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HEARING EXAMINER

BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In Re: Appeal by

Friends of the North Rainier Neighborhood
Plan

of the City of Seattle Citywide
Implementation of Mandatory Housing
Affordability (MHA) Final Environmental
Impact Statement

NOTICE OF APPEAL

I. INTRODUCTION

Appellant Friends of the North Rainier Neighborhood Plan (“FNR”) is an association of Seattle residents and stakeholders who support the vision of the North Rainier Neighborhood Plan, and its 2010 Update (“the Plan”). This Plan was carefully developed through the most extensive and inclusive outreach and planning effort our community has ever seen. Much of the Plan was formally incorporated into the City’s Comprehensive Plan as the North Rainier Neighborhood Plan. The Plan sets forth a compelling vision of equitable placemaking, achieved through meaningful consideration of local factors. The Plan is the most cohesive and important planning tool available that reflects the community’s voice and vision for a livable Town Center that is sustainable socially, economically and environmentally, connected to a historic and diverse community.

These important community interests will be significantly and adversely impacted by the proposed Citywide implementation of the Mandatory Housing Affordability program. 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 the 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 the generic economic 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

1 City's approach to environmental review mirrors its complete lack of thoughtful land use planning
2 throughout the entire HALA/MHA process.

3 **II. APPELLANT INFORMATION**

4 **1. Appellant:**

5 Name: FRIENDS OF THE NORTH RAINIER NEIGHBORHOOD PLAN
6 Address: 2827 31st Ave. S.
7 Seattle, WA 98114
8 Phone: (253) 686-5175
9 Email: masteinhoff@gmail.com

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

11 Check One: U.S. Mail Fax Email Attachment

12 **2. Authorized Representative:**

13 Name Marla Steinhoff
14 Address 2827 31st Avenue South, Seattle WA 98114
15 Phone:: (206) 707-4748
16 Fax: (206) 260-1309
17 Email: masteinhoff@gmail.com

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

19 Check One: U.S. Mail Fax Email Attachment

20 **III. DECISION BEING APPEALED**

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

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

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

<input checked="" type="checkbox"/> Adequacy of conditions	<input type="checkbox"/> Variance (Departures)
<input type="checkbox"/> Design Review and Departure	<input checked="" type="checkbox"/> Adequacy of EIS
<input type="checkbox"/> Conditional Use	<input type="checkbox"/> Interpretation (See SMC 23.88.020)

EIS not required Short Plat
 Major Institution Master Plan Rezone
 Other (specify: proposed urban village expansion and upzone)

IV. APPEAL INFORMATION

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

The FNR is a group of members, volunteers and stakeholders who have been committed to the community’s vision of equitable and livable development, as carefully articulated in the North Rainier Neighborhood Plan and the Plan’s 2010 Update (“the Plan”). This vision was designed to guide the City and others towards sustainable development within the North Rainier Valley, including the areas now identified as the North Rainier Urban Village and the watershed of the Mount Baker Station (also known as “Mount Baker Town Center” or the “Mount Baker Hub”). This Plan reflects our diverse residents’ local voices and conditions, and is a City facilitated blue print designed to serve thousands of existing and future residents in the Mount Baker Town Center and adjacent areas.

The Friends of the North Rainier Neighborhood Plan, and the other residents of the Mount Baker Town Center, will be significantly and adversely impacted by the proposed Citywide implementation of the Mandatory Housing Affordability (“MHA”) program. It is the mission of FNR to seek adoption of legislation that would further and not defeat the goals of the Plan, including the important goals of housing affordability and livability. However, rather than using good land use planning based on local conditions and planning processes, the FEIS and its proposed MHA program reflects a set of top-down objectives established in a “Grand Bargain” that was struck without consideration of or care for the diverse local voices of the North Rainier Valley, as reflected and articulated in the North Rainier Neighborhood Plan.

In contrast to the balanced placemaking principles reflected in the Plan, the central focus of the proposed implementing amendments is to increase development capacity in neighborhoods throughout the City of Seattle, including the North Rainier neighborhood. Members of FNR live and work in those neighborhoods. The proposed approach would increase the bulk and scale of development in and adjacent to residential and natural areas; reduce access to light and air; exacerbate parking problems; reduce tree canopies; and otherwise reduce the livability of the North Rainier Valley. 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 adverse impacts that the MHA Program will have on FNR and its members and failed to discuss reasonable alternatives that could accomplish the city’s goals with less adverse impacts to the city’s existing quality of life.

FNR appreciates that many of the issues identified in this Notice of Appeal will overlap with issues presented by other organizations. FNR anticipates that these appeals will be consolidated, to allow a reasonable coordination of the appeals in an efficient manner.

1
2 **2. What are your objections to the decision? (List and describe what you believe to be**
3 **the errors, omissions, or other problems with this decision.)**

4 The City of Seattle Office of Planning and Community Development's decision that the MHA
5 FEIS is adequate was made in error and was made in violation of the State Environmental Policy
6 Act (SEPA), RCW 43.21C and Title 25 of the Seattle Municipal Code (Environmental Protection
7 and Historic Preservation), for the following reasons:

- 8
- 9 1. The city-wide FEIS does not provide an adequate study of the impacts from the proposed
10 action (including Urban Village Expansion) to the North Rainier Neighborhood,
11 including the complex interrelationship of environmental features within the walkshed of
12 the central already upzoned Mount Baker Station area (also known as the Mount Baker
13 Town Center or the Mount Baker Hub). All of the alternatives, including the no-action
14 alternative, will cause known direct, indirect, and cumulative impacts that are unique to
15 FNR, but that are not disclosed or analyzed in the FEIS. The city-wide FEIS does not
16 and cannot adequately describe the existing environment for each element of the
17 environment in North Rainier Valley if it does not adequately discuss reasonable
18 mitigation measures that would significantly mitigate the impacts for each element of the
19 environment that are unique to the North Rainier Valley. The FEIS instead provides a
20 non-specific summary of the existing environment, impacts, and mitigation for a generic
21 urban village. The City could have provided a village-by-village study if it prepared an
22 EIS for each village or, at least, more than one EIS to cover batches of individual villages.
23 This is not a situation where the City is moving from a programmatic EIS to a site specific
24 EIS and the impacts will be addressed in the latter. These impacts will never be disclosed
25 and analyzed if they are not disclosed and analyzed now. The City's approach illustrates
26 its lack of any targeted, neighborhood specific planning or collaboration throughout the
entire HALA/MHA process.
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 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. With respect to Friends of Ravenna-Cowen see discussion in Exhibit 1 to this Notice of Appeal.

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3. **Open Space.** The FEIS does not adequately disclose, consider or analyze the impacts that the proposal will have on open space.
- a. The FEIS does not adequately describe the existing environment that will be affected by the proposal with respect to open space 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 open space 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 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 impacts that will occur as a result of this proposal.
 - c. For many years the City of Seattle’s analysis of usable open space gaps has confirmed that “the North Rainier Hub Urban Village has the largest gaps in Usable Open Space with over half of the Urban Village located farther than 1/8 of a mile from park sites.” 2011 Gap Report Update, City of Seattle. The Central Puget Sound Growth Management Hearings Board has noted that, in the last upzone to the Mount Baker Town Center, “the area being up-zoned for highest density appears to be furthest from existing parks. This situation is made worse by the fact that existing open spaces are separated from the urban Hub by two high-volume arterials, each carrying over 30,000 vehicle trips daily, with inadequate pedestrian crossings.” *Abolins vs. Seattle*, Final Decision and Order at pp. 18-19 (footnotes omitted), Central Puget Sound Growth Management Hearings Board Case No. 14-3-0009 (April 1, 2015).
 - d. After careful review of open space under **the previous upzone** the Board reached the following conclusion: “The Board finds the City’s extensive inventory, needs analysis, and planning documents amply demonstrate that the current level of useable open space in the North Rainier Hub Urban Village is inadequate to satisfy its distribution-based goals.” *Abolins v. Seattle*, Final Decision and Order, pages 19-20.
 - e. After the Board made this finding, the City of Seattle proposed acquisition of land that would be preserved for the “North Rainier Town Center Park”. See http://www.kingcounty.gov/~media/environment/stewardship/conservation_futures/2015-applications/seattle/Seattle_North_Rainier_Town_Center_Park.ashx?la=en
 - f. The City’s 2017 Parks and Open Space Plan later confirmed the need for the City to take action and preserve the opportunity for a neighborhood park in the heart of the Mount Baker Town Center. See FEIS, page 3.345.

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- g. MHA FEIS section 3.7 (Open Space and Recreation) states that the Seattle Parks Department expects parks and open space demand in urban village neighborhoods to grow substantially, and identifies significant adverse impacts to parks and open space. However, despite the recognition of substantially increased park impacts in and around urban villages and light rail stations, the MHA FEIS omits in its entirety any meaningful analysis of those impacts to the North Rainier Neighborhood's continuing unmet need for usable open space.
 - h. The MHA FEIS, in section 3.7 (Open Space and Recreation), contains no discussion or analysis of the North Rainier Urban Village and proposed expansion and up-zone as to the impacts and demands on open space that are highly likely to occur with increased density and use and, concomitantly, no meaningful discussion as to what, if anything can be done to mitigate those impacts.
 - i. Because the City did not undertake a neighborhood-by-neighborhood review, it has no factual data as to the impact on North Rainier open space needs due to up-zoning, and future development within the North Rainier Urban Village. For instance, the FEIS and its preferred alternative is based on the assumption that the very parcels that the City Parks Department has proposed to acquire to bridge the open space gap in North Rainier will actually be substantially upzoned for increased development – a self-defeating and contradictory planning process that could only survive in the absence of facts and reasoned analysis. In light of no data and no analysis, the entire section on Open Space is arbitrary and capricious and needs to be remanded for meaningful study necessary to achieve the essential elements of livability for life in an increasingly dense human environment. The FEIS's failures to meaningfully address the specific open space impacts and increased needs for open space in Seattle's neighborhoods is in derogation of SEPA adequacy requirements.
4. The FEIS does not adequately discuss reasonable mitigation measures that would significantly mitigate the open space 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.
- a. The EIS contains a laundry list of speculative and possible new mitigation measures related to open space impacts, but fails to provide any analysis whatsoever of the effectiveness of those measures, and fails to recognize the ineffectiveness of such measures with respect to the longstanding inequitable open space gap in the North Rainier Urban Village.

- 1 5. **Tree Canopy.** The FEIS does not adequately disclose and analyze the significant tree
2 canopy impacts of the alternatives, including the proposed action, on the “ring of green”
3 surrounding the Mount Baker Town Center and, in particular, the Cheasty Greenspace.
4 The impacts to Cheasty Greenspace, and its associated critical areas, are not adequately
5 analyzed, even though the proposal confronts this Greensapce with substantial upzones
6 immediately adjacent to the steeply forested hillsides.
- 7 6. The FEIS does not adequately discuss reasonable mitigation measures that would
8 significantly mitigate the tree canopy and critical area impacts of the proposal on the
9 Cheasty Forest and its associated critical areas.
- 10 7. Cheasty Greenspace meets SEPA and Seattle criteria for environmentally critical areas.
11 (<http://www.seattle.gov/dpd/codesrules/codes/environmentallycriticalareas/default.htm>;
12 Title 25 Municipal Code, section 25.09.012). The MHA FEIS, in section 3.7 (Open
13 Space and Recreation), contains no discussion or analysis of the Cheasty Greenspace and
14 proposed substantial up-zones immediately adjacent to this sensitive and protected
15 hillside as to the environmental damage that is highly likely to occur with increased
16 density and use and, concomitantly, no discussion as to what, if anything can be done to
17 mitigate probable ecological damage. The MHA FEIS's fails to even include North
18 Rainier and the North Rainier Urban Village in certain Exhibits because its sole focus is
19 on the Grand Bargain agenda, rather than features of the North Rainier Neighborhood that
20 have long been identified as critical to the City’s current and future residents. Thus, the
21 City does not include the North Rainier Urban Village and the proposed up-zone in North
22 Rainier in its discussion of green space, or the adverse impacts and possible mitigation
23 solutions for the critical areas of the Cheasty Greenspace.

24 Because the City did not undertake a neighborhood-by-neighborhood review, it has no
25 factual data as to the environmental impact on North Rainier’s critical areas due to up-
26 zoning, future development within the North Rainier Urban Village, and increased
impacts to Cheasty Greenspace due to the proposed actions. In light of no data, no
analysis whatsoever, the entire section on Open Space is arbitrary and capricious and
needs to be remanded for further study.

- 27 a. The FEIS does not adequately describe the existing environment that will be
28 affected by the proposal with respect to critical area impacts. The FEIS fails to
29 adequately describe the principal features of the environment that would be
30 affected by the alternatives including the proposal under consideration.
- 31 b. The FEIS does not adequately disclose and analyze the significant critical area
32 impacts of alternatives including the proposed action. The discussion of these
33 impacts was speculative, vague, and meaningless and did not provide adequate
34 disclosure and analysis of the actual critical area impacts that will occur as a result
35 of this proposal

1 **8. Historic and Cultural Resource Impacts.** The proposed FEIS does not adequately
2 disclose, study or analyze the impacts to historic and cultural resources in the North
3 Rainier Neighborhood, including the Mount Baker Park Addition, Franklin High School,
4 the Cheasty Greenspace, and the connecting corridors of Seattle’s Boulevard System
5 (Mount Baker Boulevard and Cheasty Boulevard).

6 a. The FEIS does not adequately describe the existing North Rainier environment that
7 will be affected by the proposal with respect to historic and cultural resource impacts.
8 The FEIS ignores the North Rainier Neighborhood Plan and fails to adequately
9 describe the principal features of the environment that would be affected by the
10 alternatives including the proposal under consideration.

11 b. The FEIS failed or refused to consider community-based project through which the
12 Mount Baker Park Addition was being nominated for the National Register of
13 Historic Places. This lack of meaningful consideration of North Rainier historical
14 and cultural resources will lead to a the City’s violation of its own Community Based
15 Policies against urban village expansion, and inconsistency with the Neighborhood
16 Plan as reflected in the Comprehensive Plan.

17 c. On page 3.126 of the FEIS, the City briefly notes that the proposed expansion of
18 the North Rainier Urban Village would have “significant impact due to an existing
19 condition of established, consistent architectural and urban form context of homes
20 near the Olmsted [Mount Baker] Boulevard.” FEIS, page 3.126. This sentence
21 fails to adequately address the historic and cultural importance of this area, which
22 is currently being nominated for the National Register of Historic Places, with the
23 support of 4Culture and the State of Washington. See The Mount Baker Park
24 Addition: A Historic Intersection of People and Place, Friends of Mt Baker Town
25 Center (www.towncenterfriends.org Oct. 19, 2017).
26 <https://towncenterfriends.org/2017/10/19/the-mount-baker-park-addition-a-historic-intersection-of-people-and-place/>

 d. The area of the proposed expansion for North Rainier Urban Village is
inconsistent with the Neighborhood Plan and would result in unacceptable and
avoidable impact to the Mount Baker Park Addition at a critical node where
Franklin High School (itself a historic landmark) is surrounded by the elegant
connecting curve of the historic Mount Baker Boulevard and the surrounding
historic homes of the Mount Baker Park Addition – a remarkable and defining
landscape of residential and scholastic architecture supporting the community’s
nomination of the district to the National Register. The FEIS’s failure to properly
note, let alone evaluate, these historic and cultural resources is a violation of
SEPA, and of the long held goals represented in the North Rainier Neighborhood
Plan.

 9. The FEIS does not adequately discuss reasonable mitigation measures that would
significantly mitigate the historic and cultural resource impacts of the proposal on the Mount

1 Baker Park Addition, Franklin High School, and the connecting Boulevard System (Mount
2 Baker Boulevard and Cheasty Boulevard). To some degree, the mitigation measures
3 discussed will not mitigate the impacts and to another degree, the FEIS failed to include
4 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.

5 **10. Equitable Development and Economic Opportunity – Comprehensive Plan**

6 **Consistency.** The North Rainier Neighborhood Plan sets forth a vision of inclusive
7 development that is sustainable socially, environmentally and economically. The Plan
8 calls for a Town Center that concentrates housing, commercial uses, services and living-
9 wage employment opportunities; that is well served by transit and nonmotorized travel
10 options; and that is well-designed and attractive to pedestrians.. See NR-G1. This Town
11 Center Plan must be designed to support a range of small and ethnic businesses that are
culturally relevant to the community. NR-P2, NR-P3, and NR-P6. In order to foster this
economic opportunity for a diverse citizenry, the Plan emphasizes the need for dense
mixed use development supporting a range of household incomes and unit sizes. See
Housing Goals (NR-G2, and NR-G3). See also Economic Development Goals and
Policies (NR-G4 through G7 and NR-P14-22)

12 11. The FEIS fails to adequately consider and analyze the inconsistencies of the proposed
13 action with the Policies and Goals of the Comprehensive Plan.

14 12. Rather than consistency with the Comprehensive Plan, the FEIS and its proposed
15 alteranative will defeat the vision of a sustainable Town Center. Rather than promote a
16 socially inclusive and economically sustainable range of residences in the Mixed Use
17 Town Center, the City is endorsing a plan of “in lieu” payments that serves to concentrate
market rate housing in the wealthier areas of the City, while funneling and concentrating
subsidized housing into areas where property values ~~are~~
are lower.

18 13. The City’s FEIS fails to properly analyze and mitigate this inconsistency with the
19 Comprehensive Plan, and the continuing drag on economic development and opportunity
20 in the Mount Baker Town Center which, to this day, remains full of vacant and
21 underdeveloped parcels immediately adjacent to the Mount Baker Link Station. Rather
22 than propose a damaging urban village expansion into the supportive fabric of the Mount
Baker Park Addition, the City must consider realistic opportunities to further the inclusive
vision of the North Rainier Neighborhood Plan, and the related Goals and Policies of the
Comprehensive Plan.

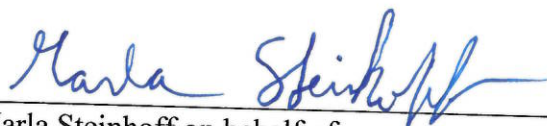
23 14. **Joinder.** The Friends of the North Rainier Neighborhood Plan adopts and incorporates
24 by reference, as its own, each and every issue and objection set forth in the Notice of
25 Appeal filed by Seattle Coalition for Affordability, Livability and Equity (“SCALE”).
26 Each such objection will remain an objection of FNR until and unless FNR or the Hearing
Examiner affirmatively dismisses such objection with respect to FNR.

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3. Relief Requested.

Appellant seeks a determination that the MHA EIS is inadequate, contrary to law, and invalid. Appellant requests that the Hearing Examiner remand the FEIS to the City with instructions to prepare new and/or supplemental EIS(s) as necessary to adequately address the environmental impacts and mitigation for an appropriate 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.

Filed on behalf of the Friends of the North Rainier Neighborhood Plan this 27th day of November, 2017.

By: 
Marla Steinhoff on behalf of
Friends of the North Rainier Neighborhood Plan