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HEARING EXAMINER

BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In the Matter of the Appeals of
WALLINGFORD COMMUNITY
COUNCIL, ET AL.

Hearing Examiner File:
W-17-006 through
W-17-014

Of Adequacy of FEIS Issued by the
Director, Office of Planning and
Community Development

JUNCTION NEIGHBORHOOD ORGANIZATION'S
REPLY IN SUPPORT OF CROSS MOTION FOR
SUMMARY JUDGMENT AS TO MHA FEIS'
FAILURE TO CONSIDER REASONABLE
ALTERNATIVES AND ITS IMPROPER ATTEMPTS
TO UTILIZE PHASED REVIEW

The Junction Neighborhood Organization ("JuNO") submits this reply ("Reply") in support of the cross-motion for summary judgment portion of its (1) Response to City's Motion to Dismiss; (2) Cross Motion for Summary Judgment as to MHA FEIS' Failure to Consider Reasonable Alternatives and its Improper Attempts to Utilize Phased Review; and (2) Motion for Summary Judgment as to MHA EIS' Failure to Describe Inconsistencies with Comprehensive Plan and Proposed Amendments Thereto its Cross Motion for Summary Judgment as to MHA FEIS' Failure to Consider Reasonable Alternatives and its Improper Attempts to Utilize Phased Review (the "Cross-Motion").¹ The Reply is

¹ Unless otherwise indicated, capitalized terms herein have the meaning identified in JuNO's Cross-Motion.

1 based upon the files and records herein, the previously filed Declaration of Christine M. Tobin-Presser
2 in support of the Cross-Motion (the “Tobin-Presser Declaration”) and the Declaration of Jeffrey
3 Weber filed in support of the City’s response to the Cross-Motion (the “Weber Declaration”).

4 The City’s response (the “City Omnibus Response”) purports to respond and/or reply to
5 arguments asserted by nine separate appellants in multiple pleadings, at times creating confusions as
6 to which appellant/argument the City is responding. JuNO’s Reply confines itself to the arguments
7 actually made in its Cross Motion and the City’s responses to those arguments.

8 **I. FAILURE TO CONSIDER REASONABLE ALTERNATIVES**

9 The City Omnibus Response decries the impracticality of studying “even a fraction” of the
10 additional alternatives cited by the numerous appellants that could reach the City’s objectives. For the
11 avoidance of doubt, JuNO’s Cross-Motion does not take issue with the City’s proposal to implement
12 MHA. Rather, the zoning changes proposed in the MHA EIS’ Action Alternatives were not properly
13 guided and narrowed by the complete Comprehensive Plan, specifically the Neighborhood Planning
14 elements. As demonstrated herein, a modest range of alternatives that meet the four MHA Objectives
15 and which incorporate the Neighborhood Plans is easily within the City’s power to produce.

16 **A. Undisputed Facts Entitling JuNO to Summary Judgment**

17 There are no genuine or material issues with respect to the following facts established by the
18 Cross-Motion and Tobin-Presser Declaration filed therewith:

- 19
- 20 1. In November 2015, the City Council indicated that MHA planning and implementation
21 should be coordinated with the Seattle 2035 Comprehensive Plan update. See Weber
22 Decl., Ex. F at §§ 2:4-16; 2A and 2B.
 - 23 2. The Seattle 2035 Comprehensive Plan was adopted by the City Council in October 2016.
Tobin-Presser Decl. at n. 2.

- 1 3. Each of the MHA EIS Action Alternatives violates adopted policies in at least nine of the
2 Neighborhood Plans adopted by the Comprehensive Plan.²
- 3 4. There are currently no specific amendments proposed or docketed by OPCD that would
4 resolve the inconsistencies between the Action Alternatives and the Neighborhood Plans.
- 5 5. The MHA EIS inaccurately states that amendments are docketed to resolve the
6 inconsistencies with the Neighborhood Plans. Tobin-Presser Decl., Ex. W at F.11.
- 7 6. In addition to the Neighborhood Plans themselves, the Comprehensive Plan commits that
8 the City will work with neighborhoods to identify and implement the neighborhood's
9 vision as to how it will grow. Tobin-Presser Decl., Exs. I, OO and PP.
- 10 7. The MHA EIS fails to acknowledge inconsistencies between the MHA Proposal and
11 Action Alternatives and provisions of the Comprehensive Plan that occur apart from the
12 Neighborhood Plans Tobin-Presser Decl., Ex. W at F.11.
- 13 8. The City's "outreach" to the nine neighborhoods with adopted plans conflicting with the
14 MHA Proposal was purportedly still ongoing when the MHA EIS was released. Tobin-
15 Presser Decl., Ex. UU. The MHA EIS inaccurately stated that amendments had been
16 docketed and that Neighborhood Plan policies would be modified consistent with those
17 amendments. Tobin-Presser Decl., Ex. W at F.11.
- 18 9. The City's purported proposals to neighborhoods to amend their Neighborhood Plans
19 contained alternatives that are inconsistent with the Action Alternatives and the potential
20 impacts of which are not considered in the MHA EIS. Cross-Motion at UU; Tobin-Presser
21 Decl. at n. 5. The MHA EIS fails to mention these proposals.
- 22 10. The MHA EIS fails to mention or describe the four neighborhood-proposed amendments
23 to the Comprehensive Plan to address inconsistencies between Neighborhood Plans and
the MHA Proposal, despite the fact that these proposed amendments are actually docketed
for consideration by the City Council. Tobin-Presser Decl., Exs. W at F.11, QQ and RR.
11. The City's own internal calculations establish that Action Alternatives fail to consider less
negatively impactful alternatives that would substantially achieve all four of the MHA
Objectives. Tobin-Presser Decl., Ex. EEE (mislabelcd as EE).

² See Cross Motion at n. 1 (link to City's neighborhood planning website containing all of the neighborhood plans). The nine Neighborhood Plans single-family policies are Aurora Licton at P-12; Fremont at FP-13; Morgan at MJP-13; North Rainier at NR-P9; Wallingford at W-P1; Junction Urban Village at WSJ-P13 and Westwood-Highland Park at W/HP-P18.

1 **B. The Action Alternatives Constitute the Means, Not the Objective.**

2 The MHA EIS explicitly and separately sets forth its four broad objectives (the “MHA
3 Objectives”) as distinct from the means by which it proposes to achieve such objectives (the
4 “Proposed Action”):

MHA Objectives MHA EIS Section 1.1	MHA Proposed Action/Mean MHA EIS Section 2.2
Increase housing capacity.	Amend Land Use Code to increase development capacity.
Address housing affordability.	Require on-site affordable housing or in-lieu payments in all new multi-family projects.
Generate approximately 6,200 rent restricted units over 20 years.	Make area-wide zoning changes; Modify certain rezone criteria in the Land Use Code.
Distribute benefits and burdens of growth equitably.	Expand boundaries of urban villages based on a frequent transit walkshed.

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12 Tobin-Presser Decl., Exs. YY at 1.1 and ZZ at 1.2.

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14 The City’s assertion that in this case the MHA Objectives are interchangeable with its
15 proposed means to achieve those objectives is not supported by its cited Code sections. See City
16 Response at 7:12-15; 10:18-25. While SMC 25.05.060.C.1.b and WAC 197-11-060(3)(a)(ii) permit
17 an agency to put forward a proposal as an objective, the City did not do so in the MHA EIS. The cited
18 sections in no way suggest that every proposal is an objective or vice versa. Likewise, the provisions
19 of SMC 25.05.442.B and WAC 197-11-442(2) that encourage an agency to describe a proposal in
20 terms of alternative means of accomplishing a stated objective neither state nor imply that the means
21 and the objective are interchangeable.

22 The objective is the stated goal. The proposal constitutes the means by which the agency
23 proposes to achieve its stated goal. The proposal may be consistent with the objective, while not

1 being the same as the objective. In this case, the City put forth a proposal, encompassing all three of
2 its Action Alternatives, that is but one very narrow means to achieve the MHA Objectives. There are
3 other reasonable means by which the City could have and, under the circumstances, should have
4 analyzed as a means to achieve all four MHA Objectives. See, e.g., Section I.E infra.

5 **C. No Formal Proposal of Action Alternatives.**

6 Much of the City’s Omnibus Response to JuNO’s Cross Motion relies upon its assertion that
7 the narrow MHA EIS Action Alternatives were part of a “formally proposed proposal” made by the
8 City and thus, their reasonableness need only be evaluated in light of such formally proposed
9 proposal.³

10 The “formally proposed proposal” is a fiction. Undoubtedly Mayor Murray decided to
11 orchestrate a rezone of all single-family areas in urban villages in 2015 and foreclosed consideration
12 of any other alternatives. That does not equate to a formal proposal. To the contrary, the lack of a
13 formal proposal is evidenced by the incomplete and misleading HALA/MHA materials provided by
14 the City to impacted neighborhoods in 2015 and 2016 that obscure, rather than disclose, that the City
15 planned to rezone all single-family areas in urban villages. If such a formal proposal existed, the City
16 would hardly have framed its MHA Objectives so broadly.

17 Lacking a true formal proposal, the City is reduced to speaking in generalities of “key
18 elements” raised or considered by independent individuals or groups on different occasions

21 ³ JuNO takes serious issue with the City’s unsupported assertion that “JuNO mischaracterizes a number
22 of cases cited by the City.” City Response at n. 23. The City points to JuNO’s discussion of Theodore
23 Roosevelt Partnership v. Salazar, 661 F.3d 666 (D.C. Cir. 2011) and League of Wilderness Defenders v. U.S.
Forest Services, 689 F.3d 1060 (2012) in the Cross Motion (at 21-22) but fails to (and, indeed cannot) identify
any mischaracterization by JuNO of the facts or the holdings of those cases, which remain readily
distinguishable from the facts of this Appeal.

1 sporadically over the course of 13 months, none of which, separately or combined, constitute any kind
2 of formal proposal. See City Response at 6:11-20.

3 The recommendations made to former Mayor Murray by his real-estate developer and
4 construction-stacked HALA Advisory Committee did not constitute a formal proposal of the Action
5 Alternatives by the City. Mayor Murray’s private Grand Bargain agreement with developer-backed
6 parties did not constitute a formal proposal, nor did his superficial “Roadmap,” with its single
7 sentence regarding rezoning single-family areas in urban villages. Enactments by the City Council do
8 not constitute formal “proposals” – they constitute legislative activity. Moreover, the cited City
9 Council resolutions and ordinance explicitly excluded consideration of the specific zoning changes
10 and/or determination of specific areas to which such changes would be definitively applied, and did
11 not endorse any particular course of action. The only formal proposal is the MHA legislation itself,
12 which the City transmitted to City Council in February 2018, long after it issued the MHA EIS.⁴

13 **D. The Action Alternatives are Unreasonable Because Each Violates the Comprehensive**
14 **Plan and Necessary Curative Amendments are Not Identified, Described or Docketed.**

15 While the City correctly notes that certain of the facts underlying JuNO’s Cross Motion may
16 form the basis of a Growth Management Act (GMA) challenge in the event of enacted MHA
17 legislation, they are equally relevant to the Hearing Examiner’s evaluation of the reasonableness of
18 the City’s Action Alternatives in the MHA EIS.

19 JuNO does not dispute that certain provisions of the Comprehensive Plan provide for more
20 intensive zoning and additional growth within urban villages. The MHA EIS cites these provisions in
21 detail at Section 2.23. Having cited and relied upon those Comprehensive Plan provisions that are

22 ⁴ See February 2018 OPCD Director’s Report to City Council at
23 www.seattle.gov/Documents/Departments/HALA/Policy/Directors_Report_MHA_Citywide.pdf

1 consistent with its Proposed Action, it was incumbent on the City to identify and describe those
2 Comprehensive Plan provisions that are wholly inconsistent with its proposal and how it would
3 address those inconsistencies.

4 As described in detail in JuNO's Cross-Motion, the Comprehensive Plan incorporates
5 neighborhood planning as the foundation to the implementation of growth tools and planning,
6 especially in urban villages. The Neighborhood Plans and guidelines should have been a primary
7 consideration in the development of action alternatives, and indeed in the development of the MHA
8 EIS itself. Not only did the City ignore those policies in the formulation of its Action Alternative(s),
9 the MHA EIS fails to identify any of the numerous specific policies from the Neighborhood Plans and
10 other areas of the Comprehensive Plan with which its proposal conflicts. Indeed, the City fails to even
11 identify the neighborhoods with conflicting policies by name. The sole reference to such conflicts
12 consists of three dismissive sentences buried deep in Appendix F. Tobin-Presser Decl., Ex. WW at
13 F.11.

14 The City cites King County v. Central Puget Sound Growth Management Hearings Board, 138
15 Wn.2d 162, 979 P.2d 374 (1999) to argue that its choice of alternatives is reasonable, notwithstanding
16 that all three of its Action Alternatives, including its preferred alternative, violate central provisions of
17 the Seattle 2035 Comprehensive Plan. In King County, the court held only that a non-preferred action
18 alternative not authorized under current zoning law could be included among the three EIS action
19 alternatives for comparative purposes. Id. at 184-85. King County does not support finding that the
20 City's Action Alternatives are reasonable.

1 The City fails to acknowledge the MHA EIS' deficiencies with respect to OPCD's not-yet
2 proposed amendments while its own briefing highlights the problems with its approach:

3
4 Modifying [the] neighborhood plan policies is specifically included as part of the
5 proposal. The need for a comprehensive plan amendment cannot render an
6 alternative unreasonable **when such an amendment is part of the proposal and**
7 **the EIS evaluates the impact of the proposal including the proposed**
8 **amendment.** The fact that the amendment has not yet occurred is irrelevant. An
9 alternative may be included in an EIS even if its legal status is contested; for an
10 alternative to be considered it need not be certain or uncontested, but only
11 reasonable.

12 City Response at 16:17-23 (emphasis added; internal citations omitted).

13 The amendment(s) are not, in fact, part of the MHA Proposal. The issue is not that the
14 amendments have not occurred, it is that they have not been proposed at all, nor have any
15 contemplated amendments been described. As previously discussed, at the same time it was preparing
16 the MHA EIS, OPCD was offering amendment alternatives to neighborhoods that are not consistent
17 with the MHA Proposal, and the impacts of which are not considered. Unless those proposed
18 alternatives were not legitimately under consideration (which would carry its own set of problems),
19 the MHA EIS should have identified them and analyzed their impacts.⁵

20 The City has made no meaningful effort to ensure consistency between the Action Alternatives
21 and the Comprehensive Plan, nor has it even attempted to identify the issues. Under the
22 circumstances, the Action Alternatives are not reasonable.

23 **E. The City Failed to Consider Meaningful, Less Impactful Alternatives.**

The City fully understands, yet willfully ignores, the significance of the OPCD's own
conclusion that rezoning all single-family within urban villages to only RSL (rather than LR1, LR2

⁵ Disturbingly, the City accepts as a certainty that its own amendments will be approved by the City Council, whatever they may be, without acknowledging docketed alternative neighborhood-proposed amendments.

1 and LR3) would produce 5,723 affordable units over a 10-year period.⁶ JuNO does not propose this
2 as the definitive alternative as it would still violate nine Neighborhood Plans. Nonetheless, the
3 information calculated by the City establishes that there are clearly one or more reasonable paths to
4 meet the City's four explicitly stated MHA Objectives far more meaningfully, and with far less
5 negative impacts, than the Action Alternatives would do.

6 For example, RSL zoning would still increase housing capacity (MHA Objective 1). Not only
7 would RSL zoning generate 5,723 units in 10 years (achieving 92% of MHA Objective 3's 20-year
8 goal), but it would encourage existing residents to develop their own properties for ADU's and
9 DADU's. This would, in turn, result in retained affordability and decreased displacement of existing
10 residents (MHA Objective 2). Finally, far more than in the Action Alternatives, RSL zoning would
11 distribute the benefits and burdens of growth equitably (MHA Objective 4). While urban villages are
12 anticipated to take on growth, it is inequitable to unnecessarily rezone these neighborhoods in a way
13 that will almost certainly cause negative impacts including loss of trees and yards, replacement of
14 existing naturally occurring affordable family-sized housing with market-rate housing; displacement
15 of existing residents, negative height, bulk and scale impacts, increase in traffic and parking
16 congestion, and lack of sufficient infrastructure to meet rapid and sharp increase in density.

17 There are urban villages that do not have Neighborhood Plans inconsistent with a proposed
18 upzone from single family to lowrise that may welcome significantly increased development. Others
19 may be willing to accommodate solely RSL upzones and may consent to consensual Neighborhood
20 Plan amendments. There is likely a neighborhood consensus in at least some of the existing multi-
21 family zoned areas for a larger zoning increase than proposed, as an alternative to replacing single
22

23 ⁶ Without support, the City concludes that the 20-year goal of 6,200 affordable units set forth in MHA
Objective 3 would not be realized. The 5,723 figure is a 10-year estimate, not a 20-year estimate.

1 family zoning. The relevant point is that the City failed to evaluate reasonable alternatives that would
2 achieve its stated MHA Objectives with less impact.

3 4 II. PHASED REVIEW

5 A. Under the Circumstances, Violating the Comprehensive Plan is a SEPA Issue.

6 The City characterizes the MHA EIS as part of a phased review in which the Comprehensive
7 Plan EIS constitutes the prior phase.⁷ Its phased review may narrow and limit its study of impacts and
8 choice of alternatives to “issues that are ready for decision” and to “exclude issues already decided”.⁸
9 This places the determination of the reasonableness of the Action Alternatives, in light of the
10 Comprehensive Plan, squarely before the Hearing Examiner as part of the SEPA review.

11 The Seattle 2035 Comprehensive Plan and the Comprehensive Plan’s environmental impact
12 statement (the “Seattle 2035 EIS”) are closely related documents. The Seattle 2035 EIS studied
13 potential growth strategies and their impacts. The Seattle 2035 EIS’ preferred alternative was to
14 concentrate growth in urban villages and urban centers with high frequency transit. In general terms,
15 the Seattle 2035 EIS recommended raising growth targets and zoning intensity levels in the urban
16 villages.

17 In tandem with the Seattle 2035 EIS, the Seattle 2035 Comprehensive Plan set forth the
18 general principles for implementing such growth strategies in urban villages, clearly indicating that
19 neighborhood planning would at all times be fundamental to such implementation. The Seattle 2035
20 EIS did not recommend removing or voiding neighborhood plan policies in the implementation of its
21 preferred approach. In adopting the Seattle 2035 Comprehensive Plan that includes both the urban

22 ⁷ FEIS at page ix.
23 http://www.seattle.gov/Documents/Departments/HALA/Policy/MHA_FEIS/Compiled_MHA_FEIS_2017.pdf

1 village growth strategy and Neighborhood Planning (comprising the largest section of the
2 Comprehensive Plan), the City tacitly acknowledged that the two are compatible and explicitly
3 specified the manner in which consistency should be maintained, which does not include
4 circumventing neighborhood planning through undisclosed amendments:

5 Moving forward, community planning will be an integrated and equitable approach to identify
6 and implement a community's vision for how **their** neighborhood will grow. Plans will reflect
7 the history, character, and vision of the community but also remain consistent with the overall
8 citywide vision and strategy of the Comprehensive Plan. Creating and implementing
9 community plans ... can provide more specific guidance than the citywide policies do for areas
10 where growth and change are occurring or desired. . . . **The City will undertake community
11 planning to review and update current neighborhood plans**, as well as to address ongoing
12 and emerging issues.

13 Tobin-Presser Decl., Ex. I at 165-66 (emphasis added).

14 **B. MHA EIS' Nondisclosure Precludes Identification of Specific Defects.**

15 The MHA EIS' vaguely declares its intention to modify Neighborhood Plans with respect to
16 "elements of the proposed action concerning changes to single family zones within urban villages."
17 Elements of the proposed action that would have an impact in single family zones is extensive,
18 spanning the entire range of mandatory impacts to be considered by an EIS including displacement,
19 aesthetics/height bulk and scale, biological resources, historic and cultural resources, transportation
20 and infrastructure. See JuNO's Comment to Draft EIS.

21 The City improperly places the burden on JuNO and other neighborhoods to determine which
22 provisions the City views as conflicting and to then anticipate how the City may propose to modify
23 such provisions. Consequently, it must be assumed that any portion of the Neighborhood Plans
involving EIS impacts may be the subject of the unidentified amendments to achieve retroactive

⁸ WAC 197-11-060(5)(b)

1 consistency. Moreover, since the MHA EIS fails to recognize in any way the Comprehensive Plan's
2 Community Involvement policies providing for neighborhood (not citywide) planning when updates
3 to Neighborhood Plans are appropriate, it must be further assumed that the City intends to exercise
4 these policies through its unspecified amendments.

5 It is not clear whether these or other proposed amendments to the Comprehensive Plan would
6 trigger a Determination of Significance requiring EIS consideration. It is not obvious how the Seattle
7 2035 EIS may have been scoped or what impacts would have been revealed through analysis and
8 public scrutiny if the City had identified implementation of the urban village growth strategy without
9 neighborhood planning, and without intact Neighborhood Plans in connection with the Seattle 2035
10 Comprehensive Plan.

11 It is clear, however, that these factors were not considered during the Seattle 2035 EIS study or
12 public comment periods, notwithstanding that the City knew at that time that it intended to proceed
13 with MHA despite its inconsistencies with neighborhood planning. The public was not invited to
14 comment on whether the Seattle 2035 EIS' preferred alternative for urban villages should still be
15 preferred where it required the removal of Neighborhood Plan policies such as those affording
16 protection to single-family areas within urban villages.

17 The MHA EIS relies on a set of future, undeclared Comprehensive Plan amendments that may
18 ultimately void the validity of the very Seattle 2035 EIS and Comprehensive Plan that forms the basis
19 of the City's purported use of phased review. Consequently, the Hearing Examiner should grant
20 summary judgment in JuNO's favor and find that the City is improperly utilizing phased review.

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1 **C. OPCD May Not Decree Which Existing Comprehensive Plan Policies are Entitled to**
2 **Greater Weight or Permanence.**

3 The MHA EIS recites that the Seattle 2035 Comprehensive Plan and the related Seattle 2035
4 EIS are the context or basis from which the City formulated the Action Alternatives.⁹ Likewise, the
5 City identifies these documents as two of the four broader documents from which its purported phased
6 review flows.¹⁰ See MHA EIS Section 1.3, and 2.2 (the “Planning Context”). The introduction of the
7 Action Alternatives directly follows the Planning Context discussion.¹¹

8 JuNO’s Cross Motion provided a historical background of the Neighborhood Plans their
9 inclusion in the Comprehensive Plan. OPCD labels these facts as irrelevant yet proceeds to fill the
10 record with selective examples of legislative ordinances and resolutions, non-public OPCD
11 memoranda regarding purported amendment activity, and Mayor Murray’s privately negotiated
12 “Grand Bargain,” in an attempt to legitimize its selection of Action Alternatives.¹² Unlike the
13 Neighborhood Plan policies, none of the activities cited by OPCD had any relevance in the
14 preparation or consideration of the Seattle 2035 EIS nor are their provisions included in the Seattle
15 2035 Comprehensive Plan. OPCD may not use its pleadings to amend the EIS or recharacterize the
16 basis of its purported phased review.

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19 ⁹ “The Seattle 2035 Comprehensive Plan and EIS provide key context for the MHA proposed action,
and this EIS builds on prior analysis”, MHA EIS at (page) 1.4.

20 ¹⁰ FEIS at ix.

21 ¹¹ FEIS Section 1.4 introduces the Alternatives.

22 ¹² City’s Motion for Partial Dismissal, section III(A) states its narrative of the “Background of MHA”,
23 and also refers to legislative context in the City Omnibus Response, page 6:16-18. This material is not found in
the EIS itself. The EIS declares its Planning Context clearly in Section 1.3 and 2.2. The City may not amend
the EIS through its pleadings.

1 OPCD also dismisses the policies and guidelines of the current form of the Comprehensive
2 Plan cited by JuNO, stating that these policies and guidelines must not be given weight in the
3 definition of Alternatives lest they create undue “permanence.” While JuNO agrees that no legislation
4 is permanent, the current form of legislation and its corresponding EIS must carry weight in order to
5 be of any practical use at all. Notably, OPCD has chosen to ascribe certain provisions of the Seattle
6 2035 Comprehensive Plan and the Seattle 2035 EIS significant weight and permanence of its own by
7 picking and choosing those sections supportive to its chosen outcome on the basis that these
8 provisions (like those cited by JuNO) have had the benefit of public review and discourse. The MHA
9 EIS lists each Comprehensive Plan policy that is consistent with the proposal. The MHA EIS does
10 not, however, name which specific provisions of the Comprehensive Plan are inconsistent. The City’s
11 purported “summary” of the Comprehensive Plan consistencies and inconsistencies are clearly biased
12 towards those that are consistent.¹³ Its coverage of inconsistencies is simply too general to be of use
13 as a means to understand their scope, especially in light of the degree of specificity that OPCD
14 deemed reasonable with regards to the Comprehensive Plan’s consistencies.

15 OPCD may not (1) cite the Comprehensive Plan, its EIS, and phased review as rationale to
16 narrow analysis and public discussion of Action Alternatives; and then (2) draw selectively from the
17 Comprehensive Plan only those elements that support its proposal, while (3) omitting and dismissing
18 relevant elements that it finds inconvenient.¹⁴

21 ¹³ WAC 197-11-440(6)(d)(i) requires a summary of existing plans and how they are consistent **and**
22 inconsistent with them.

23 ¹⁴ The EIS specifically enumerates the relevant Comprehensive Plan policies and goals that it finds
supportive on p.2.23. Relevant policies and goals from Neighborhood Plans are not similarly acknowledged
and enumerated.

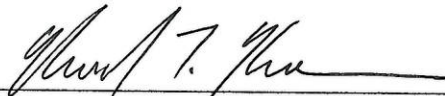
1 The Comprehensive Plan and its EIS were proposed as a unit, discussed publicly as a unit, and
2 passed into legislation as a unit. OPCD now improperly seeks to dismiss portions inconsistent with its
3 chosen outcome and to deny the public the opportunity to evaluate alternatives that would represent a
4 true phased implementation of the Seattle 2035 Comprehensive Plan.

5 **III. CONCLUSION**

6 Based on the foregoing, JuNO respectfully renews its request that the Court grant JuNO's
7 Cross Motion for Summary Judgment finding (a) that the MHA FEIS failed to identify any reasonable
8 alternatives; and (b) that the City may not utilize phased review based on the Seattle 2035 EIS and the
9 Seattle 2035 Comprehensive Plan, where its narrowed course of action relies upon exercising central
10 provisions of those very documents.

11 DATED this 15th day of May, 2018.

12
13 JUNCTION NEIGHBORHOOD
ORGANIZATION

14
15 By 
16 Richard Koehler, Legal Representative
Christine M. Tobin-Presser, Member