattle 2035 Comprehensive Plan and that plan's EIS as a basis for its own findings. Yet when analyzing the impacts of the proposal on tree canopy and open space, the FEIS admits that it is assuming that the proposal will result in unspecified modifications to the Seattle 2035 Comprehensive Plan. The FEIS fails to evaluate how those modifications to the Comprehensive Plan would affect tree canopy and open space. Under SEPA rules, when a program is segmented such that a later EIS incorporates an earlier EIS, as this FEIS does with the Comprehensive Plan EIS, the segmentation must not be used to avoid present consideration of a program's impacts. WAC 197-11-060(5). By proposing (unspecified) changes to the Comprehensive Plan without re-examining the Comprehensive Plan EIS or analyzing the impact of those changes in the FEIS, the FEIS runs afoul of this segmentation rule. This segmentation failure applies particularly to the FEIS's tree canopy coverage analysis, but it also applies more generally across the FEIS as a whole.

d. The FEIS claims that the City does not have a threshold for determining significance of tree loss. The FEIS then concludes that the tree loss anticipated as a result of the proposal is not a significant impact. In the absence of standards for significance, this no-significance conclusion lacks any rational basis.

10. The FEIS does not adequately discuss reasonable mitigation measures that would significantly mitigate the tree canopy impacts of the proposal.

a. Given the unknown impacts on tree canopy documented above, it is unknown whether the development standard amendments proposed as mitigation measures will be sufficient mitigation to avoid probable, significant, adverse impacts from the loss of tree canopy coverage.

b. The FEIS fails to consider alternative tree canopy loss mitigation measures that were proposed to the City during the public comment period. This includes, but is not limited to, amendments to the code to improve tree protection.

11. The FEIS does not adequately disclose and analyze the significant noise impacts of the alternatives, including the proposed action.

a. The disclosure and analysis of environmental impacts from increased traffic noise in the FEIS is inadequate. Many of the urban villages receive no traffic noise analysis at all. In others, there is a cursory statement that some additional traffic noise may occur, but there is no attempt to assess how much additional traffic noise there will be. In some cases, the FEIS anticipates heavy increases in traffic but does not analyze the significance of those increases to the noise environment. Finally, there is a statement that areas adjacent to some of the urban villages will experience some



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additional traffic noise, but these adjacent areas are not identified, and the intensity and significance of the impact they will experience is not analyzed. Traffic noise impacts will not be evenly distributed under the proposal, so a detailed, location-by-location examination of their impacts is necessary to assess their intensity and significance. Location-by-location mitigation analysis is also necessary. WAC 197-11-442(2) (requiring analysis of impacts at the same scale the impacts will occur).

b. The FEIS's analysis of noise from construction impacts is inadequate. The FEIS's blanket statement that some construction noise under MHA might cause significant, adverse effects begs the question of where such significant, adverse effects are anticipated to occur. The FEIS only addresses construction noise in some of the urban village expansion areas and even there it fails to assess the significance of the impact. In the urban villages and areas adjacent to urban villages, the impact of construction noise is not addressed at all.

12. The FEIS does not adequately disclose and analyze the significant impacts on air quality of the proposal or any of its alternatives.

a. The FEIS does not address the presence, impact, or mitigation of localized ground level air pollution. The very real exposure of residents to localized, continuous air pollution is virtually ignored, or at best mentioned in passing and dismissed. The impacts will be significant, especially from demolition and construction activities.

b. The FEIS identifies rail yards as a potential cancer-causing hazard due to their emissions. The FEIS notes that some states recommend more than 1,000 feet of separation between residential uses and rail yards to mitigate this significant, adverse impact. The FEIS does not assess how many additional people might come to reside within 1,000 feet of a rail yard as a result of the proposal, nor does the FEIS analyze any measures to mitigate the health effects of rail yards. Proximity to a rail yard poses a probable significant, adverse environmental impact on air quality and human health that the FEIS fails to consider and fails to mitigate.

c. The FEIS acknowledges that residential use within 200 meters of a major highway significantly increases health impacts due to air quality. The FEIS even says it would be prudent to consider mitigation strategies to reduce this risk, including setbacks. But the FEIS does not identify or discuss the size of these setbacks, which specific urban villages would need them, how many people in the urban villages would be affected in the absence of mitigation setbacks, or how many increased deaths and illnesses the City can expect if the mitigation is not implemented. The FEIS claims that failure to mitigate highway pollution would be only a moderate adverse impact, but in the absence of serious, detailed analysis, that statement does not represent a considered judgment of the impacts. Proximity to a highway poses a significant, adverse environmental impact on air quality that the FEIS fails to consider in detail and fails to describe and discuss mitigation.



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d. The FEIS's analysis is flawed and incomplete with regard to the environmental impacts the proposal will have as a result of asbestos, lead, silica, sulfur dioxide, and other pollutants released during the demolition of old buildings in the urban villages and multifamily zones. The FEIS focuses on dust to the exclusion of other, more toxic pollutants that are frequently released during construction. These pollutants are known to cause significant, adverse impacts on air quality when released during construction and demolition and should have been the subject of FEIS study and mitigation.

e. The FEIS's table of air quality monitoring data contains significant, unexplained differences from the DEIS's table of data, which supposedly obtained the same data from the same monitoring stations. Small particles which get deep into the lungs and pose some of the greatest health risks ("PM10") were assessed in the draft but the discussion was removed from the final EIS. The FEIS does not disclose impacts from fine and ultra fine particles, the latter of which can be the most damaging of all to human health. Data from the Duwamish air quality monitoring station is wholly deleted. Most data from the Beacon Hill monitoring station is deleted. Data that was not deleted has been modified downward to show less air pollution. The result is a FEIS that inexplicably omits or modifies data that was included in the DEIS and that paints a rosier picture of air quality as a result of the data manipulation.

   The deletion of the Duwamish data is troubling enough from the standpoint of scientific integrity. It is even more troubling from the standpoint of social justice. By failing to consider the localized environmental impacts of MHA in lower income areas, the FEIS ignores that communities with the fewest resources for combatting the health effects of poor air quality will be the same communities whose air quality suffers most. The FEIS takes inadequate measure of the various capacities of each community in Seattle to cope with the increased environmental burden MHA imposes on that community. Both the environmental burden and the coping capacity vary from community to community, and the FEIS should have considered both factors at the community level.

f. Air quality impacts will not be evenly distributed under the proposal. Disclosure and analysis of impacts that are unique to each neighborhood is necessary to adequately assess their intensity and significance.

13. The FEIS did not adequately discuss reasonable mitigation measures that would significantly mitigate the air quality impacts of the proposal. A study of mitigation unique to each neighborhood is necessary.

14. The FEIS does not adequately consider the impacts the proposal will have on environmentally critical areas.

    a. The FEIS does not adequately describe the existing environment that will be affected by the proposal with respect to critical area impacts. The FEIS fails to adequately



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describe the principal features of the environment that would be affected by the alternatives including the proposal under consideration.

b. The FEIS does not adequately disclose and analyze the significant critical area impacts of alternatives including the proposed action. All of the alternatives, including the no-action alternative, will cause known direct, indirect, and cumulative impacts that are unique to each neighborhood within the study area, but that are not disclosed or analyzed in the FEIS. The discussion of these impacts was speculative, vague, and meaningless and did not provide adequate disclosure and analysis of the actual critical area impacts that will occur as a result of this proposal.

15. The FEIS does not adequately discuss reasonable mitigation measures that would significantly mitigate the critical area impacts of the proposal. To some degree, the mitigation measures discussed will not mitigate the impacts and to another degree, the FEIS failed to include other mitigation measures that could be implemented to mitigate the impacts. The FEIS did not describe the intended or realistic environmental benefits of mitigation measures.

16. The FEIS does not adequately disclose and analyze the cumulative impacts related to land use, open space, historic resources, public services and utilities, traffic and transportation, noise, tree canopy, housing, height/bulk/scale, views, and critical areas. The FEIS fails to consider the impact of other projects that are known to be moving forward in certain neighborhoods within the study area and that will contribute to the impacts of the proposal.

17. The FEIS's analysis of alternatives to the MHA proposal is inadequate. The alternatives that are provided do not include actions that could feasibly attain or approximate the proposal's objectives at a truly lower environmental cost or truly decreased level of environmental degradation. The stated objective of the MHA proposal is to create additional affordable housing, which MHA proposes to achieve through upzoning and funding development of rent-assisted housing. The FEIS then explicitly states that it will not be considering any alternatives to this specific means of addressing the city's need for more affordable housing for those who receive economic assistance and for those low and moderate income residents who do not qualify for rent assistance. The FEIS explicitly declines to consider specific alternatives to the MHA proposal, even though comments were presented suggesting alternatives that would have accomplished the proposal's stated objective. The FEIS alternatives only consider how much and where to up-zone, not alternative ways to reach the objectives. The FEIS admits that in all cases, the MHA upzoning variants which the FEIS proposes as alternatives will fail to achieve the stated objective, yet it fails to consider other alternatives at all.

18. The FEIS (and other documents) acknowledge that there are many alternatives means to addressing affordable housing shortfalls besides MHA. For instance, the FEIS acknowledges that increase in various funding sources, increased incentives in the Incentive Zoning program and other measures (including partnerships with major employers) listed at FEIS 1-19 *et seq.* and FEIS 3-92 *et seq.*, could generate more affordable housing, but none



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of these options are analyzed in detail. Other viable alternatives not analyzed in detail in the FEIS include the option of directing more growth to the areas of the city with the greatest amount of under-utilized development capacity; providing low-interest loans to small landlords for major maintenance projects in exchange for limits on rent increases; incentivizing homeowners to build mother-in-law apartments or accessory dwelling units (incentives would include forgiveness of permitting fees and dedicated staff to help with the permitting process); and phasing in the density increases discussed in the action alternatives so that each area can be evaluated in a finer-grained analysis (as has been done for the University District and lower Queen Anne). The City Council cannot evaluate the relative merits and costs of the FEIS options and these other options without a full assessment of these other options in the FEIS.

19. The methodology, assumptions, and conclusions with respect to the high/low opportunity and low/high displacement risk analysis in the FEIS are flawed, misleading, and incorrect. The assignment of high or low opportunity and high and low displacement risk to certain neighborhoods are made in error, are not an accurate depiction of reality, and do not provide a viable basis for conclusions regarding impacts of the proposal. In addition, the FEIS makes the unsupported assumption that the increased development in certain high opportunity, low displacement risk neighborhoods (via upzones) will significantly increase the number of affordable households in those neighborhoods. Because the MHA ordinance allows developers to pay a relatively low fee in lieu of actually supplying low income housing in those neighborhoods, it is more likely that market rate units will be built in these neighborhoods.

20. The apparent position of the FEIS that the substantive SEPA policies in SMC 25.05.675 in any way limit the scope of procedural disclosure and analysis of environmental impacts is in error. One example of this error is in the disclosure and analysis of consistency/inconsistency with the Seattle 2035 Comprehensive Plan in the land use chapter. It was error for the FEIS to limit its analysis solely to the policies listed in the Land Use Element of the Comprehensive Plan. The scope of procedural disclosure and analysis of impacts that is required under SEPA is broader than and goes beyond substantive limitations in SMC 25.05.675.

21. The FEIS fails to disclose the existing levels of housing losses in the city caused by redevelopment under existing zoning and the extent to which this will increase with any of the action alternatives. The FEIS fails to accurately assess the direct, indirect, and cumulative impacts of the proposal on Seattle's affordable housing stock. The FEIS substantially underestimates the loss of existing affordable units (directly, indirectly and cumulatively) resulting from each of the action alternatives while greatly exaggerating the number of 'created' affordable units. This is true on both a city-wide and neighborhood specific level. The FEIS fails to disclose that the action proposals will result in a significant net loss of affordable units and more homelessness. The FEIS ignores the resulting consequences on homelessness and increased demand for services. The FEIS lacks an adequate disclosure of the loss of housing for families with children. The FEIS lacks an adequate discussion of proper mitigation for these housing losses. The FEIS fails to



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acknowledge, discuss and analyze the time delay between the loss of housing and the construction of new housing. Data the city uses is either in error or wholly inadequate to capture this loss and, in fact, obscures it. The displacement risk analysis is wholly inadequate and incorrect. The FEIS emphasizes and relies on a "displacement risk" metric that has little or no validity. The FEIS fails to disclose and analyze the displacement impacts that transportation infrastructure will cause. The FEIS lacks an adequate discussion of mitigation tools to address the impact of housing lost if any of the action alternatives are implemented.

22. The FEIS acknowledges that it is "possible" that older housing provides more affordable housing than new construction and that, therefore, preservation -- not destruction -- of "historic" housing may benefit affordability efforts. But this conditional and limited acknowledgment is buried in a discussion of historic resources and is not analyzed in any detail there or in the housing section of the FEIS. Yet assessing the extent of this loss of affordable housing in existing, low-rent older structures is key to assessing the impacts of the action alternatives on affordable housing. The FEIS has failed to provide an honest evaluation of the extent to which the action alternatives may result in a reduction of affordable housing for those with low or moderate incomes, but whose incomes are not so low as to qualify for financial assistance.

23. The EIS fails to acknowledge any of the significant, unavoidable housing impacts resulting from the action alternatives (instead filling that section of the FEIS with irrelevant discussion of (1) items the EIS acknowledges are not impacts of the proposal and (2) impacts the EIS acknowledges are economic, not environmental).

24. The FEIS does not adequately consider the impacts the proposal will have on historic and cultural resources.

    a. The FEIS does not adequately describe the existing environment that will be affected by the proposal with respect to historic and cultural resource impacts. The FEIS fails to adequately describe the principal features of the environment that would be affected by the alternatives including the proposal under consideration.

    b. The FEIS does not adequately disclose and analyze the significant historic and cultural resource impacts of alternatives including the proposed action. All of the alternatives, including the no-action alternative, will cause known direct, indirect, and cumulative impacts that are unique to each neighborhood within the study area, but that are not disclosed or analyzed in the FEIS. The discussion of these impacts was speculative, vague, and meaningless and did not provide adequate disclosure and analysis of the actual historic and cultural resource impacts that will occur as a result of this proposal.

25. The FEIS does not adequately discuss reasonable mitigation measures that would significantly mitigate the historic and cultural resource impacts of the proposal. To some degree, the mitigation measures discussed will not mitigate the impacts and to another degree, the FEIS failed to include other mitigation measures that could be implemented to



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mitigate the impacts. The FEIS did not describe the intended and/or realistic environmental benefits of mitigation measures.

26. The FEIS acknowledges gaps in information regarding the existing historic resources and character of various neighborhoods in the study area, but fails to make any effort to fill those gaps and fails to provide a useful summary of the existing information. Decisionmakers lack critical information necessary to guide their decisions.

27. The FEIS speculates about the impacts to older, historic communities and housing and speculates to an even greater extent about the ability of the SEPA process to mitigate those impacts, without providing any useful or meaningful discussion of the likely impacts and the significant limitations of the SEPA process to address those impacts. The FEIS notes that communities with marginalized and immigrant communities may have less access to the SEPA process and therefore less ability to protect cultural and historic resources, without acknowledging that the city's land use and SEPA procedures are so complex that all communities in the city have extremely limited ability to access those processes and limited ability to use those processes to protect their neighborhoods and historic and cultural resources within them.

28. The EIS classifies various neighborhoods according to the anticipated increases in growth rates and notes that many of those neighborhoods have a high number of older buildings, but fails to describe the extent to which those buildings will be lost and the extent to which the historic character of those neighborhoods will be impacted by the action alternatives. That information is critical to allow for informed decisions by the City Council.

29. The FEIS contains a laundry list of existing and possible new mitigation measures related to the loss of older and historic housing (much of which is more affordable than new construction), but fails to provide any analysis whatsoever of the effectiveness of those measures.

30. The FEIS inaccurately states that there are no significant unavoidable impacts associated with the action alternatives in terms of impacts on older and historic housing. Relying on project-specific mitigation, the FEIS asserts that all significant impacts can be avoided. That assertion is wrong. The mitigation measures identified in the FEIS are inadequate to avoid all significant impacts to historic, older neighborhoods and historic structures.

31. The FEIS does not adequately consider the impacts the proposal will have on open space and parks.

    a. The FEIS does not adequately describe the existing environment that will be affected by the proposal with respect to open space and parks impacts. The FEIS fails to adequately describe the principal features of the environment that would be affected by the alternatives including the proposal under consideration.



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b. The FEIS does not adequately disclose and analyze the significant open space and parks impacts of alternatives including the proposed action. All of the alternatives, including the no-action alternative, will cause known direct, indirect, and cumulative open space and parks impacts that are unique to each neighborhood within the study area, but that are not disclosed or analyzed in the FEIS. The discussion of these impacts was speculative, vague, and meaningless and did not provide adequate disclosure and analysis of the actual open space and parks impacts that will occur as a result of this proposal.

32. The FEIS does not adequately discuss reasonable mitigation measures that would significantly mitigate the open space and parks impacts of the proposal. To some degree, the mitigation measures discussed will not mitigate the impacts and to another degree, the FEIS failed to include other mitigation measures that could be implemented to mitigate the impacts. The FEIS did not describe the intended and/or realistic environmental benefits of mitigation measures.

33. The FEIS fails to adequately describe the impacts of the action alternatives on the availability of park and open space land, fails to adequately describe mitigation measures to ameliorate those impacts; and fails to provide a forthright description of the significant impacts that likely will not be mitigated.

34. The EIS arbitrarily and misleadingly characterizes as a significant impact only impacts that impact the citywide ratio of population to parks and open space acreage. EIS at 3-349. This limitation omits significant impacts at the neighborhood level.

35. The EIS fails to clearly identify the reduction in the ratio of population to park and open space acreage in the various neighborhoods. Reductions in availability are labeled as "changes," not "reductions." The reader can just as easily construe the information to mean that ratios are going to improve, not get worse.

36. The FEIS fails to provide an adequate description of realistic mitigation measures and their intended benefits associated with parks and open space.

37. The FEIS fails to identify or discuss the indirect impacts resulting from reduced availability of parks and open space, such as the decrease in the livability of the nearby residential areas for families, couples and singles who rely on plentiful open space and parks for recreation and relaxation. The FEIS fails to consider the extent to which the relative diminishment in open space and park lands will reduce the effectiveness of the action alternatives' efforts to increase affordable housing.

38. No analysis is provided to support the claim that significant impacts can be avoided if a variety of mitigation measures are implemented or to demonstrate that such a claim has any basis in reality.



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39. The FEIS fails to adequately describe and analyze existing public facilities and services, including public schools, the impacts of the action alternatives on public facilities and services, and mitigation measures to ameliorate those impacts. The FEIS minimizes the capacity constraints already existing in many schools that will be impacted by the action alternatives and fails to provide a clear and reasonably specific analysis of the action alternatives' impacts, which will exacerbate those capacity constraints. The EIS suggests that listed mitigation measures will make everything alright, (*i.e.,* no significant, unmitigated impacts), without acknowledging the extreme difficulty of implementing those measures.

40. The FEIS fails to adequately identify and analyze the action alternatives' impacts on land use, in particular, small retail businesses in urban villages. Neighborhood business district impacts are downplayed; direct, indirect, and cumulative impacts are largely ignored; and mitigation measures to address these impacts are not identified or discussed. To the extent the EIS discusses impacts on small and neighborhood businesses, the discussion is inadequate, error-ridden and gives decision-makers a false picture of impacts. The EIS identifies virtually no mitigation to curb displacement of small businesses caused by the action alternatives.

41. The FEIS failed to adequately analyze areas outside of urban villages that are subject to MHA. 40% of the parcels in non-family Alternative 2 were outside Urban Villages and 41% of Alternative 3 outside urban villages. These parcels and corridors were included in the so-called "study area" but the existing environment and impacts to these areas were not analyzed anywhere in the FEIS. These parcels are not adequately presented anywhere in the FEIS. The map in Appendix A, page 50 lacks sufficient detail and is inadequate.

42. The Office of Planning and Community Development's efforts to involve the public in the SEPA process was inadequate and it was not commensurate with the type and scope of the FEIS. There was a serious lack of true neighborhood outreach by OPD and a failure of the FEIS to accurately reflect the feedback from the public. In addition, the FEIS response to input and comments was inadequate and did not adhere to SEPA requirements in WAC 197-11-560. OPD failed to include a summary and response to some of the substantive comments that it received from members of the public in the FEIS.

43. Appellant SCALE adopts and incorporates the issues presented by the other Appellants in their appeals of the FEIS to the extent that they are consistent with the goals and mission of SCALE.

**c. Relief Requested.**

Appellant requests that the Hearing Examiner remand the FEIS to the City with instructions to prepare a Supplemental EIS(s) as necessary to adequately address the environmental impacts and mitigation for a reasonable range of alternatives, including an assessment of the impacts and potential mitigations that are associated with each individual neighborhood that is impacted by the proposal.



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Filed on behalf of the Seattle Coalition for Affordability, Livability, and Equity this 27th day of November, 2017.

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