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BEFORE THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In Re: Appeal by

DISCOVERY PARK COMMUNITY ALLIANCE, a
nonprofit corporation, and ELIZABETH A. CAMPBELL,
an individual

Of the CITY OF SEATTLE, FINAL ENVIRONMENTAL
IMPACT STATEMENT for the Fort Lawton Army
Reserve Center Redevelopment Project

NO.

NOTICE OF APPEAL

I. INTRODUCTION

1. Appellant Discovery Park Community Alliance (DPCA) is an alliance of people and organizational interests that altogether represent Seattle residents who will be significantly and adversely impacted by the proposed City of Seattle’s Fort Lawton Redevelopment Project.

2. Appellant Elizabeth Campbell is a resident of Seattle who will be significantly and adversely impacted by the proposed City of Seattle’s Fort Lawton Redevelopment Project.

II. APPELLANT INFORMATION

1. Appellant #1

Name: Discovery Park Community Alliance (DPCA)
Address: c/o Elizabeth Campbell
4027 21st Avenue West Suite 205
Seattle, WA 98199
Phone: 206.769.8459
Email: dpcaccontact@gmail.com

1 I wish to receive documents from the Office of the Hearing Examiner by
2 Email Attachment.

3 **2. Appellant #2**

4 Name: Elizabeth A. Campbell
5 Address: 4027 21st Avenue West Suite 205
6 Seattle, WA 98199
7 Phone: 206.769.8459
8 Email: neighborhoodwarrior@gmail.com

9 I wish to receive documents from the Office of the Hearing Examiner by
10 Email Attachment.

11 **III. DECISION BEING APPEALED**

- 12 1. **Decision Appealed:** DPCA and Campbell are appealing the City of Seattle Office of
13 Housing's Final Environmental Impact Statement (FEIS), dated March 29, 2018, for
14 the proposed Fort Lawton Army Reserve Center Redevelopment Project (hereinafter
15 referred to as the "FLARC FEIS" or the "FEIS") that it is inadequate, as is the US
16 Army Corps of Engineer 2012 Environmental Assessment upon which the FEIS is in
17 large part predicated upon and vis-a-versa.
- 18 2. **Property address of Decision being appealed:** The study area for the FLARC FEIS
19 includes the approximately 34-acre Fort Lawton Army Reserve site, bordered by West
20 Lawton Street to the north, 36th Avenue West to the east, West Government Way to the
21 south and Discovery Park to the west.
- 22 3. **Elements of decision being appealed.** Check one or more as appropriate:
- | | |
|--|---|
| <input checked="" type="checkbox"/> Adequacy of Conditions | <input type="checkbox"/> Other (specify:_) |
| <input type="checkbox"/> Design Review and Departure | <input type="checkbox"/> Variance (Departures) |
| <input type="checkbox"/> Conditional Use | <input checked="" type="checkbox"/> Adequacy of EIS |
| <input type="checkbox"/> EIS not required | <input type="checkbox"/> Interpretation (See SMC 23.88.020) |
| <input type="checkbox"/> Major Institution Master Plan | <input type="checkbox"/> Short Plat |
| | <input type="checkbox"/> Rezone |

23 **IV. APPEAL INFORMATION**

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

25 Appellant Discovery Park Community Alliance (DPCA) is an alliance of people and
26 organizational interests that together represent Seattle residents, property owners, local and
regional stakeholders of every kind who will be significantly and adversely impacted by the
proposed City of Seattle Fort Lawton redevelopment project.

1 The DPCA, its officers, members, partners, associates, and supporters jointly and severally
2 participate in a range of Discovery Park related matters as an oversight and advisory
3 organization, as a park programming partner, as a critical community partner, in the
4 administration and maintenance of Discovery Park, as an advocate and caretaker of Discovery
Park's historical legacy, and as users and consumers of the natural and structured environment
located at Discovery Park and nearby.

5 Chief among DPCA's roles at Discovery Park it is acting as an advocate for the completion
6 of the park's decades old Discovery Park Plan element, that of annexing the last remaining
7 piece of land of the former Fort Lawton army base to Discovery Park, the natural, practical, and
historically correct outcome of this matter – that will benefit the people of Seattle and the Puget
Sound region for the next century.

8 DPCA is an all volunteer organization of passionate citizens that includes many property
9 owners adjacent to the Fort Lawton Army Reserve and community partners as its members – all
10 dedicated to sustaining the Discovery Park legacy, land base, and expanding it to include the
addition of the Fort Lawton property to Discovery Park.

11 Appellant Elizabeth Campbell is a local resident of the Magnolia neighborhood of Seattle
12 wherein Discovery Park is located. Campbell is an advocate for citizen, neighborhood, and
13 general community rights and interests. She is a longtime user and patron of Discovery Park
and a longtime advocate for annexing the Fort Lawton property to Discovery Park.

14 Campbell is the founder and executive director of the Discovery Park Community Alliance.
15 She is also the founder and director of the Magnolia Neighborhood Planning Council that in
16 2009 led a lawsuit on behalf of that organization and property owners against the City of Seattle
17 seeking to compel the City to conduct a SEPA review of the City's redevelopment plans for
18 Fort Lawton. That lawsuit was successfully prosecuted, upheld on appeal, and is case law,
referenced in many court and administrative cases involving environmental law procedure as
Magnolia Neighborhood Planning Council v. City of Seattle 155 Wn. App. 305, 230 P.2d 190,
review denied, 170 Wn.2d 1003, (2010).

19 Both appellants believe that the subject Fort Lawton property is a natural extension of the
20 existing Discovery Park and that using the land for park and recreational purposes is preferable
21 to using it instead for an out of scale housing development that will foreclose any opportunity to
22 for the final time add to the land base of Discovery Park, that will foreclose any expansion of
the natural and recreational opportunities and experiences at the park.

23 The appellants are advocating to utilize the connected space of Fort Lawton to expand on
24 the natural, social, and recreational elements of Discovery Park, and for the preservation of as
much of the existing structures and natural environment at Fort Lawton as is possible.

25 The appellants believe that building a 238 unit, intensive mixed use, residential, shelter,
26 medical, behavioral, and custodial care housing and social services compound with upwards of
600 residents, an untold number of off-site clients that will visit the site for services, with
upwards of 60 support staff required to be onsite daily in order to operate and maintain the

1 peace, order, and sustainability of the compound, along with the concomitant vehicles owned
2 and operated as part of the compound's existence, estimated to be upwards of over 325 vehicles,
3 and hundreds of road trips daily to and from the location, all directly next to Discovery Park as
4 proposed by the City of Seattle, that severally, collectively, and cumulatively, that the cited
5 project elements will have very adverse effects, an untold number of negative impacts upon the
6 natural environment of Discovery Park *and* even upon its likewise nature-based and oriented
neighbor, Daybreak Star, *and* upon the surrounding natural common areas of the residential
neighborhood, the West Point shoreline area, the Kiwanis Memorial Preserve Park and its
ravine and heron habitat, the Salmon Bay body of water proper and its estuaries, and upon the
northwest region of the Magnolia neighborhood in general.

7 **Housing compounds of the scales and types proposed by the City of Seattle and its**
8 **partners, Catholic Community Services and Habitat for Humanity and others at Fort Lawton**
9 **location, be they market rate or otherwise, will severely impact the natural urban park**
10 **experience at Discovery Park, not to mention will negatively impact the natural, social, cultural,**
11 **and built environments, locally and citywide.**

12 The appellants also believe that the FEIS is **fatally flawed**, that it does not adequately
13 identify and examine the impacts of the preferred alternative, number one, or that of number
14 two, that in either case they would be a fatal and irreversible departure from the goals of the
15 Discovery Park Master Plan. None of which was addressed in the FEIS.

16 For all the reasons enumerated above and for those detailed below, appellant Discovery
17 Park Community Alliance and appellant Elizabeth Campbell are appealing the Fort Lawton
18 Final Environmental Impact Statement, declaring that it is inadequate, as is its companion the
19 US Army Corps of Engineers NEPA Environmental Assessment that the City of Seattle FEIS is
20 in part predicated upon, and that in the process of this matter the USACE and the City of Seattle
21 have failed to comply with the legally mandated procedures for the Base Realignment and
22 Closure processes – all of which dictates that the administrative and environmental review
23 processes associated with the redevelopment of Fort Lawton must be remanded back to the City
24 and USACE, restarted and done in a legally proper and sufficient manner.

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

27 Paragraphs I through IV above are incorporated herein by reference in their entirety and
28 for any and all purposes as if fully set forth herein.

29 The City of Seattle Office of Housing's decision that the FLARC FEIS is adequate was
30 made in error and was made in violation of the State Environmental Policy Act (SEPA), RCW
31 43.21C, for the following reasons:

32 **A. Alternatives 2, 3, and 4 are not "reasonable alternatives" as required by SEPA.**

33 The FEIS does not comply with the requirements of SEPA because it fails to propose
34 "reasonable alternatives" to the preferred Alternative 1 and fails to provide the City of Seattle, as

1 the decision maker, with sufficient information to make a reasoned decision between the four
2 alternatives.

3 The underlying purpose of SEPA is to avoid environmental degradation, to preserve, and
4 even to enhance environmental quality by requiring the actions of local government agencies to
5 be based on sufficient environmental information and be in accord with SEPA's substantive
6 polices. RCW 43.21C.030(2), .030(1), .060. To accomplish this, SEPA requires preparation of
7 an environmental impact statement ("EIS") to provide the decision maker with "sufficient
8 information to make a reasoned decision." *Citizens Alliance To Protect Our Wetlands v. City of
9 Auburn*, 126 Wn.2d 356, 362, 894 P.2d 1300 (1995). The process of preparing an EIS

7 "...is intended to assist the agencies and applicants to improve their plans and
8 decisions, and to encourage the resolution of potential concerns or problems
9 prior to issuing a final statement. An environmental impact statement is more
10 than a disclosure document. It shall be used by agency officials in conjunction
11 with other relevant materials and considerations to plan actions and make
12 decisions."

11 WAC 197-11-400(4).

12 An adequate EIS clearly, concisely, and impartially describes a proposal's significant
13 impacts and environmentally preferable alternatives, including mitigation measures. WAC 197-
14 11-400(3), 400(4). The EIS must be reliable and backed by sufficient environmental analysis.
15 WAC 197-11-400(2)-(3). The EIS must be prepared early enough to inform and guide decision
16 makers, rather than simply rationalize or justify decisions already made. WAC 191-11-406. *See
17 Barrie v. Kitsap County*, 93 Wn.2d 843, 613 P.2d 1148 (1980). SEPA seeks to inform and guide
18 decisions in part through the consideration of "reasonable alternatives," which are defined by the
19 SEPA regulations as:

17 an action that could feasibly attain or approximate a proposal's objectives, but at
18 a lower environmental cost or decreased level of environmental degradation.
19 Reasonable alternatives may be those over which an agency with jurisdiction has
20 authority to control impacts, either directly, or indirectly through requirement of
21 mitigation measures. (See WAC 197-11-440(5) and 197-11-660.)

20 WAC 197-11-786.

21 If there is information on significant adverse impacts that is essential to a reasoned choice
22 among alternatives and the costs of obtaining such information are not exorbitant, the lead agency
23 must obtain the information and include it in an environmental impact statement. WAC 197-11-
24 080(2). *See Methow Valley Citizens Council v. Regional Forester*, 833 F.2d 810 (9th Cir. 1987).

24 Housing states that "[t]he purpose of the project is to create an affordable, livable
25 community with safe, high quality housing options for those with low or no incomes, and to meet
26 the growing demand for open space and recreational opportunities." FEIS at p. 424. Housing
selected Alternative 1 as the preferred alternative, which calls for the construction of 238 units of
high-density affordable housing and limited park uses on the Fort Lawton site.

1 The FEIS provides three alternatives to the preferred Alternative 1, none of which are
2 “reasonable alternatives” as required by SEPA for the reasons discussed below. Alternative 2
3 proposes development of 113 market-rate single-family units on the Fort Lawton site with no park
4 space, and off-site affordable housing at the Talaris site. Alternative 3 proposes a public park on
5 Fort Lawton, and off-site affordable housing at the Talaris site. Thus, Alternatives 2 and 3 rely
6 entirely on the feasibility of developing 238 units of affordable housing at the Talaris site.

7 The FEIS fails to evaluate any other potential off-site location for affordable housing
8 besides Talaris, stating that the Talaris site:

9 “...is included only as an example of a possible off-site alternative for the
10 affordable and formerly homeless housing. It is provided in order to
11 conceptually analyze probably adverse impacts that would be expected with
12 redevelopment at that site or other off-site locations in the City. Additional more
13 detailed SEPA review of the Talaris site, or another off-site location, would be
14 required should that or another site ultimately be selected for the affordable and
15 formerly homeless housing.”

16 FEIS at p. 1-1 (emphasis added).

17 Under the FEIS, Alternatives 2 and 3 do not present “reasonable alternatives” because
18 there is absolutely no information in the FEIS that allows a decision maker to make a reasoned
19 decision as to whether the off-site affordable housing of those alternatives, combined with the
20 proposed uses of the Fort Lawton site, could feasibly attain or approximate the affordable housing
21 objectives of Alternative 1, but at a lower environmental cost or decreased level of environmental
22 degradation. See WAC 197-11-786. This vital information is not difficult or expensive to obtain.
23 Housing could identify and evaluate specific sites in Seattle in addition to Talaris that offer
24 opportunities for affordable housing development to offer feasible alternatives to the proposed
25 Alternative 1.

26 Furthermore, Housing’s reliance on acquiring the Talaris site – one of the most expensive
properties in the City (last sold for \$15.6 million in 2000), it is zoned for single-family residential
use and subject to a 1991 binding *Settlement Agreement and Covenants Running With the Land*
and includes amendments thereto between the property owner and the Laurelhurst Community
Club which set parameters for expansion at the site and provide for mitigation. The site is
designated as an Institute for Advanced Study under the Settlement Agreement as well as under
the City’s Land Use Code. There are also covenants in the Settlement Agreement that apply to
the Talaris site regarding wetlands and landscape maintenance. In 2013 the site received a
landmark designation, with “controls and incentives” which implement the landmark designation
in the offering. The Settlement Agreement and its control over the development of the Talaris site
and other issues associated with it was not analyzed in the FEIS. Housing claims in the FEIS that
the Talaris site is a mere example, however it goes on to analyze the site as its off-site affordable
housing alternative as if it were a realistic, reasonable, and achievable alternative, as the *only*
alternative that would preserve Fort Lawton as a public park is inherently unreasonable.

At the same time the Talaris site is not a reasonable site because the City of Seattle does
not control it or even have a chance of acquiring it. In January, 2018 it was publicly announced

1 that Quadrant Homes has agreed to buy Talaris and proposes building 63 single-family homes on
2 large lots on the site, estimated to sell for about 2 million dollars each. With Talaris off the market
3 and no other off-site opportunities identified or evaluated by Housing for affordable housing,
4 Alternatives 2 and 3 cannot meet the definition of “reasonable alternatives.” Without Alternative
5 3, the only alternative that would provide park space, the FEIS utterly fails to address the adverse
6 environmental impacts that development of hundreds of units of housing will have on some of
7 the last remaining open space in the City.

8 **The lack of reliable analysis of the preferred Alternative 1 against Alternatives 2 and 3
9 suggests that the FEIS is simply rationalizing or justifying a decision already made by Housing
10 to pursue 238 (237) units of affordable housing at Fort Lawton without regard for reasonable
11 alternatives that would avoid the irreversible environmental degradation that Alternative 1 will
12 cause. This is impermissible under SEPA. WAC 197-11-406 (EIS “will not be used to rationalize
13 or justify decisions already made”).**

14 Without Alternatives 2 and 3, only preferred Alternative 1 and Alternative 4 of “no-
15 action” remain. SEPA mandates that the “no-action” alternative be evaluated and compared to
16 the other alternatives. WAC 197-11-440(5)(b)(ii). The EIS must “[p]resent a comparison of the
17 environmental impacts of the reasonable alternatives, and include the no action alternative.”
18 WAC 19-11-440(5)(b)(vi). An EIS that evaluates only a proposed Alternative and no-action
19 alternative may be deemed inadequate for not analyzing a sufficient range of alternatives. *Town
20 of Woodway v. Snohomish Cty.*, 180 Wn.2d 165, 171, 322 P.3d 1219 (2014) (“growth board found
21 that the county’s EIS was faulty because it did not consider multiple alternatives . . . —the only
22 alternative it considered was no change at all.”); *Davidson Serles & Assocs. v. Cent. Puget Sound
23 Growth Mgmt. Hearings Bd.*, 159 Wn. App. 148, 152–53, 244 P.3d 1003 (2010) (noting that the
24 Growth Board found an EIS inadequate because it did not analyze a sufficient range of
25 alternatives).

26 Alternative 4 is not a reasonable alternative to the proposed Alternative 1 because it does
not attain any of the objectives of the proposal. WAC 197-11-786 (a reasonable alternative is “an
action that could feasibly attain or approximate a proposal’s objectives”); *Friends of First United
Methodist Church v. City of Seattle*, 130 Wn. App. 1031 (2005) (decision not reported in P.3d)
(alternative was not reasonable because it did not attain the project goals). Under Alternative 4,
Fort Lawton would remain in its existing condition, not serving any public open space,
recreational, or housing purposes and, therefore, not fulfilling any of the objectives of Housing’s
Fort Lawton Reserve Center Redevelopment Project.

Because Alternatives 2, 3, and 4 are not reasonable alternatives, as defined under the
SEPA rules, proposed Alternative 1 is the only real alternative left in the FEIS. **With Alternative 1
standing alone with no reasonable alternative to compare its environmental impacts against, the
FEIS accomplishes nothing more than rubber-stamping approval of Housing’s proposed
Alternative 1. This is inadequate under SEPA. See WAC 191-11-406. See *Barrie v. Kitsap
County*, 93 Wn.2d 843, 613 P.2d 1148 (1980). The entire purpose of an EIS is to provide
reasonable alternatives of a reasonable number and range to provide essential information on
adverse environmental impacts that allows for a reasoned choice among alternatives.
Weyerhaeuser v. Pierce Cty., 124 Wn.2d 26, 41, 873 P.2d 498 (1994) (“There must be a**

1 reasonably detailed analysis of a reasonable number and range of alternatives.”). The FEIS for
2 the Fort Lawton Reserve Center Redevelopment Project fails to meet this standard because it
3 offers only one feasible alternative: preferred Alternative 1. Contrary to SEPA, the FEIS leaves
4 no opportunity for a reasoned choice among other alternatives that could be feasibly attained or
5 approximate the project’s objectives.

6 Housing should, at a minimum, revise the FEIS and issue a Supplemental EIS(s) to offer
7 and evaluate “reasonable alternatives that would mitigate adverse effects of proposed actions on
8 the environment,” as required by SEPA. WAC 197-11-030(1)(g). The alternatives should include
9 at least one off-site alternative that could feasibly attain or approximate the goals of the project.
10 *See* WAC 197-11-400(5)(d). To have fully evaluated the impacts to the environment, the FEIS
11 should include at least one reasonable alternative that preserves all of Fort Lawton as public park
12 space. If preservation of Fort Lawton as a park must be tied to the provision of affordable housing,
13 Housing should propose an off-site location that presents a feasible opportunity for development
14 of affordable housing.

15 **B. The FEIS fails to disclose and analyze probable significant adverse impacts associated**
16 **with Seattle Public School uses at Fort Lawton.**

17 On November 20, 2017, the City of Seattle and Seattle Public Schools (“SPS”) entered
18 into a Partnership Agreement¹ whereby the City and SPS agreed to a collaborative partnership to
19 “jointly achieve unique opportunities for developing SPS facilities, including SPS [*sic*] in the Fort
20 Lawton Redevelopment Plan.” The detailed agreement includes provisions for a joint
21 development agreement, partnership and financial commitments, and mobility planning. While
22 the agreement sets forth plans to utilize a portion of the Fort Lawton property for a range of
23 school-related uses, and both the City and Seattle and SPS have made numerous public statements
24 that a portion of the Fort Lawton property is being land banked for a future school; and in order
25 to avoid having to include such a use in the FLARC EIS process Housing and SPS have agreed
26 to a pretense that SPS is interested in the land only as “playfields” in order to avoid changing the
makeup of Alternative 1, and by extension to avoid having to analyze that aspect in the present
BRAC/EIS process. The FEIS states that the environmental impacts of such a partnership or
independent action by SPS would be evaluated at a later date. FEIS at p. 2-6 to 2-8. This position,
the piecemealing of a project, is untenable under SEPA. SEPA requires that a proposal identify
all the related and interdependent pieces of the proposal. Actions are related if they are dependent
on each other. In this case, SEPA dictates that Alternative 1 and the SPS proposal/partnership
must be considered together as one proposal in the same environmental document. *See* WAC
197-11-060(3)(b).

SEPA requires agencies to disclose the reasonably foreseeable impacts of its proposals.
The disclosure of impacts related to SPS uses is governed by WAC 197-11-080, which

¹ The agreement is titled, “Seattle Public Schools and City of Seattle Public Process Partnership Agreement: School District Facilities, Fort Lawton, Memorial Stadium, and Seattle Center.”

1 necessitates additional disclosure, or a worst-case analysis be advanced, concerning the impacts
2 of SPS uses at Fort Lawton.

3 **C. The FEIS fails to evaluate numerous significant, adverse environmental impacts of**
4 **each of the proposed alternatives.**

5 In addition to the failure of the FEIS to provide reasonable alternatives to preferred
6 Alternative 1, as described in Section 1 above, the FEIS is inadequate in its analysis of numerous
7 adverse environmental impacts of each of the alternatives. Without sufficient analysis, it is
8 impossible for a decision maker to make a reasoned decision on the proposal. The deficiencies
9 of the FEIS in its analysis of adverse environmental impacts are summarized below. Revision of
10 the FEIS before publishing the FEIS is required to address each of these deficiencies.

11 **Land Use**

12 The FEIS does not adequately address the land use issues accompanying its preferred
13 Alternative 1, or Alternatives 2 or 3. As the City acknowledges, the Fort Lawton property is
14 currently zoned Single-Family 7200, surrounded by areas zoned 7200 and SF 5000, with minimal
15 Lowrise 3, NC1 and NC2 to the southeast. Even if the City rezones the Fort Lawton area away
16 from single-family, such a rezone would remain inconsistent with the rezone factors in the Land
17 Use Code and cut against many of the policies of the Comprehensive Plan. Development in the
18 Fort Lawton area of high-density housing will have irreversible negative impacts, and will
19 undermine the growth in urban centers and urban villages envisioned by in the Comprehensive
20 Plan.

21 The Key Findings in the Land Use section of the FEIS (§ 3.6 (1-7)) state:

22 Alternative 1 would require that a portion of the Fort Lawton site be rezoned
23 from the existing SF 7200 zoning to Lowrise residential zoning (e.g. LR 2 (M1))
24 . . .

25 Alternative 1 and 2 [*sic*, believed to refer to Alternatives 2 and 3] would require
26 that a portion of the Talaris site be rezoned from SF 5000 to lowrise residential
zoning (e.g. LR 2 (M1); a Comprehensive Plan amendment would also be
required to allow for a rezone to LR2 (M1) zoning. FEIS (§ 2 (2-39))

In the FEIS's discussion of the fact that both sites require a rezone under one or more of
the alternatives, Housing has not met its obligation to weigh and balance the provisions of the
rezone criteria laid out in SMC 23.34. SMC 23.34.007.A. The Code states:

The most appropriate zone designation shall be that for which the provisions for
designation of the zone type and the locational criteria for the specific zone
match the characteristics of the area to be rezoned better than any other zone
designation.

SMC 23.34.008.B.

1 Specifically, the Code states that an area zoned single-family may *not* be rezoned to
2 multifamily. SMC 23.34.013. A rezone to something more intensive than single-family is not
3 appropriate unless the City Council determines the single-family zoned area does not meet the
4 criteria for single family designation. SMC 23.34.010.

5 The rezone criteria also indicate a gradual transition between zoning categories is
6 preferred. SMC 23.43.008.E. The City’s proposal to alter the zoning of the Fort Lawton site is
7 not in alignment with the rezone policy of gradual transition, as evidenced by the City’s Figure
8 3.6-3; a rezone would dramatically alter the greater Fort Lawton and Magnolia area.

9 When discussing the rezones that would be required for both sites under Alternatives 1, 2
10 and 3, the FEIS states that the applicant will prepare a rezone proposal for Alternative 1, and City
11 Council approval would be required. The FEIS relies speculatively on future actions, such as
12 amendments to Subchapter II of SMC 23.42, and summarily states that “the relationship of the
13 project to the criteria in SMC 23.34.008 will be evaluated” when an application for a rezone is
14 made. This does not adequately address the Code’s rezone criteria. While the FEIS addresses
15 some aspects of the rezone criteria—describing the historic land use patterns and current zoning—
16 it does not provide a reasoned and complete analysis of how such a rezone application would
17 conform to the Code. Given that a rezone would be pivotal to using either Fort Lawton or Talaris
18 for affordable housing development, Housing’s failure to specifically address the rezone criteria
19 in SMC 23.34 fails to provide the decision maker with information needed to make a reasoned
20 decision on the proposal.

21 With respect to the Talaris site (or some other, unidentified site for off-site affordable
22 housing), the FEIS again fails to analyze the criteria for rezoning the site from Single-Family
23 5000 to Lowrise (LR2). The Talaris site is surrounded by areas zoned primarily SF 5000, with
24 some NC2 and LR3 to the north. The *City of Seattle 2035 Comprehensive Plan* designates future
25 land use of Talaris as single-family residential, not Lowrise; as well as its litigious neighbors, the
26 Laurelhurst Community Club hold a Damacles Sword so to speak over the Talaris site, ready to
challenge any development that does not meet with their approval. As with the Fort Lawton site,
without any analysis of the rezone criteria, the feasibility of a rezone, or of the impact of the
Settlement Agreement and Landmark designation it is impossible for Housing to make a reasoned
decision among preferred Alternative 1 and Alternatives 2 and 3.

The FEIS fails to also consider the effect of the City’s Mandatory Housing Affordability
(MHA) program on the Alternatives. The implementation of the MHA/HALA programs may
allow for higher building heights and greater density at the Fort Lawton or Talaris site – none of
which has been analyzed in the FEIS.

Recreation and Open Space

The FEIS fails to address how its alternatives conform to the City’s Comprehensive Plan
and other goals for open space. City policies include, “[p]reserve and reclaim park property for
public use and benefit, and ensure continued access to parkland for the growing population,” with
goals of considering “retaining City-owned properties that are in environmentally critical areas
as natural areas.” *Comprehensive Plan* (P. 3.6); *id.* at 70 (LU 17.26). Developing Fort Lawton

1 with affordable or market-rate housing works against the identified policy to “[e]nhance wildlife
2 habitat by restoring forests and expanding the tree canopy on City-owned land.” *Id.* at 142.

3 The FEIS forecloses a park-only alternative. The FEIS points out that, during the scoping
4 process, requests for a park-only alternative were turned away because such an analysis did not
5 further the City’s mission to increase affordable housing within the City. FEIS at p. 2-8.
6 However, the Comprehensive Plan states it is a policy of the city to “[m]ake the most of the
7 limited available land by developing parks and open spaces so that they can accommodate a
8 variety of active and passive recreational uses.” Comprehensive Plan at 140 (P 1.13). The City
9 has a unique opportunity in the Fort Lawton site to demonstrate its commitment to open space
10 and recreation for all future residents. **The significance of open space is apparent now more than
11 ever, as Seattle is one of the fastest-growing cities in the country.** Housing’s decision to disregard
12 a park-only alternative, and to disregard the opportunity to increase Discovery Park by nearly ten
13 percent, demonstrates a lack of commitment to its stated objective of preserving open space.

14 Despite the fact that the 1986 Discovery Park Master Plan is not binding on Fort Lawton,²
15 the Fort Lawton Army Reserve property as part of the former army base, is inextricably linked to
16 Discovery Park. Housing does not provide adequate analysis of how developments at the Fort
17 Lawton site – either affordable housing or market-rate housing – complement or impede the future
18 of Discovery Park. Nor does the FEIS contemplate how forfeiting open space plans at Fort
19 Lawton may negatively impact development within Discovery Park itself in the future. Such an
20 analysis is important for understanding the future of Discovery Park, the future of open space in
21 Seattle, and the potential for future efforts to chip away at the park.

22 In the 1972 Discovery Park Master Plan, the following statement was made:

23 In the years to come there will be almost irresistible pressure to carve out areas
24 of the park in order to provide sites for various civic structures or space for
25 special activities. There will in the future be structures and activities without
26 number for which, it will be contended, this park can provide an “ideal site” at
no cost. The pressures for those sites may constitute the greatest single threat to
the park. They must be resisted with resolution. If they are not, the park will be
so fragmented that it can no longer serve its central purpose. Only those activities
and only those structures should be accepted which are in harmony with the
overall theme, character and objective of the park. There must be a deep
commitment to the belief that there is no more valuable use of this site than as an
open space.³

While Fort Lawton is not presently part of Discovery Park, the spirit of this quote
resonates today. Housing should evaluate at least one reasonable alternative that preserves

² The City acknowledges that this was stated in *Magnolia Neighborhood
Planning Council v. City of Seattle*, 155 Wn. App. 305 (2010).

³ Discovery Park Master Plan, Fort Lawton Park Plan (1972) (emphasis added),
available at:
[https://www.seattle.gov/Documents/Departments/ParksAndRecreation/Parks/master
plan1.pdf](https://www.seattle.gov/Documents/Departments/ParksAndRecreation/Parks/master
plan1.pdf)

1 Fort Lawton as a public park space, which may include the provision of community services such
2 in a park setting.⁴

3 **Transportation**

4 The FEIS does not adequately address transportation concerns relating to traffic, public
5 transit, and parking. Additional review and analysis of these effects is important in order to
6 provide an accurate picture of how development on either site will cause transportation-related
7 impacts. The FEIS's consideration of adverse impacts on transportation is deficient in the
8 following ways:

9 ➤ **The FEIS fails to reasonably analyze impacts to local intersections.** By focusing on a
10 limited number of street intersections, the FEIS has not adequately addressed the full scope
11 of the impact of additional cars on the existing over-burdened transportation infrastructure
12 in the area surrounding Fort Lawton, or the impact of nearby transportation, commercial,
13 and residential projects and how they will affect the intersections analyzed in the FEIS. The
14 FEIS states that Alternative 1 would generate an estimated additional 1,260 vehicle trips per
15 day going to and from the Fort Lawton area. FEIS at p. 3.10-10. It concludes that no
16 significant traffic impacts are anticipated at the Fort Lawton site because all studied
17 intersections are expected to continue to operate at "LOS B," which is an acceptable level of
18 operation. FEIS at p. 3.6-51. The FEIS chose four intersections to evaluate for purposes of
19 traffic volume.⁵ FEIS at p. 3.10-3. Housing expects these study area intersections to handle
20 direct access to and from the site, and what are referenced as "Beyond Site Study Area"
21 intersections, including W. Emerson Pl and Gilman Ave. W., W. Dravus Street, and the
22 Magnolia Bridge. Impacts with respect to traffic on these roadways have not been
23 addressed. Magnolia is served by a finite number of access points, which already
24 experience congestion. The addition of approximately 600 new residents, and
approximately 1,200 new vehicles per day, will have a significant impact both on ingress
and egress to the site for residents and visitors, as well as to the surrounding area and
existing residents. Housing should provide a more thoroughly analysis of these impacts,
expanding its traffic review to include a more in-depth analysis of the greater numbers of
streets and intersections.

➤ **The FEIS fails to reasonably analyze cumulative traffic impacts.** The assessment of
Alternatives 1, 2, 3 also fails to disclose and analyze cumulative adverse impacts caused by
pipeline projects and anticipated growth in the greater Magnolia area. The FEIS states
generally that "few sites are available for development/redevelopment and any development
in the area generated indirectly by development of the Fort Lawton site and Talaris site
would likely occur incrementally over time. New development in the vicinity would be
controlled by existing Comprehensive Plan policies and zoning regulations. As a result,

⁴ The BRAC process provides the City with the opportunity of pursuing a
Public Benefit Conveyance for park use. See BRAC Manual Section C.5.4.10.

⁵ These four intersections are: (1) 40th Avenue E/Texas Way; (2) Discovery
Park Boulevard/Texas Way; (3) W Government Way/36th Avenue W; and (4)
Discovery Park Boulevard/34th Avenue W.

1 significant indirect/cumulative impacts to land uses in the area are not anticipated.” FEIS at
2 p. 3.6-19 et seq. However, this assertion ignores the effects of the Mandatory Housing
3 Affordability zoning changes, changes to accessory dwelling unit regulations on the
4 immediate vicinity of the Fort Lawton Redevelopment Project including along Gilman
5 Avenue West and Government Way. It also undercuts the City’s goals of ensuring there are
6 sufficient services and resources for residents, by making the false assumption that there
7 will be little growth from rezoning and new development. Beyond City policy changes,
8 public and private developments in the Fishermen’s Terminal area, the Dravus Street-15th
9 Avenue NW-Interbay corridor area, at the Port of Seattle’s North Bay property, all will very
10 likely impact transportation and public services, yet the FEIS does not account for those
11 projects and such impacts. Likewise missing in the analysis of traffic impacts is Sound
12 Transit’s West Seattle and Ballard Link Extension project. Depending on the alignment
13 selected by Sound Transit, the Ballard Link will include a station at Dravus Street and either
14 at 15th Avenue NW or at 21st Avenue West, further creating traffic impacts. A thorough
15 disclosure and analysis of the potential adverse traffic impacts on the greater Magnolia
16 community has not been developed. The analysis must disclose and assess reasonably
17 foreseeable growth and density changes, the impacts of specific transportation and major
18 building projects in the vicinity of the proposal, as well as the City of Seattle’s Growth
19 Management Act transportation concurrency obligations.

12 ➤ **The FEIS fails to reasonably analyze traffic impacts at Talaris or another site.**

13 Similarly, the FEIS did not adequately discuss the impacts of traffic near the Talaris site. It
14 concludes that development at Talaris would only result in a less than one second delay at
15 two intersections, which Housing does not consider a significant impact. However, two
16 intersections near Talaris will operate at LOS F and E (which constitute the worst ratings
17 and indicate poor traffic operations with long delays). The FEIS takes an “oh well”
18 approach to this. Additional information describing how the City expects to mitigate
19 increases in traffic is necessary to provide a more adequate picture of how development at
20 Talaris will affect the transportation grid. The FEIS provides no analysis of traffic impacts
21 on any other off-site location for affordable housing.

18 ➤ **The FEIS fails to reasonably analyze impacts to bus routes.** The information provided in

19 the FEIS demonstrates that public transit service will be inadequate to serve anticipated
20 demand. Presently, only one bus line services the area—the Metro Transit 33. King County
21 Metro’s Long Range Plan does not anticipate adding additional bus routes: “[T]he existing
22 level of local bus service is planned to remain through its long range planning year of
23 2040.” FEIS at p. 3.10-5. Alternative 1 is expected to accommodate approximately 596
24 new residents. FEIS at p. 2-21. One bus line cannot adequately accommodate this increase
25 in demand. The FEIS does not adequately account for the impact of only one bus route on
26 future residents and traffic congestion. The Long Range Plan’s identification of “frequent”
bus service by 2040 does not constitute adequate consideration of transit impacts—and with
full build-out at Fort Lawton expected by 2025, potential frequent service by 2040 does not
adequately address or mitigate impacts. The FEIS lists Metro Route 24, half a mile away
from the site, as a bus route for consideration. However, it is unrealistic that hundreds of
residents, many of whom will be senior citizens, will be able to walk a half mile for the
transit they must rely on.

1 ➤ **The FEIS fails to reasonably analyze impacts to residential transit trips.** The FEIS cites
2 2010 Census data for the fact that 25% of residential trips in Magnolia occur by transit.
3 Based on this projection, it concludes the existing bus service would be adequate, which
4 overlooks the reality that many senior citizen residents may not drive, many residents may
5 not own vehicles, and many residents may not have a driver's license. The fact that 25% of
6 residential trips in Magnolia occur by transit right now is not a transferrable fact in light of
7 the proposed uses at Fort Lawton. The FEIS does not adequately disclose and assess the
8 impacts of increased transit demand as a result of the proposal.

9 ➤ **The FEIS fails to reasonably analyze the feasibility of bike share programs.** It is not
10 realistic for the City to incorporate bike share programs as an adequate measure of
11 alternative means for residents to transit in and out of the Fort Lawton area. As described
12 above, many residents will be senior citizens who will not be able to utilize bike share
13 programs. Furthermore, the topography of the area, distance to resources and services, and
14 practicality generally do not lend themselves to assuming residents of the new development
15 will use a bike share program. As stated in the September 2017 letter, expansion of bike
16 lanes and routes is not envisioned by the City in the area around Fort Lawton. It is unlikely
17 that young children and/or their parents will be able to utilize a bike share program to ride to
18 the grocery store or carry out other essential errands. Mitigation of this kind is not realistic.

19 ➤ **The FEIS fails to reasonably analyze parking impacts.** The FEIS also raises issues with
20 respect to parking and does not fully address them. Under Alternative 1, 266 parking spaces
21 would be provided, with peak parking demand exceeding that supply by up to 28 spaces
22 (FEIS at p. 1.12), indicating parking demands would exceed available parking. The FEIS
23 concludes that no significant impacts are expected as a result, citing that the parking demand
24 from the affordable housing could be addressed through parking management strategies.
25 FEIS Ibid. Yet there is no adequate disclosure or analysis of these parking management
26 strategies, and how they might truly mitigate parking concerns. In order to fully understand
the impacts of development under Alternative 1, additional disclosure and analysis is
required.

Historic and cultural preservation

The Fort Lawton property has a long history of use as a forested natural area and a military base. Development of housing on the Fort Lawton site under Alternatives 1 and 2 is inconsistent with both the current use of the site and the historic context of the site. Nor is it in alignment with City policies to allow multifamily development on a property that was historically public and located in a single-family residential area. See SMC 23.34.008.F.1.g; see also Comprehensive Plan at 66 (LU G14 aims to “[m]aintain the city’s cultural identity and heritage”).

The disclosure and assessment of historic and cultural resources on both properties is inadequate. The DEIS stated that buildings on the Fort Lawton site may be eligible for Landmark designation. DEIS at p. 3.9-1. The DEIS continually describes the historic nature of the Fort Lawton area, but concludes that the existing buildings lack significant associations, design characteristics or prominence, or do not meet the threshold of 25 years to qualify for landmark designation. The DEIS indicated that at least one hall, Harvey Hall, could meet the criteria for

1 Seattle Landmark. The impacts of designating Harvey Hall or Leisy Hall as landmarks and
2 converting the Fort Lawton to high-density housing is not adequately studied in the FEIS because
3 it concludes that “Most of the buildings onsite are not expected to meet the criteria to be
4 designated Seattle landmarks”. FEIS at p. 3.6-39.

5 The FEIS fails to adequately address the potential impacts on the Fort Lawton Cemetery.
6 Under “other possible measures” of mitigation, the FEIS mentions the potential of retaining
7 undeveloped buffer to avoid affecting the integrity of the Cemetery setting by the introduction of
8 new built environment elements. It is unclear from the FEIS how the introduction of hundreds of
9 housing units and hundreds of new residents would impact the setting of the Fort Lawton
10 Cemetery. Particularly, under Alternative 2, market-rate housing would be built directly across
11 the street, seemingly tens of feet away from the cemetery. The effects of this action are not
12 adequately discussed. Additionally, the Fort Lawton Cemetery is eligible for listing on the
13 National Register of Historic Places. The FEIS does not explore how the addition of housing at
14 Fort Lawton, affordable or market-rate, would impact the Cemetery as a historic piece of the
15 greater Fort Lawton area.

16 Talaris was already designated as an historic landmark by the City of Seattle in 2013, and
17 is eligible for listing in the National Register for Historic Places. FEIS at p. 3.6-9. The FEIS
18 points out that alterations to the existing site would be inconsistent with the siting and design of
19 existing buildings and the surrounding neighborhood. FEIS at p. 3.9-13. Taking into account the
20 fact that Certificates of Approval would need to be obtained for alterations to the site, these
21 impacts contribute to the unreasonableness of Talaris as an alternative site.

22 **Biological Resources**

23 The FEIS does not adequately disclose and analyze probable significant adverse impacts
24 on wildlife and wildlife habitat. The FEIS acknowledges that permanent displacement of certain
25 wildlife “less tolerant of urban uses” may occur, but states that past military use of Fort Lawton
26 and conference center uses at Talaris may also have impacted these species. SEPA requires a
27 prospective, not retrospective, analysis of how the proposal will impact biological resources,
28 including wildlife.

29 In order to make a reasoned choice among alternatives, there must be a sufficient
30 disclosure of biological resources, such as wetlands, and a comprehensive assessment of how the
31 proposal would impact those resources. The FEIS summarily concludes that wetland or stream
32 features may be present. However, it concludes, “additional studies would be needed to document
33 wetlands and/or streams and their required buffers in the north portion of the site.” FEIS at p.
34 3.2-2. Such information should be provided now to assist with understanding impacts to
35 biological resources. Relying on “preliminary site plans” the FEIS concludes no direct impacts
36 to known wetlands will occur. Yet it acknowledges that the boundaries and classifications of the
37 wetlands would need to be re-verified. FEIS at p. 3.2-8. The FEIS’s treatment of wetland and
38 similar biological resources is inadequate on its face.

39 The FEIS fails to disclose and adequately address adverse impacts on wildlife at both Fort
40 Lawton and Talaris. The FEIS states that Great Blue Herons have been found on or near the site

1 in the past, but does not describe how development at Fort Lawton might impact Great Blue Heron
2 in the future. Also, the FEIS describes that site plans would avoid directly impacting a Bald Eagle
3 nest tree, and surrounding areas, but bases its conclusion on “preliminary site plans” only. SEPA
4 requires that additional information be obtained and disclosed with respect to probable significant
5 adverse impacts to both listed and de-listed species, including the Bald Eagle.

6 The potential for permanent displacement of species during and after construction is not
7 adequately discussed, nor is the potential for disruption during breeding season. Fort Lawton is
8 adjacent to over 500 acres of open park space that serves as wildlife habitat. The FEIS must
9 address potential adverse impacts to wildlife and wildlife habitat at the Fort Lawton site in relation
10 to Discovery Park. The Fort Lawton property presents a rare opportunity to restore wildlife habitat
11 and provide contiguous wildlife habitat within Seattle. *See* Comprehensive Plan at 68 (LU 17.2,
12 17.20 Aim to promote and protect contiguous wildlife-habitat areas).

9 **Earth**

10 The FEIS fails to adequately disclose the potential for landslides as a function of existing
11 steep slopes and erosion hazards at the Fort Lawton site. This is a serious concern for neighboring
12 residential properties.

13 The FEIS also fails to adequately disclose and analyze the risk of methane migrating from
14 the neighboring landfill onto the Talaris site. It concludes that the risk of methane migration is
15 considered low, and that no impacts are expected under Alternatives 2 or 3. The potential for
16 adverse impacts to human health is significant. The Talaris housing area would include numerous
17 children and elderly with potential health issues. A more thorough analysis of this threat is
18 important to understand the potential adverse impacts on the health and safety of future residents
19 at the Talaris site.

16 **Noise**

17 The FEIS fails to adequately address the adverse impacts of noise under all of the
18 Alternatives. The FEIS states that because the Fort Lawton site is vacant, “the only existing
19 sources of noise are wildlife that use the site and occasional maintenance of the facilities.” FEIS
20 at p. 3.4-2. The FEIS identifies increases in noise from construction, including clearing and
21 grading, demolition, and construction, but states these are “temporary increases in noise.” But
22 with build-out occurring over several years, these impacts would be far from temporary. The FEIS
23 does not adequately disclose and analyze the increased noise that will result from constructing a
24 high-density development containing hundreds of housing units in what is now a quiet open space.

23 **Public services**

24 The FEIS does not adequately disclose the impact on public services or the lack thereof
25 for both sites. Specifically, the FEIS does not provide sufficient analysis of how on-site services
26 will mitigate the need for a level of increased responsiveness on the part of local law enforcement,
emergency response providers, and other qualified medical or behavioral personnel. The FEIS
contemplates that certain services will be provided on-site, including case management services
by Catholic Community Services of Western Washington and residential counselors. FEIS at p.

1 3.6-42. The FEIS references these services as possible mitigation for the need to utilize police
2 services, emergency medical services or other medical or behavioral personnel, but does not
3 adequately address how these services will work to prevent involvement by law enforcement, or
4 provide for the behavioral or medical needs of residents. Any influx of nearly six hundred people
5 to a small area will require an increased local law enforcement presence and other public services.
6 An increase in elderly residents and children will also require additional medical services in close
7 proximity to the site.

8 The FEIS also fails to disclose probable adverse impacts on public schools. Overcapacity
9 of schools is an issue at both sites: Fort Lawton Elementary school will be over-capacity, as well
10 as Eckstein Middle School near Talaris. While the FEIS does identify that the Seattle Public
11 Schools (SPS) anticipates opening additional schools near Fort Lawton, the FEIS does not
12 adequately address how and exactly when SPS may exercise its ability to accommodate growth,
13 including adjusting attendance area boundaries and meeting requirements of providing additional
14 transportation services.

15 **Aesthetics/Visual Resources**

16 The FEIS does not adequately disclose and analyze the amount of localized light spillage
17 to areas adjacent to the Fort Lawton or Talaris sites. Additionally, shadow documentation is
18 provided in the FEIS Appendix G, but such documentation does not adequately describe the
19 effects of shadows from both sites onto surrounding areas in a way that is understandable and
20 accessible. It is difficult to discern from the documentation the effects of increased shadows
21 from new development under Alternatives 1 and 2 at Fort Lawton on neighboring areas to the North
22 and East. Furthermore, shadow documentation is not provided for the Talaris site where site
23 plans—showing housing built up to the property line (Figure 2011)—would likely result in
24 impacts to neighboring areas with respect to shadows. Such a design is a dramatic change from
25 the present configuration of the site, and the impacts on neighboring areas to the Talaris site are
26 not adequately disclosed and analyzed.

17 **Housing**

18 The FEIS's disclosure and analysis of housing impacts is inadequate. The FEIS states that
19 no significant housing impacts are expected to result from any of the redevelopment alternatives,
20 in spite of the fact that over 200 housing units will be added to the Fort Lawton and/or Talaris
21 sites under Alternatives 1-3, which includes an area that has historically never hosted housing
(Fort Lawton) or hosted housing on the scale it is projected to host (Talaris).

22 The FEIS fails to adequately describe how high-density residential development at Fort
23 Lawton makes sense based on its lack of designation as part of an Urban Center or Urban Village.
24 Such growth cuts against the City's goal to grow in designated Urban Centers or Urban Villages.
25 Seattle's Comprehensive Plan has goals of accommodating "a majority of the City's expected
26 household growth in urban centers and urban villages" and "a substantial portion of the city's
growth in hub and residential urban villages." See Comprehensive Plan at 28, 32 (GS G2 and GS
2.3); see also *id.* at 42 (LU G1 aims to "[a]chieve a development pattern consistent with the urban
village strategy"). While the area is designated for multi-family residential uses in the Seattle

1 2035 Comprehensive Plan, implementation of Alternative 1 remains inconsistent with the City's
2 Urban Center and Urban Village Strategy.

3 **D. The City has failed to follow requirements under federal law.**

4 **a. The City has failed to follow BRAC procedures.**

5 The City's FEIS is predicated on contracting with both Catholic Community Services
6 (CCS) and Habitat for Humanity (HH) as service providers and housing construction and
7 management partners. However, this assemblage of housing partners is not what the original
8 Notice of Intent (NOI) contemplated in 2007. The Preferred Alternative is also a distinctly
9 different project in configuration, programming, and overall scope.

10 In 2006-2007, 55 organizations submitted proposals as part of the NOI process. BRAC
11 procedure affords all organizations a fair opportunity to submit proposals and have them
12 evaluated on equal footing. Today, the Seattle Housing Authority is no longer the master
13 developer at Fort Lawton. Instead, the City has expanded HH's role as the lead housing partner
14 at Fort Lawton. The Office of Housing has simply ignored BRAC procedure and is now
15 embracing a different master developer and a different housing proposal altogether.

16 BRAC procedure requires that the NOI process be re-opened to competitive bidding and
17 that a new RFP solicitation process be undertaken to allow not just the many other stakeholders
18 and providers who are players and entrants in the homeless and low-income housing fields since
19 2007, but any other entity or organization that is eligible to participate in the BRAC process.

20 **E. The City cannot incorporate and reasonably rely upon the previous NEPA
21 Environmental Assessment for SEPA purposes.**

22 The U.S. Army Corps of Engineers' ("Corps") Environmental Assessment ("EA") and
23 Finding of No Significant Impact ("FONSI") may no longer be relied upon by the City, HUD, the
24 Department of the Interior or the Corps because they are based on a different project than what is
25 now proposed among the EIS Alternatives. The FONSI relied upon an earlier Traditional
26 Disposal and Reuse Alternative ("TDRA"). The October 18, 2012 FONSI was based on a smaller
amount of total housing units (216) and a completely different range and size of housing types.
Thus, the EA and FONSI were based on an analysis of different environmental impacts.

The TDRA anticipated demolition of all existing structures, and the construction of 125
market-rate units ranging from smaller to large market rate single-family homes, 85 homeless
units and 6 low-income townhomes. In contrast, none of the FEIS Alternatives mirror that
proposal. Alternative 1 contemplates more housing units than that studied by the Corps (238
units). Alternatives 2 and 3 also each contemplate 238 housing units off-site. An increase in the
number of total units to be constructed, the change in footprint or size of those structures, and
their associated environmental impacts, is a fundamental change in a proposal that requires that
any pre-existing environmental analysis be revisited. For these reasons, the City cannot
incorporate and reasonably rely upon the previous NEPA Environmental Assessment. *See* WAC
197-11-635. The City acknowledged this fact in the FEIS by stating, ". . . updated National
Environmental Policy Act (NEPA) review . . ." will be required. FEIS at iii and iv.

1 Under BRAC and NEPA, the Military Departments must identify and consider the
2 proposed action and reasonable alternatives and their respective environmental impacts. Not only
3 does the City acknowledge in the FEIS that the prior NEPA review is inadequate, to the extent
4 that the Corps intends to rely on the City's flawed SEPA alternatives analysis in support of a new
5 FONSI or ROD, that analysis is flawed for the reasons stated above. Accordingly, the City's
6 Redevelopment Plan cannot be given substantial deference under BRAC regulations and federal
7 law.

8 **F. Miscellaneous**

9 **Notice.** The SEPA review of the plans for the intense development of the Talaris site
10 have been carried out on a relatively stealth basis. Its inclusion as a proposed development
11 alternative in the scoping and subsequent DEIS and FEIS occurred without compliance with
12 basic SEPA procedures including notice to agencies and known community stakeholders
13 associated with the site. For example, the various notices leading up to issuance of the FEIS
14 made no mention of Talaris. The FEIS contains elaborate documentation of scoping process
15 notices given to Magnolia residents at their home addresses, but no such measures were
16 undertaken for Laurelhurst residents. As a result of these and related fundamental shortcomings
17 the FEIS was not prepared in accordance with WAC 197-11-455.

18 **BRAC Purpose.** The goal of the BRAC process is in part intended to alleviate the
19 socioeconomic effects upon the local community that results from Defense base closures,
20 realignments, and Defense contract-related adjustments. The FEIS fails to identify and analyze
21 the socioeconomic impacts from the Army's closure of its Reserve Center, and accordingly
22 establish mitigation plans and strategies for those impacts.

23 **Discovery Park Masterplan.** In 2009 the Honorable King County Superior Court
24 Judge Catherine Shaffer made her oral ruling in matter of Magnolia Neighborhood Planning
25 Council v. City of Seattle, which is incorporated herein for any and all purposes as if fully set
26 forth herein, stating:

“I think that the petitioner [MNPC] has made a compelling case to me that much of the
Master Plan indicates a desire that any future use of Discovery Park, including the usage within
it at the time of the Plan's adoption and its changes in usage over time by others that were not
for park purposes, be handled in accordance with the detailed provisions of the Master Plan and
certainly, as I've just indicated in my Findings of Facts, the ARC property is discussed within
the Master Plan and it's specifically discussed as one of those nonpark uses within Discovery
Park.

“So there is a compelling argument here from the petitioner that there must be
reference to the Plan when one deals with any of this nonpark uses within the park because
that's what the Plan is for: it is for everything that happens within the park...The City must at
least explain why it's not considering the Master Plan. There is enough here in the Master Plan
to indicate that the Army Reserve was thought of as part of the nonpark uses within the
Plan. No one contemplated as it appeared in 1972, 1974 or 1986, and why would they, that this
particular nonpark use would ever become a potential park use. They thought the Army
Reserve was going to stay there. But having said that, it seems to me that at a minimum, the
City at least has to make a determination and it has to do it publicly, about whether or not the

1 Master Plan applies to the ARC property and if not, why not...there is a need here, however, for
2 the City to acknowledge the Plan and talk about why it does or does not apply to what the City
wants to do with the ARC [Army Reserve Center] property.”⁶

3 The FEIS fails to comply with the judge’s directive or guidance, and fails to fully
4 explore, analyze, and otherwise identify and analyze the socioeconomic impacts from the
Army’s closure of its Reserve Center, and accordingly establish mitigation plans and strategies
5 for those impacts.

6 **Improper Project Identification and Characterization – Residential versus Multi-
Use Behavioral Health, Medical Care, Substance Abuse Treatment, and Social Services
Center with Shelter and Residential Components.** The FEIS mis-identifies, mis-
7 characterizes, and misrepresents its “affordable, low income housing, homeless residence”
8 alternative as being strictly residential in nature and thus subject to and controlled only those
land use, planning, building and occupational permitting, building use, and operational elements
9 that would apply if that were true. In reality a majority of the “housing” elements in the FEIS
alternatives includes what best could be described as a multi-use healthcare center, providing
10 for the treatment of behavioral, medical, social, and substance abuse disorders and needs, with
shelter, custodial, sleeping, residential, and even possible in-patient services provided also.

11 The FEIS glosses over these aspects of the so-called affordable, low income, homeless
12 housing alternative and fails to fully disclose, analyze, and propose mitigation plans for the fact
that what is being proposed is not traditional, residential housing, not in the common and
13 generally accepted definition of that, but instead a multi-use behavioral, medical, substance
abuse treatment, and social services center that includes shelter and a range of
14 residential/residential like components to it.

15 **Environmental Justice.** The EIS analysis is skewed by repeated references such as the
16 one quoted below to “environmental justice” as a factor supporting intensive homeless and
affordable housing development at Fort Lawton or the Talaris site:

17 “The site would not be redeveloped at this time, and environmental justice conditions would
18 continue as under existing conditions. The opportunity to provide affordable housing in the
[Magnolia or] Laurelhurst neighborhood[s], and the positive impacts of diversifying a
19 neighborhood that is disproportionately occupied by higher income households, would not be
realized.” FEIS at 1-16.

20
21 Such references are political statements rather than objective analyses of recognized
22 environmental factors that are properly included in an EIS. Further, the FEIS like the DEIS
before it offers only flimsy bases unsupported by valid comparative data for its “environmental
23 justice” premises. The “study” relied upon is not a typical peer reviewed academic study, but
combines historical reportage with advocacy journalism. Further, what it reports concerning the

24
25 ⁶ King County Superior Court. “Honorable Catherine Shaffer: Summary Judgment Motion Oral
26 Ruling”. Magnolia Neighborhood Planning Council v. City of Seattle. Pages KC Superior Court Case No.
08-2-35092-4 SEA. March 13, 2009.

1 past history of racially restrictive covenants throughout the City of Seattle does not support the
2 FEIS opinion that both Magnolia and Laurelhurst are currently venues for true “environmental
3 injustice”. The economic realities attendant to these neighborhoods with numerous city and
4 water views and other amenities of value in the post-“Boeing bust” real estate market do not
5 equate to “environmental injustice.” The FEIS assumes without analysis that any
6 “environmental injustice” in Magnolia or Laurelhurst, e.g. in the form of a relative scarcity of
7 affordable housing, is a consequence of covenants and discrimination of almost 100 years ago.
8 At the same time, the FEIS fails to acknowledge or analyze the far more immediate effect of
9 City of Seattle urban planning policies and its voluminous amount of commercial and
10 residential building project approvals. It likewise fails to acknowledge the City’s facilitating the
11 demolition of affordable housing throughout the city. In general, the City’s zoning actions and
12 approvals of Major Institution expansions, causative agents for loss of affordable housing, are
13 not recognized at all. Meanwhile, the FEIS improperly includes politically expedient, unfair and
14 provocative accusations that any lack of affordable housing in the Magnolia or the Laurelhurst
15 neighborhoods is the result of those communities’ biases and bigotry.

10 V. RELIEF REQUESTED

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

13 Appellant requests that the Hearing Examiner remand the FEIS to the City of Seattle as
14 the designated LRA with instructions to:

15 1. Re-start the BRAC Notice of Interest (NOI) process, release a new request for NOI’s
16 and to competitive bidding accordingly, with a new RFP solicitation process undertaken to allow
17 not just the many other stakeholders and providers who are providers and entrants in the homeless
18 and low-income housing fields since 2007 an opportunity to propose their own uses and projects
19 for the FLARC property, but also to allow any other entity or organization that are eligible for a
20 public benefit conveyance to participate in the BRAC NOI process; and then proceed to
21 administer the subsequent SEPA scoping and environmental review process.

22 2. Prepare a Supplemental EIS(s) as necessary with adequate, notice, review, and
23 commenting period(s) in order to adequately address the myriad of deficiencies itemized above
24 in this Notice of Appeal.

25 Filed on behalf of the Discovery Park Community Alliance on this 11th day of April,
26 2018.



Elizabeth A. Campbell, MPA
Founder and Director of DPCA

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Filed on behalf of Elizabeth A. Campbell on this 11th day of April, 2018.



Elizabeth A. Campbell, MPA
Individually