

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeal of:

**WALLINGFORD COMMUNITY
COUNCIL, ET AL.,**

of the adequacy of the FEIS issued by the
Director, Office of Planning and
Community Development.

Hearing Examiner File

W-17-006 through W-17-014

DECLARATION OF JEFFREY S.
WEBER IN SUPPORT OF THE CITY OF
SEATTLE’S MOTION TO COMPEL

I, Jeffrey S. Weber, declare and state as follows:

1. I am over eighteen years of age, have personal knowledge of the matters herein, and am competent to testify regarding all matters set forth herein.
2. Attached hereto as Exhibit A is a true and correct copy of the City’s First Set of Interrogatories and Requests for Production to Morgan Community Association with answers thereto, received by the City February 5, 2018.
3. Attached hereto as Exhibit B is a true and correct copy of the City’s First Set of Interrogatories and Requests for Production to West Seattle Junction Neighborhood Organization (“JuNO”) and Appellants’ responses thereto, dated February 19, 2018.
4. Attached hereto as Exhibit C is a true and correct copy of the City’s First Set of Interrogatories and Requests for Production to Seattle Coalition for Affordability, Livability and Equity (“SCALE”) and answers thereto, dated February 27, 2018.

1 5. Attached hereto as Exhibit D is a true and correct copy of the City's First
2 Set of Interrogatories and Requests for Production to Fremont Neighborhood Council
3 with answers thereto, dated February 28, 2018.

4 6. Attached hereto as Exhibit E is a true and correct copy of the City's First
5 Set of Interrogatories and Requests for Production to Seniors United for Neighborhoods
6 with answers thereto, dated March 5, 2018.

7 7. Attached hereto as Exhibit F is a true and correct copy of the City's First
8 Set of Interrogatories and Requests for Production to Friends of the North Rainier
9 Neighborhood Plan ("FNR") with answers thereto, dated February 24, 2018.

10 8. Attached hereto as Exhibit G is a true and correct copy of a letter from me
11 dated April 10, 2018 in which the City requested the Appellants to supplement their
12 responses by April 16, 2018. None of the Appellants described in paragraphs 2 through 7
13 above ("Named Appellants") supplemented their responses by April 16, 2018. However,
14 on April 16, JuNO provided a short email attaching two pdfs with training information for
15 Janine Rees.

16 9. At the request of the City's counsel, on April 23, 2018, counsel and
17 Appellant representatives held a discovery conference to address Appellants' failure to
18 adequately respond to the City's Discovery. The City scheduled the discovery conference
19 on that day to accommodate several Appellant requests for additional time to respond to
20 the City's letter dated April 10, 2018. Despite their requests for additional time to
21 respond, none of the Named Appellants supplemented their discovery responses before
22 the City's discovery conference. During the discovery conference counsel for several
23 Named Appellants stated that supplemental responses to the City's discovery requests
24 were forthcoming and requested additional time to provide those responses. The City's
25 counsel responded that the City would withhold filing the instant motion until close of

1 business on April 24, 2018. In that absence of adequate supplemental responses, the City
2 would, however, be compelled to file a Motion to Compel.

3 10. As of 2:30 p.m. April 25, 2018, the City has received the following
4 supplemental responses from the Named Appellants:

- 5 • JuNO's disclosures pertaining to one of its experts, Janine Rees;
- 6 • SCALE's disclosures pertaining to one if its experts, Eugenia Woo, upon
7 which FNR also intends to rely;
- 8 • Friends of Ravenna-Cowen's disclosures pertaining to one expert jointly
9 named with SCALE, Lawrence Kreisman, upon which SCALE intends to rely;
- 10 • FNR disclosures pertaining to one of its experts, Spencer Howard, upon which
11 SCALE also intends to rely; and
- 12 • FNR's disclosures pertaining to one of its experts, Jennifer Ott.

13 I declare under penalty of perjury and the laws of the state of Washington that the
14 foregoing is true and correct.

15 EXECUTED in Seattle, Washington, this 25th day of April, 2018.

16
17 
18 Jeffrey S. Weber WSBA No. 24496

EXHIBIT A

BEFORE THE HEARING EXAMINER

CITY OF SEATTLE

In the Matter of the Appeal of:

WALLINGFORD COMMUNITY COUNCIL, ET
AL.

of adequacy of the FEIS issued by the Director,
Office of Planning and Community Development

)

)
)
)

)
)
)
)
)
)
)

Hearing Examiner File

W-17-006 through W-17-014

THE CITY'S FIRST SET OF
INTERROGATORIES AND
REQUESTS FOR PRODUCTION
TO MORGAN COMMUNITY
ASSOCIATION

)

TO: MORGAN COMMUNITY ASSOCIATION

AND TO: DEB BARKER, ITS REPRESENTATIVE

INTERROGATORIES AND REQUESTS FOR PRODUCTION

Pursuant to HER 3.11, CR and KCLR 26, 33, and 34, Respondent the City of Seattle, Office of Planning and Community Development (the "City") hereby requests that you produce for inspection and copying the described documents within your possession, custody, or control, and that you respond to the following interrogatories. Please respond to the interrogatories and produce the documents at the offices of the Seattle City Attorney's Office, 701 Fifth Avenue, Suite 2050, Seattle, WA 98104, within thirty (30) days after the date of service.

GENERAL INSTRUCTIONS

1. The answer to each Discovery Request shall include such knowledge as is within your custody, possession, or control, including but not limited to, knowledge and documents in your custody, possession, or control, or that of associated or related organizations, or those under common control of your consultants, accountants, attorneys, and other agents. When facts set forth in answers or portions thereof are supplied upon information and belief rather than actual knowledge, you shall so state, and specifically describe or identify the source or sources of such information and belief. Should you be unable to answer any Discovery Request or portion thereof by either actual knowledge or upon information and belief, you should describe your efforts to obtain such information.
2. In the event you produce original documents for inspection and copying, such production shall be as the documents are kept in the usual course of business.
3. Documents copied shall be copied as they are kept in the normal course of business, and any titles, labels, or other descriptions on any box, folder, binder, file cabinet, or other container shall be copied as well. Documents originating in paper format should be scanned as images at the time of copying, with optical character recognition ("OCR"). Scanned images shall be produced in the same format as electronically stored information, as set forth below.
4. The obligations imposed by Rules 26, 33 and 34 of the Washington Court Civil Rules are hereby incorporated by reference, including, but not limited to, the duty to supplement imposed by Rule 26(e). Supplemental answers and documents are requested in the event that you subsequently obtain or become aware of the existence of information that differs from or is in addition to that contained in earlier answers.

5. Non-identical copies of the same document (i.e., with marginal notes, etc.) constitute separate documents and must all be produced.
6. Electronically stored information shall be produced in reasonably usable form, including specifically any ability to search or perform calculations with the information in the form it is maintained by Plaintiff(s).
7. Email, word processing documents and spreadsheets (e.g. Excel documents) shall be converted to images and produced, together with requested metadata, except that the City explicitly reserves the right to request supplemental production of spreadsheets in native file format.
8. Electronically stored information in other formats shall be identified prior to production to permit the parties to confer over production format.
9. If you claim that any privilege is applicable to any requested document or other thing, or any part thereof, you shall, with respect to that document or other thing:

- (i) State the date of origination, drafting, making or taking of the document;
- (ii) Identify each and every author, maker, or originator thereof;
- (iii) Identify each and every person who appeared or participated in the preparation thereof;
- (iv) Identify each and every person who received the document or other thing;
- (v) State the present location of the document or thing and all copies thereof;
- (vi) Identify each and every person who has or ever had possession, custody or control of the document or other thing or any copy thereof; and
- (vii) Identify the basis of the asserted claim of privilege.

This information shall be provided in a privilege log that shall be provided at the time of the discover response.

10. In responding to the following Requests, you shall furnish all information that is available to you, including information in the possession, custody, or control of your attorneys, accountants, investigators, experts, representatives, agents, or anyone acting on your behalf or on their behalf. If you cannot answer these requests in full, answer to the extent possible, specify the reasons for your inability to answer the remainder, and state whatever information or knowledge you have concerning the unanswered portion, and identify each person whom you believe has information regarding the subject of Request.

11. If any Discovery request seeks documents formerly in your possession, custody, or control that have been discarded, misplaced, lost, destroyed, or otherwise placed outside your custody or control, identify the document and describe its contents in detail and state when the document was discarded, misplaced, lost, destroyed, or otherwise placed outside your custody or control. If the document was destroyed, identify each person with knowledge of its destruction, each person requesting or performing the destruction, the reasons for its destruction, and each document that refers or relates to either the existence of or destruction of the document. For each document that was discarded, misplaced, lost, or otherwise placed outside your custody or control, explain all circumstances in relation to the loss of the document and identify each person with knowledge regarding those circumstances.

12. The singular shall include the plural and vice versa and the conjunctive shall include the disjunctive and vice versa. References to the masculine, feminine, or neuter gender shall include the neuter, feminine and masculine genders, as the context requires.

DEFINITIONS

1. "Document" The term "document" means all written, graphic, or otherwise recorded information, whether produced, reproduced, or stored on paper, cards, tapes file, electronic facsimile, computer storage devices, memories, data cells, or other data compilations from which information can be obtained, including but not limited to letters, reports, notes, memoranda, receipts, email, logs, electronic data files, photographs and negatives thereof, charts, surveys, building plans or drawings, engineering plans or drawings, architectural plans or drawings, telegrams, minutes, recording of telephone conversations, interviews, conferences or other meetings, estimates, schedules, contracts, desk calendars, appointment books, diaries, audio or video tapes, and all things similar to the foregoing, however denominated, and any and all matter of material applied to any of the above. "Document" also includes any additional copies which are not identical to the original by virtue of any notation or modification of any kind, including, without limiting the generality of the foregoing, notes or modifications on the backs or margins of pages thereof, or on copies thereof, or by virtue of attachments thereto. The term document shall include any amendments to the requested document.
2. The term "communication" means any conversation, meeting, correspondence, conference, electronic mail, and any other means or manner by which information or opinion is or was communicated to or received from others, whether written or oral.
3. To "identify" a person means to state the full name of the individual, the individual's last known business and home addresses and phone numbers, and, if known, the individual's present or last known business affiliation and title.
4. The term "identify" or "identification" when used in reference to a document means to state the date and author(s), signer(s), intended recipient(s), and its present or last

known location or custodian. If any such document was, but is no longer, in your possession or subject to your control, state what disposition was made of it, and the reason for such disposition.

5. "Expert witness" means any person whose testimony may be presented, for any purpose, under Evidence Rules 702, 703 or 705.

13. The term "you" or "Appellant" shall mean Morgan Community Association, its executives, and its representatives, including but not limited to, its members.

14. The terms "and" and "or" shall be understood in both the conjunctive and disjunctive sense, synonymous with "and/or."

15. The terms "any" and "all" shall be understood in their most inclusive sense, synonymous with "any or all."

OBJECTIONS

If you object to answering any interrogatory or request for production, in whole or in

part, state your objection and the factual or legal reasons supporting it. If you object on grounds

of privilege, please also state the nature and extent of all allegedly privileged matters in sufficient

detail to allow the City to seek an order compelling disclosure of the information in question.

State the date, author(s), addresses, persons receiving copies of, and the general subject matter of

each document withheld under a claim of privilege and/or work product. For each request for

production or part thereof to which you object on the ground of burdensomeness, please indicate

the custodian and location of each file or document requested, the time estimated to obtain the

information, and the costs necessary to answer, as well as the basis for the cost estimate.

INTERROGATORIES

INTERROGATORY NO. 1: Identify each person you intend to call as an expert witness and/or provide expert testimony in this proceeding. For each such witness state:

- (a) The name, address and phone number of the witness; and
- (b) The subject matter about which the witness is expected to provide testimony.
- (c) The substance of the facts and opinions to which the expert will provide testimony; and,
- (d) A summary of the grounds for each such opinion.

RESPONSE:

At this time, the Morgan Community Association has not identified any persons to call as expert witnesses to provide testimony in this proceeding.

INTERROGATORY NO. 2: For each expert witness identified in your response to Interrogatory No. 1, describe in full detail all analyses, studies, reports, models, or research that the Expert witness conducted or reviewed to form his or her opinions or prepare his or her testimony, including all data used and parameters applied in any analyses, studies, reports, models or research.

RESPONSE:

As the Morgan Community Association has not identified any persons to call as expert witnesses to provide testimony in this proceeding, we have no analyses, studies, reports, models or research documents to forward at this time.

INTERROGATORY NO. 3: For each expert witness identified in your response to Interrogatory No. 1, identify every proceeding (administrative, court, or otherwise) in which the expert has testified or offered an expert report in the last ten (10) years, including the forum and date of that testimony or report.

RESPONSE:

As the Morgan Community Association has not identified any persons to call as expert witnesses to provide testimony in this proceeding, we have no proceedings to identify at this time.

INTERROGATORY NO. 4: With respect to issue 5 in your notice of appeal, identify and describe the basis and underlying facts for your statement that "[u]nder the existing zoning, Morgan Junction will exceed HALA density goals without upzones. . ." and describe the reasons why you allege that to be the case.

RESPONSE:

In a January 17, 2017 letter to the HALA committee detailing conflicts with HALA/MHA and the Morgan Junction Neighborhood Plan, the Morgan Community Association stated:

"We are aware that Urban Villages were established to accommodate growth. However, the Morgan Junction Neighborhood Plan was developed with the expectation that the existing mix of housing would be protected. That existing mix of housing and zoning already supported the capacity needed to accommodate Morgan Junction's role in accepting growth and is also projected to support the additional growth estimated in the 2035 Comprehensive Plan."

This statement is based on the 2035 Development Capacity Report from September 2014, which lists the adjusted residential growth capacity of Morgan Junction as 583 housing units. As the Capacity Report noted, these are part of the 224,000 housing units that DPD estimated the City had capacity to add, and added "that it is a sufficient amount to accommodate the 70,000 households (and 115,000 jobs) the Countywide Planning Policies assign to Seattle for the next 20 years.

The August 2015 Seattle 2035 Urban Village Study noted that density in the Morgan Junction Urban Village passes the target at 12 Housing Units per Acre and that the "small village has the right balance of uses, density and the right capacity for future housing units."

Morgan Junction Urban Village capacity standards associated with the 2035 Comprehensive Plan analysis are substantially consistent with the capacity standards referenced the proposed action overview of the MHA FEIS when looking at both exhibit 2-7 and 2-8 of the FEIS.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Produce all reports (including preliminary reports and drafts) notes, memoranda, communications, and any other documents prepared by or for each expert you identified in response to Interrogatory No. 1.

RESPONSE:

At this time, the Morgan Community Association has not identified any persons to call as expert witnesses to provide testimony in this proceeding.

REQUEST FOR PRODUCTION NO. 2: Produce curriculum vitae for each expert witness identified in your response to Interrogatory No. 1.

RESPONSE:

At this time, the Morgan Community Association has not identified any persons to call as expert witnesses to provide testimony in this proceeding.

REQUEST FOR PRODUCTION NO. 3: Produce all documents provided to, reviewed, and/or relied upon by each expert identified in response to Interrogatory No. 1.

RESPONSE:

At this time, the Morgan Community Association has not identified any persons to call as expert witnesses to provide testimony in this proceeding.

REQUEST FOR PRODUCTION NO. 4: Produce Communications between each expert you identified in response to Interrogatory No. 1, and any other person, including, but not limited to, Appellant, Appellant's attorneys (including attorney staff

members), the Expert's employees, or the Expert's employers that in any way relate to the Expert's opinions and/or testimony in this case.

RESPONSE:

At this time, the Morgan Community Association has not identified any persons to call as expert witnesses to provide testimony in this proceeding.

DATED this 5th day of January, 2018.

PETER S. HOLMES

Seattle City Attorney

By: s/Jeff Weber, WSBA #24496

s/Daniel B. Mitchell, WSBA #38341

Assistant City Attorneys

Attorneys for Respondent

Seattle Office of Planning and Community

Development

CERTIFICATE OF SERVICE

I certify that on this date I served via email agreement a copy of The City's First Set of Interrogatories and Requests for Production to Morgan Community Association to the following:

Deb Barker

djb124@earthlink.net

DATED this 5th day of January 2018.

s/Alicia Reise _____

ALICIA REISE, Legal Assistant

DECLARATION OF APPELLANT

I, Deborah Barker, certify and declare on behalf of Appellant Morgan Community Association under penalty of perjury under the laws of the state of Washington as follows:

I have read the foregoing City's First Set of Interrogatories and Requests for Production of Documents and the answers and responses thereto, know the contents thereof, and believe the same to be true.

Executed at Seattle, Washington this 5th day of February, 2018.

Name: Deborah Barker

Title: President, Morgan Community Association

CERTIFICATION OF ATTORNEY

I, _____, the undersigned attorney for Appellant Morgan Community Association, have read the foregoing Interrogatories and Answers thereto and they are in compliance with CR 26(g).

DATED this ____ day of _____, 2018.

Name: _____

WSBA # _____

Attorney for _____

EXHIBIT B

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In re: Appeal by

JUNCTION NEIGHBORHOOD ORGANIZATION

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

THE CITY'S FIRST SET OF
INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
WEST SEATTLE JUNCTION
NEIGHBORHOOD
ORGANIZATION AND
APPELLANTS' RESPONSES
THERE TO

TO: WEST SEATTLE JUNCTION NEIGHBORHOOD ORGANIZATION

AND TO: RICH KOEHLER, ITS REPRESENTATIVE

INTERROGATORIES AND REQUESTS FOR PRODUCTION

Pursuant to HER 3.11, CR and KCLR 26, 33, and 34, Respondent the City of Seattle, Office of Planning and Community Development (the "City") hereby requests that you produce for inspection and copying the described documents within your possession, custody, or control, and that you respond to the following interrogatories. Please respond to the interrogatories and produce the documents at the offices of the Seattle City Attorney's Office, 701 Fifth Avenue, Suite 2050, Seattle, WA 98104, within thirty (30) days after the date of service.

1 **GENERAL INSTRUCTIONS**

2 1. The answer to each Discovery Request shall include such knowledge as is within your
3 custody, possession, or control, including but not limited to, knowledge and documents in your
4 custody, possession, or control, or that of associated or related organizations, or those under common
5 control of your consultants, accountants, attorneys, and other agents. When facts set forth in answers
6 or portions thereof are supplied upon information and belief rather than actual knowledge, you shall
7 so state, and specifically describe or identify the source or sources of such information and belief.
8 Should you be unable to answer any Discovery Request or portion thereof by either actual knowledge
9 or upon information and belief, you should describe your
10 efforts to obtain such information.

11 2. In the event you produce original documents for inspection and copying, such
12 production shall be as the documents are kept in the usual course of business.

13 3. Documents copied shall be copied as they are kept in the normal course of business,
14 and any titles, labels, or other descriptions on any box, folder, binder, file cabinet, or other container
15 shall be copied as well. Documents originating in paper format should be scanned as images at the
16 time of copying, with optical character recognition ("OCR"). Scanned images shall be produced in the
17 same format as electronically stored information, as set forth below.

18 4. The obligations imposed by Rules 26, 33 and 34 of the Washington Court Civil Rules
19 are hereby incorporated by reference, including, but not limited to, the duty to supplement imposed by
20 Rule 26(e). Supplemental answers and documents are requested in the event that you subsequently
21 obtain or become aware of the existence of information that differs from or is
22 in addition to that contained in earlier answers.
23

1 5. Non-identical copies of the same document (i.e., with marginal notes, etc.) constitute
2 separate documents and must all be produced.

3 6. Electronically stored information shall be produced in reasonably usable form,
4 including specifically any ability to search or perform calculations with the information in the form it
5 is maintained by Plaintiff(s).

6 7. Email, word processing documents and spreadsheets (e.g. Excel documents) shall be
7 converted to images and produced, together with requested metadata, except that the City explicitly
8 reserves the right to request supplemental production of spreadsheets in native file format.

9 8. Electronically stored information in other formats shall be identified prior to
10 production to permit the parties to confer over production format.

11 9. If you claim that any privilege is applicable to any requested document or other thing,
12 or any part thereof, you shall, with respect to that document or other thing:

13 (i) State the date of origination, drafting, making or taking of the document;

14 (ii) Identify each and every author, maker, or originator thereof;

15 (iii) Identify each and every person who appeared or participated in the preparation thereof;

16 (iv) Identify each and every person who received the document or other thing;

17 (v) State the present location of the document or thing and all copies thereof;

18 (vi) Identify each and every person who has or ever had possession, custody or control
19 of the document or other thing or any copy thereof; and

20 (vii) Identify the basis of the asserted claim of privilege.

21 This information shall be provided in a privilege log that shall be provided at the time of the
22 discover response.

1 computer storage devices, memories, data cells, or other data compilations from which information
2 can be obtained, including but not limited to letters, reports, notes, memoranda, receipts, email, logs,
3 electronic data files, photographs and negatives thereof, charts, surveys, building plans or drawings,
4 engineering plans or drawings, architectural plans or drawings, telegrams, minutes, recording of
5 telephone conversations, interviews, conferences or other meetings, estimates, schedules, contracts,
6 desk calendars, appointment books, diaries, audio or video tapes, and all things similar to the
7 foregoing, however denominated, and any and all matter of material applied to any of the above.
8 "Document" also includes any additional copies which are not identical to the original by virtue of any
9 notation or modification of any kind, including, without limiting the generality of the foregoing, notes
10 or modifications on the backs or margins of pages thereof, or on copies thereof, or by virtue of
11 attachments thereto. The term document shall include any amendments to the requested document.

12 2. The term "communication" means any conversation, meeting, correspondence,
13 conference, electronic mail, and any other means or manner by which information or opinion is or was
14 communicated to or received from others, whether written or oral.

15 3. To "identify" a person means to state the full name of the individual, the individual's
16 last known business and home addresses and phone numbers, and, if known, the individual's present
17 or last known business affiliation and title.

18 4. The term "identify" or "identification" when used in reference to a document means to
19 state the date and author(s), signer(s), intended recipient(s), and its present or last
20 location or custodian. If any such document was, but is no longer, in your possession or subject to
21 your control, state what disposition was made of it, and the reason for such disposition.

22 5. "Expert witness" means any person whose testimony may be presented, for any
23 purpose, under Evidence Rules 702, 703 or 705.

1 **INTERROGATORY NO. 3:** For each expert witness identified in your response to Interrogatory No.
2 1, identify every proceeding (administrative, court, or otherwise) in which the expert has testified or
3 offered an expert report in the last ten (10) years, including the forum and date of that testimony or
4 report.

5 **RESPONSE:** See Response to Interrogatory No. 1.

6 **INTERROGATORY NO. 4:** With respect to issue 10 in your notice of appeal, describe the specific
7 defects you allege with respect to the “methods of notice of the DS, scoping, and EIS preparation” and
8 identify the specific sections of SMC Chapter 25.05 that you allege were violated as a result of such
9 alleged defects.

10 **RESPONSE:** Response to this Interrogatory No. 4 is dependent upon the City’s response to
11 Appellant’s Interrogatories No. 23, 25, 26 and 26 (second) and Requests for Production 32, 37 and 38
12 served upon the City on January 5, 2018.

13 **INTERROGATORY NO. 5:** With respect to issue 11 in your notice of appeal, identify the particular
14 comments (by commenter, date, and method of comment) that you alleged the City failed to “respond
15 at all.”

16 **RESPONSE:** Please refer to attachment, Attachment_List_of_noncompliant_responses.xlsx.
17 All comments referenced are from JuNO’s submission of a document containing these comments, in
18 paper form by Christy Tobin-Presser on Aug 7, 2017.

19 **INTERROGATORY NO. 6:** With respect to issue 11 in your notice of appeal, identify the particular
20 comments (by commenter, date, and method of comment) that you allege the City “failed to properly
21 respond” to and describe why the City’s response allegedly was not proper.

22 **RESPONSE:** See Response to Interrogatory No. 5.

1 **REQUESTS FOR PRODUCTION**

2 **REQUEST FOR PRODUCTION NO. 1:** Produce all reports (including preliminary reports and
3 drafts) notes, memoranda, communications, and any other documents prepared by or for each expert
4 you identified in response to Interrogatory No. 1.

5 **RESPONSE:** See Response to Interrogatory No. 1.

6 **REQUEST FOR PRODUCTION NO. 2:** Produce curriculum vitae for each expert witness
7 identified in your response to Interrogatory No. 1.

8 **RESPONSE:** See Response to Interrogatory No. 1.

9 **REQUEST FOR PRODUCTION NO. 3:** Produce all documents provided to, reviewed, and/or
10 relied upon by each expert identified in response to Interrogatory No. 1.

11 **RESPONSE:** See Response to Interrogatory No. 1

12 **REQUEST FOR PRODUCTION NO. 4:** Produce Communications between each expert you
13 identified in response to Interrogatory No. 1, and any other person, including, but not limited to,
14 Appellant, Appellant's attorneys (including attorney staff members), the Expert's employees, or the
15 Expert's employers that in any way relate to the Expert's opinions and/or testimony in this case.

16 **RESPONSE:** See Response to Interrogatory No. 1

17
18
19 **DECLARATION OF RICHARD KOEHLER**

20
21 *RICHARD KOEHLER declares: That he is the Representative of the Junction Neighborhood*
22 *Organization, Appellant in the above-entitled action herein, that he has read the foregoing discovery*
23 *requests and the answers and responses thereto, knows the contents thereof and believes the same to*
be true.

1 I declare under penalty of perjury under the laws of the state of Washington that the foregoing
is true and correct.

2 DATED this 19th day of Feb., 2018 at Seattle, Washington.

3
4 
Richard Koehler

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

Noncompliant responses

Our comment

GENERAL COMMENTS

It is not clear whether the Opportunity Analysis considered the Junction's current boundary, or the boundary as it would be modified by the Alternatives. It seems self-evident that if extending the boundaries causes a lower opportunity level, then the lower level should be acknowledged.

The DEIS fails to account for, and must account for, the displacement of families and the elderly, both of which are groups that are sensitive to the impacts of growth and displacement.

It fails to ascertain the displacement of the tenants of rented houses, and houses with roommates. We found that 24% of the single-family homes within the Junction are non-owner occupied.

The Junction ranks 30th out of 39 urban villages for opportunity. This low-end result is unsurprising, given that few amenities have been provided to the Junction to offset the impact of growth that has taken place over the past 20 years. We object that the Junction has been designated a "High Opportunity" area given the large disparity between the it and neighborhoods like Green Lake and Fremont. This disparity is vividly depicted in the DEIS appendix, with the Junction plotted with the "Low Opportunity area", while numerous neighborhoods are well farther to the right. It does not seem sensible to group the Junction with those neighborhoods for matters of policy.

The Alternatives must then describe their approaches to preserve culturally important facets of the Junction, including by comparing their implementation to Junction design standards and neighborhood plan guidelines and policies.

The three alternatives are too similar.

At least one alternative should include limitations on development in some or all of the urban villages, including the Junction, in order to allow areas that have been impact to stabilize. This alternative can meet City objectives by proposing new urban villages in areas of the city where opportunities are favorable as a means to incentivize economic development or tap into land use opportunities more equitably.

In addition to Physical, Economic, and Cultural displacement, the City should include a cause of displacement due to loss of household livability due to the environmental impacts cited in the DEIS.

Failure to adhere to a neighborhood's plan and design guidelines constitutes a cause of Cultural displacement.

HOUSING & SOCIO

NOT DONE YET

LAND USE

Design Review is not available as a mitigating tool.

City Response

None.

Other elements of the comment, concerning displacement of families with children and the elderly, are acknowledged.

None.

None.

None.

None.

None.

None.

None.

Issue

No response.

Acknowledges but does not explain why the comment does not warrant further response.

No response.

No response.

No response.

No response.

No response.

No response.

No response.

Please see updates in the FEIS in Section 3.2 Land Use and 3.3 Aesthetics that reflect recent adoption by the City Council of modifications to design review. Please note that the adopted changes include lower design review thresholds for any lot rezoned from single family, which would apply to lands rezoned to implement MHA under action alternatives. Please see mitigation measure in the Land Use section.

Fails to address the question completely, not noting that design review expires on 10/2022.

The comment is acknowledged.

Acknowledges but does not explain why the comment does not warrant further response.

The City has gutted Neighborhood Planning. The DEIS suggest that potential land use impacts can be addressed as part of neighborhood-level planning efforts including measures to address transitions and density and planning for and making investments in livability improvements, such as open space or streetscape improvements near areas of land use impact. The DEIS fails to recognize the systematic elimination of the organizations that have traditionally organized neighborhood-level planning, including the de-funding of the Neighborhood Councils and the elimination of funding for neighborhood planning.

AESTHETICS

Since the City's release of its initial MHA maps in October 2016, the data establishes that the Junction Urban Village has repeatedly expressed to the City that it wishes to preserve the character of its single-family neighborhoods, which are filled with 90+ year old homes. See, e.g., (a) transcript of the November 15, 2016 Junction Neighborhood Organization meeting led by Nick Welch of the OPCD; (b) written comments submitted at the December 7, 2016 City-sponsored open house at Shelby's Ice Cream Parlor and Youngstown; and (c) written comments and table summaries from the January 26, 2017 Junction MHA Workshop organized by Councilmember Rob Johnson. The City has represented its commitment to utilize the neighborhood's feedback to shape its proposals but has virtually ignored such feedback to date.

TRANSPORTATION

The DEIS must answer to how each Alternative creates impacts at the Junction that arise from these trends. "Park and Hide", "Load/Unload", "Apartment parking overflow", "Commercial Parking"

[traffic on the WS bridge] varies during the course of the year, as shipping terminal volumes change and seasonal variations in commuting take place. This analysis must be corrected.

The DEIS must study the LOS at all traffic signals.

The DEIS must assess the impact on all unsignalized intersections and determine whether signaling is needed.

HISTORIC

At 111%, the Junction had the highest growth rate of any urban village in Seattle, and is predicted to have the second-highest growth rate of any urban village for the next 20 years. ... The DEIS, however, failed to address this topic. It did not acknowledge any risk or impact at the Junction.

The DEIS fails to recognize the Hamme and Campbell buildings, which are historic landmarks.

The DEIS must recognize the cultural significance of California Ave and the streets in the nearby vicinity, and must propose mitigations to protect it. ... By comparison, when the Urban Center University Ave faced upzoning to NC-85, it was met with such concern as to the potential cultural and historic loss, the street was set aside for a specific study unto itself.

The DEIS must comprehensively study the Junction's historic and cultural resources and identify specific mitigations, such as: [list follows]

BIOLOGICAL and OPEN SPACE

None.

PUBLIC SERVICE and UTILITIES

References and reliance on the 2035 comp plan EIS are inappropriate due to the magnitude of the growth further anticipated under HALA. Each area needs specific and detailed analysis of the magnitude of the impacts from the added burden of growth, particularly because, this growth is not, as depicted in the comp plan EIS, gradual...

The EIS excludes libraries as a public service in the analysis

This section does not adequately address the impacts on Police Services...."

The Seattle Fire Department does not currently meet NFPA response times for EMS or Fire suppression services."

The EIS does not address impacts on the 911-call center.

Acknowledges but does not explain why the comment does not warrant further response.

The comment is acknowledged.

No response.

None.

No response.

None.

No response.

None.

No response.

None.

No response.

None.

No response.

None.

No response.

None.

No response.

None.

No response.

None.

Comment noted. Please see response to Noah, Barbara-10, comment 1. Noah, Barbara -10 comment 1 states, "Impacts to libraries was not identified in scoping. Impacts of incremental growth on library availability could occur, but significant constraints on library services were not identified during the EIS scoping process."

Comment noted. See discussion of impacts. The Seattle Police Department reviewed the DEIS and agreed with the characterization of the impact. See also response to GC-2 above.

Stating the "the police department agrees with us" is not a response particularly in light of former Mayor Tim Burgess publicly expressed staffing concerns and the City's own contracted staffing studies that do not agree. GC-2 response is not relevant.

Fails to comply with response criteria (a) through (e). "the fire department agrees with us" clearly can't be true since their own data show their response time does not meet national standards.

No response.

None.

The EIS fails to include the West Seattle Junction from the 8 sectors identified in the draft EIS analysis. The one elementary school nearest the junction (Fairmount) is currently at capacity with no room for portables at the site. Fairmount was renovated recently and not likely to be subject to additional capacity through construction.... The EIS fails to include the West Seattle Junction from the 8 sectors identified in the draft EIS analysis. The one elementary school nearest the junction (Fairmount) is currently at capacity with no room for portables at the site. Fairmount was renovated recently and not likely to be subject to additional capacity through construction.....

The SPS 2012 Facilities Master Plan projected an increase of 9,000 students city wide from 2012 to 2022. This projection exceeds school capacity. The draft EIS erroneously states that Fairmount Park elementary renovation is currently underway, which is not true. Fairmount was remodeled, opened and is now at capacity. Schmitz Park it closed and in dire need of renovation before it could be opened.

Sidewalks and Roads. Failure to adequately address impacts to sidewalks and road.....

Failure of the urban village development parking policy and the snarl of traffic, danger for bicyclists, and further slows Fire, Police an EMS response times when a vehicle must back down a street to make way for emergency traffic.... Impacts of replacement of aging water mains and water infrastructure are is not No mitigation.....

Storm water and wastewater is not adequately addressed or mitigated

Seattle City Light no actual discussion of impact on electrical utilities

The EIS also fails to address any of the many dozens of highlighted areas covered by the City Critical Areas Ordinance.... These areas are primarily 40 % grade steep slopes, landslide areas

There is no discussion on the impact to natural gas needs or services

Comment noted. Please see expanded analysis of school capacity in the FEIS, including capacity analysis of school attendance area. Since publish of the DEIS there was additional coordination with Seattle Public Schools to incorporate SPS enrollment and capacity data. See also Appendix N.

Comment noted. Please see discussion of safety within Section 3.4 Transportation. Please also see the Preferred Alternative map at Appendix H for the West Seattle Junction urban village, which includes reduced intensity of zoning in several currently single family zoned areas compared to other Action Alternatives. It is acknowledged that the LK2 zone proposed under the Preferred Alternative would front onto certain streets that currently have roadway widths that may be less than the dimension listed in the right of way improvements manual. If implemented, at the time of a project action SDOT would review right of way improvement options for potential compliance with the standard, or alternate improvements that could provide needed pedestrian and vehicle circulation.

Notes/Fault: Fails to comply with response criteria (a) through (e).

Comment noted. Please see frequent comment response concerning parking impacts and mitigation.

Comment noted.

Comment noted. Please see frequent comment response concerning storm water infrastructure, and sanitary sewer infrastructure. [As noted in Section 3.8 Public Services and Utilities, such areas are likely at or near their capacity and downstream pipes from new development would have to be upgraded to a minimum 12-inch diameter. This requirement would occur when a development applies for a permit to work on or connect a building to the public sewer system.]

Comment noted. Discussion of City Light service and impacts is included in Section 3.8.

None.

Comment noted. Impacts to privately provided natural gas service was not identified in scoping.

Furthermore, stating that RSI will likely generate a rate of students at 17.1% is a guess at best because of the complete dearth of historical data about this newly created zoning. Fairmount and Genesee elementary were open and at capacity at the time FEIS was done. This was explicitly identified and you still did not correct the FEIS.

This reply is specious as best as parcels 612660-0735 (NC3-85(4.75)), 937970-0000 (NC3-85(4.75)), 757920-0470(NC3P-85(4.75)), and remainder of the parcels facing the 40th Ave SW north of S. W. Edmunds all face a narrow 25 foot wide street though these are all zoned NC3 (and built quite recently) yet the street remains narrow and woefully un-navigable with added congestion. Changing the right of way manual requirements are do not change the poor navigability of these streets.

The issue of fire, EMS and Police vehicle ready access through narrow streets not designed for massive apartment and commercial building congestion is not addressed.

Fails to comply with response criteria (a) through (e). Fails to address that requisite sewer upgrades have not routinely occurred with development. California Ave SW from Dawson to Juneau is less than 12" and sections of this area are already NC 2-30. Fails to address a citywide storm and sewer capacity.

Last summer, SPU started a multiyear system wide sewer capacity analysis project that is only in its infancy and no where near done. The City has known for years that its sewer capacity is undersized and overflows periodically (Madison valley back ups). The fixes from 1996 and after the 2004 storms still didn't prevent further sewage flooding in 2006. Asserting they will fix it with development fills in the face of the fact that the City is now compelled to do a massive system wide investigation because of failures to meet current capacity needs now.

https://www.seattle.gov/util/cis/groups/public/@spu/@dirhoff/documents/webcontent/01_024642.pdf

Stating that conservation will offset increased use does not constitute analysis or mitigation.

No response.

Fails to comply with response criteria (a) through (e). This is a vital utility. That it did dawn on the scoping minions further shows the poor anticipation of what should be covered in an EIS.

Comment noted. Please see response to Bates, Tawny-2 comment 14. [Bates Tawny-2 comment 14. Noise The EIS scope focuses on elements of the environment most likely to be impacted. Existing regulations including the noise ordinance would apply to new construction, and would apply under any of the alternatives. Noise from construction is expected to occur under all alternatives. Many of the potential development sites under the no action alternative that would have construction activity, would also have construction activity of incrementally larger amounts of housing or commercial construction during the 20-year period. In these cases, the duration of construction noise could be longer to complete larger structures, but would not be expected to produce significantly more construction noise than would occur under no action. However, as discussed in the Land Use Section 3.2.2 Impacts, significant impacts could result in cases where the action alternative would allow for an intensification of allowed land use, which could contribute to the likelihood of redevelopment on sites or areas that would not be likely to redevelop under no action. This includes existing single family zoned areas within urban villages or proposed urban village expansion areas. In these areas, there is potential for a greater impact on neighboring properties due to increased potential for construction-generated noise, and that greater impact is considered as part of the land use impact that is identified as a significant impact in some cases. See Section 3.2 Land Use. In the FEIS, additional language is added in the intensification of use discussion within Section 3.2.2 to more clearly acknowledge potential for increased construction noise.]

Fails to comply with response criteria (a) through (e). Simply stating it will get noisier fails to even investigate or analyze what those impacts are (dBA and health effects, when some properties could be surrounded by continuous construction noise for months seven days a week.

AIR QUALITY and GREENHOUSE GAS

The draft EIS is massively flawed because it does not address the presence, impact, or mitigation of localized, ground level air pollution.....

Fails to comply with response criteria (a) through (e). Criteria air pollutants include: particle pollution, ozone, carbon monoxide, sulfur dioxide, nitrogen dioxide, and lead. Beacon Hill still measures CO and NOx. The 10th and Weller does measurements for PM 2.5 by two methods. None of these sites represents localized pollution exposures and none of these sites have been subject to massive growth. PSCAA has no mandatory standards for off road construction vehicles-any such standards are purely recommended and voluntary.

Construction equipment as an air pollution source and hazard....
The draft EIS minimizes and dismisses resident's exposure to air pollution from construction equipment. There is no mitigation.....

AQ-1. The comment states that the DEIS draws conclusions from a limited number of monitoring sites. Air quality monitoring sites are located according to the United States Environmental Protection Agency, Washington State Ecology, and the Puget Sound Clean Air Agency. They are generally located accordingly to record representative air quality of the neighborhood, or region. The sites chosen are considered representative of the study area.
The comment expresses concerns related to increased construction and demolition activity. Please see estimations in Section 3.1 Housing and Socioeconomics of demolitions in action alternatives compared to no action. This response is relevant to numerous portions of the AQ comments. Controls on construction-related emissions are included in Section 3.9.2 as noted in the comment.

The draft EIS admits the deforestation and land cover conversion contributes to global warming.....

See discussion of tree canopy in Section 3.8.
The comment states that the DEIS relies on passenger vehicle miles traveled and fails to address the additional hours of vehicle and truck operation due to congestion.
Vehicle miles traveled, or VMT, has been consistently and comprehensively monitored and documented over time in the region. VMT bears a direct relationship to vehicle emissions and correlates with congestion. The more miles people are driving their vehicles, the more vehicles there are on the roadways at any given time; higher numbers of vehicles eventually result in congestion.

Transportation and GHGE....
This section is woefully inadequate and essentially states that emissions will go up but the trend towards increases in federal fuel efficiency standards negates the impact, so it doesn't really matter.....

Fails to comply with response criteria (a) through (e). This response completely ignores the fact that there are no air pollution controls on old construction equipment, which are the predominant type of equipment used. PSCAA recommendations are voluntary.

This is not an adequate response.
Fails to comply with response criteria (a) through (e).

Recycling

The comment states that the DEIS erroneously states that the City of Seattle's recycling target of 70% by 2030, when the goal year is 2020. The EIS has been updated with this information.

The EIS ignores lead, asbestos, silica, localized pollution from Nucor, that SO2 in only measured on Beacon Hill, only addresses GHCE through 2012 and all other unaddressed assertions in the Juno response to 3.9.

None.

thought one item was corrected, it the response still fails to comply with response criteria (a) through (e). for other landfill destined pollutants and construction debris. Residential construction lead paint waste, by law, can be dumped in a landfill. All asbestos < 1 percent, can be disposed of in a regular land fill. Asbestos at this level is still a worker exposure hazard.

Though dry removal of asbestos may be a violation of PSCAA and LNI regulations, such violative behavior is rampant in the construction industry and regularly cited by LNI.

APPENDICES
NOT DONE YET

EXHIBIT C

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeal of:)
) Hearing Examiner File
WALLINGFORD COMMUNITY COUNCIL, ET)
AL.) W-17-006 through W-17-014
)
of adequacy of the FEIS issued by the Director,) **THE CITY'S FIRST SET OF**
Office of Planning and Community Development) **INTERROGATORIES AND**
) **REQUESTS FOR PRODUCTION**
) **TO SEATTLE COALITION FOR**
) **AFFORDABILITY, LIVABILITY,**
) **AND EQUITY AND ANSWERS**
) **THERE TO**
)

TO: SEATTLE COALITION FOR AFFORDABILITY, LIVABILITY, AND EQUITY

AND TO: CLAUDIA NEWMAN, ITS REPRESENTATIVE

INTERROGATORIES AND REQUESTS FOR PRODUCTION

Pursuant to HER 3.11, CR and KCLR 26, 33, and 34, Respondent the City of Seattle, Office of Planning and Community Development (the "City") hereby requests that you produce for inspection and copying the described documents within your possession, custody, or control, and that you respond to the following interrogatories. Please respond to the interrogatories and produce the documents at the offices of the Seattle City Attorney's Office, 701 Fifth Avenue, Suite 2050, Seattle, WA 98104, within thirty (30) days after the date of service.

1 GENERAL INSTRUCTIONS

2 1. The answer to each Discovery Request shall include such knowledge as is within
3 your custody, possession, or control, including but not limited to, knowledge and documents in
4 your custody, possession, or control, or that of associated or related organizations, or those under
5 common control of your consultants, accountants, attorneys, and other agents. When facts set
6 forth in answers or portions thereof are supplied upon information and belief rather than actual
7 knowledge, you shall so state, and specifically describe or identify the source or sources of such
8 information and belief. Should you be unable to answer any Discovery Request or portion
9 thereof by either actual knowledge or upon information and belief, you should describe your
10 efforts to obtain such information.

11 2. In the event you produce original documents for inspection and copying, such
12 production shall be as the documents are kept in the usual course of business.

13 3. Documents copied shall be copied as they are kept in the normal course of
14 business, and any titles, labels, or other descriptions on any box, folder, binder, file cabinet, or
15 other container shall be copied as well. Documents originating in paper format should be
16 scanned as images at the time of copying, with optical character recognition ("OCR"). Scanned
17 images shall be produced in the same format as electronically stored information, as set forth
18 below.

19 4. The obligations imposed by Rules 26, 33 and 34 of the Washington Court Civil
20 Rules are hereby incorporated by reference, including, but not limited to, the duty to supplement
21 imposed by Rule 26(e). Supplemental answers and documents are requested in the event that
22 you subsequently obtain or become aware of the existence of information that differs from or is
23 in addition to that contained in earlier answers.

1
2 5. Non-identical copies of the same document (i.e., with marginal notes, etc.)
3 constitute separate documents and must all be produced.

4 6. Electronically stored information shall be produced in reasonably usable form,
5 including specifically any ability to search or perform calculations with the information in the
6 form it is maintained by Plaintiff(s).

7 7. Email, word processing documents and spreadsheets (e.g. Excel documents) shall
8 be converted to images and produced, together with requested metadata, except that the City
9 explicitly reserves the right to request supplemental production of spreadsheets in native file
10 format.

11 8. Electronically stored information in other formats shall be identified prior to
12 production to permit the parties to confer over production format.

13 9. If you claim that any privilege is applicable to any requested document or other
14 thing, or any part thereof, you shall, with respect to that document or other thing:

- 15 (i) State the date of origination, drafting, making or taking of the document;
16 (ii) Identify each and every author, maker, or originator thereof;
17 (iii) Identify each and every person who appeared or participated in the preparation
18 thereof;
19 (iv) Identify each and every person who received the document or other thing;
20 (v) State the present location of the document or thing and all copies thereof;
21 (vi) Identify each and every person who has or ever had possession, custody or control
22 of the document or other thing or any copy thereof; and
23 (vii) Identify the basis of the asserted claim of privilege.

1 This information shall be provided in a privilege log that shall be provided at the time of
2 the discover response.

3 10. In responding to the following Requests, you shall furnish all information that is
4 available to you, including information in the possession, custody, or control of your attorneys,
5 accountants, investigators, experts, representatives, agents, or anyone acting on your behalf or on
6 their behalf. If you cannot answer these requests in full, answer to the extent possible, specify
7 the reasons for your inability to answer the remainder, and state whatever information or
8 knowledge you have concerning the unanswered portion, and identify each person whom you
9 believe has information regarding the subject of Request.

10 11. If any Discovery request seeks documents formerly in your possession, custody,
11 or control that have been discarded, misplaced, lost, destroyed, or otherwise placed outside your
12 custody or control, identify the document and describe its contents in detail and state when the
13 document was discarded, misplaced, lost, destroyed, or otherwise placed outside your custody or
14 control. If the document was destroyed, identify each person with knowledge of its destruction,
15 each person requesting or performing the destruction, the reasons for its destruction, and each
16 document that refers or relates to either the existence of or destruction of the document. For each
17 document that was discarded, misplaced, lost, or otherwise placed outside your custody or
18 control, explain all circumstances in relation to the loss of the document and identify each person
19 with knowledge regarding those circumstances.

20 12. The singular shall include the plural and vice versa and the conjunctive shall
21 include the disjunctive and vice versa. References to the masculine, feminine, or neuter gender
22 shall include the neuter, feminine and masculine genders, as the context requires.

1 **DEFINITIONS**

2 1. **“Document”** The term "document" means all written, graphic, or otherwise
3 recorded information, whether produced, reproduced, or stored on paper, cards, tapes file,
4 electronic facsimile, computer storage devices, memories, data cells, or other data compilations
5 from which information can be obtained, including but not limited to letters, reports, notes,
6 memoranda, receipts, email, logs, electronic data files, photographs and negatives thereof, charts,
7 surveys, building plans or drawings, engineering plans or drawings, architectural plans or
8 drawings, telegrams, minutes, recording of telephone conversations, interviews, conferences or
9 other meetings, estimates, schedules, contracts, desk calendars, appointment books, diaries,
10 audio or video tapes, and all things similar to the foregoing, however denominated, and any and
11 all matter of material applied to any of the above. "Document" also includes any additional
12 copies which are not identical to the original by virtue of any notation or modification of any
13 kind, including, without limiting the generality of the foregoing, notes or modifications on the
14 backs or margins of pages thereof, or on copies thereof, or by virtue of attachments thereto. The
15 term document shall include any amendments to the requested document.

16 2. The term **“communication”** means any conversation, meeting, correspondence,
17 conference, electronic mail, and any other means or manner by which information or opinion is
18 or was communicated to or received from others, whether written or oral.

19 3. To **“identify”** a person means to state the full name of the individual, the
20 individual’s last known business and home addresses and phone numbers, and, if known, the
21 individual’s present or last known business affiliation and title.

22 4. The term **“identify” or “identification”** when used in reference to a document
23 means to state the date and author(s), signer(s), intended recipient(s), and its present or last

1 known location or custodian. If any such document was, but is no longer, in your possession or
2 subject to your control, state what disposition was made of it, and the reason for such disposition.

3 5. “**Expert witness**” means any person whose testimony may be presented, for any
4 purpose, under Evidence Rules 702, 703 or 705.

5 13. The term “**you**” or “**Appellant**” shall mean Seattle Coalition for Affordability,
6 Livability, and Equity, its executives, and its representatives, including but not limited to, its
7 members.

8 14. The terms “**and**” and “**or**” shall be understood in both the conjunctive and
9 disjunctive sense, synonymous with “**and/or**.”

10 15. The terms “**any**” and “**all**” shall be understood in their most inclusive sense,
11 synonymous with “**any or all**.”

12 **OBJECTIONS**

13 If you object to answering any interrogatory or request for production, in whole or in
14 part, state your objection and the factual or legal reasons supporting it. If you object on grounds
15 of privilege, please also state the nature and extent of all allegedly privileged matters in sufficient
16 detail to allow the City to seek an order compelling disclosure of the information in question.
17 State the date, author(s), addresses, persons receiving copies of, and the general subject matter of
18 each document withheld under a claim of privilege and/or work product. For each request for
19 production or part thereof to which you object on the ground of burdensomeness, please indicate
20 the custodian and location of each file or document requested, the time estimated to obtain the
21 information, and the costs necessary to answer, as well as the basis for the cost estimate.

22 **PLAINTIFFS’ GENERAL OBJECTIONS**

23 Appellant SCALE hereby submits the following general objections to the City’s First Set

1 of Interrogatories and Requests for Production to SCALE. All references to “interrogatories” and
2 “requests for production” herein include, but are not limited to, all of the individual numbered
3 interrogatories and requests for production and all definitions, instructions, and other statements
4 contained in said interrogatories and request for production.

5 1. SCALE objects to the interrogatories and requests for production to the extent that
6 they request information beyond the scope of inquiry permitted by the City of Seattle Hearing
7 Examiner rules and/or purport to impose upon SCALE obligations beyond those specified in the
8 applicable rules pertaining to discovery, and to the extent they are overly burdensome and overly
9 broad.

10 2. SCALE objects to the interrogatories and requests for production to the extent that
11 they require disclosure of any information subject to a claim of privilege, immunity, or work
12 product, including, but not limited to the attorney-client privilege claim and the spousal privilege
13 claim.

14 3. SCALE objects to the interrogatories and requests for production to the extent that
15 they would require SCALE to identify or produce documents within the care, possession,
16 custody, or control of persons or entities other than SCALE.

17 4. In some instances, SCALE may provide answers or produce documents that may be
18 covered by an objection or objections set forth herein. Such answers and productions do not
19 constitute and are not intended to constitute any waiver of SCALE’s objections nor an
20 enlargement of the scope of discovery.

21 5. SCALE objects to the interrogatories and requests for production to the extent that
22 they request SCALE to produce documents that SCALE has received from the City regarding
23 this matter. SCALE is not producing such documents as part of these responses but, reserves all

1 rights to use those documents at the hearing.

2 6. SCALE objects to the definition of “you” or “Appellant” as being improperly broad
3 and overly burdensome.

4 7. SCALE hereby incorporates all of the foregoing objections and reservations into all
5 of the answers and responses provided hereafter.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

1 **INTERROGATORIES**

2

3 **INTERROGATORY NO. 1:** Identify each person you intend to call as an expert witness
4 and/or provide expert testimony in this proceeding. For each such witness state:

- 5 (a) The name, address and phone number of the witness; and
6 (b) The subject matter about which the witness is expected to provide testimony.
7 (c) The substance of the facts and opinions to which the expert will provide
8 testimony; and,
9 (d) A summary of the grounds for each such opinion.

10 **RESPONSE:**

11 SCALE objects to this request to the extent that it requires disclosure of any information
12 subject to a claim of privilege, immunity, or work product, including, but not limited to the
13 attorney-client privilege claim. SCALE also objects to the extent that this would require SCALE
14 to identify documents within the care, possession, custody, or control of persons or entities other
15 than SCALE. SCALE objects to this request to the extent that it requests information beyond the
16 scope of inquiry permitted by the City of Seattle Hearing Examiner rules and/or purports to
17 impose upon SCALE obligations beyond those specified in the applicable rules.

18 Notwithstanding these objections, while SCALE anticipates calling expert witnesses at
19 the upcoming hearing, SCALE’s investigation and decisions concerning expert witnesses is still
20 ongoing. SCALE will provide this information no later than the deadline set by the hearing
21 examiner for submitting final witness and exhibit lists. Because we do not have specific
22 information to provide at this time, these objections are broadly written. To the extent required
23 by the rules, SCALE will provide greater specificity on these objections when we provide the
information requested.

1
2
3 **INTERROGATORY NO. 2:** For each expert witness identified in your response to
4 Interrogatory No. 1, describe in full detail all analyses, studies, reports, models, or research that
5 the Expert witness conducted or reviewed to form his or her opinions or prepare his or her
6 testimony, including all data used and parameters applied in any analyses, studies, reports,
7 models or research.

8 **RESPONSE:**

9 See response to Interrogatory No. 1.
10
11

12 **INTERROGATORY NO. 3:** For each expert witness identified in your response to
13 Interrogatory No. 1, identify every proceeding (administrative, court, or otherwise) in which the
14 expert has testified or offered an expert report in the last ten (10) years, including the forum and
15 date of that testimony or report.

16 **RESPONSE:**

17 See response to Interrogatory No. 1.
18

19 **INTERROGATORY NO. 4:** With respect to issue 2 in your notice of appeal, identify each
20 particular portion of Appendix F, with reference to specific page numbers, that you allege
21 contains “a vague and unclear description of some of the changes,” and describe how the
22 description is vague and unclear.
23

1 **RESPONSE:**

2 While there are vague and unclear descriptions of the proposal throughout Appendix F,
3 this objection focuses largely on the description under the heading: “Amendments to Policies in
4 Neighborhood Plan Element of the Comprehensive Plan” on page F.11. That portion of
5 Appendix F states that “several policies ... may conflict with elements of the proposal action...”
6 This is vague and unclear because the FEIS fails to identify which policies actually conflict with
7 elements of the proposed action. That same paragraph continues with: “Amendments to these
8 policies are docketed and the policies would be modified to remove potential inconsistencies.”
9 This is, again, vague and unclear and the FEIS does not provide a list of or describe these
10 amendments. There is literally no information provided that would inform even a basic
11 understanding of what the conflicts are and what changes are being proposed.

12 Comment letters submitted by the public addressed this issue and the City is in
13 possession of and presumably aware of the content of those comments.

14
15
16 **INTERROGATORY NO. 5:** With respect to issue 2 in your notice of appeal, the third
17 sentence of issue 2 states that “that section states that several policies. . .” Identify the particular
18 section of the FEIS, by page and line number, to which the phrase “that section” refers.

19
20 **RESPONSE:**

21 The statement that issue 2 refers to is on page F.11 under the heading “Amendments to
22 Policies in Neighborhood Plan Element of the Comprehensive Plan.” It is the first sentence of
23 that paragraph.

1
2 **INTERROGATORY NO. 6:** With respect to issue 2 in your notice of appeal, the last sentence
3 of issue 2 states that “That section also provides. . .” Identify the particular section of the FEIS,
4 by page and line number, to which the phrase “That section” refers, identify the particular “new
5 and modified development standards” that are allegedly vaguely and ambiguously described, and
6 describe how the description is vague and/or ambiguous.

7
8 **RESPONSE:**

9 This portion of Issue 2 refers to Appendix F of the FEIS, page F.5: “New and Modified
10 Development Standards.” That section states that “several new or modified development
11 standards” are intended to “improve urban design outcomes, enhance livability as the city grows,
12 and to mitigate the potential impact of additional building bulk and scale” from implementation
13 of MHA. The section goes on to summarize “certain” new or modified development standards in
14 a manner that is incomplete, vague, non-specific, and without reference to actual standards.
15 There are no concrete proposals for actual development standards provided. From the
16 descriptions provided, there is no meaningful way for a Seattle resident or decision maker to
17 identify, understand, or comment on whether these vaguely described “new and modified
18 development standards” would or would not actually improve urban design outcomes, enhance
19 livability as the city grows, or mitigate the potential impact of additional building bulk and scale
20 from implementation of MHA.

21 Comment letters submitted by the public addressed this issue and the City is in
22 possession of and presumably aware of the content of those comments.

1
2
3 **INTERROGATORY NO. 7:** With respect to issue 3.b in your notice of appeal, identify the
4 particular “existing plans and zoning regulations” that you allege should have been summarized
5 and/or discussed but were not.

6
7 **RESPONSE:**

8 SCALE’s investigation is ongoing, but as was stated in the objection SCALE objects to
9 the fact that the responsible official disclosed and analyzed the project’s consistency with only
10 six policies from the Land Use Element of the 2035 Comprehensive Plan. OPCD should have
11 summarized and discussed the proposal’s consistency with not just the Land Use Element goals
12 and policies, but with all of the relevant goals and policies in the Citywide planning portion of
13 the Comprehensive Plan – including those for growth strategy, transportation, housing, capital
14 facilities, utilities, economic development, environment, parks and open space, arts and culture,
15 community well-being, community engagement, and shoreline areas. In addition, this section
16 should have summarized and discussed the proposal’s consistency with all of the relevant
17 neighborhood plans.

18
19
20 **INTERROGATORY NO. 8:** With respect to issue 3.b in your notice of appeal, identify the
21 particular goals and policies of the Comprehensive Plan that you allege should have been
22 included in the analysis but were not.

1 **RESPONSE:**

2 See response to Interrogatory No. 7.

3
4
5 **INTERROGATORY NO. 9:** With respect to issue 4 in your notice of appeal, identify and
6 describe the mitigation measures that you allege should have been included but were not.

7
8 **RESPONSE:**

9 SCALE's investigation and development of concepts for reasonable mitigation measures
10 for land use impacts is ongoing, but from what we know now, the EIS should have discussed
11 strengthening the Design Review process by, among other things, lowering the thresholds for
12 projects to receive Design Review, requiring Design Review after SEPA review (instead of
13 before), allowing more meaningful opportunities for public participation in the Design Review
14 process, amending the Design Guidelines, and expanding the authority to the Design Review
15 Board to attach conditions and require mitigation for land use impacts. The EIS should have also
16 discussed amendments to the City of Seattle SEPA regulations that would expand and strengthen
17 the requirements for disclosure and analysis of impacts and that would expand and strengthen
18 SDCI's ability to attach conditions to site specific projects to mitigate land use impacts. The EIS
19 also should have discussed amending the code to require that all site-specific projects that are
20 proceeding in areas with an M, M1, or M2 suffix must be consistent with the relevant
21 neighborhood plan.

22 We also have reason to believe that the public comment letters that were submitted to the
23 City on the DEIS also identified reasonable mitigation measures that were not discussed in the

1 DEIS or the FEIS. The City is in possession of and presumably aware of the content of those
2 comments.

3 In addition, there will undoubtedly be additional reasonable mitigation measures that
4 were not discussed, but that are revealed only after an adequate neighborhood by neighborhood
5 review of impacts is conducted.

6
7
8 **INTERROGATORY NO. 10:** With respect to issue 6 in your notice of appeal, identify and
9 describe the mitigation measures that you allege should have been included but were not.

10
11 **RESPONSE:**

12 SCALE's investigation and development of concepts for reasonable mitigation measures
13 for height, bulk, and scale impacts is ongoing, but from what we know now, the EIS should have
14 discussed strengthening the Design Review process by, among other things, lowering the
15 thresholds for projects to receive Design Review, engaging in Design Review after SEPA review
16 (instead of before), fixing a broken Design Review process so that there is more meaningful
17 opportunities for public participation, amending the Design Guidelines, and expanding the
18 authority to the Design Review Board to attach conditions and require mitigation for height,
19 bulk, and scale impacts. The EIS should have also discussed amendments to the City of Seattle
20 SEPA regulations that would expand and strengthen the requirements for disclosure and analysis
21 of impacts and that would expand and strengthen SDCI's ability to attach conditions to site
22 specific projects to mitigate height, bulk, and scale impacts.

1 We also have reason to believe that the public comment letters that were submitted to the
2 City on the DEIS proposal also identified reasonable mitigation measures that were not discussed
3 in the DEIS or the FEIS. The City is in possession of and presumably aware of the content of
4 those comments.

5 In addition, there will undoubtedly be additional reasonable mitigation measures that
6 were not discussed, but that are revealed only after an adequate neighborhood by neighborhood
7 review of impacts is conducted.

8
9 **INTERROGATORY NO. 11:** With respect to issue 8 in your notice of appeal, identify and
10 describe the mitigation measures that you allege should have been included but were not.

11
12 **RESPONSE:**

13 SCALE's investigation and development of concepts for reasonable mitigation measures
14 for traffic and transportation impacts is ongoing, but from what we know now, the EIS should
15 have discussed expanding vanpool use and loosening the requirements for being able to use
16 vanpools; barring and/or conditioning development that will cause arterials/intersections to reach
17 a D or E level of service or exceed a 1.0 level of service standard; restricting issuance of
18 Restricted Parking Zone permits to site specific projects that are exempt from parking because of
19 the proximity to transit; expedited installation of mobility hubs adjacent to stations; requiring
20 off-street parking for all new development; determining the number of required parking spaces
21 based on an objective source, such as the number of cars per residential unit based on census data
22 for each particular neighborhood; not extending Restricted Parking Zone permits to efficiency
23 unit buildings, for which units are built with little or no parking ostensibly to encourage

1 affordable car-free residential living; tightening City standards to identify minimum parking
2 levels of service needed to avoid significant impacts to areas where parking is necessary to
3 facilitate mobility for families, the elderly and individuals with disabilities, as well as access to
4 small business and employment opportunities, and transit opportunities; and expanding and
5 strengthening trip reduction requirements for areas of concentrated employment.

6 The proposed “mitigation” to “implement parking maximums that would limit the
7 number of parking spaces that can be built with new development” in the FEIS (MHA-FEIS
8 p.1.31) aggravates the parking deficiency – it does not mitigate the problem.

9 If the off-street parking requirement for a building is reduced, it should take into account
10 the actual need and available capacity of parking in the immediate proximity of the proposed
11 project in the particular neighborhood, on a neighborhood by neighborhood basis.

12 We also have reason to believe that the public comment letters that were submitted to the
13 City on the DEIS proposal also identified reasonable mitigation measures that were not discussed
14 in the DEIS or the FEIS. The City is in possession of and presumably aware of the content of
15 those comments.

16 In addition, there will undoubtedly be additional reasonable mitigation measures that
17 were not discussed, but that are revealed only after an adequate neighborhood by neighborhood
18 review of impacts is conducted.

19
20
21
22 **INTERROGATORY NO. 12:** With respect to issue 15 in your notice of appeal, identify and
23 describe the mitigation measures that you allege should have been included but were not.

1
2 **RESPONSE:**

3 SCALE's investigation and development of concepts for reasonable mitigation measures
4 for critical areas impacts is ongoing, but from what we know now, the EIS should have discussed
5 strengthening the restrictions for development in critical areas and it should have discussed
6 restricting urban village expansion into or adjacent to critical areas.

7 We also have reason to believe that the public comment letters that were submitted to the
8 City on the DEIS proposal also identified reasonable mitigation measures that were not discussed
9 in the DEIS or the FEIS. The City is in possession of and presumably aware of the content of
10 those comments.

11 In addition, there will undoubtedly be additional reasonable mitigation measures that
12 were not discussed, but that are revealed only after an adequate neighborhood by neighborhood
13 review of impacts is conducted.

14
15
16
17 **INTERROGATORY NO. 13:** With respect to issue 16 in your notice of appeal, identify, by
18 project number and address, the projects that "are known to be moving forward" whose impact
19 you allege the FEIS failed to consider.

20
21 **RESPONSE:**

22 By neglecting a neighborhood level assessment, the EIS disregarded a broad array of
23 projects bearing a significant relationship to OPCD's proposal and impacts. While the City has

1 superior access and responsibility for much of this project information, we have a few illustrative
2 examples. For instance, in the North Rainier Neighborhood, the City had finally identified a
3 project to bridge a long-standing open space gap with a neighborhood park to serve current and
4 future residents of the Mount Baker Town Center in the “North Rainier Town Center Park”
5 Acquisition Project. Rather than identifying this important livability project, OPCD’s MHA
6 citywide rezone proposal seeks to blindly upzone the very parcels identified by its Parks
7 Department for the missing neighborhood park. OPCD has also proposed an expansion of the
8 North Rainier Urban Village directly into the historically significant area adjacent to the
9 landmarked Franklin High School and Mount Baker Boulevard, ignoring the community’s long-
10 standing celebration of important historical resources, as reflected in a pending nomination of the
11 Mount Baker Park Addition to the National Register of Historic Places. In addition, OPCD
12 failed to update and consider current progress (or lack thereof) towards inclusive housing targets
13 within the urban villages.

14 SCALE’s investigation is ongoing. While SCALE cannot identify every single project
15 that was overlooked, we are still in the process of identifying additional projects that we can
16 demonstrate are moving forward but that were not adequately evaluated in the EIS.

17 We also have reason to believe that the public comment letters that were submitted to the
18 City on the DEIS also identified reasonable mitigation measures that were not discussed in the
19 DEIS or the FEIS. The City is in possession of and presumably aware of the content of those
20 comments.

1 **INTERROGATORY NO. 14:** With respect to issue 17 in your notice of appeal, identify, by
2 page and line number, the specific places where the FEIS allegedly “admits that...the MHA
3 upzoning variants which the FEIS proposes as alternatives will fail to achieve the stated
4 objective” and, to the extent you allege that the FEIS alternatives will fail to achieve the stated
5 objective, describe the basis and underlying facts for that allegation and the reasons you allege
6 that to be the case.

7
8 **RESPONSE:**

9 SCALE’s investigation on this issue is ongoing. Appellant is still in the process of
10 developing its testimony and evidence for this complex issue. The public comment letters
11 addressed this issue extensively and the City is in possession of and presumably aware of the
12 content of those comments.

13 As a preliminary point, MHA’s stated objectives are to increase affordable housing. FEIS
14 at 1.3 states that the objectives are to:

- 15 • Address the pressing need for housing affordable and available to a broad range of
16 households.
 - 17 • Increase overall production of housing to help meet current and projected high demand.
 - 18 • Leverage development to create at least 6,200 net new rent- and income-restricted
19 housing units serving households at 60 percent of the area median income (AMI) in the study
20 area over a 20-year period.
 - 21 • Distribute the benefits and burdens of growth equitably.
- 22
23

1 The only alternatives the FEIS proposes to achieve these objectives are variants on MHA
2 upzoning. There are no other alternatives explored.

3 The FEIS admits that no variant of MHA upzoning will fully achieve all these objectives.
4 The “pressing need for affordable housing” will not be met and “current and projected high
5 demand” will not be met. The FEIS at 3.63 states:

6 The affordability of market-rate housing would continue to be a
7 concern and a burden for many residents under all three DEIS
8 alternatives and the Preferred Alternative, notwithstanding
9 implementation of MHA. This is a result of economic forces
10 beyond the reach of MHA.

11 While [MHA] is likely to improve housing affordability at
12 all income levels, the market is not likely to provide housing
13 affordable to those with incomes earning below 60 percent of AMI
14 under any alternative. As noted in Exhibit 3.1–23, most market-
15 rate housing of any age is currently unaffordable to low- and very-
16 low-income households (60 percent of AMI and below). More
17 market-rate housing could reduce the competition for scarce
18 housing among moderate-, middle-, and upper income households,
19 potentially making more housing available at affordable process
20 for moderate- and middle-income households, compared to
21 Alternative 1 No Action, though insufficient affordable housing to
22 meet the need for such housing among low-income households
23 would persist. This impact of the action alternatives and Preferred
Alternative is notable given the finding in Exhibit 3.1–30 that
income disparity is increasing in Seattle and that the city has lost
households in the moderate and middle-income levels (60–120
percent of AMI) in recent years.

18 MHA is only creating 5-7% “affordable housing” in the EIS—a minimal amount of
19 affordable housing that does not represent “a broad range of households,” either for the number
20 of people served or compared to the need.

21 MHA’s preferred alternative is likely to produce only 7,418 units of affordable housing in
22 the study area over the next 20 years, as compared with 3,155 new affordable units in the study
23

1 area under no-action, an increase of only 4,263 new affordable units in the study area resulting
2 from the preferred alternative. FEIS 2.16; 3.66. Yet the study area's household growth is
3 expected to be 45,361 under no-action or 62,387 under the preferred alternative. FEIS 2.16.

4 The FEIS identifies low-income households needing affordable housing as those
5 households making 60% or less of area median income. FEIS 1.3, footnote 1. The FEIS never
6 estimates what Seattle's need for affordable housing will be 20 years from now (one of the
7 FEIS's many failures to evaluate impacts or efficacy), but if half of households make median
8 income, and 30% of households make 60% or less of median income (60% times 50%), then the
9 need for affordable housing in the study area under no-action is 13,608 units and the need under
10 the preferred alternative is 18,851 units. The shortfall in affordable housing units under no-action
11 will be 10,453 units in the study area (13,608 units needed; 3,155 units built). The shortfall under
12 the preferred alternative will be 11,433 units (18,851 units needed; 7,418 built).

13 While the alternatives in the EIS will "increase overall production of housing" that
14 housing will be, almost exclusively, luxury housing far beyond the affordability of the majority
15 of people (92% of market rate units are luxury units: Seattle Times 6/10/17). There is a current
16 and projected high demand for *affordable* housing, which should be the key objective, but
17 solutions to that high demand for affordable housing are not adequately addressed in the EIS.

18 It is also evident at this time that the FEIS alternatives will fail to achieve the proposal's
19 stated objective of increasing affordability in an equitable and inclusive manner. Although
20 OPCD asserts that the proposal's objective is to further race and social justice issues, the net
21 effect of the proposal is to incentivize and accelerate inequitable development of the City
22 through an un-inclusive in lieu payment structure, emphasizing new unit construction in a
23

1 manner that concentrates luxury and affordable projects in a polarized manner, while
2 accelerating the destruction of naturally affordable units.

3 OPCD relies on a statistically unsound and incomplete macro-analysis of neighborhood
4 context, while remaining blind to specific neighborhood displacement risks and impacts
5 associated with their neighborhood specific zoning proposals. The MHA framework fails to re-
6 invest “in lieu” fees in the geographic areas where luxury development is occurring, and instead
7 allows reinvestment of those same fees in less costly areas of the City where economic
8 opportunities are already limited.

9 Pursuant to this imbalanced MHA framework, affordable housing stock in wealthier
10 neighborhoods will be replaced with dense market rate housing by developers who are avoiding
11 the MHA “performance” option and opting for the “in lieu” payment of development fees.
12 These fees are being channeled to nonprofit affordable housing developers without any condition
13 that the affordable housing be retained or expanded in the neighborhood of impact. Armed with
14 the “in lieu” funds, the affordable housing developers will continue to build a disproportionate
15 amount of subsidized housing in less advantaged areas of the City, where the price of land is
16 relatively lower.

17 Thus, the MHA formula actually enhances displacement within the City and segregates
18 historically disadvantaged groups in a manner that is contrary to sound housing policy and recent
19 federal guidance. The FEIS has not quantified the existing base or locations of affordable
20 housing in the very neighborhoods it seeks to upzone, and therefore OPCD disregards the actual
21 displacement impact of a proposal that emphasizes new large scale construction projects that
22 primarily favor the participants of the Grand Bargain: large scale market and non-profit
23 developer interests. As a result, the anticipated if not intended outcome will be consistent with

1 the sad historic trends of governmental housing policy throughout the country, including the San
2 Francisco Bay Area. See Rothstein, *The Color of Law: A Forgotten History of How Our*
3 *Government Segregated America* (2017). OPCD goal of achieving affordable units over a 20
4 year timeframe disregards the urgent immediacy of the displacement problem.

5 Even though the MHA upzoning variants are not capable, even in theory, of meeting the
6 stated objectives, the FEIS does not consider any alternatives to MHA upzoning that might
7 achieve the objectives more fully.

8
9 **INTERROGATORY NO. 15:** With respect to issue 19 in your notice of appeal, describe the
10 basis and underlying facts for your allegation that “the assignment of high or low opportunity
11 and high and low displacement risk to certain neighborhoods are made in error” and the reasons
12 why you allege that to be the case.

13
14 **RESPONSE:**

15 SCALE’s investigation on this issue is ongoing. Appellant is still in the process of
16 developing its testimony and evidence for this complex issue. The public comment letters
17 addressed this issue extensively and the City is in possession of and presumably aware of the
18 content of those comments.

19 See also Response to Interrogatory No. 14. The City’s growth and equity analysis is
20 admittedly incomplete and deficient for the purpose of neighborhood specific upzones. The
21 proposal’s next phase of City-wide upzones should have received at least the same level of
22 assessment as provided to Queen Anne, the University District, and other neighborhoods where
23 the impacts of the MHA proposal were studied prior to implementation.

1
2
3
4 **INTERROGATORY NO. 16:** With respect to issue 20 in your notice of appeal, identify, by
5 page and line number, the places where you allege the FEIS takes the “position. . . that the
6 substantive SEPA policies. . . limit the scope of procedural disclosure and analysis of
7 environmental impacts” and identify the particular environmental impacts with respect to which
8 you allege there was error due to substantive SEPA policies being used to limit the scope of
9 procedural disclosure and analysis.

10
11 **RESPONSE:**

12 Based on the review of impacts in the FEIS, it is apparent that the responsible official
13 decided to limit the scope of procedural review of impacts via an improper reliance on SMC
14 25.05.675. One example of this is in the disclosure and analysis of consistency/inconsistency
15 with the Seattle 2035 Comprehensive Plan in the land use chapter. On pages 3.107 – 3.108 of
16 the FEIS, the review is limited only to policies and goals that are in the Land Use Element of the
17 Seattle 2035 Comprehensive Plan. That analysis should have included an assessment of other
18 elements of the Comprehensive Plan – not just the Land Use Element. Presumably, the
19 responsible official limited this review based on the language in SMC 25.05.675.J.2.a. That
20 section indicates that it is the City’s policy to ensure that projects are consistent with the goals
21 and policies set forth in the Land Use Element of the Comprehensive Plan. But that “policy”
22 speaks only to the city’s substantive authority to mitigate land use impacts, it does not limit the
23 procedural requirements in WAC 197-11-440.

1 SCALE's investigation on this issue is ongoing and there may be additional places in the
2 FEIS where the FEIS inappropriately limits the scope of disclosure of impacts based on the
3 limits set forth in SMC 25.05.675.
4

5 **INTERROGATORY NO. 17:** With respect to issue 21 in your notice of appeal, describe the
6 basis and underlying facts for your allegation that the "FEIS substantially underestimates the loss
7 of existing affordable units (directly, indirectly and cumulatively) resulting from each of the
8 action alternatives while greatly exaggerating the number of 'created' affordable units" and the
9 reasons why you allege that to be the case.
10

11 **RESPONSE:**

12 The public comment letters addressed this issue extensively and the City is in possession
13 of and presumably aware of the content of those comments. See also the response to
14 Interrogatories 14 and 15. SCALE's investigation and development of this issue is ongoing, but
15 from what we now know, the basis and underlying facts are:

- 16 • Older apartment buildings are significantly more affordable than newer apartments.
17 Developers buy these cheaper older buildings, demolish them, then replace them with
18 unaffordable units hundreds of dollars more than the units they replaced.
- 19 • The FEIS does not adequately account for these displacements and only looked at TRAO
20 (Tenant Relocation Assistance Ordinance) displacement.
- 21 • The TRAO analysis itself greatly underestimates the level of displacement within units
22 eligible for TRAO.
23

- 1 • There is no one-for-one replacement of affordable units, creating a net loss of affordable
2 units.
- 3 • The FEIS does not address the substantial loss to LIHTC (Low Income Housing Tax
4 Credit) due to the recent Tax Reform policies. It is estimated that Washington State will
5 lose 9,500 low income units due to these policies.
- 6 • The City should have an inventory of all rents to determine the location of affordable and
7 non-affordable rents throughout Seattle. This can easily be accomplished by adding each
8 rental unit price to the RRIO (Rental Registration and Inspection Ordinance) form that all
9 landlords fill out.
- 10 • The in-lieu fees are small compared to other cities and will therefore create less
11 affordable housing than is necessary and less than projected.
- 12 • The FEIS does not adequately address the impact on affordable housing from the recent
13 large property tax increase.
- 14 • 92% of the housing being built is luxury units. This will increase the cost of rents all over
15 the City, while also increasing property taxes further.
- 16 • The FEIS does not address the effects of speculation which drives up rents substantially.
- 17 • An analysis of displacement in the University District, based on a survey of specific
18 apartments in the upzone area of the University District, yielded many times more
19 displacement and unaffordable housing than the City estimates.
- 20 • Determine out-migration from Seattle, both total numbers and broken down by race and
21 percentage of AMI.
- 22 • The FEIS specifically doesn't address the loss of single family housing that often
23 provides affordable housing for larger families, both immigrant and native born.

- 1 • As Area Median Income (AMI) rises, 30%, 50 or 60%, and 80% of AMI will rise due to
2 more wealthy people coming to Seattle, further increasing rents that will go beyond what
3 many people can afford if their wages don't go up commensurately.
4

5 **INTERROGATORY NO. 18:** With respect to issue 25 in your notice of appeal, identify and
6 describe the mitigation measures that you allege should have been included but were not.
7

8 **RESPONSE:**

9 SCALE's assessment of OPCD's failures in the area of discussing reasonable mitigation
10 measures for impacts to historic and cultural resources is ongoing. As a preliminary matter, the
11 FEIS contains no analysis of mitigation measures, but instead offers a mere list of potential
12 mitigation ideas for a series of impacts to existing resources that the FEIS also failed to identify
13 in any meaningful way. OPCD has already received many detailed comments that identified
14 mitigation measures that should have been discussed and the FEIS failed to address these
15 comments adequately. See, for example, comments submitted by Eugenia Woo, Historic Seattle.
16

17 As a preliminary matter, OPCD should have first conducted local analyses in the areas of
18 proposed upzone to identify what historic and cultural impacts required mitigation before
19 deciding upon specific upzones. There will undoubtedly be reasonable mitigation measures that
20 were not discussed, but that are revealed only after an adequate neighborhood by neighborhood
21 review of impacts is conducted. The nature and scope of the proper mitigation measures will
22 depend on a responsible identification of the impacts to be mitigated. The FEIS is inaccurate and
23 incomplete with regard to the identification of these impacts.

1 In Section 3.5.1 of the FEIS, OPCD acknowledges its inability to understand the unique
2 history and associated historic resources of each neighborhood without a more refined analysis at
3 the neighborhood level. Yet, despite this admitted blindness to the resources, OPCD proposes
4 substantial neighborhood specific impacts and upzones, including urban village expansions into
5 historically important resources.

6 In addition, although OPCD references a community-based principle of avoiding impacts
7 to historic and cultural resources, OPCD does not explain how that principle will be
8 implemented after the upzones have been completed in areas where real impacts to such
9 resources, admittedly, have not been properly identified. For instance, OPCD failed to
10 recognize that the proposed urban village expansion in the North Rainier Neighborhood will
11 directly conflict with the Mount Baker Park Addition – a unique historic resource that was
12 identified in North Rainier planning documents for preservation, and which has recently been
13 proposed for the National Register of Historic Places. The FEIS does not identify any
14 mechanism to mitigate this impact, such as modification to the proposal in light of newly
15 discovered impacts, or the refinement of urban village boundaries or proposed upzones to avoid
16 such impacts.

17 One potential mitigation measure would be a process for automatic retroactive repeal of
18 the upzone or village expansion based on a successful designation of the structure or district as a
19 historic or cultural resource. Some of the affected neighborhoods are on the verge of national
20 recognition.

21 In locations where historic resource inventories or assessments have been completed,
22 the FEIS failed to include any discussion of mitigation of impacts from increased building
23 capacity on those resources. In locations where such inventories or assessments have not been

1 conducted, the FEIS failed to list such inventories or assessments as possible mitigation, nor to
2 evaluate the efficacy of such mitigation, nor to include or evaluate as potential mitigation other
3 measures to strengthen conservation of historic structures and districts in areas slated for up
4 zones.

5
6 **INTERROGATORY NO. 19:** With respect to issue 32 in your notice of appeal, identify and
7 describe the mitigation measures that you allege should have been included but were not.

8
9 **RESPONSE:**

10 SCALE's investigation and development of concepts for reasonable mitigation measures
11 for open space and parks impacts is ongoing, but we can say now that OPCD was required to
12 inform decision makers and the public of reasonable mitigation measures that would avoid or
13 minimize adverse impacts or enhance environmental quality with respect to open space. At a
14 preliminary level, any reasonable discussion of mitigation opportunity for open space impacts
15 from the proposal requires the City's awareness of open space needs and impacts within the
16 areas proposed for upzone. In order to meet SEPA requirements, OPCD was required to analyze
17 and identify mitigation measures at the local level, in the neighborhoods where the specific
18 impacts from the proposal are intended to occur.

19 Instead of a meaningful analysis of actual local impacts, the FEIS identifies a series of
20 general mitigation measures with no local context to facilitate an assessment of actual impacts or
21 needs for effective decision making. For instance, the FEIS notes the possible mitigation
22 measures "in certain zones or locations" without any local reference or discussion about actual
23

1 impacts. The mitigation measures suggested in the FEIS are generic, without any context, and
2 insufficiently developed to prevent the City and its residents from “flying blind.”

3 The FEIS fails at this most basic level, as no rational decision maker who reads the entire
4 FEIS would have any place specific understanding of actual open space impacts or needs in the
5 human environment.

6 For instance, in the North Rainier Neighborhood, OPCD failed to recognize that it was
7 upzoning the “North Rainier Town Center Park.” This acquisition project was developed by the
8 Seattle Parks and Recreation to address a long-standing park gap in the North Rainier Urban
9 Village, with matching support from the King County Conservation Futures program. The FEIS
10 failed to recognize the direct impact of a substantial upzone to these parcels. If the City were
11 aware of this, it would be in a position to properly identify other mitigation options. For
12 instance, one potentially logical mitigation measure would be to not upzone the parcels identified
13 for the North Rainier Town Center park. Another logical mitigation measure would be to
14 identify an alternative set of parcels for the missing neighborhood park. This analysis of actual
15 impacts and viable mitigation measures should have been conducted in every neighborhood
16 where specific proposal upzones and urban village expansions have been proposed.

17 On a separate note, the EIS should have discussed mitigation in the form of defining open
18 space to not include areas inside buildings, private property that is not known about or generally
19 accessible all hours, street closeoffs, and the like.

20 We also have reason to believe that the public comment letters that were submitted to the
21 City on the DEIS also identified reasonable mitigation measures that were not discussed in the
22 DEIS or the FEIS. The City is in possession of and presumably aware of the content of those
23 comments.

1
2
3 **INTERROGATORY NO. 20:** With respect to issue 42 in your notice of appeal, describe the
4 specific defects you allege with respect to OPCD’s “efforts to involve the public,” “lack of true
5 neighborhood outreach,” and “failure of the FEIS to accurately reflect the feedback of the
6 public,” and identify the specific sections of SMC Chapter 25.05 that you allege were violated as
7 a result of such alleged defects.

8
9 **RESPONSE:**

10 SCALE is still in the process of developing the evidence and investigating this issue, but
11 overall OPCD explicitly abandoned neighborhood planning as the means to accomplish
12 community engagement. The public submitted extensive written comments on this issue to the
13 City and OPCD is in possession of and presumably aware of the content of those comments.

14
15 OPCD repeatedly assured residents through its Housing Affordability and Livability
16 website¹ (the “HALA Website”) and its public statements that it would listen closely to
17 community feedback and that this feedback would be used to shape OPCD’s final
18 recommendations with respect to rezoning. Notwithstanding these assurances, a detailed analysis
19 of the actual data from OPCD’s purported outreach efforts shows the following:

- 20 • OPCD repeatedly misled residents inside and outside the urban villages regarding the
21 proposed MHA rezones;

22
23

¹ <http://www.seattle.gov/hala/get-involved>

- 1 • OPCD had no intention of using the public input to meaningfully shape the rezones it
2 intends to seek to have enacted into law; and
- 3 • Despite the Seattle residents' near universally critical response, OPCD continues to
4 willfully ignore, minimize and/or mischaracterize the neighborhood's feedback.
- 5 • The proposed rezones are in direct conflict with the City's adoption of relevant
6 Neighborhood Plans and the Seattle Comprehensive Plan.

7 OPCD's outreach process was driven to achieve the predetermined results generated in
8 the Grand Bargain – Not once did OPCD seriously consider input from the public regarding
9 reasonable alternatives or local and neighborhood impacts. The reality of this is reflected in the
10 FEIS itself, which fundamentally failed to concern itself with neighborhood level impacts, and
11 also in the lack of significant modification to the proposal despite the comments received.

12 Some examples of this include:

- 13 • Ill-fated focus groups – Even though OPCD cherry picked sympathetic participants,
14 ultimately none of the community members enlisted showed up – and the ones who
15 wanted to be involved were not invited. OPCD disbanded the community Focus
16 Groups.
- 17 • Unreceptive neighborhood HALA meetings – where OPCD staffers openly criticized or
18 rebuffed members of the public trying to articulate their concerns with the proposal,
19 based on genuine local impacts.
- 20 • Lack of acknowledgment of comments received during the many public meetings held
21 before the FEIS notice and comment period – this was a “bait and switch” public
22 outreach process where the HALA engagement group solicited vast feedback from the
23 community before the formal SEPA notice and comment period, and essentially “round

1 filed” all of it because it came in before the SEPA notice went out. Individuals who
2 prepared detailed analyses and comments during the year-long outreach process assumed
3 their comments would receive meaningful acknowledgment and response through the
4 SEPA process, with an opportunity to be heard by the decisionmakers. They were
5 wrong. For instance, Rob Johnson arranged for a professional consultant to gather
6 comments on the upzone maps in North Rainier and other areas – none of those
7 comments ever made it into the FEIS even though the participating members of the
8 public assumed their time and resources would be reflected in this important process.

9 Review, comment, and responsiveness to comments on a draft EIS are the focal point of
10 SEPA’s commenting process. SMC 25.05.500. Agency efforts to involve other agencies and the
11 public in the SEPA process should be commensurate with the type and scope of the
12 environmental document. WAC 197-11-502. Here, the effort was not commensurate with the
13 type and scope of the proposal. The ability for meaningful comment was undermined by the
14 overall failure to conduct a neighborhood by neighborhood detailed review. The review was so
15 inadequate, vague, and broad in violation of the SEPA procedural regulations that the public was
16 not provided an adequate DEIS to start with.

17 In addition, the opportunity for public comment was undermined by the simple fact that
18 the EIS justified a decision that had already been made rather than an honest means of assessing
19 the environmental impact of the proposed rezone in violation of WAC 197-11-402.
20

21 **INTERROGATORY NO. 21:** With respect to issue 42 in your notice of appeal, identify the
22 particular comments (by commenter, date, and method of comment) for which the response to
23

1 comments allegedly was inadequate and describe why the City's response allegedly was not
2 adequate.

3
4 **RESPONSE:**

5 Objection. This response is unduly burdensome to the extent it seeks voluminous
6 documentation for which the OPCD is in a superior position to collect. Without waiving the
7 foregoing objection, SCALE is still investigating the details of this issue and does not have
8 information responsive to this request at this time.

9
10
11
12 **INTERROGATORY NO. 22:** With respect to issue 42 in your notice of appeal, identify the
13 particular comments (by commenter, date, and method of comment) for which you allege that
14 OPCD "failed to include a summary and response."

15
16 **RESPONSE:**

17 Objection. This response is unduly burdensome to the extent it seeks voluminous
18 documentation for which OPCD is in a superior position to collect. Without waiving the
19 foregoing objection, SCALE provides the following information.

20 SCALE was informed by members of the public that they submitted comments during the
21 DEIS comment period that did not appear in the FEIS and that did not receive any response in
22 the FEIS. SCALE is still investigating the details and has not yet prepared a list that is responsive
23

1 to this request. SCALE anticipates that members of the public for whom this occurred will testify
2 about that experience at the hearing.

3 In addition, for many months leading up to the formal SEPA notice and comment period,
4 OPCD solicited voluminous comments from throughout the city on the proposal, including local
5 meetings where local residents spent considerable time commenting on specific impacts of the
6 proposed upzone to their specific neighborhood. Many citizens followed these local meetings
7 with detailed written submissions and analyses on the very same upzone maps that were later
8 published in the DEIS. All of this information should be retained in OPCD's files as public
9 documents of public comments on the proposal. These comments are voluminous and, more
10 importantly, they are not available to SCALE or the rest of the public because OPCD has failed
11 to recognize, include or respond to the extensive commenting that was generated before the
12 formal and short SEPA comment period. The public expected that those comments would be
13 respected and included in the record.

14 This outreach process effectively acted as a "bait and switch", where many of the most
15 proactive and organized commenters assumed their comments had been effectively registered for
16 response. Ironically, OPCD effectively round filed the comments and only incorporated the
17 much narrower range of comments submitted after the formal notice of the DEIS was issued.

18
19
20
21
22 **REQUESTS FOR PRODUCTION**

1 **REQUEST FOR PRODUCTION NO. 1:** Produce all reports (including preliminary reports
2 and drafts) notes, memoranda, communications, and any other documents prepared by or for
3 each expert you identified in response to Interrogatory No. 1.

4 **RESPONSE:**

5 SCALE objects to this request to the extent that it requests information beyond the scope
6 of inquiry permitted by the City of Seattle Hearing Examiner rules and/or purports to impose
7 upon SCALE obligations beyond those specified in the applicable rules.

8 SCALE also objects to the extent that this would require disclosure of any information
9 subject to a claim of privilege, immunity, or work product, including, but not limited to the
10 attorney-client privilege claim. SCALE also objects to the extent that this would require SCALE
11 to identify or produce documents within the care, possession, custody, or control of persons or
12 entities other than SCALE.

13 Notwithstanding these objections, see Response to Interrogatory No 1. Because we do
14 not have specific documents to produce at this time, but we must reserve our objections, they are
15 broadly written. To the extent required by the rules, SCALE will provide greater specificity on
16 these objections to the extent necessary when documents responsive to this request are produced.
17

18 **REQUEST FOR PRODUCTION NO. 2:** Produce curriculum vitae for each expert witness
19 identified in your response to Interrogatory No. 1.
20

21 **RESPONSE:**

22 See Response to Request for Production No. 1.
23

1
2 **REQUEST FOR PRODUCTION NO. 3:** Produce all documents provided to, reviewed, and/or
3 relied upon by each expert identified in response to Interrogatory No. 1.
4

5 **RESPONSE:**

6 See Response to Request for Production No. 1.
7

8
9 **REQUEST FOR PRODUCTION NO. 4:** Produce Communications between each expert you
10 identified in response to Interrogatory No. 1, and any other person, including, but not limited to,
11 Appellant, Appellant's attorneys (including attorney staff members), the Expert's employees, or
12 the Expert's employers that in any way relate to the Expert's opinions and/or testimony in this
13 case.
14

15 **RESPONSE:**

16 See Response to Request for Production No. 1.
17
18

19 DATED this 5th day of January, 2018.

20 PETER S. HOLMES
21 Seattle City Attorney

22 By: s/Jeff Weber, WSBA #24496
23 s/Daniel B. Mitchell, WSBA #38341
Assistant City Attorneys

*Attorneys for Respondent
Seattle Office of Planning and Community
Development*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

1 **CERTIFICATE OF SERVICE**

2 I certify that on this date I served via email agreement a copy of **The City's First Set of**
3 **Interrogatories and Requests for Production to Seattle Coalition for Affordability,**
4 **Livability, and Equity** to the following:

5 Claudia Newman
6 newman@bnd-law.com

7 DATED this 5th day of January 2018.

8 *s/Alicia Reise*
9 ALICIA REISE, Legal Assistant

1
2 **DECLARATION OF APPELLANT**

3 I, DAVID WARD, certify and declare on behalf of Appellant Seattle Coalition for
4 Affordability, Livability, and Equity under penalty of perjury under the laws of the state of
5 Washington as follows:

6 I have read the foregoing City's First Set of Interrogatories and Requests for Production
7 of Documents and the answers and responses thereto, know the contents thereof, and believe the
8 same to be true.

9 Executed at Seattle, Washington this 27th day of February, 2018.

10
11 Name: David Ward

12 Title: President of SCALE

13
14 **CERTIFICATION OF ATTORNEY**

15 I, CLAUDIA M. NEWMAN, the undersigned attorney for Appellant Seattle Coalition for
16 Affordability, Livability, and Equity, have read the foregoing Interrogatories and Answers
17 thereto and they are in compliance with CR 26(g).

18 DATED this 27th day of February, 2018.

19
20 Name: 

21 WSBA # 24928

22 Attorney for Seattle Coalition for Affordability, Livability, and Equity
23

EXHIBIT D

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeal of:)
) Hearing Examiner File
WALLINGFORD COMMUNITY COUNCIL,)
ET AL.) W-17-006 through W-17-014
)
of adequacy of the FEIS issued by the Director,) THE CITY’S FIRST SET OF
Office of Planning and Community Development) INTERROGATORIES AND
) REQUESTS FOR PRODUCTION
) TO FREMONT NEIGHBORHOOD
) COUNCIL *WITH RESPONSES*
)

TO: FREMONT NEIGHBORHOOD COUNCIL

AND TO: TOBY THALER, ITS ATTORNEY

INTERROGATORIES AND REQUESTS FOR PRODUCTION

Pursuant to HER 3.11, CR and KCLR 26, 33, and 34, Respondent the City of Seattle, Office of Planning and Community Development (the “City”) hereby requests that you produce for inspection and copying the described documents within your possession, custody, or control, and that you respond to the following interrogatories. Please respond to the interrogatories and produce the documents at the offices of the Seattle City Attorney’s Office, 701 Fifth Avenue, Suite 2050, Seattle, WA 98104, within thirty (30) days after the date of service.

1 GENERAL INSTRUCTIONS

2 1. The answer to each Discovery Request shall include such knowledge as is within
3 your custody, possession, or control, including but not limited to, knowledge and documents in
4 your custody, possession, or control, or that of associated or related organizations, or those under
5 common control of your consultants, accountants, attorneys, and other agents. When facts set
6 forth in answers or portions thereof are supplied upon information and belief rather than actual
7 knowledge, you shall so state, and specifically describe or identify the source or sources of such
8 information and belief. Should you be unable to answer any Discovery Request or portion
9 thereof by either actual knowledge or upon information and belief, you should describe your
10 efforts to obtain such information.

11 2. In the event you produce original documents for inspection and copying, such
12 production shall be as the documents are kept in the usual course of business.

13 3. Documents copied shall be copied as they are kept in the normal course of
14 business, and any titles, labels, or other descriptions on any box, folder, binder, file cabinet, or
15 other container shall be copied as well. Documents originating in paper format should be
16 scanned as images at the time of copying, with optical character recognition (“OCR”). Scanned
17 images shall be produced in the same format as electronically stored information, as set forth
18 below.

19 4. The obligations imposed by Rules 26, 33 and 34 of the Washington Court Civil
20 Rules are hereby incorporated by reference, including, but not limited to, the duty to supplement
21 imposed by Rule 26(e). Supplemental answers and documents are requested in the event that
22 you subsequently obtain or become aware of the existence of information that differs from or is
23 in addition to that contained in earlier answers.

1
2 5. Non-identical copies of the same document (i.e., with marginal notes, etc.)
3 constitute separate documents and must all be produced.

4 6. Electronically stored information shall be produced in reasonably usable form,
5 including specifically any ability to search or perform calculations with the information in the
6 form it is maintained by Plaintiff(s).

7 7. Email, word processing documents and spreadsheets (e.g. Excel documents) shall
8 be converted to images and produced, together with requested metadata, except that the City
9 explicitly reserves the right to request supplemental production of spreadsheets in native file
10 format.

11 8. Electronically stored information in other formats shall be identified prior to
12 production to permit the parties to confer over production format.

13 9. If you claim that any privilege is applicable to any requested document or other
14 thing, or any part thereof, you shall, with respect to that document or other thing:

- 15 (i) State the date of origination, drafting, making or taking of the document;
16 (ii) Identify each and every author, maker, or originator thereof;
17 (iii) Identify each and every person who appeared or participated in the preparation
18 thereof;
19 (iv) Identify each and every person who received the document or other thing;
20 (v) State the present location of the document or thing and all copies thereof;
21 (vi) Identify each and every person who has or ever had possession, custody or control
22 of the document or other thing or any copy thereof; and
23 (vii) Identify the basis of the asserted claim of privilege.

1 This information shall be provided in a privilege log that shall be provided at the time of
2 the discover response.

3 10. In responding to the following Requests, you shall furnish all information that is
4 available to you, including information in the possession, custody, or control of your attorneys,
5 accountants, investigators, experts, representatives, agents, or anyone acting on your behalf or on
6 their behalf. If you cannot answer these requests in full, answer to the extent possible, specify
7 the reasons for your inability to answer the remainder, and state whatever information or
8 knowledge you have concerning the unanswered portion, and identify each person whom you
9 believe has information regarding the subject of Request.

10 11. If any Discovery request seeks documents formerly in your possession, custody,
11 or control that have been discarded, misplaced, lost, destroyed, or otherwise placed outside your
12 custody or control, identify the document and describe its contents in detail and state when the
13 document was discarded, misplaced, lost, destroyed, or otherwise placed outside your custody or
14 control. If the document was destroyed, identify each person with knowledge of its destruction,
15 each person requesting or performing the destruction, the reasons for its destruction, and each
16 document that refers or relates to either the existence of or destruction of the document. For each
17 document that was discarded, misplaced, lost, or otherwise placed outside your custody or
18 control, explain all circumstances in relation to the loss of the document and identify each person
19 with knowledge regarding those circumstances.

20 12. The singular shall include the plural and vice versa and the conjunctive shall
21 include the disjunctive and vice versa. References to the masculine, feminine, or neuter gender
22 shall include the neuter, feminine and masculine genders, as the context requires.
23

1 DEFINITIONS

2 1. **“Document”** The term "document" means all written, graphic, or otherwise
3 recorded information, whether produced, reproduced, or stored on paper, cards, tapes file,
4 electronic facsimile, computer storage devices, memories, data cells, or other data compilations
5 from which information can be obtained, including but not limited to letters, reports, notes,
6 memoranda, receipts, email, logs, electronic data files, photographs and negatives thereof, charts,
7 surveys, building plans or drawings, engineering plans or drawings, architectural plans or
8 drawings, telegrams, minutes, recording of telephone conversations, interviews, conferences or
9 other meetings, estimates, schedules, contracts, desk calendars, appointment books, diaries,
10 audio or video tapes, and all things similar to the foregoing, however denominated, and any and
11 all matter of material applied to any of the above. "Document" also includes any additional
12 copies which are not identical to the original by virtue of any notation or modification of any
13 kind, including, without limiting the generality of the foregoing, notes or modifications on the
14 backs or margins of pages thereof, or on copies thereof, or by virtue of attachments thereto. The
15 term document shall include any amendments to the requested document.

16 2. The term **“communication”** means any conversation, meeting, correspondence,
17 conference, electronic mail, and any other means or manner by which information or opinion is
18 or was communicated to or received from others, whether written or oral.

19 3. To **“identify”** a person means to state the full name of the individual, the
20 individual’s last known business and home addresses and phone numbers, and, if known, the
21 individual’s present or last known business affiliation and title.

22 4. The term **“identify” or “identification”** when used in reference to a document
23 means to state the date and author(s), signer(s), intended recipient(s), and its present or last

1 known location or custodian. If any such document was, but is no longer, in your possession or
2 subject to your control, state what disposition was made of it, and the reason for such disposition.

3 5. “**Expert witness**” means any person whose testimony may be presented, for any
4 purpose, under Evidence Rules 702, 703 or 705.

5 13. The term “**you**” or “**Appellant**” shall mean Fremont Neighborhood Council, its
6 executives, and its representatives, including but not limited to, its members.

7 14. The terms “**and**” and “**or**” shall be understood in both the conjunctive and
8 disjunctive sense, synonymous with “**and/or.**”

9 15. The terms “**any**” and “**all**” shall be understood in their most inclusive sense,
10 synonymous with “**any or all.**”

11 **OBJECTIONS**

12 If you object to answering any interrogatory or request for production, in whole or in
13 part, state your objection and the factual or legal reasons supporting it. If you object on grounds
14 of privilege, please also state the nature and extent of all allegedly privileged matters in sufficient
15 detail to allow the City to seek an order compelling disclosure of the information in question.
16 State the date, author(s), addresses, persons receiving copies of, and the general subject matter of
17 each document withheld under a claim of privilege and/or work product. For each request for
18 production or part thereof to which you object on the ground of burdensomeness, please indicate
19 the custodian and location of each file or document requested, the time estimated to obtain the
20 information, and the costs necessary to answer, as well as the basis for the cost estimate.

21 **APPELLANT FNC’s GENERAL OBJECTIONS**

22 Appellant FREMONT NEIGHBORHOOD COUNCIL (FNC) hereby submits the
23 following general objections to the City’s First Set of Interrogatories and Requests for

1 Production to FNC. All references to “interrogatories” and “requests for production” herein
2 include, but are not limited to, all of the individual numbered interrogatories and requests for
3 production and all definitions, instructions, and other statements contained in said interrogatories
4 and request for production.

5 1. FNC objects to the interrogatories and requests for production to the extent that they
6 request information beyond the scope of inquiry permitted by the City of Seattle Hearing
7 Examiner rules and/or purport to impose upon FNC obligations beyond those specified in the
8 applicable rules pertaining to discovery, and to the extent they are overly burdensome and overly
9 broad.

10 2. FNC objects to the interrogatories and requests for production to the extent that they
11 require disclosure of any information subject to a claim of privilege, immunity, or work product,
12 including, but not limited to the attorney-client privilege claim and the spousal privilege claim.

13 3. FNC objects to the interrogatories and requests for production to the extent that they
14 would require FNC to identify or produce documents within the care, possession, custody, or
15 control of persons or entities other than FNC.

16 4. In some instances, FNC may provide answers or produce documents that may be
17 covered by an objection or objections set forth herein. Such answers and productions do not
18 constitute and are not intended to constitute any waiver of FNC’s objections nor an enlargement
19 of the scope of discovery.

20 5. FNC hereby incorporates all of the foregoing objections and reservations into all of
21 the answers and responses provided hereafter.

22 6. FNC objects to the interrogatories and requests for production to the extent that they
23 request FNC to produce documents that FNC has received from the City regarding this matter.

1 FNC is not producing such documents as part of these responses but, reserves all rights to use
2 those documents at the hearing.

3
4 **INTERROGATORIES**

5 **INTERROGATORY NO. 1:** Identify each person you intend to call as an expert witness
6 and/or provide expert testimony in this proceeding. For each such witness state:

- 7 (a) The name, address and phone number of the witness; and
8 (b) The subject matter about which the witness is expected to provide testimony.
9 (c) The substance of the facts and opinions to which the expert will provide
testimony; and,
10 (d) A summary of the grounds for each such opinion.

11 **RESPONSE:**

12 While FNC anticipates calling expert witnesses at the upcoming hearing, FNC's
13 investigation and decisions concerning expert witnesses is still ongoing. FNC will provide
14 information regarding its expert witnesses no later than the deadline set by the hearing examiner
15 for submitting witness and exhibit lists.

16 **INTERROGATORY NO. 2:** For each expert witness identified in your response to
17 Interrogatory No. 1, describe in full detail all analyses, studies, reports, models, or research that
18 the Expert witness conducted or reviewed to form his or her opinions or prepare his or her
19 testimony, including all data used and parameters applied in any analyses, studies, reports,
20 models or research.

21
22 **RESPONSE:**

23 See response to Interrogatory No. 1.

1 **INTERROGATORY NO. 3:** For each expert witness identified in your response to
2 Interrogatory No. 1, identify every proceeding (administrative, court, or otherwise) in which the
3 expert has testified or offered an expert report in the last ten (10) years, including the forum and
4 date of that testimony or report.
5

6 **RESPONSE:**

7 See response to Interrogatory No. 1.
8

9 **REQUESTS FOR PRODUCTION**

10 **REQUEST FOR PRODUCTION NO. 1:** Produce all reports (including preliminary reports
11 and drafts) notes, memoranda, communications, and any other documents prepared by or for
12 each expert you identified in response to Interrogatory No. 1.

13 **RESPONSE:**

14 FNC objects to this request the extent that it requests information beyond the scope of
15 inquiry permitted by the City of Seattle Hearing Examiner rules and/or purports to impose upon
16 FNC's obligations beyond those specified in the applicable rules.

17 FNC also objects to the extent that this would require disclosure of any information
18 subject to a claim of privilege, immunity, or work product, including, but not limited to the
19 attorney-client privilege claim and the spousal privilege claim. FNC also objects to the extent
20 that this would require FNC to identify or produce documents within the care, possession,
21 custody, or control of persons or entities other than FNC.

22 Notwithstanding these objections, see Response to Interrogatory No 1. Because we do
23

1 not have specific documents to produce at this time, but we must reserve our objections, they are
2 broadly written. To the extent required by the rules, FNC will provide greater specificity on these
3 objections to the extent necessary when documents responsive to this request are produced.
4

5 **REQUEST FOR PRODUCTION NO. 2:** Produce curriculum vitae for each expert witness
6 identified in your response to Interrogatory No. 1.

7 **RESPONSE:**

8 See Response to Request for Production No. 1.
9

10 **REQUEST FOR PRODUCTION NO. 3:** Produce all documents provided to, reviewed, and/or
11 relied upon by each expert identified in response to Interrogatory No. 1.

12 **RESPONSE:**

13 See Response to Request for Production No. 1.
14

15 **REQUEST FOR PRODUCTION NO. 4:** Produce Communications between each expert you
16 identified in response to Interrogatory No. 1, and any other person, including, but not limited to,
17 Appellant, Appellant's attorneys (including attorney staff members), the Expert's employees, or
18 the Expert's employers that in any way relate to the Expert's opinions and/or testimony in this
19 case.

20 **RESPONSE:**

21 See Response to Request for Production No. 1.
22
23

1 DATED this 5th day of January, 2018.

2 PETER S. HOLMES
3 Seattle City Attorney

4 By: s/Jeff Weber, WSBA #24496
5 s/Daniel B. Mitchell, WSBA #38341
6 Assistant City Attorneys

7 *Attorneys for Respondent*
8 *Seattle Office of Planning and Community*
9 *Development*

1 CERTIFICATE OF SERVICE

2 I certify that on this date I served via email agreement a copy of **The City's First Set of**
3 **Interrogatories and Requests for Production to Fremont Neighborhood Council** to the
4 following:

5 Toby Thaler
6 toby@louploup.net

7 DATED this 5th day of January 2018.

8 *s/Alicia Reise*
9 _____
10 ALICIA REISE, Legal Assistant

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

DECLARATION OF APPELLANT

I, _____, certify and declare on behalf of Appellant Fremont Neighborhood Council under penalty of perjury under the laws of the state of Washington as follows:

I have read the foregoing City’s First Set of Interrogatories and Requests for Production of Documents and the answers and responses thereto, know the contents thereof, and believe the same to be true.

Executed at _____, Washington this ___day of _____, 2018.

Name: _____

Title: _____

CERTIFICATION OF ATTORNEY

I, Toby Thaler, the undersigned attorney for Appellant Fremont Neighborhood Council, have read the foregoing Interrogatories and Answers thereto and they are in compliance with CR 26(g).

DATED this 28th day of February, 2018.

Name: 

WSBA # 8318

Attorney for Fremont Neighborhood Council

EXHIBIT E

**SENIORS UNITED FOR NEIGHBORHOODS (SUN) RESPONSE TO THE CITY'S
FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION**

HEARING EXAMINER FILE W-17-006—W-17-014

March 5, 2018

RESPONSE TO INTERROGATORY NO. 1

1. SUN objects to the interrogatories and requests for production to the extent that they request information beyond the scope of inquiry permitted by the City of Seattle Hearing Examiner rules and/or purport to impose upon SUN obligations beyond those specified in the applicable rules pertaining to discovery, and to the extent they are overly burdensome and overly broad.
2. SUN objects to the interrogatories and requests for production to the extent that they require disclosure of any information subject to a claim of privilege, immunity, or work product, including, but not limited to the attorney-client privilege claim and the spousal privilege claim.
3. SUN objects to the interrogatories and requests for production to the extent that they would require SUN to identify or produce documents within the care, possession, custody, or control of persons or entities other than SUN.
4. In some instances, SUN may provide answers or produce documents that may be covered by an objection or objections set forth herein. Such answers and productions do not constitute and are not intended to constitute any waiver of SUN's objections nor an enlargement of the scope of discovery.
5. SUN hereby incorporates all of the foregoing objections and reservations into all of the answers and responses provided hereafter.
6. SUN objects to the interrogatories and requests for production to the extent that they request SUN to produce documents that SUN has received from the City regarding this matter.

RESPONSE TO INTERROGATORY NO. 2

See response to Interrogatory No. 1.

RESPONSE TO INTERROGATORY NO. 3

See response to Interrogatory No. 1.

RESPONSE TO INTERROGATORY NO. 4

SUN's investigation and development of concepts for "pipeline projects" is ongoing, but using the data from SUN's Exhibit A: 85,000 Units Built Since 2015 Or In The Pipeline the projects there were the following number of units represented (with the words before the count representing the word used in Exhibit A):

Completed: 26,827

Permitted: 24,923

AppAcc (Application Accepted): 12,091

MUP (Master Use Permit): 8,153

MUP, IIC (Initial Information Collected): 3917

Blank (Master Use Permit Applied For or Accepted, or IIC): 8840.

Those projects listed as Completed or Permitted were projects that the FEIS likely included in their count (without a specific accounting by the City of exactly what projects it included or excluded it's impossible to know exactly, but the items listed in Exhibits A and D are what was in the City's database), and the approximately 32,000 units from projects after the Completed or Permitted projects were not included in the pipeline counts despite developers submitting proposals for those projects and most getting Master Use Permits or had their applications accepted for building permits.

See Exhibit E (attached) for the project addresses and how those counts are distributed among the various categories.

RESPONSE TO INTERROGATORY NO. 5

SUN's investigation and development of ideas for the basis that the FEIS substantially underestimates the loss of existing affordable units and exaggerates the number of 'created' affordable units, is ongoing, but from what we now know, the concepts that should have been included are:

- * Older apartment buildings are significantly more affordable than newer apartments. Developers buy these cheaper older buildings, demolish them, then replace them with unaffordable units hundreds of dollars more than the units they replaced.
- * The FEIS does not adequately account for these displacements and only looked at TRAO (Tenant Relocation Assistance Ordinance) displacement.
- * The TRAO analysis itself greatly underestimates the level of displacement within units eligible for TRAO.
- * There is no one-for-one replacement of affordable units, creating a net loss of affordable units.
- * The FEIS does not address the substantial loss to LIHTC (Low Income Housing Tax Credit) due to the recent Tax Reform policies. It is estimated that Washington state will lose 9,500 low income units due to these policies.
- * The City should have an inventory of all rents to determine the location of affordable and non-affordable rents throughout Seattle. This can easily be accomplished by adding each rental unit price to the RRIO (Rental Registration and Inspection Ordinance) form that all landlords fill out.
- * The in-lieu fees are small compared to other cities and will therefore create less affordable housing than is necessary and less than projected.
- * The FEIS does not adequately address the impact on affordable housing from the recent large property tax increase.
- * 92% of the housing being built are luxury units. This will increase the cost of rents all over the City, while also increasing property taxes further.
- * The FEIS does not address the effects of speculation which drives up rents substantially.
- * An analysis of displacement in the University District, based on a survey of specific apartments in the upzone area of the University District, yielded many times more displacement and unaffordable housing than the City estimated.
- * Determine out-migration from Seattle, both total numbers and broken down by race and percentage of AMI.
- * The FEIS specifically doesn't address the loss of single family housing that often provides affordable housing for larger families, both immigrant and native born.
- * As Area Median Income (AMI) rises, 30%, 50 or 60%, and 80% of AMI will rise due to more wealthy people coming to Seattle, further increasing rents that will go beyond what many people can afford if their wages don't go up commensurately.

REQUESTS FOR PRODUCTION NO. 1

SUN objects to this request the extent that it requests information beyond the scope of inquiry permitted by the City of Seattle Hearing Examiner rules and/or purports to impose upon SUN'S obligations beyond those specified in the applicable rules.

SUN also objects to the extent that this would require disclosure of any information subject to a claim of privilege, immunity, or work product, including, but not limited to the attorney-client privilege claim and the spousal privilege claim. SUN also objects to the extent that this would require SUN to identify or produce documents within the care, possession, custody, or control of persons or entities other than SUN.

Notwithstanding these objections, see Response to Interrogatory No 1. Because we do not have specific documents to produce at this time, but we must reserve our objections, they are broadly written. To the extent required by the rules SUN will provide greater specificity on these objections to the extent necessary when documents responsive to this request are produced.

REQUESTS FOR PRODUCTION NO. 2

See Response to Request for Production No. 1.

REQUESTS FOR PRODUCTION NO. 3

See Response to Request for Production No. 1.

REQUESTS FOR PRODUCTION NO. 4

See Response to Request for Production No. 1.

David Ward

Representative for Seniors United for Neighborhoods

EXHIBIT F

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeal of:)	
)	Hearing Examiner File
WALLINGFORD COMMUNITY COUNCIL, ET AL.)	W-17-006 through W-17-014
)	
of adequacy of the FEIS issued by the Director, Office of Planning and Community Development)	THE CITY'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION TO FRIENDS OF THE NORTH RAINIER NEIGHBORHOOD PLAN, AND RESPONSES THERE TO
)	
)	
)	
)	
)	
)	

TO: FRIENDS OF THE NORTH RAINIER NEIGHBORHOOD PLAN

AND TO: MARLA STEINHOFF, ITS REPRESENTATIVE

INTERROGATORIES AND REQUESTS FOR PRODUCTION

Pursuant to HER 3.11, CR and KCLR 26, 33, and 34, Respondent the City of Seattle, Office of Planning and Community Development (the "City") hereby requests that you produce for inspection and copying the described documents within your possession, custody, or control, and that you respond to the following interrogatories. Please respond to the interrogatories and produce the documents at the offices of the Seattle City Attorney's Office, 701 Fifth Avenue, Suite 2050, Seattle, WA 98104, within thirty (30) days after the date of service.

1 **GENERAL INSTRUCTIONS**

2 1. The answer to each Discovery Request shall include such knowledge as is within
3 your custody, possession, or control, including but not limited to, knowledge and documents in
4 your custody, possession, or control, or that of associated or related organizations, or those under
5 common control of your consultants, accountants, attorneys, and other agents. When facts set
6 forth in answers or portions thereof are supplied upon information and belief rather than actual
7 knowledge, you shall so state, and specifically describe or identify the source or sources of such
8 information and belief. Should you be unable to answer any Discovery Request or portion
9 thereof by either actual knowledge or upon information and belief, you should describe your
10 efforts to obtain such information.

11 2. In the event you produce original documents for inspection and copying, such
12 production shall be as the documents are kept in the usual course of business.

13 3. Documents copied shall be copied as they are kept in the normal course of
14 business, and any titles, labels, or other descriptions on any box, folder, binder, file cabinet, or
15 other container shall be copied as well. Documents originating in paper format should be
16 scanned as images at the time of copying, with optical character recognition (“OCR”). Scanned
17 images shall be produced in the same format as electronically stored information, as set forth
18 below.

19 4. The obligations imposed by Rules 26, 33 and 34 of the Washington Court Civil
20 Rules are hereby incorporated by reference, including, but not limited to, the duty to supplement
21 imposed by Rule 26(e). Supplemental answers and documents are requested in the event that
22 you subsequently obtain or become aware of the existence of information that differs from or is
23 in addition to that contained in earlier answers.

1
2 5. Non-identical copies of the same document (i.e., with marginal notes, etc.)
3 constitute separate documents and must all be produced.

4 6. Electronically stored information shall be produced in reasonably usable form,
5 including specifically any ability to search or perform calculations with the information in the
6 form it is maintained by Plaintiff(s).

7 7. Email, word processing documents and spreadsheets (e.g. Excel documents) shall
8 be converted to images and produced, together with requested metadata, except that the City
9 explicitly reserves the right to request supplemental production of spreadsheets in native file
10 format.

11 8. Electronically stored information in other formats shall be identified prior to
12 production to permit the parties to confer over production format.

13 9. If you claim that any privilege is applicable to any requested document or other
14 thing, or any part thereof, you shall, with respect to that document or other thing:

- 15 (i) State the date of origination, drafting, making or taking of the document;
16 (ii) Identify each and every author, maker, or originator thereof;
17 (iii) Identify each and every person who appeared or participated in the preparation
18 thereof;
19 (iv) Identify each and every person who received the document or other thing;
20 (v) State the present location of the document or thing and all copies thereof;
21 (vi) Identify each and every person who has or ever had possession, custody or control
22 of the document or other thing or any copy thereof; and
23 (vii) Identify the basis of the asserted claim of privilege.

1 This information shall be provided in a privilege log that shall be provided at the time of
2 the discover response.

3 10. In responding to the following Requests, you shall furnish all information that is
4 available to you, including information in the possession, custody, or control of your attorneys,
5 accountants, investigators, experts, representatives, agents, or anyone acting on your behalf or on
6 their behalf. If you cannot answer these requests in full, answer to the extent possible, specify
7 the reasons for your inability to answer the remainder, and state whatever information or
8 knowledge you have concerning the unanswered portion, and identify each person whom you
9 believe has information regarding the subject of Request.

10 11. If any Discovery request seeks documents formerly in your possession, custody,
11 or control that have been discarded, misplaced, lost, destroyed, or otherwise placed outside your
12 custody or control, identify the document and describe its contents in detail and state when the
13 document was discarded, misplaced, lost, destroyed, or otherwise placed outside your custody or
14 control. If the document was destroyed, identify each person with knowledge of its destruction,
15 each person requesting or performing the destruction, the reasons for its destruction, and each
16 document that refers or relates to either the existence of or destruction of the document. For each
17 document that was discarded, misplaced, lost, or otherwise placed outside your custody or
18 control, explain all circumstances in relation to the loss of the document and identify each person
19 with knowledge regarding those circumstances.

20 12. The singular shall include the plural and vice versa and the conjunctive shall
21 include the disjunctive and vice versa. References to the masculine, feminine, or neuter gender
22 shall include the neuter, feminine and masculine genders, as the context requires.

1 **DEFINITIONS**

2 1. **“Document”** The term "document" means all written, graphic, or otherwise
3 recorded information, whether produced, reproduced, or stored on paper, cards, tapes file,
4 electronic facsimile, computer storage devices, memories, data cells, or other data compilations
5 from which information can be obtained, including but not limited to letters, reports, notes,
6 memoranda, receipts, email, logs, electronic data files, photographs and negatives thereof, charts,
7 surveys, building plans or drawings, engineering plans or drawings, architectural plans or
8 drawings, telegrams, minutes, recording of telephone conversations, interviews, conferences or
9 other meetings, estimates, schedules, contracts, desk calendars, appointment books, diaries,
10 audio or video tapes, and all things similar to the foregoing, however denominated, and any and
11 all matter of material applied to any of the above. "Document" also includes any additional
12 copies which are not identical to the original by virtue of any notation or modification of any
13 kind, including, without limiting the generality of the foregoing, notes or modifications on the
14 backs or margins of pages thereof, or on copies thereof, or by virtue of attachments thereto. The
15 term document shall include any amendments to the requested document.

16 2. The term **“communication”** means any conversation, meeting, correspondence,
17 conference, electronic mail, and any other means or manner by which information or opinion is
18 or was communicated to or received from others, whether written or oral.

19 3. To **“identify”** a person means to state the full name of the individual, the
20 individual’s last known business and home addresses and phone numbers, and, if known, the
21 individual’s present or last known business affiliation and title.

22 4. The term **“identify” or “identification”** when used in reference to a document
23 means to state the date and author(s), signer(s), intended recipient(s), and its present or last

1 known location or custodian. If any such document was, but is no longer, in your possession or
2 subject to your control, state what disposition was made of it, and the reason for such disposition.

3 5. “**Expert witness**” means any person whose testimony may be presented, for any
4 purpose, under Evidence Rules 702, 703 or 705.

5 13. The term “**you**” or “**Appellant**” shall mean Friends of the North Rainier
6 Neighborhood Plan, its executives, and its representatives, including but not limited to, its
7 members.

8 14. The terms “**and**” and “**or**” shall be understood in both the conjunctive and
9 disjunctive sense, synonymous with “**and/or.**”

10 15. The terms “**any**” and “**all**” shall be understood in their most inclusive sense,
11 synonymous with “**any or all.**”

12 **OBJECTIONS**

13 If you object to answering any interrogatory or request for production, in whole or in
14 part, state your objection and the factual or legal reasons supporting it. If you object on grounds
15 of privilege, please also state the nature and extent of all allegedly privileged matters in sufficient
16 detail to allow the City to seek an order compelling disclosure of the information in question.
17 State the date, author(s), addresses, persons receiving copies of, and the general subject matter of
18 each document withheld under a claim of privilege and/or work product. For each request for
19 production or part thereof to which you object on the ground of burdensomeness, please indicate
20 the custodian and location of each file or document requested, the time estimated to obtain the
21 information, and the costs necessary to answer, as well as the basis for the cost estimate.

1 **INTERROGATORIES**

2 **INTERROGATORY NO. 1:** Identify each person you intend to call as an expert witness
3 and/or provide expert testimony in this proceeding. For each such witness state:

- 4 (a) The name, address and phone number of the witness; and
5 (b) The subject matter about which the witness is expected to provide testimony.
6 (c) The substance of the facts and opinions to which the expert will provide
7 testimony; and,
8 (d) A summary of the grounds for each such opinion.

9 **RESPONSE:**

10 The Friends of North Rainier Neighborhood Plan have not yet selected an expert witness
11 to be called in this proceeding. The decision on any experts will be made within the time set by
12 the prehearing order, and information will be made available in accordance with that schedule.

13 **INTERROGATORY NO. 2:** For each expert witness identified in your response to
14 Interrogatory No. 1, describe in full detail all analyses, studies, reports, models, or research that
15 the Expert witness conducted or reviewed to form his or her opinions or prepare his or her
16 testimony, including all data used and parameters applied in any analyses, studies, reports,
17 models or research.

18 **RESPONSE:**

19 See response to interrogatory number one. Experts have not been identified at this time.
20 Petitioner intends to identify any experts within the timeframes allowed in the pre-hearing order,
21 and information related to the experts and their opinions shall also be made available within the
22 time frames allowed by the hearing examiner.

1 **INTERROGATORY NO. 3:** For each expert witness identified in your response to
2 Interrogatory No. 1, identify every proceeding (administrative, court, or otherwise) in which the
3 expert has testified or offered an expert report in the last ten (10) years, including the forum and
4 date of that testimony or report.

5
6 **RESPONSE:**

7 See response to Interrogatories 1 and 2, above.

8 **INTERROGATORY NO. 4:** With respect to issue 2 in your notice of appeal, identify each
9 particular portion of Appendix F, with reference to specific page numbers, that you allege
10 contains “a vague and unclear description of some of the changes,” and describe how the
11 description is vague and unclear.

12 **RESPONSE:**

13 While there are vague and unclear descriptions of the proposal throughout Appendix F,
14 this objection focuses largely on the description under the heading: “Amendments to Policies in
15 Neighborhood Plan Element of the Comprehensive Plan” on page F.11. That portion of
16 Appendix F states, in its entirety:

17 Several policies in individual urban villages contained in the Neighborhood Plan
18 policies section of the Comprehensive Plan may conflict with elements of the
19 proposed action concerning changes to single family zones within urban villages.
20 Amendments to these policies ~~will be~~ are docketed and the policies would be
modified to remove potential inconsistencies. The potential impacts of these
policy amendments is considered in this EIS

1 Appendix F, Page F.11. This is vague and unclear because the FEIS fails to identify which
2 policies actually conflict with elements of the proposed action. In addition, there is no
3 description of what amendments to the unspecified “several policies” would be modified. In
4 addition, there is no discussion of the potential impacts of the unspecified policy amendments
5 needed to correct the Comprehensive Plan inconsistencies. There is literally no information
6 provided that would inform even a basic understanding of the conflicts between the proposal and
7 the Comprehensive Plan, the necessary corrections, and the associated impacts.

8 For a resident in the North Rainier Neighborhood, the City has provided no meaningful
9 opportunity for understanding the proposal’s impact to the important Goals and Policies of their
10 neighborhood, as expressed in the City’s Comprehensive Plan, North Rainier Neighborhood
11 Plan, pages 348 through 353.

12 **INTERROGATORY NO. 5:** With respect to issue 2 in your notice of appeal, the third
13 sentence of issue 2 states that “that section states that several policies. . .” Identify the particular
14 section of the FEIS, by page and line number, to which the phrase “that section” refers.

15 **RESPONSE:**

16 The statement that issue 2 refers to is on page F.11 under the heading “Amendments to
17 Policies in Neighborhood Plan Element of the Comprehensive Plan.” It is the first sentence of
18 that paragraph.

19
20 **INTERROGATORY NO. 6:** With respect to issue 2 in your notice of appeal, the second to
21 last sentence of issue 2 states that “That section also provides. . .” Identify the particular section
22 of the FEIS, by page and line number, to which the phrase “That section” refers, identify the
23

1 particular “new and modified development standards” that are allegedly vaguely and
2 ambiguously described, and describe how the description is vague and/or ambiguous.

3 **RESPONSE:**

4 This portion of Issue 2 refers to Appendix F of the FEIS, page F.5: “New and Modified
5 Development Standards”. This section is vague and ambiguous because it refers to “several
6 new or modified development standards” which would be intended to improve urban design
7 outcomes, enhance livability, and mitigate impacts from additional building bulk and scale from
8 the MHA. The section goes on to summarize “certain” new or modified development standards
9 in a manner that is incomplete, vague, non-specific, and without references to actual standards.
10 For instance, from the description given, there would be no meaningful way for a Seattle resident
11 or decisionmaker to identify or understand the specific “livability enhancements” to be achieved
12 by the unspecified standards.

13
14 **REQUESTS FOR PRODUCTION**

15 **REQUEST FOR PRODUCTION NO. 1:** Produce all reports (including preliminary reports
16 and drafts) notes, memoranda, communications, and any other documents prepared by or for
17 each expert you identified in response to Interrogatory No. 1.

18 **RESPONSE:**

19 See Response to Interrogatory No. 1.

20 **REQUEST FOR PRODUCTION NO. 2:** Produce curriculum vitae for each expert witness
21 identified in your response to Interrogatory No. 1.

22 **RESPONSE:**

23 See Response to Interrogatory No. 1.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

REQUEST FOR PRODUCTION NO. 3: Produce all documents provided to, reviewed, and/or relied upon by each expert identified in response to Interrogatory No. 1.

RESPONSE:

See Response to Interrogatory No. 1.

REQUEST FOR PRODUCTION NO. 4: Produce Communications between each expert you identified in response to Interrogatory No. 1, and any other person, including, but not limited to, Appellant, Appellant’s attorneys (including attorney staff members), the Expert’s employees, or the Expert’s employers that in any way relate to the Expert’s opinions and/or testimony in this case.

RESPONSE:

See Response to Interrogatory No. 1.

DATED this 5th day of January, 2018.

PETER S. HOLMES
Seattle City Attorney

By: s/Jeff Weber, WSBA #24496
s/Daniel B. Mitchell, WSBA #38341
Assistant City Attorneys

*Attorneys for Respondent
Seattle Office of Planning and Community
Development*

1 **CERTIFICATE OF SERVICE**

2 I certify that on this date I served via email agreement a copy of **The City's First Set of**
3 **Interrogatories and Requests for Production to Friends of North Rainier Neighborhood**

4 **Plan** to the following:

5 Marla Steinhoff
6 masteinhoff@gmail.com

7 DATED this 5th day of January 2018.

8 s/Alicia Reise
9 ALICIA REISE, Legal Assistant

10 **DECLARATION OF APPELLANT**

11
12 I, Marla Steinhoff, certify and declare on behalf of Appellant Friends of the North Rainier
13 Neighborhood Plan under penalty of perjury under the laws of the state of Washington as
14 follows:

15 I have read the foregoing City's First Set of Interrogatories and Requests for Production
16 of Documents and the answers and responses thereto, know the contents thereof, and believe the
17 same to be true.

18 Executed at Seattle, Washington this 24th day of February, 2018.

19
20 Name: 

21 Title: Representative,
22 Friends of North Rainier Neighborhood Plan
23

EXHIBIT G



Seattle City Attorney

Peter S. Holmes

Jeff Weber
Assistant City Attorney
206.727.3999

April 10, 2018

VIA E-MAIL

Representatives of:

Morgan Community Association
Friends of Ravenna-Cowen
West Seattle Junction Neighborhood Organization
Seattle Coalition for Affordability, Livability and Equity
Beacon Hill Council of Seattle
Friends of North Rainier Neighborhood Plan
Fremont Neighborhood Council
Seniors United For Neighborhoods

Re: Appeals of Wallingford Community Council, et al, W-17-006 through W-17-014

Dear Appellant representatives:

The purpose of this letter is to address a number of issues now that the Appellants have filed their preliminary witness and exhibit lists.

A. Designation of Experts.

Based on Appellants' preliminary witness lists and discovery responses, the City's understanding is that the only witnesses designated by Appellants as experts are those set forth in the chart below. The City will object to any attempts to elicit expert testimony from any other Appellant witnesses not listed below. Additionally, the Examiner's Prehearing Order requires the parties to include a statement of qualifications for each listed expert witness. In several instances, the parties have listed an expert's curriculum vitae in the Appellants' exhibit list, but did not provide the City with a copy. The City requests that parties share the CVs or resumes of each of their listed experts.

April 10, 2018

Page 2

NAME	FIELD
Janine Rees	JuNO
Timothy (Tim) Larson	BHCS
Troy D. Abel	BHCS
David P. Levitus	FNC
Peter Steinbrueck	FNC SCALE FNR
Kern Ewing, Ph. D.	FORC
Woodrow (Woody) Wheeler	FORC
Sharon E. Sutton	MoCA
Rick McLaughlin	FNR JuNO SCALE
Michael Ross	FNR
Maria Batayola	FNR SCALE
Eugenia Woo	FORC SCALE FNR
Larry E. Johnson, AIA, LEED AP	FORC
Lawrence Kreisman	FORC SCALE
Spencer Howard	SCALE FNR
Thomas Veith	SCALE
Jennifer Ott	FNR
Davidya Kasperzyk	FNR SCALE

April 10, 2018

Page 3

William Reid	SCALE
Gordon Lagerquist	FNC
Lorne McConachie, FAIA	FORC
Alon Bassok	MoCA
Gary Dawson	MoCA
Jeff Richardson	SCALE FNC
Michael Oxman	FNC SCALE
Unidentified Witness – JuNO List No. 36	JuNO
Unidentified Witness – JuNO List No. 38	JuNO
Unidentified Witness – JuNO List No. 39	JuNO
Unidentified Witness – JuNO List No. 40	JuNO
Unidentified Witness – MoCA List No. 7	MoCA
Unidentified Witness – SCALE List No. 35	SCALE
Unidentified Witness – SCALE List No. 36	SCALE

B. Scheduling Depositions.

The City would like to depose the expert witnesses identified by Appellants included in the list above. The City may also wish to depose certain lay witnesses, but will address those separately.

The City intends to cooperate with Appellants on the scheduling of depositions by finding mutually convenient times and without resorting to subpoenas, if possible. To facilitate that effort, we would like you to provide, by Monday, April 16, 2018, the following information: (1) the date by which each of the persons listed in the chart above will be ready for his/her deposition, and (2) a list of dates on which each of the persons listed in the chart above is available to have his/her deposition taken, between April 16, 2018 and May 31, 2018. Because of the large number of depositions that must be scheduled, we request that you provide at least five possible dates for each person. We will then attempt to identify dates for each of the depositions that will enable all of the depositions to be scheduled at a mutually convenient time.

We note that the number of witnesses, including expert witnesses, listed by the Appellants is very large and is inconsistent with completing the hearing in the time

April 10, 2018
Page 4

allotted by the Examiner. If an Appellant does not intend to call one or more of the above-listed persons, please notify us of that fact by April 16 as well.

C. Supplemental Responses to Written Discovery.

In January, the City served on you its First Set of Interrogatories and Requests for Production of Documents in which the City requested information related to Appellants' expert witnesses. Many of you stated in your responses that you were not yet able to respond to certain discovery requests because you had not yet identified witnesses. Now that Appellants have identified expert witnesses, the City requests that, where incomplete responses were previously provided, you now supplement your responses to make them complete. Because the requested information is necessary to plan for depositions, we ask that you do so by Monday, April 16, 2018.

D. Deadline for Depositions.


It is obvious that, given the number of witnesses Appellants have listed, it will not be possible to complete all depositions by the Examiner's cut-off date of April 30, 2018. The City intends to request an extension of the deadline to May 31, 2018. The City does not intend to request extensions of any other deadline because the change in schedule to accommodate depositions does not impact any other pre-hearing deadlines. Therefore, we request that each of you confirm by email whether you agree to re-set the deadline for completing depositions from April 30 to May 31, 2018. Please provide your response by April 16, 2018, whether you are willing to so stipulate, and we will prepare a stipulation to submit to the Examiner. If you are not willing to so stipulate, please let us know that too, so that we may seek relief from the Examiner.

Thank you for your assistance.

Very truly yours,

PETER S. HOLMES
Seattle City Attorney

By



Jeff Weber
Assistant City Attorney