

VOLUME 1

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Hearing - Day 1

**In the Matter of the Appeal of: Wallingford Community
Council, et al.**

June 25, 2018



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BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In the Matter of the Appeal of:)
WALLINGFORD COMMUNITY COUNCIL,)
ET AL.,) W-17-006
) through
of the adequacy of the FEIS issued by the) W-17-014
Director, office of Planning and)
Community Development.)

Hearing, Day 1 - June 25, 2018
Heard before Hearing Examiner Ryan Vancil

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Court-Certified Transcription

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-00-

June 25, 2018

HEARING EXAMINER: I'll call to order this June 25, 2018 session before the Seattle hearing examiner. My name is Ryan Vancil. I'm the hearing examiner for the City of Seattle and will be presiding over this matter. The matter to be heard today or for the weeks ahead involve the consolidated appeals of the Wallingford Community Council, Morgan Community Association, Friends of Ravenna-Cowen, Seattle Coalition for Affordability, Livability & Equity, Seniors United for Neighborhoods, Beacon Hill Council of Seattle, Friends of the North Rainier Neighborhood Plan, West Seattle Junction Neighborhood Organization, and Fremont Neighborhood Council. An appeal of the City's adoption of the final environmental impact statement for legislative proposal to implement mandatory housing affordability requirements for new commercial and multifamily developments in the city. The hearing examiner numbers for these matters are W-17-006 through 014.

The authority to adopt and determine the wisdom of adopting, implementing the MHA legislation lies with the City Council and is not an issue within the jurisdiction of the hearing examiner. The purpose of this hearing is to review the adequacy of the FEIS to meet the rule of reason

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NO.	DESCRIPTION	MARKED	RECEIVED
1	1 Draft EIS and appendices 6/8/17	28	
2	2 FEIS and appendices 11/9/17	28	
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standard of review in the context of the issues raised by the appellants only. The authority of the hearing examiner to hear and decide this matter includes Chapter 25.05.680 and SMC 2341. Under the Code, the SEPA official's determination is accorded substantial weight, and the burden of establishing to the contrary is on the appellants. The hearing will be conducted in accordance with Chapter 3.02 of the City's Administrative Code, and the hearing examiner rules.

Before testifying, each witness must take an oath or affirmation to tell the truth, and will be subject to questioning by the other parties. This is a fact-intensive hearing process. And as the parties have seen from the hearing examiner's determination on prehearing motions, the intent is that the decision in this matter will be based on the full and comprehensive hearing of the facts possible in the time allocated.

To ensure efficiency of the hearing, due to the extensive number of witnesses and evidence anticipated to be introduced, I may be more proactive in addressing concerns of redundancy or relevancy of testimony and evidence than I might otherwise. And in addition to efficiency, this will be done to assure that all parties have an opportunity to be heard within the time allocated.

That said, I want to thank and recognize the superb

STEINBRUECK, Peter

1 developing your opinions and preparing your testimony here
2 today?

3 A. Well, I -- I reviewed the final EIS. I reviewed each of the
4 elements contained there, each of the sections. I did an
5 exhaustive review of the comprehensive plan and the hundreds
6 of citywide and neighborhood goals and policies that are
7 called out there, and I reviewed the consistency or not of
8 the proposal, its analysis, and the thoroughness and
9 completeness of that analysis with regard to those many
10 goals and policies, citywide, and at the neighborhood level.
11 I also undertook to evaluate the urban village boundary
12 adjustments proposed to identify if, in fact, those
13 boundaries reflected functional criteria and the potential
14 impacts associated with existing urban villages. So I
15 looked at the neighborhood plans in the comprehensive plan
16 and looked for information that would inform decision makers
17 with regard to the potential impacts on those neighborhoods
18 and the goals and policies of the comprehensive plan.

19 Q. Okay. So a moment ago you were describing sort of the eye
20 level summary of the proposed MHA legislation. And I think
21 you mentioned that there were upzones proposed inside the
22 urban villages, is that --

23 A. That's correct.
24 Q. All right.
25 A. And outside the urban village.

1 single-family areas get converted to multifamily zoning, is
2 that --

3 A. Yes.
4 Q. -- the effect of the expansions? Yes?
5 A. Yes.
6 Q. And then are there also some zoning changes proposed outside
7 of the urban villages?

8 A. Yes.
9 Q. And are those in the nature of changing the text of the
10 zoning code to allow greater density in some zones?
11 A. Yes.
12 Q. All right. And can you state generally where those texts of
13 zones occur outside of urban villages? How would you
14 describe those areas?

15 A. Text upzones.
16 Q. Where are the areas outside the urban villages that are
17 being (inaudible)?
18 A. Well, first of all, there are extensive areas outside the
19 urban villages, often along arterials such as Aurora, Lake
20 City, Rainier Avenue. Areas outside of the urban villages,
21 there is a considerable extent of non single-family,
22 commercially-zoned properties, mixed use, et cetera. And
23 unfortunately, the EIS did not analyze those areas in any
24 great detail, in my view.
25 I looked for information on the areas outside of the

1 Q. Yeah. So, but let's -- let me take one step at a time.
2 A. Sure. Okay.
3 Q. So one element of the proposal is upzoning inside the urban
4 villages; is that right?

5 A. That's correct.
6 Q. So all those pale blue areas on that map, currently is there
7 some single-family zoning inside those urban villages?
8 A. Yes, there is.
9 Q. And would the proposal eliminate all of the single --

10 A. Yes, it would.
11 Q. Let me finish the question, sir.
12 A. Okay. Sorry.
13 Q. Would the proposal eliminate all the single-family zoning
14 inside those pale blue areas?
15 A. That's my understanding.

16 Q. All right. And then is another part of the proposal that
17 some of those urban villages would actually be expanded in
18 size; is that right?
19 A. I believe 10 of them would be.
20 Q. All right. And so they -- right now the urban villages
21 adjacent to them are single-family areas; is that right?
22 Yes?
23 A. Predominantly, yes.
24 Q. And so where there's an expansion of an urban village, that
25 has the effect of converting a single -- generally

1 urban villages, because it's completely relevant to the
2 urban growth strategy that is the underpinning of the
3 comprehensive plan. I found no data to speak of that
4 presented those areas clearly. The acreage, the types of
5 land uses, and the potential impacts that would result
6 with -- with upzoning those areas. And so the -- the
7 overall MHA proposal calls for upzoning every area of the
8 city that is currently zoned commercial mixed use, as well
9 as some areas that are -- are single family.

10 So it is a sweeping -- in fact, I think it's the
11 largest upzone that I've seen in my working life in Seattle,
12 in one fell swoop. No area's left untouched, inside and
13 outside the urban villages, other than some of the
14 single-family areas that are farther distant from the urban
15 villages.
16 Q. All right. And you've actually started to get into this
17 already. What were the principal conclusions you reached
18 regarding the subjects that you were looking at? And we'll
19 go back into these in some more detail, but just so the
20 examiner knows where you're headed.

21 A. Well, my principal conclusions are, number one, that the
22 EIS, with the exception of some of the land use policies and
23 goals in the comprehensive plan, did not identify, discuss,
24 or evaluate essentially hundreds of goals and policies
25 involving the comprehensive plan, nor did it provide an

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1 non-trained viewer such as myself that -- a layperson would
 2 have difficulty grasping the full extent of built urban form
 3 impact on an existing neighborhood with established built
 4 form. You would need to have more detailed studies and
 5 representations to identify those aesthetic and other
 6 impacts.

7 **Q. You know, if you lived in a house on a residential street**
 8 **right now and your neighbor sold to a developer, and it got**
 9 **torn down, and one of these new, larger buildings was built**
 10 **in its place, are there any illustrations that show what it**
 11 **would look like from your front porch?**

12 A. Well, I have one in my head.

13 **Q. No. I meant --**

14 A. Would you like me to describe it? That I know of.

15 **Q. No. In the EIS. If you're reading the EIS, would you know**
 16 **what you were going to face under this proposal?**

17 A. No. I -- I would not. It would -- it would be challenging
 18 for me, even as a trained architect, to fully grasp the
 19 extent of these impacts with the lack of information and
 20 analysis provided here.

21 **Q. We've mainly talked about changes in zoning density and**
 22 **intensity in the residential zones. You mentioned at the**
 23 **very beginning that some of the zoning changes were**
 24 **occurring in commercial strips outside of the urban**
 25 **villages. And I think you mentioned those examples of Lake**

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1 **City Way and portions of Aurora. Does the EIS provide a**
 2 **neighborhood specific analysis of the manner in which those**
 3 **zoning changes will impact the character of the surrounding**
 4 **neighborhoods?**

5 A. No.

6 **Q. All right. Does it treat a change in zoning on -- for**
 7 **instance, you gave a few examples earlier -- does it treat a**
 8 **change on Aurora the same as it would a change on 15th**
 9 **Avenue NE?**

10 A. It just simply doesn't address the areas outside of the
 11 urban villages and the boundary expansions, the commercial,
 12 neighborhood commercial, and other commercial mixed use
 13 zones are -- I was particularly interested in that topic as
 14 a planner myself, and -- and knowing, you know, the
 15 importance of the urban village strategy that has guided our
 16 growth since the '90s, focusing on the urban villages as the
 17 place for concentrating density.

18 **Q. So let me put it this way; would a change in the commercial**
 19 **zoning on an arterial like Aurora be the same as changing --**

20 A. No.

21 **Q. Similar amount of change on an arterial like 15th NE?**

22 A. Well, no.

23 **Q. And why not?**

24 A. The -- the character is different in those areas. Very
 25 different. Aurora's different from 15th NE.

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1 **Q. All right. And the examiner may well never have been on**
 2 **15th Street.**

3 A. Yeah. Sure.

4 **Q. So why don't you paint a picture for him of what 15th Avenue**
 5 **NE looks like.**

6 A. Well, and you can cite some other as 23rd Avenue, Central
 7 Seattle, Rainier Avenue as -- as you -- those are corridors.
 8 Those are through the cut-through neighborhoods of -- of
 9 varying -- of diverse -- diversity and varying character.
 10 So these corridors cut through them, and the land forms and
 11 uses change. And there are pockets, and there are strips of
 12 nonresidential zoning or non single-family zoning, and there
 13 are some -- some single-family zones that abut those
 14 corridors.

15 So contrasting Aurora, everybody knows the notorious
 16 Aurora strip. You know, auto-centric development strip,
 17 strip malls, gas station, auto-oriented commercial
 18 businesses, motels. There is a high frequency transit
 19 service on Aurora. On 15th, lower densities. 15th NE, that
 20 is. From the University District to the edge of the city at
 21 145th, mostly -- more single-family character, but with some
 22 neighborhood commercial zoning and commercial zoning. And I
 23 would say pockets of that. Less intense arterial, less
 24 intense transit service, more trees, a lot more trees. So,
 25 you know, those are the kinds of physical characteristics

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1 that different -- different.

2 **Q. And does EIS in describing the impact of changing the zoning**
 3 **on those two arterials, for instance, acknowledge the**
 4 **difference in the surrounding neighborhoods?**

5 A. Not at all. Not at all.

6 **Q. So are you familiar with the Appendix A to the EIS, which is**
 7 **the equity atlas?**

8 A. I am. I just wanted to ask if you were moving beyond the
 9 areas outside of --

10 **Q. Yeah, did I --**

11 A. Well, that's an important point that I think --

12 **Q. Please.**

13 A. -- needs to be made here. That by upzoning areas outside of
 14 the urban villages and centers, essentially dilutes the
 15 entire urban village strategy and dilutes the densities that
 16 are intended for the urban villages by encouraging growth
 17 outside of those areas in an auto-centric fashion, in areas
 18 that are dominated by the automobile. The city's
 19 long-standing, over-arching strategy has been to concentrate
 20 that growth in the urban villages and where -- not just the
 21 growth in employment and population, but in the combination
 22 of supportive services, libraries, community centers,
 23 amenities, neighborhood amenities, transit connections, et
 24 cetera.

25 And when you encourage growth outside of those

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1 village -- and I'm not talking just about the boundary
 2 expansions, but in the strip zone areas and the commercial
 3 areas that are extensive throughout the city, not in the
 4 urban villages -- you are encouraging growth to be
 5 redirected from -- away from the urban villages, which is
 6 highly destructive to the urban village strategy. Highly
 7 destructive. It would be like pulling back on the urban
 8 growth boundaries of King County and allowing more
 9 development out in the rural and resource lands.

10 **Q. And in terms of EIS, does the EIS address that issue at all?**
 11 **Does it analyze -- does it acknowledge or address the**
 12 **impacts on the ability of the city to accomplish its urban**
 13 **village strategy when it's simultaneously increasing allowed**
 14 **development outside the urban villages?**

15 A. No, it doesn't. In fact, there's no -- even the growth
 16 strategy element of the comprehensive plan is not addressed
 17 in the EIS.

18 **Q. All right. All right. So then now let's turn to Appendix**
 19 **A, the growth and equity analysis.**

20 A. Okay. And I need to open that up.

21 **Q. Yeah. You'll need to shift to that document.**

22 A. So that is in -- is that in -- what book is that in?

23 **Q. Judy can help you maybe.**

24 A. That's a -- 3.

25 **Q. Appendix A.**

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1 A. Is it 3?
 2 MS. BENDICH: 3.

3 A. Okay. Appendix A. 3. Okay. I'm glad I got help with this
 4 stuff. Okay. And what page -- let's see.

5 **Q. (By Mr. Bricklin) Well, before I get to a specific page, can**
 6 **you explain to the examiner what the growth and equity**
 7 **analysis is and how -- the role it plays with MHA?**

8 A. Yes, I can. And the entire construct relies on an earlier,
 9 what I would call -- what the city would call a background
 10 report that preceded the -- that was intended to inform the
 11 comprehensive plan of 2035. It was called the 2000 --
 12 Growth and Equity Analyzing Impacts on Displacement and
 13 Opportunity Related to Seattle's Growth Strategy, May 2016.
 14 I think this is in your exhibits. So basically the -- I'll
 15 let you lead the questions, Dave.

16 **Q. Well, that's --**

17 A. I won't make up my own questions, if I can avoid it.

18 **Q. So my question is -- well, I guess by way of background, how**
 19 **did the growth and equity strategy inform the alternatives**
 20 **that were involved in the EIS?**

21 A. Well, it is the primary, if not sole determinate of each of
 22 the alternatives other than alternative 1.

23 **Q. All right. And does the growth and equities -- does EIS**
 24 **distinguish between what they call areas of opportunity and**
 25 **areas with high-displacement risks?**

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1 A. Yes, it does. Yes, it does.

2 **Q. And what do those terms mean, as you understand them?**

3 A. Well, again, it's based on, I would say, very limited study
 4 based on some experimental criteria demographics; raised
 5 incomes, households, et cetera. And a theory was developed
 6 around what areas of the city constitute areas of high
 7 displacement, low displacement. And we're talking
 8 specifically residential displacement, not employment
 9 displacement. And areas of opportunity where if you live in
 10 a particular neighborhood, let's say, Rainier Beach, versus
 11 Queen Anne, you're going to have very low opportunity if you
 12 grow up in Rainier Beach versus Queen Anne, top of Queen
 13 Anne. So that's the construct. And it is the driver for
 14 the entire MHA set of alternatives.

15 **Q. All right. And when we talk about displacement, how does --**
 16 **and we have other witnesses who are going to go in this in**
 17 **more detail.**

18 A. Sure.

19 **Q. Just at a high level now, what are we talking about when we**
 20 **talk about displacement, generally?**

21 A. Oh, there's different kinds of displacement. And it's
 22 difficult to track, and it's evaluative. It's not easily
 23 measured. But I would say the most striking example of
 24 displacement -- and there's cultural and economic
 25 displacement, and there's --

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1 **Q. And physical.**

2 A. And physical. So the Central District where I grew up in
 3 Seattle has seen the most striking result in terms of the
 4 displacement of the city's African-American community that
 5 dates back a century that has been significantly diluted for
 6 those -- for those economic and other reasons. And it's --
 7 it's well established, and it's documented through data.
 8 That's probably the most -- the best example I can offer of
 9 displacement. And it's -- it's -- it's focused on
 10 residential, but I want to emphasize that it's also
 11 economic, small business, minority owned, cultural
 12 displacement as well.

13 **Q. And does the EIS analyze the impact on businesses from --**
 14 **did I say this right? Does the EIS analyze the proposal's**
 15 **impact on the rate of displacement of minority-owned**
 16 **businesses in areas that are impacted by the proposal?**

17 A. No, it does not. No.

18 **Q. All right. As to the displacement of -- and the residential**
 19 **scale, I understand this Appendix A is an effort at that,**
 20 **but does it -- does it itself acknowledge its own**
 21 **limitations?**

22 A. Yes, it does, extensively.

23 **Q. All right. Can I ask you to turn to page 15 of Appendix A?**

24 A. Appendix A, page 15?

25 **Q. Yes.**

WOO, Eugenia

1 point of what could be included.
 2 **Q. All right. So let's talk a little bit about the resources.**
 3 **Well, in that sentence -- in that passage you just read, it**
 4 **said that there is over 5,000 properties that have been**
 5 **identified in surveys, historic resource surveys, but only**
 6 **450 are designated. Can you explain the difference between**
 7 **those two categories, designated ones versus properties**
 8 **identified in a survey?**

9 A. Sure. So the City of Seattle has a Landmarks Preservation
 10 Ordinance, which was created in the '70s I think, maybe
 11 1973. And that basically establishes the register of
 12 landmarks list, which is the official, sort of list of
 13 designated landmarks, and also establishes a Landmarks
 14 Preservation Board, and also enables the creation of locally
 15 designated historic districts. And some of those districts
 16 have their own separate boards. Others have review
 17 committees.

18 And so since the '70s, we've had over 400 individually
 19 designated landmarks. I've -- I've heard anywhere from
 20 between 400 and 450, so -- and it's not a static list or
 21 number. It grows, because every year there are more
 22 landmarks that are added to the list. So that's -- so
 23 these -- these landmarks go through this process through the
 24 Landmarks Board. They are approved through a two-step
 25 process of nomination and designation.

1 And then after that, the owner of the landmark and the
 2 city engage in negotiations of what's called controls and
 3 incentives. And there's an agreement signed, legal
 4 document, if they agree, which essentially lays out sort of
 5 what's included in the designation, like, the entire site
 6 and the building, the exterior usually. Sometimes the
 7 interior is included, but that's -- that's part of the -- it
 8 would have to have been part of the designation and then
 9 also a negotiation with -- with the owner in terms of
 10 whether that's included and what -- what requires a
 11 certificate of approval if there's proposed changes to -- to
 12 these areas before getting a permit.

13 And so once -- once the controls and incentive
 14 agreement is signed, and the board approves that, it goes to
 15 the City Council, and then the City Council passes a
 16 resolution. So each individual landmark designation has its
 17 own City Council approved resolution.

18 **Q. All right.**
 19 A. And so once that's done and something's designated.
 20 **Q. So in that passage you read, the 400 plus landmarks, 5,000**
 21 **historic buildings surveyed, what's in that larger pot?**
 22 A. So --
 23 **Q. What are the 4,600 buildings that aren't landmarked, what**
 24 **protection do they have?**
 25 A. So the 5 -- it gets kind of confusing because the current

1 historic resources survey, which is a big database in the
 2 Department of Neighborhoods website, most of the designated
 3 landmarks are not in that survey. So what could be in that
 4 survey are potential landmarks. So if it's -- because then
 5 you have sort of information in two different areas. That's
 6 just how it is. So -- so of the 5,000, I would not subtract
 7 the --

8 **Q. All right. So the 400 is not a subset?**

9 A. Yeah.

10 **Q. It's a different pot?**

11 A. Right. So those -- those properties can range anywhere
 12 from -- so the City -- as I mentioned, they -- since they --
 13 well, almost 20 years ago now they were systematically,
 14 neighborhood by neighborhood, doing a survey of these
 15 neighbor- -- a cultural resources survey. Boundaries
 16 were -- were set, and they looked at the -- what's there in
 17 terms of maybe streetscape, landscape, and buildings that
 18 are in that -- that proposed survey area. And then you go
 19 to this deeper level of looking at them resource by resource
 20 and documenting -- there's a form called an inventory form,
 21 and that's completed. And if it's done by a consultant,
 22 then that's usually who -- who does the work, and the
 23 review, the research. So it just -- and it basically kind
 24 of documents the building from the exterior. And -- and
 25 this information is -- was of low -- from the form was

1 uploaded to the city's database, and sort of that's -- along
 2 with a photograph. So that's what you generally see.
 3 **Q. All right. So you've been talking about the city database.**
 4 **Let's -- these are screen shots from the DON Historic**
 5 **Preservation website. These are parts of Exhibit 13, 23,**
 6 **and 102.**

7 MR. WEBER: These are what?

8 MR. BRICKLIN: 13, 23, and 102. They were all linked to
 9 the same web -- different pages of that website. In fact,
 10 then I made a copy of which pages, so -- but why does this
 11 sticker -- is that different?

12 Oh, before I go on, can I move the admission of Exhibit 12
 13 and 13?

14 MR. JOHNSON: No objection.

15 MR. BRICKLIN: The two comment letters.

16 HEARING EXAMINER: 12 and 13 are admitted.

17 (Exhibits Nos. 12 & 13 admitted into evidence.)

18 (Exhibit No. 14 marked for identification.)

19 **Q. (By Mr. Bricklin) I'm handing you what's been marked for**
 20 **identification as Exhibit 14. Do you recognize these**
 21 **page -- these screen shots?**

22 A. I do.

23 **Q. And what do you recognize them as being?**

24 A. So these screen shots are of the City of Seattle Department
 25 of Neighborhoods website, and more specifically it's of the

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1 **Q.** And the expansion to the east is depicted by the dashed
 2 line?
 3 **A.** Yes.
 4 **Q.** All right. And it looks like it goes a couple blocks east,
 5 and then there's a longer dog leg that goes several blocks
 6 further. Do you see that?
 7 **A.** Yes.
 8 **Q.** All right. And if you go to the next page, H70, which is
 9 the -- it's Exhibit H70, page H71. That's the proposed
 10 alternative, the expansion area. The first part of my
 11 description is the same, but then -- but the dog leg has
 12 been eliminated. Do you see that?
 13 **A.** Yes. Uh-huh.
 14 **Q.** All right.
 15 **A.** Yes.
 16 **Q.** So if you were a reader of this, and you were wondering, how
 17 would this expansion, either as proposed in alternative 3 or
 18 by taking out the dog leg in alternative -- in the preferred
 19 alternative, how would that impact historic resources in the
 20 area? Would you have any clue from this EIS how historic
 21 resources in that area would be impacted by the difference
 22 between alternative 3 and the preferred alternative?
 23 **A.** No, not really.
 24 **Q.** Not really, or not at all?
 25 **A.** Not at all.

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1 **Q.** Let's flip back a couple pages. Let's go to page H64 and
 2 H65.
 3 **A.** Okay.
 4 **Q.** Othello. You see that alternative 3 versus alternative 4?
 5 Or I say alternative 4 -- the preferred alternative.
 6 **A.** Yes.
 7 **Q.** Do you see on alternative 3, a relatively small -- at least
 8 compared to the preferred alternative -- several-block
 9 expansion of the urban village on the east side?
 10 **A.** Yes, I see that.
 11 **Q.** Do you see on the preferred alternative a larger expansion
 12 of the urban village on the east side?
 13 **A.** Yes.
 14 **Q.** If you are a reader and you care about how the different
 15 zoning proposals would impact historic resources in that
 16 area, would you have any clue in the EIS whether the larger
 17 urban village expansion area and the preferred alternative
 18 would impact more historic resources; and if so, how many?
 19 **A.** No.
 20 **Q.** If I went through and asked you that question about each one
 21 of these urban expansions, would your -- and asked you, does
 22 EIS give the reader any opportunity to evaluate how or
 23 whether the expansion area impacts historic resources, would
 24 EIS -- would your answer be the same?
 25 **A.** Yes, it would be.

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1 **Q.** So let's turn back to the alternatives analysis -- excuse
 2 me, to the historic resource analysis of impacts in the main
 3 body of the EIS.
 4 **A.** Okay.
 5 **Q.** And if you start at page 3.304, that's the impacts chapter.
 6 Do you see that?
 7 **A.** Uh-huh. Yes.
 8 **Q.** That chapter? And at the bottom of that page, it says,
 9 "Impacts common to all alternatives." Do you see that?
 10 **A.** I do.
 11 **Q.** And then if you go in a few more pages, starting at page
 12 308, they start individualizing the discussion of impacts.
 13 Do you see that?
 14 **A.** Yes, I do.
 15 **Q.** And the first one paragraph about the no action alternative,
 16 one paragraph about alternative 3, one paragraph about
 17 alternative -- excuse me -- one paragraph about alternative
 18 2, one paragraph about alternative 3, and then one and a
 19 half paragraphs about the preferred alternative. Do you see
 20 those pages?
 21 **A.** I do. Uh-huh.
 22 **Q.** When you reviewed that, were you able to discern any
 23 information that would allow you to understand whether one
 24 of these alternatives was going to have a greater or lesser
 25 impact on historic resources?

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1 **A.** No. This section was kind of confusing.
 2 **Q.** So if you were a member of the public, trying to understand,
 3 you know, I care about historic resources, I wonder which of
 4 these alternatives does a better job of protecting, or which
 5 one creates more risks for historic resources, would you
 6 have any clue by reading these paragraphs of the EIS?
 7 **A.** No. The only -- what stands out is just the -- they talk
 8 about the level of growth, and just from a logic standpoint,
 9 I mean, that there's more growth, then you probably figure
 10 there's more impact. But the percentages, I don't -- I
 11 don't know how -- what they translate to.
 12 **Q.** All right. In the EIS, are there references to the SEPA
 13 process at the project level when individual projects are
 14 proposed in the wake of this -- assuming the MHA rezones are
 15 approved, and then individual projects are applied for, does
 16 this EIS talk about the SEPA process for those individual
 17 projects as being relevant to the assessment of impacts to
 18 historic resources?
 19 **A.** It -- it talks about project level SEPA review, but just in
 20 very general terms. It -- it doesn't call out anything
 21 specific in any neighborhood. It just (inaudible).
 22 **Q.** And are there places where the EIS suggest that the
 23 application of SEPA at the project level may reduce impacts
 24 on historic resources, or will impact -- will --
 25 **A.** Yes. It's in a few sections in the EIS.

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1 **Q. And in your experience, will the application of SEPA at the**
 2 **project level protect building structures that aren't on a**
 3 **landmark list? So the 5,000 buildings that aren't**
 4 **landmarked, will application of SEPA protect those**
 5 **buildings?**
 6 A. Not necessarily. I -- there's actually more than 5,000 --
 7 **Q. All right.**
 8 A. -- potential properties. So -- because obviously the
 9 database is -- not everything is in there.
 10 **Q. Okay.**
 11 A. And it gets added on to.
 12 **Q. Yep.**
 13 A. So there is actually well more than 5,000.
 14 **Q. All right. But in any event, whatever the number is, does**
 15 **SEPA protect those buildings? Does it -- if somebody uses**
 16 **the rezone, the upzone, that proposes tearing down a**
 17 **building that contributes to the historic character of**
 18 **Wallingford, or Ravenna, would the SEPA process protect that**
 19 **building?**
 20 A. There would be a process for review potentially. But it
 21 wouldn't necessarily result in the protection or saving of
 22 the historic resource.
 23 **Q. All right. Let's talk briefly about mitigation in the EIS.**
 24 **So if you turn a few more pages, you come to page 3.311,**
 25 **mitigation measures. Do you see that?**

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1 A. I do.
 2 **Q. And does the -- in your review of the mitigation measures,**
 3 **did you find any -- do the mitigation measures that are**
 4 **listed include a statement of the intended benefits of those**
 5 **mitigation measures?**
 6 A. I do not see that. It's just --
 7 **Q. And any indication, even if the -- even where there may be**
 8 **instances of intended benefits mentioned, any indication of**
 9 **the extent of the intended benefits? Or, you know, an**
 10 **intended benefit might be, we'll try to save some historic**
 11 **buildings; that's the intended benefit. But any indication**
 12 **of how many historic buildings or structures would be saved,**
 13 **or to what extent, or whether qualitatively or subjectively**
 14 **even how effective these measures might be?**
 15 A. No, it was not in great detail. I mean, there's some
 16 intent. Like, establishing new historic districts to
 17 preserve the historic fabric of a neighborhood. But it's --
 18 it's so general.
 19 HEARING EXAMINER: Mr. Bricklin, I just want to check in
 20 with you. We were dedicating two hours, anticipating,
 21 again, rough for this witness. And I know we didn't get
 22 started at 1:00, but if we --
 23 MR. BRICKLIN: I am close to done.
 24 HEARING EXAMINER: -- break at 1:15, we're about an hour
 25 and a half, so --

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1 MR. BRICKLIN: All right. I probably have --
 2 HEARING EXAMINER: I don't know if there's other
 3 appellants that have questions or not, but --
 4 MR. BRICKLIN: All right. I will finish up as quickly as
 5 I can here. Thank you for that reminder.
 6 **Q. (By Mr. Bricklin) Did you review whether the EIS addressed**
 7 **the relationship of this proposal to the comprehensive plan**
 8 **policies that address historic resource preservation?**
 9 A. I did.
 10 **Q. And did the EIS address those policies?**
 11 A. Not in the historic resources section.
 12 **Q. Okay. Are there policies in the comprehensive plan that**
 13 **address historic resources?**
 14 A. There are.
 15 **Q. Okay. And do you have those -- did you have those handy**
 16 **there? I don't remember if you did or not. I believe they**
 17 **were in Mr. Steinbrueck's compilation. Yeah, that's fine.**
 18 **You can refer to them there, in the interest of moving**
 19 **along.**
 20 A. Yeah. I know there are three goals on historic preservation
 21 and then these policies under each goal.
 22 **Q. And do a number of the neighborhood plans also include**
 23 **historic preservation policies?**
 24 A. Yes.
 25 **Q. And your statement that the EIS doesn't address the comp**

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1 **plan, historic resource goals refers to both the citywide**
 2 **goals and policies and the neighborhood plan policies?**
 3 A. Yes.
 4 **Q. None of that's discussed?**
 5 A. Yeah. There's just one that -- there is ref- -- the only
 6 reference to the comp plan is in this mitigation measure.
 7 **Q. Okay.**
 8 A. The first one.
 9 **Q. All right. But that's not addressing any inconsistency with**
 10 **any of the comp plan policies?**
 11 A. No.
 12 **Q. All right. And are you aware that the proposal is**
 13 **inconsistent with comp plan policies?**
 14 A. It seems like it would be.
 15 **Q. For instance, Comp Plan Policy 3.9, "Preserve**
 16 **characteristics that contribute to the communities general**
 17 **identity such as block and lot patterns and areas of**
 18 **historic, architectural, or social significance"?**
 19 A. Yes.
 20 **Q. So that would you view that proposal as being inconsistent**
 21 **with that policy?**
 22 A. Yes.
 23 **Q. And is there any discussion of that in the EIS, of that**
 24 **policy, to your knowledge?**
 25 A. No, not in the -- no.

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1 **Q. Yes. Are there surveys that have been conducted and the**
 2 **data hasn't been put in or --**
 3 A. So the one -- the recent one for the West Seattle Junction,
 4 there -- it's mentioned in here -- there's an asterisk
 5 because it was undertaken by the West Seattle Junction -- a
 6 group there that did it. It wasn't a city-sponsored survey.
 7 **Q. I see.**
 8 A. So -- so there was data that exists. I have not checked to
 9 see whether that information is in the database or not.
 10 **Q. And you're referring to the footnote to table -- or, I'm**
 11 **sorry, Exhibit 3.5-4 on page 3.302; is that right?**
 12 A. Correct.
 13 **Q. Okay. All right. And then you said there's a missing**
 14 **reference to a historic context statement in this table?**
 15 A. Yeah, for North Beacon Hill.
 16 **Q. Okay. Any other discrepancies you've identified here?**
 17 A. That's -- that was one that jumped out at me.
 18 **Q. Okay. So and then in the -- it's not the far left-hand**
 19 **column, it's the column labeled, "Properties Listed in City**
 20 **Historic Resources Survey Database." There are a number of**
 21 **X's in that column.**
 22 A. Uh-huh.
 23 **Q. So does that indicate there's been a survey done in each of**
 24 **those urban villages?**
 25 A. There's definitely information. The survey -- the

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1 information in the database can come from different sources.
 2 It doesn't necessarily have to be one of the 11 systematic
 3 surveys.
 4 **Q. Okay. And are the systematic surveys, are those kind of the**
 5 **gold standard for historic surveys? Are they qualitatively**
 6 **better, perhaps, than some of the other information that may**
 7 **result in data in the database?**
 8 A. I couldn't say, not knowing what some of the other sources,
 9 because there could be -- I think some of this
 10 information -- maybe there was a Sound Transit project, and
 11 there was an area of potential effect, and so that's part of
 12 what I referred to earlier, Section 106 of the National
 13 Historic Preservation Act, it required -- because the
 14 project used federal funding, and so I think there was
 15 probably an evaluation and a survey done, and it's very
 16 defined along the route and how far. So --
 17 **Q. So that would --**
 18 A. -- some of that information may be in -- may be in the
 19 database.
 20 **Q. Okay. And in that situation, then, you wouldn't necessarily**
 21 **have the entire urban village kind of from border to border**
 22 **surveyed? It could just be a portion of the village, for**
 23 **instance; is that right?**
 24 A. Correct.
 25 **Q. Okay.**

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1 A. And it's -- and those are usually done by professional
 2 consultants.
 3 **Q. Okay. And it's true, isn't it, that the quality of surveys**
 4 **throughout the city varies in terms of both the age of the**
 5 **data available and the kind of thoroughness of the survey**
 6 **that was conducted; isn't that right?**
 7 A. It could vary.
 8 **Q. Okay. So there would be some urban villages, for instance,**
 9 **that may have been very thoroughly surveyed more recently,**
 10 **and there may be others which haven't been surveyed recently**
 11 **at all and may have not been surveyed well when they were;**
 12 **is that right?**
 13 A. They -- I'd have to look at what they were like, but, yeah.
 14 **Q. Okay. But comparatively speaking, there are a range of**
 15 **quality differences?**
 16 A. I would think that.
 17 **Q. Okay.**
 18 A. I mean, there's -- you know, did a professional consultant
 19 do it, or -- I mean, I would think that generally those are
 20 pretty well established.
 21 **Q. Okay.**
 22 HEARING EXAMINER: Mr. Johnson, I want to just check with
 23 you on time. A guess on cross for this witness.
 24 MR. JOHNSON: Twenty minutes.
 25 HEARING EXAMINER: Okay. We're going to take a break now.

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1 We'll come back at 25 after.
 2 (Recess)
 3 HEARING EXAMINER: We'll return to Ms. Woo on cross.
 4 **Q. (By Mr. Johnson) Ms. Woo, trying to pick up where we left**
 5 **off here. And again, I had drawn your attention to page**
 6 **3.302, the Exhibit 3.5-4 on that page. And just to confirm,**
 7 **so there are not context statements prepared for or**
 8 **available for each of the urban villages that would**
 9 **potentially be impacted by MHA; is that right?**
 10 A. Correct.
 11 **Q. Okay.**
 12 A. But just because that's the case doesn't mean what's there
 13 shouldn't be used.
 14 **Q. Okay. I understand.**
 15 A. It's good information.
 16 **Q. Okay.**
 17 A. Not to be ignored.
 18 **Q. Understood. I just asked if they -- if they'd been prepared**
 19 **or not, and the answer's no, correct?**
 20 A. Correct.
 21 **Q. Okay. And Exhibit 16 was the HALA -- the comment letter**
 22 **related to HALA; does that ring a bell?**
 23 A. The ones that I have weren't labeled, so --
 24 **Q. Oh, I'm sorry.**
 25 A. The one dated June 30th?

HOWARD, Spencer

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1 A. Yes, for the University District.
 2 **Q. What were you asked to do in this case?**
 3 A. To review the FEIS and to assess its adequacy relative to
 4 historic resources and impact on the Mount Baker Historic
 5 District.
 6 **Q. Please walk us through the steps you took to prepare for**
 7 **that evaluation.**
 8 A. I reviewed chapter 3.5 of the EIS, and – sorry -- assembled
 9 available property data, GIS property data citywide, and
 10 then compared that available data to the EIS exhibits and
 11 data.
 12 **Q. Including with respect to the proposed changes of the MHA?**
 13 A. Yes. Yes. So, yes. It was – so part of what we wanted to
 14 understand is the information that – that we felt was
 15 missing from the FEIS, could that have been reasonably
 16 prepared and included in the development of an EIS? And so
 17 once we then collected that data, then we wanted to compare
 18 that with the study area and the proposed land use zoning
 19 changes to understand if it would have been a relevant tool
 20 set to have as part of the baseline data set.
 21 **Q. Can you summarize the conclusions that you reached after**
 22 **doing this work?**
 23 A. We had four basic points that the FEIS failed to adequately
 24 identify historic and cultural resources within the study
 25 area. Two, that the FEIS did not adequately identify

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1 probable impacts on those resources. Three, that the FEIS
 2 fails to consider the significant historic resources in
 3 Mount Baker Park.
 4 MR. JOHNSON: Objection. He's reading from notes. I
 5 would ask if he could refrain from using notes. If he needs
 6 to have his memory refreshed, he can do that.
 7 HEARING EXAMINER: I don't have any objection to using
 8 notes, but if you're using notes, we'll need that as an
 9 exhibit.
 10 THE WITNESS: Absolutely.
 11 HEARING EXAMINER: If it's possible to get a copy of that
 12 now, so the City can follow along. Is that something we can
 13 do? Do you have a copy with you?
 14 MR. ABOLINS: Do you want us to take a break and get an
 15 electronic copy or --
 16 HEARING EXAMINER: Do you have an electronic copy you can
 17 send? How many pages is it?
 18 MR. ABOLINS: I guess I could probably get --
 19 THE WITNESS: And I don't --
 20 HEARING EXAMINER: Is this a report or just a summary, or
 21 what is it?
 22 THE WITNESS: It's kind of footnotes to help me basically
 23 keep on schedule and to move through without getting into
 24 too many segues.
 25 HEARING EXAMINER: How many pages is it?

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1 THE WITNESS: It's eight pages. And then I also have
 2 exhibits cross referenced to know which ones are coming up.
 3 HEARING EXAMINER: That's fine. We'll take care of that.
 4 We'll run a copy.
 5 (Recess)
 6 MR. JOHNSON: I'm sorry, Your Honor. I'm going to renew
 7 my objection. I appreciate the copy, and I don't want to
 8 hold things up, but this is hearsay and, you know, the
 9 testimony of this witness should come from the oral
 10 testimony of the witness. I think this is great to help us
 11 follow along. But perhaps we could use it in that context,
 12 and then allow his actual testimony to stand in the record.
 13 HEARING EXAMINER: We allow hearsay in this forum. So
 14 it's certainly appropriate in a court, but this is a little
 15 less formal. Did you prepare this?
 16 THE WITNESS: I did, yes.
 17 HEARING EXAMINER: That's adequate. We'll mark it as
 18 Exhibit 18 and admit it.
 19 (Exhibit No. 18 marked for identification.)
 20 (Exhibit No. 18 admitted into evidence.)
 21 MR. ABOLINS: Thank you, Your Honor. May I proceed?
 22 HEARING EXAMINER: Yes.
 23 **Q. (By Mr. Abolins) So, Mr. Howard, I think we were just**
 24 **getting you started on summarizing your four basic opinions**
 25 **in the case. If you can go ahead and --**

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1 A. Yes.
 2 **Q. -- give us that summary.**
 3 A. Okay. And I think we -- okay. So one was the FEIS failed
 4 to adequately identify historic and cultural resources
 5 within the study area. Two, that the FEIS does not
 6 adequately identify the probable impacts on those resources.
 7 And three, the FEIS fails to consider the significant
 8 historic resources of the Mount Baker Park addition. And
 9 four, the FEIS failed to adequately describe impacts to the
 10 Mount Baker Park Historic District.
 11 **Q. All right. Please explain the basis for the opinion that**
 12 **the level of detail with regard to historic resources is not**
 13 **adequate.**
 14 A. It was a discord between the level of detail in the zoning
 15 information and proposed land use changes, which went down
 16 to the parcel level detail, and the level of detail on
 17 historic properties which remained at a very cursory, broad
 18 overview level for the entire city, and didn't get into any
 19 specifics of the urban village level or -- and certainly not
 20 down to the parcel level.
 21 **Q. And how did that contrast with the work you had done on the**
 22 **University District EIS, which dealt with the same MHA**
 23 **proposal?**
 24 A. It was markedly different. So in the University District
 25 EIS, we collected the available information on listed and

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1 potentially-eligible properties, and on recent 2002 survey
 2 and inventory work, and then we overlaid this information
 3 over the proposed land use and zoning changes so that we
 4 could look at those changes and understand what types of
 5 resources existed at those locations, to understand what the
 6 potential impacts would be.
 7 The other is that we included a historic context
 8 statement that identified I believe it was six key
 9 development periods for the University District. Knowing
 10 development periods is really critical to helping understand
 11 the significance of potential eligibility of historic
 12 properties. You start to understand how a neighborhood or
 13 how your study area was shaped and how properties that still
 14 exist within that study area relate to those different
 15 development periods. We also -- included in there, there's
 16 also an exhibit, Exhibit 3 that -- I don't know if that's
 17 relevant, but of the U District.
 18 **Q. Okay. I think we have an illustrative copy of that here.**
 19 **This is a page from the draft EIS for the University**
 20 **District project.**
 21 A. Yes.
 22 **Q. And I think this was attached in a summary judgment motion.**
 23 **And I'm going to offer it for illustrative purposes.**
 24 A. And so this is -- when I talk about --
 25 HEARING EXAMINER: Let me be clear. What do you mean?

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1 You're just looking at the picture? Or am I looking at
 2 text?
 3 MR. ABOLINS: This is a page from the EIS. The whole page
 4 is being offered as -- to facilitate his testimony.
 5 HEARING EXAMINER: Okay. All right.
 6 MR. ABOLINS: So you can follow along with his approach on
 7 the University District.
 8 HEARING EXAMINER: Thank you.
 9 A. And the key part is the -- is the map. We wanted to provide
 10 a visual example of what it looks like to overlay baseline
 11 data on listed, potentially eligible, and surveyed
 12 properties over proposed land use changes. And so that was
 13 the tool that we had used for that. One last item that we'd
 14 also include in there was an assessment of planning and
 15 policy that existed and was relevant to historic properties,
 16 and within the study area. So we wanted to understand how
 17 the proposed land use changes related to the broader
 18 Seattle -- the comprehensive plan, what goals and policy
 19 elements were being forwarded by the work and the land use
 20 changes that were being proposed through the U District
 21 alternatives.
 22 **Q. (By Mr. Abolins) Can you explain, in a practical sense, what**
 23 **would a decision maker be able to do with the level of**
 24 **historic resource analysis you provided in this EIS as**
 25 **compared to this citywide EIS, which doesn't contain this**

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1 **level of detail?**
 2 A. You can start to understand from the -- from the side of
 3 developing the EIS, you can now start to understand risk
 4 areas, where you're proposing a substantial upzone, and
 5 where there is a concentration of either listed or
 6 potentially eligible, or surveyed properties or even looking
 7 at the decade built data from King County, you -- you
 8 basically identify risk areas where you know that you have
 9 older properties, and what you're proposing is a substantial
 10 change from the existing conditions.
 11 So then you would want to look more closely at that
 12 area to understand how the change that you're proposing
 13 affects and relates to those properties that are currently
 14 on the ground. So it's a tool for helping to understand
 15 what the potential outcomes or impacts could be from the
 16 proposed changes.
 17 **Q. And how does that relate to the testimony we heard earlier**
 18 **today about how increasing the development capacity of a**
 19 **certain series of blocks is related to the level of impacts**
 20 **to historic resources?**
 21 A. It's -- it's really quite essential, and it's actually a
 22 survey for the -- there's a -- it helps to understand what
 23 those impacts are going to be, so it allows you to -- so
 24 basically with all of this data -- and then maybe that's a
 25 good point to kind of back up a second. What we looked at

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1 as part of preparing this information and what we had done
 2 for the University District EIS was to reach in to available
 3 public data to prepare a GIS database that was specific to
 4 the project.
 5 So for this -- kind of looking at the FEIS for this --
 6 for the MHA FEIS, we downloaded a data set from the State
 7 Department of Archeology and Historic Preservation that has
 8 all of the individually listed properties. We downloaded
 9 one that has all of the National Register and Washington
 10 Heritage Register listed districts. We downloaded a data
 11 set that has all of the survey or eligible -- or has all of
 12 the formal determinations of eligibility information on it.
 13 And we worked with the state to get a copy of the full
 14 database to be able to filter out survey or eligibility
 15 recommendations.
 16 So this was -- when surveys had been commissioned by
 17 the State Department of Archeology and Historic
 18 Preservation, there is drop-down menus for surveyors to
 19 input their professional opinion as to whether or not the
 20 property is potentially National Register eligible or --
 21 and/or potentially contributing to a historic district. And
 22 so you can put in that information. And so that we were
 23 also able to get as part of this. And then with King
 24 County, they have the countywide GIS basically are set, but
 25 then with the assessor, the assessor has all of the built

1 environment property data for commercial buildings,
2 apartment buildings, residential buildings. So they have an
3 estimated year built. It's not always precise, but it's
4 based on sort of best available information.

5 And that can also be filtered and used to then look
6 citywide to zoom into an individual neighborhood, urban
7 center, urban village, even down to the block level, and be
8 able to understand for that block generally when a property
9 was built, if it's been previously surveyed, if there's any
10 eligibility recommendation for that property, and/or if it's
11 listed. So it gives a lot of information that is all
12 publicly available, can all be put together in GIS, and all
13 of the -- the data analysis for the Appendix H maps, I
14 presume was done in GIS because it would be really hard to
15 do in CAD, auto CAD.

16 So from the preparation side of doing the EIS, you
17 already have all of the information on what you want to do.
18 The next step is your baseline data of putting together what
19 exists and comparing the two (inaudible).

20 **Q. Well, let's -- why don't we turn to the FEIS, Exhibits -- I**
21 **think you have it there in front of you -- Exhibits 3.5-2**
22 **and 3, I believe represent the city's mapping effort for the**
23 **citywide upzone. Do you have that before you?**

24 A. I do.

25 **Q. So in terms of the FEIS maps of historical resources, walk**

1 you don't have that correlation to be able to actually
2 utilize the information.

3 **Q. Can you just define for us what you mean by study area?**

4 A. The FEIS has an exhibit that defines the study area, but it
5 is -- the study area is generally the area within which a
6 proposed undertaking will occur, and so you typically define
7 that at the outset, and then all of your research and
8 analysis is focused in on that study area.

9 MR. BRICKLIN: Page 2.3.

10 MR. ABOLINS: Thank you.

11 **Q. (By Mr. Abolins) All right. But I see with respect to the**
12 **mapping of this EIS, let's take, for example, the**
13 **identification of it looks like one historic resource in the**
14 **map for North Rainier. Did you have any way of knowing what**
15 **that particular historic resource is in the North Rainier**
16 **Urban Village on Exhibit 3.5-3 by reading this EIS?**

17 A. No, you do not. The other part of that, too, is that when
18 we ran the state -- when we ran the same information that is
19 ascribed to these green dots, we came up with more dots in
20 those areas, so -- and when we looked at those, they did not
21 appear that there is a flurry of official determinations of
22 eligibility right after the EIS, FEIS had closed, so it
23 appears that there's information that's missing from this
24 map that should've been included.

25 **Q. So I guess your opinion goes beyond I guess the level of**

1 us through your conclusions about the adequacy of these
2 documents for the decision maker who would care about
3 impacts to historic resources.

4 A. These maps are inadequate for a decision maker.

5 **Q. In what ways?**

6 A. They -- at least two ways. They lack data, and scale is not
7 appropriate to -- not appropriate to the use and analysis
8 and comprehension of the data that's on there and also the
9 data that's missing. So the data that's missing is all of
10 the data that I just described, the -- what's been listed,
11 what's been surveyed, what's potentially eligible, what's
12 had a formal determination of eligibility, what was
13 surveyor-recommended eligible. That's all the data that's
14 missing.

15 From the scale side is these are -- and at a glance
16 view, but you can't really understand the level of -- and
17 correlate the information like the dots that are on these,
18 you can't correlate that to the boundary edges of where the
19 proposed land use and zoning changes are going to occur.
20 And actually, a third thing is, they don't show the study
21 area. So fundamentally, if you're doing an EIS, everything
22 tags back to your study area. And so we don't know how any
23 of these dots relate to the study area, which is where we're
24 doing our impact analysis or where a decision maker would be
25 doing their impact analysis. So you can't -- you don't --

1 detail, but actually to the accuracy of the EIS on this
2 issue?

3 A. Yes.

4 **Q. And do you know, as a historic resources expert, what this**
5 **green dot would be referring to in the North Rainier Urban**
6 **Village?**

7 A. It would refer to a property that has been officially
8 determined eligible for individual listing to the National
9 Register by the State Department of Archeology and Historic
10 Preservation. Behind this dot, sort of digitally, there
11 should be the address, property information, and all of
12 that. Which for this whole study area, you could kick out
13 as an Excel file and sort and organize based on your urban
14 village or your urban center. You could make that
15 information accessible to help make it accessible for
16 people.

17 **Q. So there was quite a bit of discussion about, you know, the**
18 **limited number of inventories and information on historic**
19 **resources that are available, but in terms of the**
20 **feasibility of putting together mapping to demonstrate in an**
21 **urban -- particular urban village where there might be**
22 **clusters of historic resources, is that something that's**
23 **possible to do with the information that we have at hand?**

24 A. It is, yes.

25 **Q. And have you approached an effort to try and do that to show**

VOLUME 2

JUNE 26, 2018

Hearing - Day 2

In the Matter of the Appeal of: Wallingford Community Council, et al.

June 26, 2018



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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the matter of the Appeal of)
WALLINGFORD COMMUNITY COUNCIL,) Hearing Examiner File
ET AL.,) W-17-006 through W-17-014
of adequacy of the FEIS issued)
by the Director, Office of)
Planning and Community Development)

HEARING, DAY TWO - June 26, 2018
Heard Before Hearing Examiner Ryan Vancil

TRANSCRIBED BY: Shelby Kay K. Fukushima, CCR#2028
Court-Certified Transcription

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-o0o-
June 26, 2018

HEARING EXAMINER: We return to the record June 22nd. Sorry, June 26th. Continuing Mr. Howard?

MR. ABOLINS: Yes.

MR. BRICKLIN: I made a copy of that --

HEARING EXAMINER: -- Exhibit 8?

MR. BRICKLIN: Exhibit 8.

HEARING EXAMINER: Mm-hmm. Thank you.

MR. BRICKLIN: You bet.

HEARING EXAMINER: We'll mark that and it's already been admitted. And for this I know that the parties had some discussion at the end of the day about scheduling. Is the revised schedule available yet?

MR. WEBER: Yeah, we sent it this morning to that MAJ e-mail. Well, actually, that goes to you guys.

MR. ABOLINS: The short answer is yes, we do. I mean, for the time being we resolved this issues and I think if Talas can just send a copy to your office then at least, as of right now --

HEARING EXAMINER: -- That'd be perfect. Yeah, that would help me manage it. I'll be looking at that essentially to help me understand how much time the parties need. And essentially what we've done is extended the hearing to

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accommodate that need and I'm looking at that as being the set amount the parties will get. So I recognize there's some flexibility in that, but what I'm not looking to do is adding additional days to our schedule. The balance initiated in our first prehearing conference requested three to four weeks. We're at three and a half. I probably will add a half day to a day just to pad. And that's going to be my day. I'm not going to give that to any party. But we'll see how that goes at the end just to give us a little breathing space. And we can talk schedule on that. But that gives almost the whole four weeks that was requested initially and that should be adequate. So just a cautionary note. Make sure you function within the time even if it's not according to the exact schedule that we have. I know we'll be trying to change things with that.

MR. ABOLINS: What is best e-mail to send that to now?

HEARING EXAMINER: The hearing examiner one? Do you know what that is?

THE CLERK: Hearing dot.

MR. ABOLINS: Hearing dot examiner?

THE CLERK: Yeah.

MR. ABOLINS: Okay. Great. Thank you.

HEARING EXAMINER: Thank you. Anything else before we get started?

MR. ABOLINS: No. We're ready to call and continue our

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testimony with Spencer Howard.

HEARING EXAMINER: Okay. Mr. Howard, you're still under oath.

THE WITNESS: Yes.

HEARING EXAMINER: And have we finished the questions from Appellant?

MR. ABOLINS: Just a few more, Your Honor.

HEARING EXAMINER: Okay.

SPENCER HOWARD: Witness herein, having previously been duly sworn on oath, was examined and testified as follows:

D I R E C T E X A M I N A T I O N

BY MR. ABOLINS:

Q. Good morning, Mr. Howard.

A. Good morning.

Q. So I just wanted to follow up and talk a little bit about your Port Gamble work. That was a programmatic EIS as well, correct?

A. That was, yes.

Q. And can you compare the approach to historic resources in the Port Gamble EIS to the approach that we were examining in the FEIS for the MHA?

A. Yes. For the Port Gamble redevelopment EIS, we, the goal of

HOWARD, Spencer

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1 **Q. Okay.**
 2 MR. JOHNSON: And have those been numbered in accordance
 3 with how they were entered into the record or are they
 4 numbered in accordance with?
 5 HEARING EXAMINER: Probably not. Probably need to --
 6 MR. JOHNSON: -- Okay. I just need to know how to refer to
 7 them and I'll do my best to cross reference.
 8 **Q. (By Mr. Johnson) Let's first turn to the EIS, however. And**
 9 **specifically, I want to draw your attention to page 3.300.**
 10 **And just let me know when you're there.**
 11 A. I'm there.
 12 **Q. Okay. So on page 3.300 and page 3.301 there are two exhibits**
 13 **which appear to be, I guess, the north half of the city and**
 14 **the south half of the city. And there are, there's a legend**
 15 **in the upper left-hand corner and right-hand corner of the**
 16 **next page, respectively. And there's some blue dots on this**
 17 **map. And in the legend it says, "NRHP determined eligible**
 18 **property." Do you know the source for that data, the NHRP**
 19 **data?**
 20 A. The legend says, "Source DAHP." So State Department of
 21 Archeology and Historic Preservation. It looks like they
 22 pulled it in 2017, or the city pulled it in 2017.
 23 **Q. Okay. And is that the same database that you referred to**
 24 **when you were discussing your work and the preparation of the**
 25 **exhibits you discussed yesterday?**

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1 A. Yes, it should be. However, there's some properties missing
 2 in this one that were in the database that I pulled from the
 3 Department of Archeology and Historic Preservation.
 4 **Q. Okay. And can you remind me where those are reflected, are**
 5 **those reflected somewhere in your exhibits yesterday or?**
 6 HEARING EXAMINER: I think the exhibit started in the area
 7 of 36.
 8 MR. JOHNSON: Oh, thank you.
 9 MR. BRICKLIN: If I might take a little break here to
 10 address the exhibit problem, because I want to make sure that
 11 we have smooth discussion with proper references to exhibits.
 12 HEARING EXAMINER: So I just want to revisit what I've said
 13 at the outset. This will be different for every witness
 14 because there's multiple appellants and the city has its own
 15 system. Please feel free to reference whatever internal
 16 system you have for guiding your witness to that. But at the
 17 same time mention the hearing examiner's number. So if
 18 you're doing your No. 41, say, "Go to 41. That's hearing
 19 examiner 25."
 20 MR. BRICKLIN: Okay.
 21 THE WITNESS: So Dropbox 36, Figure 2.
 22 **Q. (By Mr. Johnson) Okay. And so this would be Examiner**
 23 **Exhibit 21. I believe.**
 24 MR. BRICKLIN: Yeah, that's what I've got.
 25 MR. JOHNSON: Okay.

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1 **Q. (By Mr. Johnson) So do you recall the question?**
 2 A. I do, yes. So the best area to see the discrepancy is in the
 3 small inset. We have a different map. But the small inset
 4 for the North Rainier Valley within the red outline for the
 5 Mount Baker Park Historic District there's three dots within
 6 that area.
 7 **Q. Can you just focus us on which inset you're referring to?**
 8 A. Oh, yes.
 9 **Q. On the page?**
 10 A. On the page it's on the right-hand side at the middle. Or
 11 it's the only inset on the right-hand side of the page.
 12 Sorry.
 13 **Q. Okay. Please continue.**
 14 A. And so within that inset there's the area that's outlined by
 15 the red dashed boundary for the Mount Baker Park Historic
 16 District. And then within that there's three small red dots.
 17 Those are the DOE, the State Department of Archeology and
 18 Historic Preservation formally determined eligible
 19 properties. And on Exhibit 3.53 in the FEIS you can, it
 20 doesn't have the boundary for Mount Baker Historic District,
 21 but you can see the two red urban village expansion areas.
 22 And just to the right of them there are no red dots. Or no
 23 blue dots in the case for this map.
 24 **Q. Okay. And I thought when you started yesterday you said that**
 25 **the Exhibit 5, well, I think we're looking at Exhibit 3.5-3**

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1 **right now; is that correct?**
 2 A. Yes.
 3 **Q. That's the FEIS on page 3.301; is that right?**
 4 A. That is correct.
 5 **Q. Okay. So and I thought you said with reference to these**
 6 **exhibits that it didn't reflect the MHA study area; is that**
 7 **correct or?**
 8 A. The legend on 3.5.3 and 3.5.2 does not include -- well, it
 9 includes the MHA study area. But this study area is
 10 different from the MHA study area demonstrated in the master
 11 study area map for the MHA. So it, let me rephrase that. It
 12 shows an incomplete study area.
 13 **Q. Okay. And specifically where? Is it incomplete as to North**
 14 **Rainier?**
 15 A. It's incomplete citywide. So it shows only the, I believe
 16 it's only the urban villages as study areas. But there's
 17 also the commercial and multifamily zoned land that's around
 18 and in between those that is part of the MHA FEIS study area
 19 that is not shown on this map.
 20 **Q. Okay. But this map does show urban centers and villages that**
 21 **are within MHA study area, correct?**
 22 A. Yes.
 23 **Q. Okay. And it does show the areas that are outside the MHA**
 24 **study area, correct?**
 25 A. Yes.

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1 **Q. Okay. Can you turn to Exhibit 45, which is Exhibit 28 for**
 2 **the record.**
 3 A. Yes.
 4 **Q. And this is marked, "Period Built With Urban Village**
 5 **Expansion Overlay." Again, I believe this is focused on the**
 6 **Mount Baker Historic District; is that correct?**
 7 A. It is, yes.
 8 **Q. Okay. And your testimony about impacts here related**
 9 **primarily to the urban village expansion from the west, as**
 10 **reflected in the blue hatched area; is that right?**
 11 A. It did, yes.
 12 **Q. Okay. All right. So you weren't testifying to impacts**
 13 **necessarily out further to the west where we have this blue**
 14 **and green and red marked properties; is that right?**
 15 A. By virtue of the proposed urban village expansion into the
 16 historic district, those properties, or the district as a
 17 whole could be affected by the loss of integrity through the
 18 redevelopment of those properties. And then the properties
 19 on the east side of 31st Avenue South, as well as the north
 20 side of South Hanford Street, as well as Mount Baker
 21 Boulevard South, those would all have their setting and
 22 context altered through potential new development and
 23 redevelopment of those properties within the proposed urban
 24 village expansion.
 25 So it's, there would be potential impacts, broader impacts,

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1 within the historic district, as well as localized impacts
 2 within the urban village expansion.
 3 **Q. Can you turn to page 3.306 of the FEIS.**
 4 MR. ABOLINS: Three point what?
 5 MR. JOHNSON: Three zero six.
 6 THE WITNESS: Exhibit 3.1-1?
 7 **Q. (By Mr. Johnson) I'm sorry, no. It's just a page with text,**
 8 **3.306.**
 9 A. Oh, 306, sorry, 3.306, yes.
 10 **Q. Okay. And at the top of that page, first full paragraph that**
 11 **begins with "potential decreases," the next sentence reads,**
 12 **"As a neighborhood's historic fabric decreases, it is less**
 13 **likely to meet local and federal eligibility criteria for**
 14 **consideration as a historic district." I mean, is that**
 15 **generally the phenomenon you're referring to here?**
 16 A. It's slightly different in that this is already a listed
 17 historic district. But that applies to an area that has not
 18 been listed and talking about the attrition of properties
 19 within that area.
 20 **Q. And do you agree with that statement?**
 21 A. I do.
 22 **Q. Okay.**
 23 HEARING EXAMINER: Counsel, what was the, I was on 306, but
 24 I think you just read from a --
 25 MR. JOHNSON: -- So I was reading from the first paragraph

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1 on the top of page 3.306.
 2 HEARING EXAMINER: Right. Okay.
 3 MR. JOHNSON: The second sentence.
 4 HEARING EXAMINER: Thank you.
 5 **Q. (By Mr. Johnson) And then could you turn to page 3.116 of**
 6 **the FEIS. Are you there?**
 7 A. Yes.
 8 **Q. Okay. And there's a bulleted paragraph that says,**
 9 **"Significant impact." And then there's a break and a**
 10 **sentence that says, "The location-specific factors that could**
 11 **lead to a greater degree of land use impact and particular**
 12 **zone change could include," and then there are four bullets;**
 13 **do you see those?**
 14 A. Yes.
 15 **Q. And it says, "Introduction of higher-intensity uses or**
 16 **building forms into an area of consistent, established**
 17 **architectural character and urban form, such as a historic**
 18 **district." Do you agree with that statement, that that**
 19 **fourth bullet is a location-specific factor that could lead**
 20 **to a greater degree of impact?**
 21 A. Yes.
 22 **Q. Will you turn to page 3.126, please?**
 23 A. Three point one two six?
 24 **Q. Correct.**
 25 A. All right. I'm trying to catch up with you here. Bear with

Page 44

1 me.
 2 **Q. Okay. And then about, oh, a little over halfway down there's**
 3 **a reference to North Rainier; do you see that?**
 4 MR. BRICKLIN: I'm sorry, what page?
 5 MR. JOHNSON: Three point one two six.
 6 **Q. (By Mr. Johnson) And toward the bottom there, there's a**
 7 **discussion of urban village expansion on the vicinity of 30th**
 8 **Avenue South; is that the area we've been talking about in**
 9 **the Mount Baker Historic District?**
 10 A. Yes.
 11 **Q. Okay. And then it says, "The urban village expansion area at**
 12 **the east of the village in the vicinity of 30th Avenue South**
 13 **would change zoning from single family to Lowrise 1, which**
 14 **would have moderate land use impact, with potential for**
 15 **significant impact due to an existing condition of**
 16 **established, consistent architectural and urban form context**
 17 **of homes near the Olmsted Boulevard." Do you agree with that**
 18 **statement?**
 19 A. The statement's inconsistent with the Appendix H map for the
 20 North Rainier Valley for the proposed urban village
 21 expansion, which I believe shows those areas as residential
 22 small lot zoned. Not as Lowrise 1.
 23 **Q. Okay. Regardless of that discrepancy, okay, do you agree**
 24 **that there's a potential for significant impact due to an**
 25 **existing condition of established, consistent architectural**

1 and urban form context of homes near Olmsted Boulevard?
 2 A. Yes.
 3 **Q. Okay. Earlier, or towards the end of your testimony this**
 4 **morning you referenced the Port Gamble EIS. In terms of**
 5 **square miles, what was the size of that study area?**
 6 A. Oh --
 7 **Q. -- If you know.**
 8 A. No. It had the core historic district, as well as some
 9 upland areas. So it was large, but not nearly as large at
 10 the City of Seattle.
 11 **Q. Okay.**
 12 MR. JOHNSON: Nothing further.
 13 HEARING EXAMINER: I just have a few questions for you,
 14 Mr. Howard.

EXAMINATION

18 BY THE HEARING EXAMINER:
 19 **Q. Did you prepare a report? Or findings?**
 20 A. I did an expert witness or expert disclosure. And then as
 21 part of that we provided links for everyone to all the
 22 background materials we looked at. As well as the folder
 23 that has all of the analysis maps developed and the GIS
 24 database and all of the information. And then I prepared a
 25 series of maps as exhibits, but I didn't do any report that

1 looked at those or analyzed those.
 2 **Q. Okay. In Exhibit 19 --**
 3 MR. BRICKLIN: Hearing Examiner 19?
 4 HEARING EXAMINER: Yeah. I'll just refer them as Exhibit
 5 whatever.
 6 MR. BRICKLIN: Your 46.
 7 HEARING EXAMINER: Whatever. And once they get here, that
 8 is the exhibit.
 9 MR. BRICKLIN: Yeah. No, I'm just giving him the
 10 translation.
 11 HEARING EXAMINER: Right.
 12 MR. BRICKLIN: Forty-six.
 13 **Q. (By the Hearing Examiner) You indicated that, I think you**
 14 **said that the red dots are Department of Ecology eligibility?**
 15 **Eligible?**
 16 A. Yes, Department of Archeology and Historic Preservation.
 17 **Q. What are the other dots?**
 18 A. All of the other dots are City of Seattle historic property
 19 database surveyed properties, color coded by neighborhood.
 20 **Q. You gave two maps, two or three, of Mount Baker. Yes, three,**
 21 **so that would be Exhibits 26 through, well, 25 through 27.**
 22 **And for yours, 41 through, 42 and 39. And I'm just, you**
 23 **don't have to look at them in particular, I'm just trying to**
 24 **get a sense of what your testimony is directed at in the**
 25 **context of these maps. I understand when you show me a**

1 citywide map and indicate that maybe there's some Department
 2 of Ecology items missing and what could have been shown on a
 3 citywide map. Are you saying that the FEIS should have gone
 4 to this level of detail throughout the city?
 5 A. Yes.
 6 **Q. And would that match the level of detail you experienced with**
 7 **the programmatic EIS that you did in Port Gamble?**
 8 A. It would, yes. And for the University District.
 9 **Q. Okay. And tell me, the University District MHA, what does**
 10 **that study, and I have had no witnesses describe this for me**
 11 **yet, but it sounds like there were other EIS's done in**
 12 **relation to MHA for specific areas. Were they done after or**
 13 **before this EIS?**
 14 A. It was done before this EIS. And so I can't describe
 15 adequately the rationale for why it moved ahead. But it was,
 16 the intent of the University EIS was to increase density
 17 within the University District. And so it was looking at the
 18 same factors in terms of a series of alternates and proposed
 19 land use and zoning changes. And for us what the impacts of
 20 those would be on historic properties.
 21 HEARING EXAMINER: Thank you. Redirect?
 22 MR. ABOLINS: Yes.

1 REDIRECT EXAMINATION
 2 BY MR. ABOLINS:
 3 **Q. So I think we've talked about the inadequacy of a citywide**
 4 **map for evaluating clusters of historic resources. So I just**
 5 **want to make clear, you know, on some of these maps, you**
 6 **know, they have dots covering the entire, you know, city.**
 7 **And again, are you trying to say that the City of Seattle**
 8 **needs to be encased in amber and preserved?**
 9 A. No. I think that the FEIS, like, in Appendix H where they
 10 broke out by all the urban villages the exhibit maps that
 11 showed the detail of the proposed land use and zoning
 12 changes. That if you had that with the available historic
 13 property data overlaid then at least as you're looking at the
 14 alternatives you'd be able to better understand what the
 15 potential impact might or might not be to historic
 16 properties.
 17 **Q. And you were also questioned about neighborhoods that might**
 18 **not have, you know, the ability themselves to try and**
 19 **document their historic clusters of properties or even**
 20 **districts. So if a neighborhood lacks that information and**
 21 **then there's a proposal that's going to have an impact on**
 22 **such historic resources, whose responsibility is it to come**
 23 **up with the funding and insure that an appropriate analysis**
 24 **takes place?**
 25 A. It ideally should rely on the entity proposing the changes

REID, William

1 built in Central Seattle. Or subsidized housing, rent
 2 restricted housing. Versus ownership.
 3 You know, historically in the City of Seattle, 60 percent
 4 plus of housing need, housing demand, has been ownership, to
 5 own a home. The other 35 to 40 percent has been over time
 6 need for rental housing, households needing rental housing.
 7 And the way it works over time is households who are younger
 8 and don't earn as much, or for the course of their life
 9 because of income challenge, always need rental housing.
 10 Rental housing ends up being for a lot of households
 11 temporary. And it certainly ends up being the minority of
 12 housing need for the lifetime of households in the city.
 13 Whereas ownership housing ends up being the largest share
 14 of housing and for the longest period of a household, of a
 15 person's life household, you know, as long as a household is
 16 alive. And the split's around in the thirties, rental
 17 housing precipitously drops off when households get into
 18 their thirties and then for the rest of their life
 19 overwhelmingly households own. For the very most part.
 20 And that's the problem with the EIS in my view is that in
 21 understanding impacts to housing and what this policy will do
 22 for housing, it really only focuses on the affordability of
 23 rental housing, which is only the minority share of housing
 24 need. And because it's silent on the issue of ownership, and
 25 the policies set forth that are studied and impacting the

1 housing market, because there's no treatment of how many
 2 ownership units are created or protected, there's no
 3 understanding whatsoever of what the impact to the housing,
 4 the ownership housing market, ownership availability, and
 5 ownership pricing, by policies that don't even touch upon
 6 ownership. It's an interactive market. You can't ignore one
 7 without having impacts to the other. If you under provide
 8 rental housing, you not only get higher rental rates, but you
 9 typically get higher ownership costs because – higher prices
 10 for homes because it's not a, it's a potential alternative
 11 for households, but they can't find rentals so they try to
 12 get an ownership. Undersupply for both, therefore, causes
 13 costs to go up.
 14 But even if you provide additional rental units, that
 15 doesn't necessarily do anything for the ownership housing
 16 market. Households that rent temporarily because
 17 they're relocating here and then they move onto ownership
 18 housing. Or they get to a certain age and income level and
 19 they move into ownership housing. And none of this deals
 20 with that whatsoever. And the interaction of that isn't
 21 understood, studied, or documented in terms of what the
 22 already precipitously increasing home ownership market is
 23 already experiencing in terms of price. And my concern is
 24 that there's no understanding what the impact of any of this
 25 will be on any of that.

1 **Q. All right. So you say that this is a phenomenon that already**
 2 **exists in Seattle. So explain what you mean by that in terms**
 3 **of the difficulties, I guess, primarily it sounds like young**
 4 **people in their thirties have getting into the home ownership**
 5 **market in, say, currently, even before this comes along?**
 6 A. Sure. So we're kind of an unprecedented, what I would call a
 7 perfect storm of conditions that have created a terrible,
 8 terribly expensive and accelerating expense for rental
 9 housing. And probably the biggest factor there --
 10 **Q. -- Well, I was asking about home ownership.**
 11 A. Oh, home ownership. Sorry. Yeah.
 12 **Q. Yes.**
 13 A. So no, there's just been no new supply delivered. Or very
 14 little, there's very limited new supply delivered for new
 15 ownership housing, particularly on the attached condominium
 16 and townhouse side. Particularly for condominiums because of
 17 the development costs for them. Insurance, construction
 18 default insurance has made condominium development extremely
 19 expensive.
 20 So anyway, any type of new ownership housing delivery has
 21 been difficult prior to this.
 22 **Q. All right. How would the proposal potentially impact -- I**
 23 **understand you saying it hasn't been analyzed in the EIS, but**
 24 **if there is no potential to impact that market, then there's**
 25 **nothing to analyze. So do you have an opinion that the**

1 **proposal would actually have some impact on the home**
 2 **ownership market?**
 3 A. Well, yes. So the increase in, a couple of different ways.
 4 First, without the policy and the impacts of its study of new
 5 ownership housing opportunity at a subsidized type of
 6 housing, subsidized pricing. Or subsidized rental
 7 apartments. Or market rate ownership housing. Without
 8 taking a look at that and without documenting that portion of
 9 the market, the majority portion of the market and its
 10 interaction with rental housing, bringing in the ability for
 11 a bunch of additional rental units, market rate particularly
 12 under the policy, basically creates the ability for far more
 13 households to be here to eventually be looking for a place to
 14 buy, okay. Even more so than now.
 15 So the more people you have here renting as a result of
 16 this policy, the more people you have here eventually buying.
 17 And with no understanding in this about how that increase in
 18 households who rent and eventually will get into ownership
 19 housing, there's no understanding about how the existing
 20 limited stock of ownership homes, there's no understanding
 21 about how pricing will accelerate. Because there are more
 22 households renting that will move into ownership, but there's
 23 nothing done about new ownership opportunity. And that just
 24 creates a, further creates the supply constrained relative to
 25 demand conditions.

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1 A. Low opportunity urban villages are going to have typically
 2 lower than elsewhere market rents. So I don't know that it
 3 would be more difficult to build new market rate apartments.
 4 I think overall yes, because the market rate rents in those
 5 urban villages aren't as high as other urban villages. But
 6 they all face the same basically construction costs. They
 7 might have lower land values and they might not have rents
 8 that are as high. But they still face the same development
 9 costs, construction costs. Which is the largest share of
 10 costs. So yes, on balance, I would say it would be more
 11 difficult to build market rent apartments in low opportunity
 12 urban villages.

13 **Q. So you would agree with the statement that overall the impact
 14 of the MHA would be to filter the subsidized housing away
 15 from the high opportunity areas and the market rate housing
 16 is more likely to filter away from the low opportunity urban
 17 villages?**

18 A. I think the economics of the development of both of those
 19 things point in that direction, yes.

20 HEARING EXAMINER: Cross-examination?
 21

22 CROSS-EXAMINATION
 23 BY MR. WEBER:
 24 **Q. Hi. Jeff Weber for the City. So, Mr. Reid, a couple of
 25 questions. Prior to this case, how many environmental impact**

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1 **statements have you worked on or reviewed in your
 2 professional capacity?**

3 A. I don't have a exact number. The primary and biggest EIS
 4 environmental impact statement I have done was for the
 5 Suncadia Resort and that was a three year process. I worked
 6 on socioeconomic impact, housing, public services impact. So
 7 that was a three year process. And then I've worked on
 8 issues of review under SEPA, but not necessarily written EIS
 9 reports beyond that.

10 **Q. So you were talking about the ownership form of housing
 11 versus the rental form of housing. Is it correct to say that
 12 lower density forms of development are more conducive to
 13 ownership housing than higher density forms?**

14 A. Not necessarily. Lower density forms are lower -- density is
 15 based on land value. So lower density forms are more common
 16 in lesser expensive places to build and live and higher
 17 density forms of ownership are more common in higher value
 18 places. So, yeah, I wouldn't say so.

19 **Q. Are you suggesting that in the City of Seattle lower density
 20 forms of development are primarily in lower cost or lower
 21 market areas?**

22 A. New lower density development, housing development, is more
 23 common in different parts of the city that are lower cost to
 24 develop. You don't see lower density housing being built in
 25 the central City of Seattle. It's all high density. And the

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1 further you go out and the gradually less expensive it is to
 2 build and live there, the density level decreases. Is how I
 3 would answer that.

4 **Q. So for a given project is the decision whether it should be
 5 ownership or rental something that is decided by the
 6 developer? Or is it decided by someone else?**

7 A. Ultimately, decided by the market and the developer delivers
 8 it, builds it. So yeah, the market basically.

9 **Q. But the city doesn't mandate through its zoning code that
 10 something be ownership versus rental?**

11 A. No, there's no specific requirement. The city does not
 12 dictate that, no.

13 **Q. So earlier in your testimony you said that the performance
 14 units, the units that would be provided in the building under
 15 MHA, would be overwhelmingly rentals. Can you explain what
 16 the basis is for that belief on your part?**

17 A. It's based on a couple of different things. Number One, the
 18 overwhelming treatment of housing need in the EIS is
 19 treatment of affordable rents and new rental unit production,
 20 whatever it is. So the intent of the policy based on this,
 21 my conclusion is that the emphasis is on rental housing need
 22 and, therefore, the policy is set up and would deliver an
 23 emphasis on rental housing need.
 24 The other half of that is that with limited resources, you
 25 know, funds being generated only a certain amount through the

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 2 ownership housing, can be significantly more expensive to
 3 build than rental housing. Rental housing is built for
 4 temporary occupancy. Ownership is typically built for longer
 5 term occupancy, ownership of the unit. So development costs
 6 for ownership are higher. And, therefore, limited resources
 7 generated by MHA, it will be more expensive to pay for. Or
 8 help pay for new ownership housing, rather than less
 9 expensive to build relatively speaking rental housing.

10 **Q. So I think I want to go back to the question, because I was
 11 not asking about what would be done with the revenues from
 12 MHA payments. I was asking about your statement that the
 13 performance units, the units provided by developers within
 14 the building that they're developing, you said those would be
 15 overwhelmingly rentals. And then I heard you say that, you
 16 know, something about the EIS or the program looks mostly at
 17 rental. But as to the actual question of what type of
 18 performance units are provided, ownership versus rental, you
 19 seem to make a projection that it would be overwhelmingly
 20 rentals. And I'm curious why or on what basis that statement
 21 rests.**

22 A. Well, based on Number One, in the city I would expect to see
 23 for a while anyway a balance of rentals being created. And
 24 so the units being built in them will also be rentals. I
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KASPERZYK, Davidya

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SODT, Sara

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1 A. If it's a district, it likely includes more.

2 **Q. Do you know of any historic districts that are in**

3 **neighborhoods in the Seattle area?**

4 A. All of the National Register historic districts are in

5 neighborhoods.

6 **Q. Residential neighborhoods?**

7 A. Harvard-Belmont. Columbia City covers some neighbor -- you

8 know, residential areas. Fort Lawton has some residential.

9 Then there's -- those are the local -- also local historic

10 districts.

11 Then there's Montlake and Roanoke, and then I believe

12 Mount Baker was recently listed. And then there's a tiny

13 residential National Register historic district, and I can't

14 remember its name. But it's adjacent to one of the Olmsted

15 parks, and it just is comprised of some cottages.

16 But none of those are -- I don't believe any of those are

17 local landmark districts, which is what I administer.

18 **Q. Okay. But you're familiar generally with those historic**

19 **districts; is that correct?**

20 A. Generally.

21 **Q. Yes. And have you actually seen the applications for some**

22 **of those historic districts?**

23 A. Only the Mount Baker. The others I haven't, haven't seen.

24 I wasn't involved.

25 **Q. Okay. But you looked at Mount Baker's?**

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1 A. I have.

2 **Q. So within Mount Baker's, there's something called**

3 **"contributing buildings"?**

4 A. Yes.

5 **Q. And what does that mean?**

6 A. That means that those buildings are within the period of

7 significance, which is the period of historic significance

8 that's been identified in the nomination. And they're

9 buildings that have a high enough integrity that they still

10 convey that significance. That's my understanding of what

11 those are.

12 **Q. Are there also some resources within that district that**

13 **might be called "noncontributing"?**

14 A. Yes. Generally, those are buildings that were not

15 constructed or resources that were not constructed or built

16 within the period of significance. Or they are historic

17 noncontributing, meaning that they have be so highly altered

18 you can't determine that they were a historic resource or a

19 contributing resource.

20 **Q. So whether it's contributing or noncontributing, are these**

21 **still considered to be part of the National Historic**

22 **District?**

23 A. They're still within the boundary.

24 **Q. So now I just want to switch over to the Seattle database.**

25 **Are you familiar with the Seattle database?**

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1 A. Yes.

2 **Q. Okay. And why are you familiar with it?**

3 A. It's a part of the program that I administer.

4 **Q. And do you know when that database was started?**

5 A. I don't know when the database itself was created, but I do

6 know that the City, in the year 2000, started -- attempted

7 to start a comprehensive survey and inventory of the City.

8 **Q. And do you know whether there were any inventories that**

9 **existed before that database was started?**

10 A. There have been other survey and inventory projects before

11 then.

12 **Q. And was the data from those entered into that database to**

13 **your knowledge?**

14 A. The one survey that was started before that that was entered

15 was the survey of City-owned properties. And that was done

16 in the late '90s, and, therefore, was, you know, I think

17 relevant data to put in the database given that it just had

18 been done.

19 **Q. Okay. But anything before, let's say, that particular**

20 **survey where you might have had surveys done before that,**

21 **were those data put into the database?**

22 A. I don't -- I don't believe so.

23 **Q. Now, you work with the Department of Construction and**

24 **Inspections; is that correct?**

25 A. I do.

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1 **Q. Okay. And how do you work with them?**

2 A. We interface with them in the permitting process.

3 **Q. So why do they interface with you?**

4 A. So if there is a permit that's applied for that is for a

5 property that's within a district or is a property that's a

6 designated City landmark, SDCI cannot issue a building

7 permit or any permit before the landmarks board or the

8 relevant district order commission has approved that, the

9 change in that permit.

10 **Q. Does that apply to national historic districts as well?**

11 A. No, just if it's local.

12 **Q. So if some districts already been approved by the Parks,**

13 **National Park Service, is there some way that DCI would know**

14 **that these buildings are part of the National Historic**

15 **District?**

16 A. Only if it's a local, a local district as well.

17 **Q. Okay. So we have talked about landmark districts. Those**

18 **are Seattle landmark districts; is that correct?**

19 A. Local landmark districts.

20 **Q. And it's a local Seattle --**

21 A. Landmark.

22 **Q. -- district?**

23 **Okay. And so what does that mean?**

24 A. It means it's been designated by the City of Seattle City

25 Council.

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1 MR. JOHNSON: No objection.
 2 HEARING EXAMINER: 48 is admitted.
 3 (Exhibit No. 48 admitted into evidence)
 4 **Q. (By Mr. Johnson) Now, let's get back to the EIS process.**
 5 **When the process began, did you have any meetings with**
 6 **the consultants who were assigned to do this section on**
 7 **historic resources?**
 8 A. Yes.
 9 **Q. Okay. Could you describe that meeting, the first meeting,**
 10 **the second meeting? Say what happened.**
 11 A. So the first meeting was with City staff and the
 12 consultants, and, basically, they were just asking me about
 13 the regulatory framework and then any data that I might have
 14 in terms of the database and I also -- I believe I directed
 15 them to WISAARD, the State's database.
 16 **Q. So is it limited just to the database? That was all they**
 17 **asked about, or is that all you told them about?**
 18 A. That's what I -- that's what I told them about.
 19 **Q. Did you reference at all the notebooks that were sitting in**
 20 **your office?**
 21 A. No, in part because data for survey and inventory in terms
 22 of environmental review analysis really should only be about
 23 five years old at most. So the stats, 1979 data, wouldn't
 24 necessarily be relevant.
 25 **Q. But information in the database that you had, some of that**

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1 **is older than five years old; isn't it?**
 2 A. It is.
 3 **Q. And do you think that it should have been up to the**
 4 **consultants to decide whether or not that data was usable?**
 5 A. That -- that would be their job.
 6 **Q. But you would need to tell them about it first, right? For**
 7 **example, this survey that was done in 1978, '79?**
 8 A. I suppose. I wasn't withholding it from them, but I -- when
 9 I do survey -- or when I do environmental review, the data
 10 that I utilize needs to be five years old or less, which is
 11 why we do site visits. We use the data in the database, but
 12 also in addition to that, we don't rely on it. We do site
 13 visits as well.
 14 **Q. Okay. In any event, you didn't tell them about it; is that**
 15 **right?**
 16 A. I don't recall that I did.
 17 **Q. Okay.**
 18 (inaudible colloquy)
 19 **Q. (By Ms. Bendich) You do use this data for some purposes,**
 20 **though; is that correct?**
 21 A. We use it, like I said, in conjunction with a site visit and
 22 any current data we have if we're trying to assess whether a
 23 resource has changed significantly over time. So either it
 24 retains architectural integrity or it has lost architectural
 25 integrity, so we use it as kind of a comparative cool.

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1 **Q. Do you have an approximation of how frequently this survey**
 2 **is used?**
 3 A. I don't know how often my staff uses it, but it's probably
 4 just maybe...
 5 **Q. Don't guess. I just want to know whether you have an**
 6 **approximation.**
 7 A. I don't have an approximation, but we -- I think my staff
 8 reviews between 90 and 150 SEPA reviews. And that's
 9 primarily when we would use those, and that's a year.
 10 **Q. Are there times when the SEPA review is not triggered but**
 11 **there are potential historic resources that may be**
 12 **demolished in your experience?**
 13 A. I'm assuming there are because there are a lot more
 14 demolition permits issued than a hundred, between 90 and 150
 15 a year.
 16 **Q. Are you aware of any circumstances when historic resources**
 17 **have been demolished because they didn't reach the SEPA**
 18 **threshold?**
 19 A. So it depends on how you define the historic resource. Like
 20 if it's an officially designated landmark, then no. But if
 21 there's a potential historic resource, certainly, there have
 22 been times that they have been under the thresholds, and,
 23 therefore, have not been reviewed.
 24 **Q. Doesn't SEPA refer to potential historic resources?**
 25 A. Yes.

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1 **Q. So it's not things that have been already necessarily**
 2 **designated landmark or part of the National Historic**
 3 **District or Seattle historic district? It could be any**
 4 **potential historic resource; is that correct?**
 5 A. Mm-hm.
 6 **Q. And you're nodding.**
 7 A. Yes.
 8 **Q. Thank you. And where there is, let's say, an area that**
 9 **might qualify or be a potential for a national historic**
 10 **district, if it's -- if you have one house, a couple of**
 11 **houses within that area and there's no SEPA review**
 12 **triggered, how would that affect the area that could be**
 13 **designated as a historic district?**
 14 A. Well, again, I don't administer the National Register
 15 historic district, but there does need to be a certain
 16 number of contributing resources within a national
 17 registered district in order to be eligible to be a
 18 district.
 19 **Q. I'm sorry?**
 20 A. If you're chipping away at that, then you potentially impact
 21 the designation.
 22 **Q. So would it be correct to say that you don't want to see any**
 23 **unnecessary demolition of buildings?**
 24 A. I don't. And the ordinance also, the landmarks ordinance,
 25 does not.

1 A. Mm-hm.
2 **Q. And you talked about a loss of funding for the comprehensive**
3 **survey that was initiated --**
4 A. Mm-hm.
5 **Q. -- and then stopped.**
6 **And is that the current condition? Is the City currently**
7 **not funded to do that work?**
8 A. The City currently does not have funding to do -- do that
9 work --
10 **Q. Okay.**
11 A. -- proactively.
12 **Q. And other than the mitigation funding from the federal**
13 **government you just referred to, has that occurred in any**
14 **other situation? In other words...**
15 A. We did the survey and inventory of the University of
16 Washington campus, and that was a part of 520. There had
17 been some survey and inventory projects that have been done
18 like Ballard through neighborhood initiative.
19 **Q. Okay. All right. And earlier you mentioned that you had**
20 **been involved in reviewing the mitigation measures that are**
21 **listed in the FEIS --**
22 A. Mm-hm.
23 **Q. -- is that correct?**
24 A. Mm-hm.
25 **Q. Okay. And one of those -- I just draw your attention --**

1 **Well, it relates to a number of bullets, but let me draw**
2 **your attention to the sixth bullet, I guess.**
3 **And it says -- are you there? I don't...**
4 **Okay. "So funding City-initiated proactive landmark**
5 **nominations for properties and potential historic**
6 **districts...."**
7 **And then in the fourth bullet, there's another.**
8 **"Funding" -- I'm sorry. The third bullet there's another**
9 **reference to, "Funding continuation of City-initiated**
10 **comprehensive historic survey and inventory work...."**
11 A. I see those.
12 **Q. Okay. And if adopted, would those address some of the**
13 **funding issues you testified to with regard to this Citywide**
14 **survey?**
15 A. If they were funded, yes.
16 **Q. Okay. All right. And Ms. Bendich asked if you would like**
17 **to see more local landmarks designated, would funding in**
18 **that regard assist in achieving that desire?**
19 MS. BENDICH: No, I don't believe that was my -- I asked
20 that question. But you can go ahead.
21 MR. JOHNSON: We can have our court reporter read it
22 back.
23 HEARING EXAMINER: I remember that question being asked.
24 MS. BENDICH: Okay. Thank you.
25 **Q. (By Mr. Johnson) The funding measures that I just discussed,**

1 MS. BENDICH: Actually, I object. It's beyond the scope
2 of direct.
3 HEARING EXAMINER: She didn't ask her about mitigation
4 measures.
5 MR. JOHNSON: Okay. Well, we can recall the witness,
6 then. We'll have to -- I mean, I can finish in five
7 minutes.
8 HEARING EXAMINER: Is she a direct witness for you?
9 MR. JOHNSON: I believe she's listed -- we have listed
10 her as a...
11 HEARING EXAMINER: I don't know so...
12 MR. JOHNSON: We have listed her as a witness because
13 she's being called by the other party.
14 HEARING EXAMINER: So were you intending to call her for
15 (inaudible)?
16 MR. JOHNSON: Well, I wasn't because I had one question
17 on this, but I'll just move on, Your Honor. I don't want to
18 waste time. We're at 4:56. I can keep going.
19 HEARING EXAMINER: We're going to stay late until we
20 finish this witness.
21 MR. JOHNSON: We'll be done. We'll be done.
22 HEARING EXAMINER: So if you have just one question and
23 you're going to call her on direct, go ahead and ask her.
24 **Q. (By Mr. Johnson) So the question relates to page 3.311 of**
25 **the EIS, and the fourth bullet. I'm sorry. Strike that.**

1 **would those assist in --**
2 A. Yes.
3 **Q. -- achieving that goal?**
4 A. Yes.
5 **Q. Okay. With regard to the questions about the notebooks**
6 **documenting inventory and survey work in the '70s, and I**
7 **think that's Exhibit 46 for the record.**
8 **I guess is that information just less reliable than**
9 **more --**
10 MR. BRICKLIN: Objection. Leading.
11 HEARING EXAMINER: Sustained.
12 MS. BENDICH: My objection (inaudible). I second the
13 objection.
14 HEARING EXAMINER: Okay.
15 MR. JOHNSON: Anybody else?
16 HEARING EXAMINER: Let's keep (inaudible) objections.
17 MR. JOHNSON: Sorry. Okay.
18 **Q. (By Mr. Johnson) Can you just further explain the**
19 **reliability of the inventory and survey data that's**
20 **contained in the work from the 1970s?**
21 A. Well, so a lot has changed throughout the City in that time.
22 There's been a lot of demolitions, so perhaps a lot of --
23 some of these buildings might not exist, or they've -- they
24 might have been altered over time. So that's why we would
25 do -- if we were reviewing a property, we'd do a site visit,

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1 and then we would compare it to this data. Mostly use it
 2 for kind of looking at a photo.
 3 **Q. Okay.**
 4 A. And then -- then we can kind of see how it's changed over
 5 time.
 6 **Q. Okay. All right. And other than doing the site visit and**
 7 **kind of the specific work for individual properties, is**
 8 **there a way to tell whether these properties from this older**
 9 **data even still exists in light of the demolition?**
 10 A. I think we'd have to do a site visit or go onto the
 11 assessor, the County's, or look at Street View on Google
 12 Maps.
 13 **Q. Okay. And Ms. Bendich asked you a question about whether or**
 14 **not you provided this data, the older data to the EIS**
 15 **consultants, and you said no; is that right?**
 16 A. Yeah. I don't -- I don't think I did.
 17 **Q. And do you ever interface with other EIS consultants in**
 18 **terms of providing data or...**
 19 A. In the regulatory framework, yes.
 20 **Q. Okay. And is this data that you would provide to an EIS**
 21 **consultant normally?**
 22 A. I don't believe I did for Uptown or South Lake Union, both
 23 of which I have worked on recently.
 24 **Q. Okay.**
 25 MR. JOHNSON: I don't have anything further.

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1 HEARING EXAMINER: Redirect?
 2 MS. BENDICH: Yes. I have some cross -- I mean,
 3 redirect.
 4
 5 REDIRECT EXAMINATION
 6 BY MS. BENDICH:
 7 **Q. Have you ever used these data that are in this windshield**
 8 **survey and found that the property looked exactly or very**
 9 **close to the way it did when these photos were taken?**
 10 A. I can't think of an -- of an exact instance, but,
 11 presumably, there are some that haven't altered much over
 12 time.
 13 **Q. And you talked about using Google Maps.**
 14 **What's Google Maps? How would you utilize Google Maps?**
 15 MR. BRICKLIN: Street View.
 16 THE WITNESS: Street View.
 17 MR. BRICKLIN: Street View.
 18 **Q. (By Ms. Bendich) You would use the Street View?**
 19 A. Yeah. You can go to an address and look at the Street View.
 20 **Q. So it's pretty easy to do that, right?**
 21 A. I suppose. Sure.
 22 **Q. Okay. So if you had the addresses, you could actually do a**
 23 **Street View of each of these properties that are listed in**
 24 **this index?**
 25 A. Presumably.

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1 **Q. From your desk?**
 2 A. Presumably, yes.
 3 (Inaudible colloquy)
 4 **Q. (By Ms. Bendich) And can you access the County Assessor's**
 5 **data from your desk?**
 6 A. Yes.
 7 MS. BENDICH: Thank you, Ms. Sodt.
 8 HEARING EXAMINER: Thank you, Ms. Sodt.
 9 (Inaudible colloquy)
 10 HEARING EXAMINER: Is she a direct witness of yours?
 11 MS. BENDICH: No, she is not.
 12 MR. BRICKLIN: No, she is not.
 13 (Inaudible colloquy)
 14 MS. BENDICH: Do you want me to...
 15 MR. BRICKLIN: Yeah, can I feed one question?
 16 MS. BENDICH: Can he advise me? Can he advise me since
 17 we're not (inaudible)?
 18 HEARING EXAMINER: All right. We'll take one more
 19 question because we're going to need to wrap up.
 20 (Inaudible colloquy)
 21 **Q. (By Ms. Bendich) Okay. I believe Mr. Johnson asked you**
 22 **whether you have some information in the City that's better**
 23 **than other information in the City; is that correct? Or**
 24 **I'll ask...**
 25 A. Oh...

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1 **Q. Do you have information in the City that you would say is**
 2 **better --**
 3 MR. BRICKLIN: In some areas.
 4 **Q. (By Ms. Bendich) -- in some areas that are better than**
 5 **others?**
 6 A. I would say that some areas have been surveyed either more
 7 comprehensively or maybe had been covered by multiple
 8 surveys over time.
 9 **Q. So there is data there.**
 10 **Do you believe that data is useful for somebody, a member**
 11 **of the public, or somebody who's looking at this EIS to have**
 12 **access to?**
 13 A. Sure, it is useful.
 14 **Q. And do you see anywhere in the section on historic resources**
 15 **that identifies those properties?**
 16 A. No. Just the chart that identifies that certain areas were
 17 covered.
 18 MS. BENDICH: Thank you.
 19 HEARING EXAMINER: Thank you, Ms. Sodt.
 20 So wrap up. I'll need a copy of Exhibit 37.
 21 Is that all set to go?
 22 MR. JOHNSON: It should be.
 23 MR. BRICKLIN: And could I get a copy of that, too?
 24 MR. JOHNSON: I guess that would be...
 25 HEARING EXAMINER: Oh, you're giving me the original?

VOLUME 3

JUNE 27, 2018

Hearing - Day 3

In the Matter of the Appeal of: Wallingford Community Council, et al.

June 27, 2018



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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeal of:)
WALLINGFORD COMMUNITY) W-17-006
COUNCIL, ET AL.,) through
) W-17-014
of the adequacy of the FEIS issued by the)
Director, Office of Planning and)
Community Development.)

HEARING, DAY 3 - JUNE 27, 2018
Heard before Hearing Examiner Ryan Vancil

TRANSCRIBED BY: Marjorie Jackson, CET

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June 27, 2018

THE COURT: Return to the record for June 27 and continue with the appellant's case.

MR. BRICKLIN: Recall Mr. Steinbrueck.

THE COURT: Mr. Steinbrueck, you're still on oath from the last time.

MR. BRICKLIN: Resuming his testimony.

DIRECT EXAMINATION (continued)

BY MR. BRICKLIN:

Q. Good morning, Mr. Steinbrueck.

A. Good morning. Thank you.

Q. So I want to cover a couple of items that we didn't quite finish with the other day. First, in Appendix -- did you notice that in Appendix F of the EIS there's a description of the actual proposal that was being described in the EIS, the detailed code amendments and zoning maps --

A. Yes.

Q. -- are in Appendix G, but the text amendments are in Appendix F?

MS. BENDICH: F is marked in here.

MR. BRICKLIN: Excuse me? And do you have a -- oh, yes, he has a copy of that. Could you -- Ms. Bendich will

EXHIBIT INDEX

EXHIBIT	DESCRIPTION	MRK/ADM
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help --

A. Sure.

Q. (By Mr. Bricklin) -- you locate Appendix F in the EIS there.

MS. BENDICH: Appendix F begins at the City's demarcation COS 2054.

THE COURT: Okay.

Q. (By Mr. Bricklin) And the first couple of pages of Appendix F includes some tables describing increases in development capacity in various zones under the proposal. And then that's followed by text that first having described other development capacity increases and then new and modified development standards.

A. Um-hum.

Q. And then when you turn to page F6, you come to a section titled Rezone Criteria.

A. Yes.

Q. And the other day I think you were testifying about a change in Rezone Criteria and there was an objection that you were making reference to a council bill, and the council bill wasn't part of this proceeding or something. And so instead of referring to a council bill today, we will have you refer to the rezone criteria as described in -- or the changes to the rezone criteria as described in Appendix F6.

A. Okay.

Q. And I see you're looking for something --

STEINBRUECK, Peter

1 **Q. Okay. So just tell us what the metrics are that you have**
 2 **across the top.**
 3 A. The metrics are land area -- and again, this is existing
 4 boundaries -- total parcel acres, population, 2010 existing
 5 population densities, existing housing units, existing
 6 residential densities by housing unit per acre, adjusted
 7 housing growth capacity per acre of housing -- housing units
 8 per acre, total potential housing unit per acre, potential
 9 residential density housing unit per acre, and housing unit
 10 growth targets under the comprehensive plan for 2015-35.
 11 **Q. How did you determine what the adjusted housing unit growth**
 12 **capacity was and -- how did you determine that?**
 13 A. If I recall, that information was provided to me by the City
 14 with the City's own dataset that looked at development
 15 capacity under existing zoning --
 16 **Q. Okay, so --**
 17 A. -- for each urban village.
 18 **Q. So this came directly from the City?**
 19 A. Yes.
 20 **Q. Was that based on the current zoning --**
 21 A. Yes.
 22 **Q. -- at that time? Let me finish the sentence, okay.**
 23 **Was it based on the current zoning at that time?**
 24 A. Yes.
 25 **Q. Okay. So that is what is currently in the Roosevelt urban**

1 **Q. And then you go to the Adjusted Housing Unit Growth**
 2 **Capacity. What is that?**
 3 A. It's 2,841 housing units --
 4 **Q. Okay. But you have an 8.62 number there; what is that?**
 5 A. Oh, sorry. That's existing residential density, and that is
 6 defined as housing units per acre. It's 8.62 housing units
 7 per acre.
 8 **Q. And then you have the next column, Housing Unit Growth**
 9 **Capacity. What does that mean?**
 10 A. That, again, is the potential built-out capacity adjusted
 11 for some variables that the City identified as relevant
 12 through determining that number.
 13 **Q. So how many actual potential housing units is identified**
 14 **here?**
 15 A. 2,841.
 16 **Q. And that -- and then with the total potential housing units,**
 17 **how much is that?**
 18 A. 4,204.
 19 **Q. So how far out is this projected, do you know?**
 20 A. Twenty years.
 21 **Q. Twenty years.**
 22 A. Oh, excuse me, let me qualify that. The total growth
 23 capacity is not time sensitive, it's based on the underlying
 24 zoning.
 25 **Q. Okay.**

1 **village zoning, not upzoned under the MHA?**
 2 A. At the time of this report.
 3 **Q. Okay. So if I could draw your attention to the fourth one**
 4 **from the bottom, the fourth urban village from the bottom.**
 5 A. Yes, Roosevelt.
 6 **Q. Roosevelt. And again, that's within the current boundaries.**
 7 **And if we could just go across the page and take a look at**
 8 **all those parameters that you have there.**
 9 **So if we go across -- now, I recognize that this**
 10 **population was based on 2010 census data, I assume; is that**
 11 **correct?**
 12 A. That's right. It's somewhat old data.
 13 **Q. It's somewhat old data.**
 14 **And you had an existing population density per acre; is**
 15 **that correct? What was then existing?**
 16 A. Yes.
 17 **Q. And then you go on to existing housing units.**
 18 A. Yes.
 19 **Q. And how many were we talking about there?**
 20 A. 1,363 existing housing units as of 2015.
 21 **Q. This is actually from 2015, this is not based on 2010 data?**
 22 A. That is correct. That is data provided by DCD on the number
 23 of units that they have on record.
 24 **Q. So this is actual housing units?**
 25 A. Yes.

1 A. The growth projection for 20 years is another figure.
 2 **Q. Then let's go to the potential -- the next column:**
 3 **Potential Residential Density, Housing Units Per Acre; what**
 4 **is that?**
 5 A. Housing units per acre potential build-out residential
 6 density under current zoning at the time is 26.6.
 7 **Q. So -- and then currently you have 8.62. So the difference**
 8 **here it had almost three times, you're saying?**
 9 A. That is correct.
 10 **Q. So three times the capacity that there is -- was in 2015**
 11 **you're saying could increase by 300 percent -- well, three**
 12 **times that?**
 13 A. Yes. And in fact, citywide it's very similar.
 14 **Q. Okay.**
 15 A. Growth capacity versus underlying zoning -- underlying
 16 conditions.
 17 **Q. So just putting it simplistically, under the current zoning**
 18 **in the Roosevelt urban village, there's plenty of capacity**
 19 **there to increase the density; is that correct?**
 20 A. There is. And even with the adjustments made to reduce that
 21 capacity by certain factors the City determined is relevant.
 22 **Q. Okay. What are you talking about there?**
 23 A. Properties that are not likely to be redeveloped or may be
 24 in public use or some other factor that makes it unlikely to
 25 be redeveloped to add capacity.

1 THE COURT: We'll take a break there and come back at
 2 10:30.
 3 (Recess)
 4 THE COURT: We return with continued Appellant direct
 5 on -- and I'm sorry, were you direct or cross? I wasn't --
 6 MS. BENDICH: I'm direct.
 7 THE COURT: Okay. For Steinbrueck. Okay. Thank you.
 8 MS. BENDICH: Yes. He was actually listed as a witness
 9 for us too.
 10 **Q. (By Ms. Bendich) Mr. Steinbrueck, resuming your testimony**
 11 **from Friends of Ravenna-Cowen.**
 12 **Let's go back to the cover page again.**
 13 A. Okay.
 14 **Q. Let me ask you a couple of other questions before we get**
 15 **there.**
 16 A. Sure. The cover page --
 17 **Q. Meaning the one from the City of Seattle.**
 18 A. From Diane Sugimura?
 19 **Q. Right. As a planner, would you consider a ten-minute walk**
 20 **zone the only factor that should be considered when deciding**
 21 **whether to do an expansion of an urban village or upzoning?**
 22 A. No.
 23 **Q. Why not?**
 24 A. It's a relatively new concept, and it is seen as an
 25 innovative planning tool around supporting walkable areas

1 **the ground, DPD contracted with Steinbrueck Urban Strategies**
 2 **to conduct field analysis of all the potential boundary**
 3 **expansions. Some of the factors they considered were**
 4 **proposed UV boundary expansion should follow street grid but**
 5 **not divide a cohesive neighborhood or street."**
 6 **Did you --**
 7 A. And also -- you left out two words there.
 8 **Q. Oh.**
 9 A. "Preferably arterials."
 10 **Q. But not divide a cohesive neighborhood or street. In fact,**
 11 **does this report reflect that you actually considered those?**
 12 **And with respect to the Roosevelt urban village.**
 13 A. I did, but the boundaries in the report were not fully
 14 informed by these criteria. They were primarily informed by
 15 the ten-minute distance they -- the metrics of travel by
 16 foot.
 17 **Q. And that is -- when you say you considered it, is that**
 18 **anywhere in here in this report, that you considered that**
 19 **with respect to the Roosevelt urban village?**
 20 A. No, I don't believe it is.
 21 **Q. Now, let's assume that you are a reader of the MHA FEIS and**
 22 **you have these zoning maps that you've referred to here.**
 23 **Is there any way you could tell whether or not the**
 24 **Roosevelt urban village expansion is a cohesive**
 25 **neighborhood?**

1 around transit centers as a factor to consider in land -- in
 2 urban planning through support walkability and transit
 3 ridership.
 4 **Q. Okay. But is it the only factor that should be considered?**
 5 A. Not by any means.
 6 **Q. And why is that?**
 7 A. There is much that is necessary to achieve true walkability,
 8 a neighborhood where people want to walk and a lot of
 9 environmental factors. And I would just mention things
 10 that -- we're talking about the walk shed itself now as a
 11 defining principle for addressing areas of concentrated
 12 density and future growth. But it ignores issues of
 13 neighborhood cohesion, of character -- historic character,
 14 esthetics, topography, underlying land uses, established
 15 built form, other physical -- both manmade or humanly
 16 made -- and natural conditions.
 17 **Q. So if you were planning an expansion, would you want to**
 18 **consider -- truly consider all of those?**
 19 A. I would. And I recommended that to the City in very clear
 20 and definitive terms.
 21 **Q. Okay. Then turning your attention back to the cover page**
 22 **from Ms. Sugimura.**
 23 A. Yes.
 24 **Q. It says: "To test the boundaries" -- and this is, again,**
 25 **going to the third paragraph. "To test the boundaries on**

1 A. No. Not any more than a map of the streets -- of the city
 2 streets, which is basically what that is. So it doesn't
 3 provide anything close to sufficient information.
 4 **Q. So is there any information about that within the report to**
 5 **your -- to the best of your -- excuse me, in the FEIS to the**
 6 **best of your recollection?**
 7 A. There are some descriptions, some narrative that is in the
 8 report that sort of generally describes some of the
 9 neighborhood characteristics and features that I saw on my
 10 field visits.
 11 **Q. I'm not talking about your report.**
 12 A. Yeah, I'm sorry.
 13 **Q. I'm talking about the EIS.**
 14 A. Oh, I'm sorry. So would you restate that, please.
 15 **Q. Okay. To the best of your recollection -- and it's a big**
 16 **document -- in the MHA FEIS itself is there anything in**
 17 **there that could lead a reader to know that there was a**
 18 **cohesive neighborhood in the expansion area for the**
 19 **Roosevelt urban village?**
 20 A. No.
 21 **Q. Do you think that's important to have that information in**
 22 **there?**
 23 A. Absolutely. And as a former decision maker on the city
 24 council, I would look for that information before
 25 determining such important enduring changing conditions in

1 zoning.
 2 MS. BENDICH: I have no further questions at this point,
 3 Your Honor.
 4 MR. ABOLINS: Friends of North Rainier also list him as a
 5 witness, and so we'll call him briefly.
 6
 7 DIRECT EXAMINATION
 8 BY MR. ABOLINS:
 9 **Q. Mr. Steinbrueck, you testified about how the issues of**
 10 **livability were excised from your -- the published version**
 11 **of your report by the City.**
 12 **Can you tell me with respect to the published FEIS, are**
 13 **the factors and features of neighborhood livability apparent**
 14 **in the discussions of the parcel-by-parcel upzones in that**
 15 **document?**
 16 A. No.
 17 **Q. Well, let's take one of those neighborhoods, North Rainier.**
 18 **To what extent does the FEIS allow a decision maker to**
 19 **review neighborhood cohesiveness in the area of the proposed**
 20 **upzones for the North Rainier urban village?**
 21 A. There's no information provided there to make such a
 22 discernment.
 23 **Q. To what extent would it allow the reviewing council member**
 24 **to be aware of the location of important historic resources**
 25 **such as the Olmsted legacy boulevards or the recently**

1 **changes?**
 2 A. I think you would have to visit the neighborhood or find
 3 additional information that's not contained in the EIS.
 4 **Q. And another essential element of livability is open space,**
 5 **is it not?**
 6 A. That's correct, a very important one.
 7 **Q. And are the locations of open space gaps or projects**
 8 **specified for neighborhoods in the FEIS?**
 9 A. No. And I would have expected to see the City's own gap
 10 analysis contained in that evaluation.
 11 **Q. Well, with respect to North Rainier, are you aware of any**
 12 **City-proposed open space remedies?**
 13 A. In which document or which general --
 14 **Q. Not in the FEIS, but in reality.**
 15 A. Okay. Yes, I am.
 16 **Q. What was the City attempting to do in North Rainier with**
 17 **regard to open space?**
 18 A. Well, not just the City but the surrounding communities and
 19 the North Rainier neighborhood plan, there has been a
 20 longstanding goal of establishing a strongly-defined town
 21 center at the location now of the transit station there that
 22 would include the various features, including a significant
 23 public open space and park space in that area.
 24 I also know that the City's gap analysis identified North
 25 Rainier as at the bottom of the list in terms of southeast

1 **recognized Mount Baker Park addition historic district?**
 2 A. I don't believe that information is contained in the EIS.
 3 **Q. How about edge effects for those zoning modifications in**
 4 **that area?**
 5 A. There is a generalized discussion of edge effects in the EIS
 6 that is, as I say, highly generalized and in no way
 7 identifies or addresses edge conditions in the various areas
 8 that are proposed for upzones.
 9 **Q. You're speaking of this generic sort of village that**
 10 **they've --**
 11 A. Yes.
 12 **Q. And how about topography?**
 13 A. I think there's only a very limited mention of critical
 14 areas as being held from increase or upzones in one of the
 15 alternatives.
 16 **Q. How about specific issues of height, bulk and scale with**
 17 **respect to specific neighborhoods?**
 18 A. There are generalized -- there's generalized discussion
 19 under the aesthetics section of height-bulk-scale issues
 20 that are highly generalized citywide and use typologies
 21 rather than real on the ground examples drawn from any
 22 specific area -- subarea of the city.
 23 **Q. So looking at the specific zoning modifications for each**
 24 **neighborhood, would there be any way to reference those**
 25 **height-bulk-scale issues with regard to the proposed zoning**

1 Seattle areas and in terms of a dearth of parks and open
 2 space within the urban villages.
 3 **Q. And within the city of Seattle's various agencies, is there**
 4 **one particular agency that is considered authoritative when**
 5 **it comes to deciding where the proper location of an open**
 6 **space would be?**
 7 A. There is.
 8 **Q. And what is that agency?**
 9 A. Seattle Parks and Recreation.
 10 MR. ABOLINS: No further questions.
 11 THE COURT: Anything more from Appellants?
 12 Cross, please.
 13
 14 CROSS - EXAMINATION
 15 BY MR. JOHNSON:
 16 **Q. Good morning, Mr. Steinbrueck.**
 17 A. Good morning.
 18 **Q. I'm Dale Johnson. Perhaps we can start where you left off.**
 19 **You described the FEIS as a -- highly generalized with**
 20 **regard to several categories including height, open scale,**
 21 **open space, critical areas and others in response to**
 22 **Mr. Abolins' questions.**
 23 **As a general matter, if you were preparing this EIS, is it**
 24 **the case that you would have done a**
 25 **neighborhood-by-neighborhood analysis for the citywide**

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1 **what you testified to?**
 2 A. Something to that effect, yes.
 3 **Q. But the comp plan process isn't a static -- in other words,**
 4 **the comp plan isn't static; is that right?**
 5 A. Well, as I said, amendments are made once a year and then
 6 there's long-term updates.
 7 **Q. Okay. And you've participated in that comp plan process in**
 8 **various capacities?**
 9 A. Directly over ten years with every comp plan amendment
 10 process on the city council, and prior to that as well.
 11 **Q. And in terms of the zoning changes that you talked about,**
 12 **isn't it true that zoning changes -- the process to achieve**
 13 **zoning changes and the process to achieve comp plan changes**
 14 **can run in parallel with one another?**
 15 A. They have. Whether that's appropriate or right is another
 16 matter.
 17 **Q. Okay. And just to be clear here, we're in an EIS advocacy**
 18 **hearing and the EIS itself doesn't represent a change to the**
 19 **City's land use regulations or comp plan changes; is that**
 20 **right?**
 21 A. It doesn't change anything.
 22 **Q. Okay.**
 23 A. That I understand.
 24 **Q. And in your experience do you know when the SEPA process is**
 25 **supposed to occur with relation to a legislative proposal?**

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1 A. I don't know the specific SEPA procedural rules. I'm
 2 thinking 12 to 18 months prior to implementation -- or
 3 adoption of the new proposal. I think it varies also.
 4 **Q. Okay. In your experience, does it generally occur early in**
 5 **the process?**
 6 A. It's supposed to.
 7 **Q. Okay.**
 8 A. It's supposed to identify alternatives through the
 9 identification of impacts, potential mitigations. That is
 10 supposed to lead to the formation of alternatives that
 11 become part of the final proposal and ultimately a preferred
 12 alternative.
 13 **Q. Okay. And I think you also testified that the urban village**
 14 **strategy is an underpinning of the comp plan and that the**
 15 **MHA should build on that foundation; is that right?**
 16 A. Well, the first part I agree with and stated. I think, as I
 17 said, the MHA should be consistent with that and support the
 18 goals and policies of the growth strategy, which is the
 19 urban village strategy.
 20 **Q. Isn't it true that the -- that MHA and the alternatives set**
 21 **forth in the EIS in fact focus on the urban villages and the**
 22 **expansions of urban villages?**
 23 A. Only as a means to an end, which is to -- back to the
 24 extraction of -- from increased development capacity, the
 25 economic extraction. There are several places in the EIS

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1 that more or less assert, I think wrongfully, that this
 2 whole proposal is a form of mitigation called for in the
 3 comprehensive plan.
 4 **Q. Okay. And where specifically are you referring to?**
 5 A. I can't find the sources. But I will promise you they are
 6 there where it actually states that the proposal itself is
 7 mitigation for the comprehensive plan, not as a tool for
 8 advancing the comprehensive plan specifically.
 9 **Q. But just in terms of the MHA's focus on where the upzones**
 10 **will occur, okay. In other words, as it walks through the**
 11 **MHA proposal, is it not true that that -- that the growth**
 12 **we're talking about is focused on and, in fact, confined to**
 13 **the urban villages, with the exception of those areas that**
 14 **expansion is proposed?**
 15 A. That's not an accurate statement, with all due respect.
 16 **Q. Okay. Go ahead, expand on your --**
 17 A. The areas outside of the urban villages are not an exception
 18 a limit -- of limited importance. The areas outside of the
 19 villages are just as important and are -- this is a
 20 citywide, broad brush sweep of all land use regulation in a
 21 city governing the future land use map and the designations.
 22 And there -- as I've mentioned, there is scant information
 23 in there about identification of the locations other than on
 24 a map -- a very difficult to read map of the zones outside
 25 of the villages that -- other than single-family, and

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1 single-family that would result in an upzone under MHA.
 2 There is no analysis of those impacts that I can find
 3 outside the urban villages. And I have stated that that is
 4 detrimental to the urban village growth strategy, to be
 5 encouraging additional growth outside of the urban villages.
 6 And that's what this proposal does.
 7 **Q. Okay. So can you turn to page 2.3 of the EIS.**
 8 A. Alternative 3?
 9 **Q. I'm sorry; I'm looking at -- I'm sorry, you prefer --**
 10 A. Oh, these are the page numbers.
 11 MR. BRICKLIN: Yeah, it's 2.30. He said 2.3.
 12 A. Oh.
 13 **Q. (By Mr. Johnson) And I'll try to do better to give you**
 14 **those -- the Bates number. But are you there? It's Exhibit**
 15 **2-1 study area?**
 16 A. Yeah.
 17 **Q. So here's what I'm trying to understand. Is it your**
 18 **position that the upzones are occurring outside of the areas**
 19 **that are marked in green here or teal?**
 20 A. Thank you for clarifying the color.
 21 **Q. You're not color blind.**
 22 A. It looks sort of blueish to --
 23 **Q. Oh, sorry -- I'm sorry. Shaded -- there's also a gray**
 24 **shaded area, so I don't know if you can --**
 25 A. No. I have a slight impairment here, but a reader can

1 faintly see the urban village boundaries that encompass
2 those villages. And this is a map of the entire study area
3 of the city of Seattle. The one exception to that is the
4 six urban centers that are not part of the study area and --
5 because those are being handled separately. But I think you
6 can see dozens of areas on this map that are outside of the
7 urban villages that are targeted for upzoning. And
8 virtually every blue area where there is a commercial mixed
9 use designation is subject to this.

- 10 **Q. Okay. So just confining this to the map.**
- 11 A. Yeah.
- 12 **Q. I mean, you're not suggesting that the upzones are proposed**
- 13 **for areas outside the teal shaded area; is that right?**
- 14 A. That's my understanding and interpretation of this map, but
- 15 I'm not -- it's so -- I would need a larger, more detailed
- 16 zoning map to convincingly say that this constitutes -- I
- 17 mean, there's a reliance here that the City has represented
- 18 the areas of the city other than single-family subject to
- 19 the MHA proposal outside and inside the urban villages.
- 20 **Q. Okay. Well, on Monday you testified that this -- that**
- 21 **there's -- that the city, or the areas within the city, or**
- 22 **there would virtually be no area within the city left**
- 23 **untouched by MHA; do you recall that?**
- 24 A. Well, that's a -- that's a statement that reflects that it
- 25 is a citywide proposal. There are areas -- certainly areas

- 1 A. I'm going to nuance that, because I don't agree with that.
- 2 The change to the rezone criteria impacts the whole city by
- 3 stripping the neighborhood plans from consideration for all
- 4 future land use changes, not just this one. That is a
- 5 pretty substantial impact. It goes beyond the so-called
- 6 study areas, because it opens -- it makes vulnerable areas
- 7 that have previously been held as -- based on our values and
- 8 our reflective goals and policies as areas to be protected
- 9 from certain types of undesirable development for those
- 10 areas, and now it's open wide under this proposal.

- 11 **Q. And with regard to impacts, there seem to be, as I**
- 12 **understood it, a concern on your part that the impacts that**
- 13 **are assessed with regard to the upzones within the urban**
- 14 **villages is less extensive than the analysis of impacts**
- 15 **within the proposed urban village expansion areas; is that**
- 16 **right?**
- 17 A. I'm going to ask you to say that again.
- 18 **Q. Okay. So you, over the course of two -- however many hours**
- 19 **you've been here, you've suggested, I think, that the City**
- 20 **didn't do as good a job addressing impacts in the proposed**
- 21 **urban village expansion areas as it did within the urban**
- 22 **villages themselves; is that right?**
- 23 A. I wouldn't make that comparison, no.
- 24 **Q. Okay.**
- 25 A. Because there's so many areas where the impacts are not

1 untouched, and there are areas of single-family
2 neighborhoods that might be affected as in close proximity
3 to the affected areas where zoning changes are made. I
4 can't even assess that extent, because if you take every
5 area of upzone, you have to consider the areas outside of
6 those upzones that are impacted by the change in the upzone
7 on the edge condition, as an example, and other factors,
8 increased traffic, loss of tree canopy and a lack of open
9 space, all of those things. So I can't say that no, it only
10 restricts it to a limited -- limited areas of the city. No.

- 11 **Q. So just to -- so you're -- the impacts of the MHA you're**
- 12 **suggesting may extend beyond the study area?**
- 13 A. That's correct.
- 14 **Q. But not the technical changes to the land use code; is that**
- 15 **right?**
- 16 A. Well, outside of the urban villages, yes, it does.
- 17 **Q. Outside of the study area; I'm sorry, I didn't say urban**
- 18 **villages.**
- 19 A. Well, say that again, please.
- 20 **Q. So you just testified, I think, that in your opinion the**
- 21 **impacts may be felt beyond the boundaries of the study area.**
- 22 A. (Inaudible).
- 23 **Q. What I'm asking is, you're not testifying that the changes**
- 24 **to the city code, to the land use code implementing MHA,**
- 25 **would be affected outside the study area depicted here?**

1 identified even within urban villages. Preservation, for
2 example, open space by urban village, gaps analysis. Those
3 are -- even if there were no urban village boundary
4 expansions, I think there is a significant range of
5 environmental impacts that have not been identified,
6 discussed or called out in the EIS.

- 7 **Q. Okay. So you don't distinguish between the boundary**
- 8 **expansion areas versus the existing urban villages in that**
- 9 **regard; is that right?**
- 10 A. In terms of impacts?
- 11 **Q. In terms of the City's analysis of impacts.**
- 12 A. Well, it varies by every neighborhood and every urban
- 13 village. Every one is unique and different and distinct,
- 14 and the impacts are going to vary. Some have plenty of open
- 15 space within the core urban village; others have -- like
- 16 North Rainier, have almost none. And that's not been called
- 17 out in a sufficient manner to make an informed decision
- 18 about this proposal.
- 19 **Q. Okay. So in your opinion, would this EIS then need to call**
- 20 **out every one of those issues in every urban village, in**
- 21 **every proposed expansion areas to be adequate?**
- 22 A. I don't think to that level of detail that every precise
- 23 potential impact in every location in the city inside and
- 24 outside the urban villages. But I think there needs to be
- 25 the full range of potential, likely, significant adverse

1 impacts throughout the city. And this is where I think the
 2 EIS falls seriously short in even identifying those impacts,
 3 let alone discussing them. And there could be different
 4 approaches. There could be samplings through -- such as I
 5 did in my sustainable neighborhoods assessment report in
 6 2014, we took ten urban villages and centers selectively
 7 throughout the city with the intent of a representative
 8 grouping that reflected different characteristics in
 9 different parts of the city, and we did an analysis and
 10 developed indicators for each of those areas. So I'm just
 11 using it as an example. There are different models that
 12 could have been used without doing the exhaustively detailed
 13 resource depletive approach of every single subarea in the
 14 city. There are different ways this could have been done
 15 much better within a reasonable set of approaches and
 16 resources available.

17 **Q. Okay. But for example, you've criticized the City's**
 18 **approach in the urban forum and esthetic section of the EIS**
 19 **that is -- I understood that what you characterize as a**
 20 **generalized approach wasn't sufficient; is that right?**

21 A. Yes.

22 **Q. Okay. So with regard to esthetics, bulk, height, scale, or**
 23 **however we characterize it, if that approach wasn't**
 24 **effective, then there would you have -- if you were**
 25 **preparing this EIS have done some kind of sampling in lieu**

1 on-the-ground conditions of various neighborhoods or
 2 subareas of the city that reflect real conditions, not
 3 concocted ones from a graphic digitally-proposed image.

4 THE COURT: I want to know where we are in our schedule.
 5 Mr. Steinbrueck was going to be anticipated or hope to end
 6 about 10:30. We're at 11:30 now. I understand that that
 7 was certainly part of a run-over from the appellants as
 8 well, but I just want to make everyone aware of where we're
 9 at in the schedule.

10 MR. JOHNSON: I'm doing my best to move through. I had
 11 hoped to be done by noon or thereabouts, Your Honor, just by
 12 way of setting expectations.

13 THE WITNESS: And I have other commitments this afternoon.

14 MR. JOHNSON: Okay. I'm trying to move through as
 15 efficiently as I can.

16 THE WITNESS: Okay.

17 **Q. (By Mr. Johnson) You also testified to Exhibits 7 and 8 the**
 18 **other day, and I -- maybe Ms. Bendich can help you find**
 19 **those. These are the -- if you'll recall, the Compendium of**
 20 **Comp Plan Goals and Policies, and then something you**
 21 **labelled as Inconsistent Comp Plans. Do you recall that?**

22 A. Yeah, this is our exhibit.

23 **Q. This is your exhibit.**

24 A. Okay. Our exhibit.

25 **Q. And it was, for the record, Exhibits 7 and 8.**

1 **of that, is that -- by neighborhood? Take ten neighborhoods**
 2 **and compare those impacts?**

3 A. That would be one possible approach. But I wouldn't have
 4 used cartoons that are abstracted and with vantage points
 5 that are not necessarily reflective of a person walking down
 6 the street or looking from their window to what's in the
 7 back of their backyard and beyond. View corridors, for
 8 example public views, I don't see much of any discussion
 9 about protection of public views and where they might be
 10 located that could be impacted by increased heights and
 11 bulks of buildings.

12 **Q. But back to my more general inquiry. You're not suggesting**
 13 **there's a fixed one lockstep approach to assessing these**
 14 **impacts that would require us -- that would require the City**
 15 **to go into every neighborhood and every proposed expansion**
 16 **area and examine each of the impacts at that --**

17 A. I would -- no, I'm not proposing that. I would hope to see
 18 the level of investigation that's reflected in some of the
 19 urban center MHA EISs, such as uptown. I mentioned there's
 20 1400 pages of analysis and mitigation (inaudible) and so
 21 forth. There -- this work -- body of work is about a
 22 thousand pages or so, and it's not a page count, but I just
 23 point that out as a raw kind of comparison. But I do think
 24 that it would be necessary, in order to identify more
 25 completely the range of impacts, to draw those from real

1 A. Okay. Yeah, I have two -- yeah, I have those. One is a
 2 subset of the other.

3 **Q. Okay. That's one of my questions, so --**

4 A. Okay.

5 **Q. Do you have them both there?**

6 A. I have them both here.

7 **Q. Okay. And recall that we -- just so you know, we actually**
 8 **substituted for Exhibit 8; there was a footnote at the**
 9 **bottom and that was taken off from there, but otherwise it's**
 10 **unchanged.**

11 A. Um-hum, okay.

12 **Q. And I don't know which version you have. So I just have**
 13 **some, first, background questions. First draw your**
 14 **attention to Exhibit 7.**

15 A. That would be the fuller list.

16 **Q. Yeah, that's like a 38-page --**

17 A. Okay.

18 **Q. 32-page document.**

19 A. Yeah, okay.

20 **Q. Okay. And at the top it says "Relevant comp plan goals and**
 21 **policies not listed analyzed or discussed" --**

22 A. Um-hum.

23 **Q. -- "in HALA EIS." <sic> Is that your label?**

24 A. It is.

25 **Q. Okay. And that -- so that didn't come out of the comp plan**

1 **itself, I mean that language?**
 2 A. Or the EIS.
 3 **Q. Okay. All right.**
 4 A. No, that's my -- yeah, in quotations. Just a generalized
 5 statement. And I actually -- let me just as a -- say that I
 6 didn't go back and check every -- the references in the EIS,
 7 I cross checked with these, so I just felt they're going to
 8 be in here, that's fine. There were so few of them anyway,
 9 there's like eight called out on one sheet and then a few
 10 references elsewhere in the EIS. So it's possible that
 11 there are some overlap there, is what I'm saying.
 12 **Q. Okay. I'm not sure I understand, but I have some questions.**
 13 A. Yeah.
 14 **Q. So we'll hopefully get there.**
 15 A. Yeah.
 16 **Q. Okay. And then obviously the -- at the bottom of the page,**
 17 **I think there's a footer on every page that says "Scale**
 18 **Appeals, Steinbrueck Strategies" --**
 19 A. Yeah.
 20 **Q. That's obviously something you added. That's not coming out**
 21 **of the --**
 22 A. Yeah, that's the footer.
 23 **Q. Okay. And also, when you say the H-A-L-A EIS, you're**
 24 **referring to the MHA EIS; is that right?**
 25 A. Yeah.

1 **discussed?**
 2 A. Right. That's a good question, and that's a reasonable one.
 3 And it was not my intent that those were inclusive; in other
 4 words, these policies and goals. Some of them may have been
 5 mentioned in the EIS, but perhaps not analyzed or not
 6 discussed any further. They may have just been referenced,
 7 for example.
 8 **Q. Okay.**
 9 A. And so that's why I just kind of grouped them together.
 10 **Q. Okay. So there's no way to discern which of those would**
 11 **fall in the -- in one of those categories without**
 12 **necessarily walking through 32 --**
 13 A. Yeah, I would have to go -- and time prevented me from doing
 14 that.
 15 **Q. Okay. All right. I just want to make sure there's no --**
 16 **this doesn't stand for the proposition we can look at, and**
 17 **for instance there's some bold text and whatnot, those**
 18 **don't -- that doesn't correspond in any way to any of the**
 19 **three specific categories? In other words, listed, analyzed**
 20 **or discussed.**
 21 A. Not every one of these --
 22 **Q. Okay.**
 23 A. -- individually, but -- so that was my cut of --
 24 **Q. Okay.**
 25 A. -- where I found what I thought were relevant goals and

1 **Q. Okay.**
 2 A. I'm dyslexic also, so I sometimes gets things upside down
 3 and backwards.
 4 **Q. Okay. And then the remainder of the text here, you went**
 5 **through and you drew that from the various documents that**
 6 **you have labeled here; is that right? In other words, you**
 7 **say -- you've taken comp plan goals and policies and you've**
 8 **just put them --**
 9 A. Dropped them in, cut and pasted them, yep.
 10 **Q. All right. And then if you could just look at Exhibit 8.**
 11 **There's a heading that says Inconsistent Comp Plans Policies**
 12 **By Topic. Presumably that's your label as well?**
 13 A. That's right.
 14 **Q. Okay. That didn't come from a comp plan or from an EIS or**
 15 **anything?**
 16 A. No.
 17 **Q. Okay. And then you just said that Exhibit 8 is a subset of**
 18 **Exhibit 7, did I get that right?**
 19 A. That -- roughly, yes.
 20 **Q. Okay. So now, backing up to what you just said in response**
 21 **to another question, it's not clear to me -- the title on**
 22 **this -- on Exhibit 7 says: "Relevant comp plan goals and**
 23 **policies not listed, analyzed or discussed." So three**
 24 **categories. And my question is: Of the listing here, how**
 25 **do we know which one is not listed, not analyzed or not**

1 policies pursuant to the proposal in some way --
 2 **Q. Okay.**
 3 A. -- tied in. Arguably, the container port element of the
 4 comp plan was not terribly relevant here, as an example.
 5 **Q. Okay.**
 6 A. So I didn't include anything on the container port element.
 7 **Q. Okay. And I'm not trying to beat a dead horse here, but --**
 8 **so these are all -- you went through and you listed**
 9 **everything you thought was relevant to the MHA, at least to**
 10 **the FEIS (inaudible)?**
 11 A. Where there was some tie-in, connection --
 12 **Q. Okay.**
 13 A. -- relevance, yes.
 14 **Q. Okay. And then you say "not listed, analyzed or discussed."**
 15 **So there's no way to tell from this -- you've got 32 pages**
 16 **of relevant comp plan goals and policies, but you're not**
 17 **suggesting that each of these is -- falls into one of these**
 18 **categories; is that right?**
 19 A. I would say one or the other category -- one of them being
 20 relevant, one of them being not listed, one of them being
 21 not analyzed, one of them being not discussed.
 22 **Q. Okay.**
 23 A. And I did this with the intent, one, so that we'd at least
 24 have a reference point to compare with what's in the
 25 comprehensive plan and what is not in the FEIS just on that

1 added incentive of increased growth capacity over basic
 2 forecast --
 3 **Q. But that's the intent, is it not, is to allow for more**
 4 **housing within those -- within the boundaries where the**
 5 **proposal is -- would be affected?**
 6 A. And outside the boundaries and in other areas either
 7 adjacent to or beyond -- well beyond the boundaries. Where
 8 does it provide the information and analysis to identify
 9 precisely where that's going to -- where the growth would
 10 occur, and in what form and what potential impacts might
 11 result from the growth in those other areas that is
 12 accelerated.
 13 **Q. And that goes to your criticism of the approach in the EIS**
 14 **that you've been testifying about?**
 15 A. Yes, that's right.
 16 MR. JOHNSON: Nothing further.
 17 THE COURT: Thank you. Redirect.
 18
 19 REDIRECT EXAMINATION
 20 BY MR. BRICKLIN:
 21 **Q. Just picking up -- well, since you're on that page, the**
 22 **facing page is a colored map, right?**
 23 A. Yeah.
 24 **Q. And I'm looking at the Greenlake and Roosevelt urban**
 25 **villages, and I see the Lake City urban village up there at**

1 **Q. All right. Could you enumerate just a couple of them very**
 2 **quickly?**
 3 A. Between Greenwood, Phinney Ridge urban village and Bitter
 4 Lake village and beyond along the Aurora corridor, another
 5 highway, there are mixed used commercial zones. Between
 6 Ballard and Crown Hill, I believe it's 15th, there's another
 7 red line of mixed use commercial zones. Between Admiral and
 8 West Seattle Junction between West Seattle Junction and
 9 Morgan Junction, again, along high-traffic corridors or
 10 arterials. Between Columbia City and Rainier Beach, another
 11 heavily used arterial. And then there are pockets
 12 elsewhere.
 13 **Q. All right. Thank you. In -- counsel pointed you to -- you**
 14 **were looking at the table of contents, and you agreed that**
 15 **there are sections in the EIS labeled land use, labeled**
 16 **historic and so forth; do you remember those questions?**
 17 A. Yes.
 18 **Q. Yes. Does the fact that the -- that there's a section on**
 19 **historic resources, for instance, mean that there's a**
 20 **discussion in that section of the comprehensive plan**
 21 **policies dealing with this preservation of historic**
 22 **resources?**
 23 A. No. In fact, these categories don't generally reflect the
 24 range of element -- of key elements in the comprehensive
 25 plan, which are more numerous.

1 the north part of the city, and they're connected by a line
 2 that's red and orange colored. And that's Lake City Way,
 3 right?
 4 A. That's right. Yeah.
 5 **Q. And that is -- the red and orange indicates multifamily and**
 6 **mixed use commercial, right?**
 7 A. Yes.
 8 **Q. Including -- mixed use meaning additional residential,**
 9 **right?**
 10 A. Yes.
 11 **Q. And part of the MHA proposal is to allow additional**
 12 **residential development all along that strip, from Roosevelt**
 13 **up to Lake City, right?**
 14 A. Yes. And that happens to be a highway with a lot of highway
 15 strip development along it.
 16 **Q. And is that part of MHA which allows additional residential**
 17 **development on that strip consistent or inconsistent with**
 18 **the City's policy of concentrating growth in the urban**
 19 **villages?**
 20 A. It's highly inconsistent.
 21 **Q. All right. And elsewhere on this map where ever there are**
 22 **similar strips of commercial development -- mixed use and**
 23 **commercial development outside of urban villages, the same**
 24 **question, the same answer?**
 25 A. I can identify several areas similar.

1 **Q. All right. You mentioned that in the EIS, the proposal is**
 2 **described as mitigation. And you said I'm sure I could find**
 3 **one, but let me ask you to turn to page 1.4.**
 4 A. In the EIS?
 5 **Q. In the EIS, very near the front.**
 6 MS. BENDICH: 1.4.
 7 A. That would not be 140, right?
 8 **Q. (By Mr. Bricklin) Right. That's the -- yeah, 140 is page**
 9 **40.**
 10 A. Okay. Here we go, it's like at the very beginning. Okay.
 11 I have it.
 12 **Q. Read the top full sentence on that page.**
 13 A. "The proposed MHA program evaluated in this EIS is one
 14 action the City is studying to partially mitigate the
 15 housing affordability challenge."
 16 **Q. And is that the kind of sentence you were referring to when**
 17 **you said that concept is sprinkled throughout the EIS?**
 18 A. Precisely.
 19 **Q. All right. Turn to page 3.78, please.**
 20 A. 3.78?
 21 **Q. Yes.**
 22 A. Got it.
 23 **Q. And you were asked questions on -- about this page's**
 24 **reference to the general concept that physical and economic**
 25 **displace -- excuse me, since this is -- oh, near the top:**

ROSS, Michael

1 **Q. Your No. 18 is the Conservation Futures application.**
 2 A. Yeah. And so page 2 of that document is a picture of
 3 another exhibit that's already been admitted, as well. It's
 4 basically the Parks Department open space gap map – these
 5 things – and there is another one in the 2017 Parks open
 6 space gap analysis, has a similar map. It's not included in
 7 the FEIS?
 8 **Q. So I guess I'm struggling a little bit here. This map in**
 9 **your Exhibit 18 references -- or this document references**
 10 **certain locational goals for open space, 1 acre of open**
 11 **space for every thousand households within urban villages,**
 12 **open space within an eighth to or a quarter of a mile of**
 13 **residence and HUB urban villages. I understand how**
 14 **something like the second one could be depicted on a map.**
 15 **The first one seems like is the standard that applies to**
 16 **an urban village, so presumably for a standard like that,**
 17 **either the urban village meets the standard or it doesn't,**
 18 **right? So how do you depict that kind of issue on a map?**
 19 A. No. See, it's the second one. That's the one that --
 20 that's gap that is critical.
 21 **Q. Okay.**
 22 A. Walkability to parks, accessibility for the people of a
 23 dense HUB urban village to get to – get out of a black cage
 24 and get on a park.
 25 **Q. Are you saying that this standard here, open space within an**

1 identified for the missing open space or leave them be.
 2 Then they can make a wise decision.
 3 But if they don't have a clue, this is the result you end
 4 up with: 95 foot height on an open space project that has
 5 been in the works for years.
 6 **Q. So when you referred to one and say, "a map relating the**
 7 **rezone to open space," "open space" in that context was**
 8 **essentially proposed acquisition projects?**
 9 A. Yeah. I think the things that logically a decision-maker
 10 would want: Know where the gaps are because it makes sense
 11 to locate the City's investments in concurrent open space in
 12 the areas where it's needed, which is logically in a HUB
 13 urban village that's been upzoned.
 14 And then, secondly, you should at the very least know, if
 15 there's already a project to do that, unidentified parcels
 16 so that you can harmonize the intensity of your zoning so
 17 that you don't have edge effect problems, you're not
 18 putting, you know, 95-foot-high buildings next to a landmark
 19 greenspace or on top of a park that the Hao Mai Vietnamese
 20 children would like to play in.
 21 **Q. So the third type of map that I thought you said you**
 22 **wanted -- you used the reference to the Cheasty Boulevard or**
 23 **something, but it also sounded like you were talking about**
 24 **this same concept of park acquisition sites that you were**
 25 **just referring to. So I'm a little confused. What was the**

1 **eighth to a quarter of a mile of residence in HUB urban**
 2 **villages, are you saying that's the current applicable**
 3 **standard under city planning?**
 4 A. No. I said that there was a similar standard under the
 5 newly adopted policy that is very comparable to what this
 6 one shows in the same area. The gap continues to exist in
 7 this same area.
 8 **Q. So the map that you were talking about wanting to see would**
 9 **be a map that relates some sort of a locational standard of**
 10 **that sort to a particular geographical area?**
 11 A. That might actually prevent the decision-makers from
 12 upzoning a current park project to 95 feet high. Yeah, that
 13 wouldn't be too much to ask, especially since it already
 14 exists.
 15 **Q. So the second kind of map that you refer to as a map**
 16 **relating the rezones to open space, what did you mean by**
 17 **that?**
 18 A. This same concept. If -- one of the things that the
 19 decision-maker needs to evaluate under the open space
 20 resources section of the EIS, is the relationship of its
 21 upzoning, parcel-by-parcel upzoning to the open space needs
 22 of a particular urban village. The map is the way to show
 23 that and to avoid upzoning, and at least show any active
 24 proposed acquisitions so that they can make an intelligent
 25 decision about whether they should upzone the parcels

1 **third type of map that you were thinking was --**
 2 A. This could all be on the same map. You could have a map --
 3 we have maps that show the relationship of the open space to
 4 parcels that might be targeted for open space acquisition
 5 with respect to the open space gap, with respect to the open
 6 space resource known as the Olmsted System of Parks and
 7 Boulevards. That allows a decision-maker to actually
 8 harmonize -- this could be a single map.
 9 **Q. So the third category was you wanted a map that would relate**
 10 **these other concepts to the Olmsted system, it sounds like.**
 11 A. And it doesn't need to be my map. It can be whatever --
 12 well, I mean, if the Seattle Parks and Recreation Department
 13 had been consulted, they would probably come up with
 14 something that would be helpful.
 15 **Q. But it was the Olmsted System you were concerned about, it**
 16 **sounds like.**
 17 A. That was one of -- it was one of the three top historic
 18 iconic resources identified in the comp plan and, yeah, it's
 19 not reflected.
 20 **Q. Okay. That's all I have.**
 21 HEARING EXAMINER: Redirect?
 22 MR. BRICKLIN: None.
 23 HEARING EXAMINER: Thank you.
 24 MR. BRICKLIN: We do not have another witness, I don't
 25 think.

VOLUME 4

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Hearing - Day 4

In the Matter of the Appeal of: Wallingford Community Council, et al.

June 28, 2018



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BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In the Matter of the Appeal of:)
WALLINGFORD COMMUNITY COUNCIL,)
ET AL.,) W-17-006
) through
of the adequacy of the FEIS issued by the) W-17-014
Director, office of Planning and)
Community Development.)

Hearing, Day 4 - June 28, 2018
Heard before Hearing Examiner Ryan Vancil

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June 28, 2018

HEARING EXAMINER: All right. We continue with the appellants' case.

MR. BRICKLIN: The appellants call David Sherrard.

HEARING EXAMINER: Please state your name and spell it for the record.

THE WITNESS: My name is David Sherrard. And the last name is spelled S-H-E-R-R-A-R-D.

HEARING EXAMINER: And do you swear or affirm the testimony you will provide in today's hearing will be the truth?

THE WITNESS: I do so affirm.

HEARING EXAMINER: Thank you.

DAVID SHERRARD: Witness herein, having first been duly affirmed on oath, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BRICKLIN:

Q. Good morning, Mr. Sherrard. Welcome. Would you please tell the examiner a little bit about your background?

A. I'm a city planner. I have been for 41 years as of this

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coming August. I worked initially for the County and City of Walla Walla, San Juan County. Worked for 17 years for the City of Bellevue. I've been a planning consultant for about 15 years. In addition to doing a variety of product review and code development, I also have specialized in environmental review. For 15 of the 17 years I was with the City of Bellevue, I was responsible for doing the technical review of every SEPA determination issued by the City for every action, including private and public actions.

While at the City, I supervised a number of environmental impact statements, including a number of non-project environmental impact statements, as well as writing some in cases where we thought it was more efficient than hiring consultants.

Q. All right. And what is your -- are you now retired? Are you still working?

A. I am still working. I have a on-call relationship with the consulting firm that I've worked with for the last 15 years or so, which allows me to work with other firms, which allows me to extend my contribution to projects beyond just the ones that Parametrix would be involved in.

Q. And it looks like we neglected to include your CV in our listing of exhibits. I don't know -- have you seen that? I'm just noticing that that doesn't show up. So I may -- I'll deal with that later.

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A. I believe we provided that to the City prior to the deposition.

Q. Yeah, I know, but I don't see it on the list that I provided to you, unless you're seeing it there. I'll deal with that later. I don't want to hold things up now. So what were you asked to do with regard to this project?

A. I was asked to review the draft and final environmental impact statements and the various appendices and other information in the voluminous discovery files that the city had provided, to look at the specific issue of the adequacy of alternatives in reference to the requirements of the State Environmental Policy Act.

Q. All right. And so what did you do to prepare for that, or to analyze that issue, about the adequacy of the alternatives?

A. Well, of course, I refreshed myself in looking at the state statutes and the SEPA guidelines, and then I looked through the EIS and the supporting information, and evaluated that in relation to the guidelines.

Q. All right. And before we get into the details, can you summarize your key findings?

A. Yeah. First the city considered but rejected several alternatives raised in scoping and DEIS comments. I believe these alternatives were rejected inappropriately and should have been included, because they meet the objectives of the

SHERRARD, David

1 Moving down to (3), it states (3)(a)(ii), it states,
2 "Proposals should be described in ways that encourage
3 considering and comparing alternatives. Agencies are
4 encouraged to describe public or project proposals in terms
5 of alternatives." And they give an example there that's
6 more a project example. But again, that's another key.

7 Moving on to WAC 197-11-402, again, the first item
8 states that, "EIS's need to analyze reasonable alternatives
9 and probable adverse impacts that are significant." So
10 again we have a focus on reasonable alternatives.

11 And slipping down to (9), again, it says, "The range of
12 alternative courses or actions discussed in the EIS shall
13 encompass those to be considered by the decision maker."
14 Well, in this case the decision maker is the City Council.
15 They consider -- can consider basically anything they want.
16 And a key function of the environmental review process is to
17 apply this integrated analysis and to provide the decision
18 maker and the public with meaningful alternatives.

19 HEARING EXAMINER: What was the --

20 A. Getting down to --

21 HEARING EXAMINER: What was the other section in
22 197-11-402 you cited? I caught (9), but you cited another
23 one before that that you were referencing.

24 MR. BRICKLIN: (1). Sub (1).

25 HEARING EXAMINER: (1)? Okay.

1 Q. And I see that you -- that's also in this package -- you
2 went past it -- 197-11-442. Is there information in that
3 rule that's pertinent to your analysis in this case?

4 A. Yeah. I mean, it talks about the content of EIS's on
5 non-project proposals. And item 1 talks about having more
6 flexibility. But I think item 2 talks about, again,
7 alternatives, and again repeats language very similar to
8 0603. And in this case, for non-project actions, the SEPA
9 guidelines go a little further than 060 and indicate that
10 alternatives should be emphasized and described in terms of
11 alternative means of accomplishing a state of objectives.
12 So I think that that is a very important aspect relating to
13 non-project EIS's.

14 Q. All right. So let's turn to this EIS. And it's actually
15 before you there in these large binders.

16 A. Oh, the EIS itself. Yes.

17 Q. Yes.

18 A. Okay.

19 Q. So turning to page --

20 MR. BRICKLIN: I'm sorry, I should've told you first.
21 4.12.

22 HEARING EXAMINER: This is in Exhibit 2, the EIS?

23 MR. BRICKLIN: Yes.

24 Q. (By Mr. Bricklin) So that page includes a description of the
25 MHA proposal?

1 MR. BRICKLIN: Yeah.

2 HEARING EXAMINER: And I just want to check kind of where
3 we're going. We're kind of threading through legal a
4 argument here, and --

5 MR. BRICKLIN: The idea was as a -- I think he testified
6 that planners, as they develop EIS's, look to the statute
7 and regulations for guidance as to how to construct the
8 alternative section, so he's pointing out the sections that
9 as a planner he would look to to help guide that -- the
10 development of the alternatives.

11 HEARING EXAMINER: Okay.

12 A. And I'll finish this up quickly. I believe I was just
13 referring to 402. 784 in talking about a definition of the
14 proposal again emphasizes alternatives. 786 includes an
15 important criteria that a reasonable alternative means an
16 action that could attain or approximate a proposal's
17 objective, but at a lower environmental cost.

18 And then moving on to 792, under the definition of
19 alternatives, which is (b), it includes no action, other
20 reasonable courses of action, or mitigating measures. And
21 again, that emphasizes the fact that mitigating measures
22 are -- are to be considered as a source of alternatives.

23 Q. (By Mr. Bricklin) Are you familiar with the regulations for
24 non-project EIS's?

25 A. Yes, I am.

1 A. Well, this page does not include an MHA proposal, but it
2 does include a -- the city's position on why these
3 particular alternatives were not considered.

4 Q. All right. So what is that section of an EIS about,
5 alternatives -- you've been talking about alternatives that
6 are considered. What's this section about?

7 A. Well, this is -- this is -- this section is about
8 alternatives that could meet -- alternatives that could meet
9 the objectives. In this case, you know, what the city has
10 done, and what I think is important here is in the first
11 paragraph, they describe this as a non-project or
12 programmatic EIS. And then they go on to state that the
13 SEPA rules accord the lead agency flexibility when it
14 prepares the EIS and formulates alternatives, which is
15 certainly in the -- in the SEPA rules.

16 It goes on to say that formulates the alternatives
17 which are formally proposed or reasonably related to the
18 proposed action. And I think it's important to note that
19 the statement formally proposed doesn't appear in the SEPA
20 rules; that this is an addition that the city has put in
21 here.

22 Doesn't really matter whether a project is formally
23 proposed. The real key on a non-project EIS is the
24 objectives. And I think that that issue of formal proposal,
25 in reference to the particular MHA proposal that the city

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1 A. Yeah. Yeah. Yeah.
 2 **Q. All right.**
 3 A. I mean, as someone who is responsible for preparing EIS's, I
 4 mean, I was astounded by this. These are maps which show
 5 the entire area basically blank. And -- and they show you
 6 this little -- this little area of additional single family
 7 that's being converted, which is kind of interesting.
 8 **Q. You know, I'm not interested in interesting. What I want to**
 9 **know is what is your concern about the clarity, if you will,**
 10 **or the accuracy, whatever it is, of these maps?**
 11 A. Well, what concerns me is what's missing.
 12 **Q. Okay.**
 13 A. Is this proposal includes massive updates of neighborhoods
 14 all over the city.
 15 **Q. Updates?**
 16 A. I mean upzones. And there's no map in section 2 that shows
 17 you what's happening. All they show -- they give you is a
 18 blank map with the outline of the urban village, and then
 19 this is the area we're going to add to the urban village.
 20 But nowhere in the volume that is the final EIS do they tell
 21 you what they're doing to your neighborhood. Now, you can
 22 go back to Appendix F.
 23 **Q. H.**
 24 A. H, I mean, and look at the individual maps. But I'm a
 25 planner. I've been working on this stuff for 40 years. I

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1 find those maps very difficult to interpret.
 2 **Q. The ones in H?**
 3 A. The ones in H.
 4 **Q. Well, let's just stick with the EIS. Do you believe that**
 5 **those map- -- do you believe the EIS, the main volume, has**
 6 **adequate maps in it?**
 7 A. No. There's no way that someone can tell what -- where in
 8 their neighborhood there are changes that are going to
 9 affect the character of the neighborhood or any other
 10 impact.
 11 **Q. And what's your opinion regarding the propriety of putting**
 12 **that information in an appendix, or an attempt to do it in**
 13 **the appendix?**
 14 A. Well, one, if you're devoting all of these pages to maps
 15 which basically are incredibly inefficient in presenting
 16 information -- I mean, you have here from 241 to 2 -- 242 to
 17 263. So we have, you know, 20 odd pages of information or
 18 of use that provides almost no useable information. And you
 19 could, in the same amount of space, provide information that
 20 was actually substantive. Information, you know, kind of
 21 similar to what's in Appendix H.
 22 But Appendix H, I mean, when we were looking at that,
 23 when I was looking at that, you can barely read -- in fact,
 24 you can't read -- what the change is. So you can see, oh,
 25 there's a change happening here, but unless you have a

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1 microscope -- or, I'm sorry, a magnifying glass, you can't
 2 tell if it's being changed from, you know, single family to
 3 L1 or to L3 or, you know, just exactly what is happening.
 4 And for the average reader of this, the member of the
 5 public, and I would say for the average decision maker,
 6 because our council is somewhat educated -- but, you know,
 7 this is planner jargon, and this is not communicating in the
 8 way an EIS is supposed to communicate.
 9 And for all of the work that the city has put into
 10 mapping on this -- you know, like, detailed maps of -- of
 11 opportunity areas and displacement, doing a map that
 12 presents a relative change in development intensity is
 13 simple. And, in fact, the Seattle Times did that.
 14 **Q. Funny you should mention that.**
 15 MR. WEBER: What exhibit is this, David?
 16 MR. BRICKLIN: This is a Fremont exhibit, No. 12. I've
 17 got a copy for you if you don't have one handy.
 18 MR. WEBER: Yeah, I'll take it.
 19 HEARING EXAMINER: Marked as 69.
 20 (Exhibit No. 69 marked for identification.)
 21 **Q. (By Mr. Bricklin) All right. You just made reference to a**
 22 **map that the Seattle Times put together. I'm handing you**
 23 **what's been marked for identification as Exhibit 69. Is**
 24 **that a copy of that map?**
 25 A. Yeah, except you've --

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1 **Q. Cut off the legend. I see that.**
 2 A. -- you've cut off the legend.
 3 **Q. Right.**
 4 A. Yeah, but this map basically shows all of the changes and
 5 the magnitude of the change. I mean, it doesn't necessarily
 6 show every coded change. And this map, I have to say, is
 7 not very readable either. But in the 20 pages that were
 8 used for these, you know, single purpose, low information
 9 maps, you could've taken this map and broken it into, you
 10 know, smaller area maps.
 11 **Q. Twenty pieces and --**
 12 A. Yeah, and really showed what was going on and showed it in a
 13 way that both a citizen and a decision maker could look and
 14 say, oh, hey, in this area, on this corridor, na, na, na,
 15 this magnitude of changes is happening. And, you know, this
 16 map is easy to do.
 17 **Q. Finally, you've spent a lot of time addressing the**
 18 **deficiencies in the alternatives in this EIS. Can you**
 19 **provide examples of programmatic EIS's that have provided**
 20 **broader -- or different scopes of alternatives?**
 21 A. Well, you know, there are lots and lots of them. And lots
 22 of cities have made changes to development regulations
 23 and -- and provided maps and EIS's. So there are a lot of
 24 them out there. But just to look at the City of Seattle,
 25 the EIS that was recently done for what they're now calling

VOLUME 5

JUNE 29, 2018

Hearing - Day 5

In the Matter of the Appeal of: Wallingford Community Council, et al.

June 29, 2018



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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the matter of the Appeal of)
WALLINGFORD COMMUNITY COUNCIL,) Hearing Examiner File
ET AL.,) WT-17-006 through WT-17-014
of adequacy of the FEIS issued)
By the Director, Office of)
Planning and Community Development)

HEARING, DAY 5 - JUNE 29, 2018
Heard Before Hearing Examiner Ryan Vancil

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Court-Certified Transcription

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June 29, 2018

MS. BENDICH: We have a few housekeeping matters before we start.

HEARING EXAMINER: Okay.

MS. BENDICH: Do you want to start, Mr. Bricklin?

MR. BRICKLIN: Sure. Yesterday, one of the witnesses referred to Exhibit 69 of a Seattle Times map that he noted when it was printed the legend was cut off, so we have printed the correct version which we'd like to substitute. I've provided a copy to counsel.

HEARING EXAMINER: Okay.

Do you want to grab that? This is substituting for 69. Anything else?

MS. BENDICH: Yes. The second matter is I believe we had spoken before about trying to at least truncate some of the witnesses by submitting declarations.

HEARING EXAMINER: Yes.

MS. BENDICH: And I do have one declaration here from Barbara Warren. I have the original and a copy. I've spoken with Counsel this morning and they believe they don't need to cross-examine her, so I'd like to submit that evidence as testimony today so we can get this filed.

HEARING EXAMINER: Okay.

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MS. BENDICH: And I am not sure what the procedure is, how we admit this. You know, do we say, "I move the admission of this testimony"?

HEARING EXAMINER: Yeah. I think we're just going to have to admit it as an exhibit submitted by counsel without somebody -- unless you're having some witness testify to its contents or introducing it, there's no other way to do it.

MS. BENDICH: All right. Well, we'll do whatever we need to do so that she doesn't have -- we don't have to have more witnesses.

HEARING EXAMINER: Um-hum. If the City has any objection, let us know --

MR. JOHNSON: No objection. Yeah. No objection.

HEARING EXAMINER: -- if you have an objection, right?

MS. BENDICH: Are we going to mark this as an exhibit number, then?

HEARING EXAMINER: Yes.

MS. BENDICH: Oh.

MALE SPEAKER: What's the witness's name?

MS. BENDICH: Barbara Warren. (Inaudible).

HEARING EXAMINER: Right.

MR. JOHNSON: Is that the same that you've emailed to us?

MS. BENDICH: Absolutely.

MR. JOHNSON: Okay.

HEARING EXAMINER: This is marked as Exhibit 85.

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(Exhibit No. 85 marked for identification)

HEARING EXAMINER: It's dark. We're missing a light, yeah. We may all go dark for a second here, but we're going to have to switch the lights and make sure we've got them all on. There we go. Okay.

And was there any objection?

MR. JOHNSON: No objection.

HEARING EXAMINER: So 85 is admitted.

(Exhibit No. 85 admitted into evidence)

MS. BENDICH: All right. And just for the record, I am Judith Bendich for Friends of Ravenna-Cowen, and --

HEARING EXAMINER: I am sorry. Were there other preliminary? My --

MS. BENDICH: Oh. No.

HEARING EXAMINER: Okay.

MS. BENDICH: That's it.

HEARING EXAMINER: I've got two.

MS. BENDICH: Oh, okay.

HEARING EXAMINER: One is I -- we've had some -- a little confusion over getting started and the opening of the hearing room. Our normal procedure is to open 15 minutes before a hearing. I am happy to accommodate with all the materials and such that we have here, but just so it's -- we have a hard, clear time, I'll set it at 8:30 so that my staff --

KREISMAN, Lawrence

1 somebody will go in and tear down a smaller building for a
 2 bigger building and make more money off it.
 3 **Q. And --**
 4 A. There's no question.
 5 **Q. And if it's upzoned, do you believe that's going to be more**
 6 **likely?**
 7 A. Absolutely.
 8 **Q. So there's another section here in this Section 3.5 about**
 9 **impacts. Have you reviewed that?**
 10 A. Do you want to give me the page number? Oh, is that the
 11 3.310, impacts of the preferred alternative or is that
 12 the --
 13 **Q. If you could just go through it and just refresh your**
 14 **recollection.**
 15 HEARING EXAMINER: And was that 3.310?
 16 MS. BENDICH: I don't know yet. I just want to check.
 17 THE WITNESS: Let's see. Too many pages here.
 18 HEARING EXAMINER: What are we looking at?
 19 MS. BENDICH: Yeah. So that's what I am just trying to
 20 find. And Mr. --
 21 HEARING EXAMINER: But what are you looking at? What's
 22 the -- what's on it?
 23 MS. BENDICH: The topic is the impacts and whether these
 24 are adequately addressed.
 25 THE WITNESS: And --

1 except for the no action alternative, I suppose, which we
 2 will see what I've already seen in my own neighborhood,
 3 which is "tear down and fill."
 4 **Q. And why is that destructive to this core of buildings? If**
 5 **you take one out, what does it matter?**
 6 A. I used to talk to my students about that and I said, "You
 7 have a perfectly beautiful set of teeth, you have root
 8 canal, you have a tooth pulled, and is the dentist going to
 9 in-fill that with something that's not the same? No. A
 10 dentist is going to do the closest job he can to getting
 11 exactly the color and the shape and the form and the polish
 12 of the tooth that's been taken out." Well, what's
 13 happened -- otherwise, you'd have a really odd-looking jaw
 14 with lots of broken up spaces. If you look at city streets
 15 and continuity of building types of a particular period,
 16 when you pull one out or you pull two out and you put up a
 17 boxy 3-story, fill every inch of the lot that you can do
 18 under the city codes, you -- and put a two-car garage and a
 19 driveway in, you immediately reduce the character of place.
 20 And that's exactly what's been happening in my neighborhood
 21 in Bryant, and to a less extent, really, so far, in Ravenna.
 22 So that's -- I --
 23 You're going to hate me for this, but I remember that in
 24 1990 when we had the 25th anniversary celebration of the
 25 Seattle Preservation Ordinance, Patsy Collins, who was a

1 MR. JOHNSON: Look at page 3.304. That's the section of
 2 (inaudible).
 3 HEARING EXAMINER: 2.52?
 4 MR. BRICKLIN: 3.304 is the start of the impacts section.
 5 MR. JOHNSON: Page number.
 6 HEARING EXAMINER: Um-hum.
 7 MR. JOHNSON: And the section.
 8 MR. BRICKLIN: Yeah. Section 3.52.
 9 HEARING EXAMINER: Okay. I'm just not sure why we don't
 10 know the page.
 11 THE WITNESS: So, you know, I --
 12 **Q. (By Ms. Bendich) You've made some --**
 13 A. I think I've already addressed that, you know, that
 14 that's -- one of the things that struck me was that in --
 15 **Q. You need to give the Hearing Examiner a page number if**
 16 **you could.**
 17 A. Okay. So I'll do that. 3.305. It talks about the impacts
 18 to historic and cultural resources would still be considered
 19 during the project level SEPA review. And my understanding
 20 and my personal experience has been that SEPA review doesn't
 21 necessarily follow small, single-family houses, so that's
 22 not going to be a protection for these neighborhoods if
 23 somebody wants to demolish a house. So there aren't really
 24 that many protections on buildings that would be directly
 25 impacted or directly impacted by any of these alternatives

1 great supporter of preservation, wrote something. We spoke
 2 about it, and essentially she said -- give me a moment to
 3 dig that out because I think it's important. She answered
 4 the question "Why is it important," and -- to save these
 5 buildings. And she said, "A community wants to and needs to
 6 remember the community's childhood in the same way as
 7 individuals have need and joy remembering and being reminded
 8 and given mementos of their childhood. Buildings lost are
 9 like a book with its page torn out." And that's what we're
 10 looking at all over the city, and I personally feel that
 11 we're not protecting the legacy that we have been handed in
 12 a good way.
 13 **Q. And in general here, does the Section 3.5 address at all**
 14 **what would happen to the integrity or the character of a**
 15 **neighborhood that has valuable historic resources in it?**
 16 A. Only in a general way of saying it will affect the -- it
 17 will affect and potentially change neighborhood character.
 18 **Q. In your personal opinion as a professional, is it really**
 19 **"might" or with upzoning is it just probable or is it**
 20 **stronger than that?**
 21 MR. BRICKLIN: You already said that (inaudible).
 22 THE WITNESS: Pardon? I already said that.
 23 **Q. (By Ms. Bendich) Oh, okay. You're correct. You did.**
 24 A. Well, the EIS itself says redevelopment could result in a
 25 significant adverse impact for property that have the

VOLUME 6

JULY 23, 2018

Hearing - Day 6

**In the Matter of the Appeal of: Wallingford Community
Council, et al.**

July 23, 2018



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BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In the Matter of the Appeal of:)
WALLINGFORD COMMUNITY COUNCIL,)
ET AL.,) W-17-006
) through
of the adequacy of the FEIS issued by the) W-17-014
Director, office of Planning and)
Community Development.)

Hearing, Day 6 - July 23, 2018
Heard before Hearing Examiner Ryan Vancil

TRANSCRIBED BY: Bonnie Reed, CET
Court-Certified Transcription

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A P P E A R A N C E S

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11 Attorney at Law
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15 On Behalf of Appellant Seattle Coalition for
16 Affordability, Livability & Equity:
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A P P E A R A N C E S

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1 MR. BRICKLIN: Oh, maybe not.
 2 Is that E3?
 3 HEARING EXAMINER: That is the -- well, I've got F, so I'm
 4 close.
 5 MR. BRICKLIN: Yeah.
 6 THE WITNESS: E, it's a short one.
 7 MR. BRICKLIN: So one more page over that map that you
 8 were on. The other way.
 9 HEARING EXAMINER: Oh, you want it going toward --
 10 MR. BRICKLIN: Yeah. There you go.
 11 HEARING EXAMINER: Yes.
 12 MR. BRICKLIN: To E3, a map.
 13 THE WITNESS: Yeah, I'm looking. It's right here.
 14 MR. BRICKLIN: Okay.
 15 **Q. (By Mr. Bricklin) Is it your understanding that this is the**
 16 **map that describes the high, medium, and low areas that are**
 17 **depicted -- that are referenced on that chart we were**
 18 **looking at a minute ago?**
 19 A. Yes.
 20 **Q. All right. And the pink on the map closest into the**
 21 **downtown area, that's depicted as the high area with the**
 22 **higher fees; is that right?**
 23 A. Yeah. That's close to downtown.
 24 **Q. And then, further out is the medium area, green?**
 25 A. Yes.

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1 **Q. And then the -- by and large, the furthest areas out are the**
 2 **low areas?**
 3 A. Correct.
 4 **Q. All right. And -- all right. Where is Fremont, your home**
 5 **neighborhood?**
 6 A. If you -- I can actually -- if you go to the -- to Lake
 7 Union, Fremont is on the upper left corner.
 8 **Q. All right.**
 9 A. It's the urban village, the black line that looks like a
 10 wedge against the canal there.
 11 **Q. Okay. And is -- from your experience, is the development**
 12 **pressures in Fremont accurately depicted there as medium?**
 13 A. No. If you look at the range of the real estate economy
 14 just by walking around, just go onto Zillow or look at
 15 the -- as I bicycle around, whenever I see a "for sale," I
 16 pull -- I take those and look at them. I go online, I look
 17 and see what's happening with the market.
 18 Fremont is a very dense neighborhood and has a lot of tech
 19 buildings, office buildings. The market in Fremont is
 20 nowhere anything like what's happening in Ballard, for
 21 example. They're completely different.
 22 I know -- not being a real estate expert, I can just say,
 23 generally, I would imagine that the cost per square foot for
 24 development in Fremont is a lot more than almost anywhere
 25 else north of the canal.

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1 **Q. So now let's go back to the chart in the EIS, Exhibit 2-6 on**
 2 **page -- what page that is -- 2.19. And in that chart, the**
 3 **rates are set not just by geography, the low, medium, and**
 4 **high areas of the city, but also by reference to zones with**
 5 **an M suffix, an M1 suffix, and an M2 suffix.**
 6 **Are you familiar with that --**
 7 A. Yes.
 8 **Q. -- process?**
 9 A. Yes.
 10 **Q. And --**
 11 A. Somewhat.
 12 **Q. Yeah. And what's your understanding of what the**
 13 **distinctions are between those three suffixes?**
 14 A. Well, more capacity is allowed the more M there is. An M
 15 plain is less of a capacity increasing change in the zoning
 16 than a one, which is less than a two.
 17 **Q. Okay.**
 18 A. But I don't know the details on how that happened.
 19 **Q. That's fine. I'm just trying to -- and I think you were**
 20 **here in the first week when Exhibit 69 was entered, which is**
 21 **a map from the Seattle Times that depicts the M, M1 and M2**
 22 **classifications.**
 23 A. Yes.
 24 **Q. Do you recall that?**
 25 A. I call --

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1 THE WITNESS: Your Honor should know that exhibit was --
 2 the data and initial display was produced by the Seattle
 3 Times, but I'm the person who extracted it for printing as a
 4 PDF.
 5 A. So I called it the delta map. It shows the varying
 6 change -- degree of change proposed, the relative increase
 7 in density. And it's defined at the top by the Times, by
 8 their GIS person.
 9 **Q. (By Mr. Bricklin) All right. So the brown coding is the --**
 10 **corresponds to the M suffix, the red to the M1, and the**
 11 **orange to the M2?**
 12 A. I'm not 100 percent sure. I didn't confirm that. But
 13 they're parallel -- they're analogous concepts, yes.
 14 **Q. Okay. All right. That's probably -- all right. So now,**
 15 **thank you for that additional description about how the fee**
 16 **is -- varies according to geography and amount of the**
 17 **upzone. Let's, for a minute, have you talk about the map**
 18 **and text amendments, the upzone part of the proposal.**
 19 **So first of all, are the maps showing the map upzones --**
 20 **well, first of all, are there both upzones that are created**
 21 **through map amendments and upzones that are created through**
 22 **text amendments?**
 23 A. Yes. SCALE discussed this internally quite a bit, because
 24 people really have a hard time understanding it, so we had
 25 to teach ourselves it's -- we call it a double upzone,

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MARIA BATAYOLA
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July 23, 2018

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HEARING EXAMINER: Thank you.
 MR. THALER: Are they the same as what I printed?
 MR. BRICKLIN: Yeah. It should be.
 MR. THALER: It should be.
 HEARING EXAMINER: We return to the record for W-17-006 through 014. It's July 23, 2018. Our second week of MHA hearing. Continuing with the Appellants' case.
 I want to just check in with you-all this morning to get a feel for what we're trying to cover this week, and also touch base to see if there are any procedural items we need to address this morning before we get started.
 MR. BRICKLIN: You want to do schedule --
 MR. THALER: Sure.
 MR. BRICKLIN: -- Mr. Thaler?
 MR. THALER: Yeah. And my apology to Counsel, I thought we had sent them this most current copy. I'd be happy to share a somewhat difficult to use schedule, because it -- I forgot to hit set print on one page. That's our scheme for the week two days, or the City's, Thursday and Friday. Not all of the witnesses are confirmed for 100 percent, and so we set it so that Dr. Richardson is set for 10:30 on the Skype. I made sure to keep that locked in, so we wouldn't

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115	Jeffrey Richardson's Resume	58	109
116	Jeffrey Richardson's Study	129	129
117	List of Historic Inventory Buildings in Wallingford	123	128
118	Maps of Portions of Wallingford	125	128
119	Exhibit 118 with Urban Village Outlined		
120	Landmarked Buildings in the Wallingford Urban Village	134	142
121	Notes Used by Dara Ayres	204	
125	SDCI Project plan for HALA MHA EIS Racial Equity Analysis Team	240	240
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have any confusion by trying to move him.
 HEARING EXAMINER: And that's the -- is that the call-in --
 MR. THALER: Yes.
 HEARING EXAMINER: -- we have?
 MR. THALER: At 10:30 --
 HEARING EXAMINER: -- Dr. Richardson is?
 MR. THALER: -- today.
 HEARING EXAMINER: Okay.
 MR. THALER: And --
 HEARING EXAMINER: Do I get to keep this or --
 MR. THALER: Please.
 HEARING EXAMINER: Okay. And I'm -- do you -- does the City have a copy?
 MR. JOHNSON: Yes, we do.
 MR. WEBER: We were given a copy this morning.
 HEARING EXAMINER: All right. So we have the call-in Skype 10:30-ish or so.
 And are there any City witnesses this week?
 MR. MITCHELL: Thursday and Friday.
 HEARING EXAMINER: Thursday and Friday? Okay. We'll switch over then. And what subject matter items are we covering with the Appellants this week?
 MR. THALER: They're -- I don't have my schedule in front of me anymore, since --

THALER, Toby

1 MR. BRICKLIN: Oh, maybe not.
 2 Is that E3?
 3 HEARING EXAMINER: That is the -- well, I've got F, so I'm
 4 close.
 5 MR. BRICKLIN: Yeah.
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 22 **classifications.**
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 7 Union, Fremont is on the upper left corner.
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 21 **through map amendments and upzones that are created through**
 22 **text amendments?**
 23 A. Yes. SCALE discussed this internally quite a bit, because
 24 people really have a hard time understanding it, so we had
 25 to teach ourselves it's -- we call it a double upzone,

1 because it's not just map changes, it's also text changes.
2 And what that means is that you can have a zone that's
3 called a low-rise zone, and if you do a text change that
4 says you can develop to 40 feet as opposed to 30 feet,
5 that's an upzone, but you don't see anything different on
6 the map.

7 But then at the same time, you can take a low-rise 1 zone
8 and change it to a low-rise 2 zone, and that's an upzone.
9 And there's even a third kind, kind of, which is also a map
10 change, it's also a text change, which is to add the M,
11 which is the Mandatory Housing Affordability addition.

12 So you have layers of upzoning happening, the main
13 distinction being the text change that changes what can be
14 done in any particular letter, and changing what letter is
15 on a spot on the map.

16 **Q. Okay. So -- and are the maps -- so in terms of the map
17 amendments, are those collected in Appendix H?**

18 A. It's my understanding, yes.

19 **Q. All right. So let's take a look at those briefly.**

20 HEARING EXAMINER: Will we be coming back to Exhibit 2-6
21 in the EIS or --

22 MR. BRICKLIN: Not that I know of.

23 HEARING EXAMINER: -- appendix -- okay.

24 MR. BRICKLIN: Yeah.

25 HEARING EXAMINER: And so we're moving on to H?

1 under three different alternatives for each neighborhood.
2 So let's try to group them in a -- some way that allows us
3 to get through it a little more quickly.

4 **First of all, were there upzones within the existing urban
5 village boundaries?**

6 A. Yes.

7 **Q. And what was --**

8 A. I think without exception.

9 **Q. All right. And what -- prior -- or currently, before this
10 proposal takes effect, is there a single-family zoning in
11 the urban villages?**

12 A. In some of them.

13 **Q. Right.**

14 A. I can't remember. Half a dozen.

15 **Q. Right.**

16 A. Something like that.

17 **Q. And does the proposal eliminating all -- or upzoning all
18 that single-family zoning into various kinds of multifamily
19 zoning?**

20 A. Mostly. I don't believe there's any proposals to change
21 single family to commercial.

22 **Q. Okay. In any event, none of it is left as single family?**

23 A. The whole -- it's very explicit in the City's proposal,
24 there will be no single-family zoning inside urban villages.
25 That's explicit.

1 MR. BRICKLIN: Yes.

2 THE WITNESS: Yes.

3 **Q. (By Mr. Bricklin) So --**

4 A. Yes, yes, yes.

5 **Q. So first of all, let's -- and the maps start on page H-9, I
6 think; is that right?**

7 A. (No verbal response).

8 **Q. And on the bottom of the page, the page number. This is the
9 exhibit where the -- or excuse me, this is the appendix
10 where the exhibit numbers and the page numbers are one off
11 from each other.**

12 **So for instance, the first map is a map of Alternative 2
13 for 23rd and Union. The exhibit number's H-8, and the page
14 number is H-9.**

15 A. Yep.

16 **Q. Do you see that?**

17 A. Yeah. I've got that. Page H-8.

18 **Q. Yeah.**

19 A. That's the header, "Minor Mapping Modifications and
20 Incremental Adjustments."

21 **Q. All right. But then when you go to page H-9 --**

22 A. Then it's Exhibit H-8.

23 **Q. Right. Exactly. All right. So let's try to -- I mean,
24 obviously we can't go through all the upzones that are
25 mapped in these series of maps. And that's specific -- and**

1 **Q. All right. And in your neighborhood, for instance, was --
2 are there areas inside the urban village, either for Fremont
3 or -- well, you kind of bridge Wallingford and Fremont;
4 right?**

5 A. Yes. The Fremont --

6 **Q. Are there -- is there a single-family zoning there currently
7 that would be upzoned as a result of this?**

8 A. Not in the Fremont urban village, but in the Wallingford
9 urban village, which includes what we call East Fremont,
10 yes.

11 **Q. Okay.**

12 A. And I believe that's the -- labeled orange on Exhibit 69 at
13 some of the highest delta of change.

14 **Q. Okay. Yeah. Actually, if you still have 69 there. So can
15 you point out -- do you have 69 in front of you?
16 You don't, do you?**

17 A. No, but I can describe it.

18 **Q. Yeah. But just so you're --**

19 A. If you have --

20 **Q. It'll make it a little easier.**

21 A. If you have it.

22 **Q. So --**

23 A. Yes.

24 **Q. -- you see Lake Union in the middle of the picture?**

25 A. Yes.

1 A. And Fremont being split, this change starts splitting the
 2 kind of development that happens in Fremont.
 3 **Q. In reviewing the EIS, did you see much, if any, discussion**
 4 **of the impact of these various text amendments on, you know,**
 5 **for instance, floor area ratio, 50 percent increase.**
 6 **Did you see much discussion of that in the EIS?**
 7 A. No.
 8 **Q. All right.**
 9 A. Very general.
 10 **Q. And -- yeah, that was going to be my other question is:**
 11 **These zones occur in different neighborhoods all around the**
 12 **city; right?**
 13 A. Yes.
 14 **Q. And --**
 15 A. Well, sure.
 16 **Q. Right. And would the impacts of allowing additional bulk or**
 17 **height vary depending on the particular neighborhood?**
 18 A. Yes.
 19 **Q. And did the EIS make any effort to discuss the differing**
 20 **impacts of these text amendments in the various**
 21 **neighborhoods of the city?**
 22 A. Not site specifically. Well, I -- I'll hedge that a little.
 23 There is some very generic discussion, and it would probably
 24 take me a few minutes to dig to it. When I searched through
 25 the EIS looking for impact analyses on various subjects,

1 **Smaller incremental changes in building scale may not be a**
 2 **significant adverse land use impact per se, depending upon**
 3 **the context and degree."**
 4 **Do you see that?**
 5 A. Yes.
 6 **Q. "For example, an increase in the height of mid-rise building**
 7 **from four to five with the same uses. General**
 8 **configurations in building footprint would not typically**
 9 **require an adverse land use impact finding, et cetera."**
 10 **Next paragraph. "However, large scale changes that alter**
 11 **building form in a more fundamental matter could create land**
 12 **use impacts. For example --" and there's an example there.**
 13 **Is that the sort of generic discussion you were talking**
 14 **about?**
 15 A. Well, yes. And my hedge is the language on page 3.134.
 16 **Q. All right.**
 17 A. That is the discussion of East Fremont.
 18 **Q. Let's turn to that.**
 19 A. So it talks about the potential for focused significant land
 20 use impacts here.
 21 **Q. Let me make sure I'm in the right place. So 134. Oh, East**
 22 **Fremont, because that's part of Wallingford?**
 23 A. Yes.
 24 **Q. I -- I'm with you. All right. So it says Wallingford, but**
 25 **that -- the western part of Wallingford is the east part of**

1 like height, bulk, and scale, and edge, there are very
 2 generic discussions that it might do this and it might do
 3 that, but it's not site specific.
 4 **Q. And that was my question.**
 5 A. They will have a witness who can point to a phrase that
 6 looks like it's being discussed, but it's so general as to
 7 be useless.
 8 **Q. Well, so let's --**
 9 A. My perspective is --
 10 **Q. Let's -- I'll -- let me see if I can find one of those for**
 11 **as an example. Turn to -- in the EIS at page 3.110.**
 12 A. 3.110?
 13 **Q. Yeah.**
 14 A. Yes.
 15 **Q. And actually, let's look over on page 311 where it says,**
 16 **"SCALE change."**
 17 **Do you see that heading there on 3 --**
 18 A. Yes.
 19 **Q. -- 3.111?**
 20 A. Yes.
 21 **Q. And it -- there it says, "Land use impacts may occur from**
 22 **increasing the scale of buildings that can be built in an**
 23 **area. Zoning changes that increase maximum height or floor**
 24 **area ratio limits or modifies setback. Required setbacks**
 25 **could result in scale changes that create land use impacts.**

1 **Fremont?**
 2 A. Yes.
 3 **Q. Got it.**
 4 A. It's -- in the comprehensive plan, it's technically a joint
 5 planning area.
 6 **Q. Okay. And what's the language in particular you were**
 7 **pointing to?**
 8 A. Partway down it references the area between Stone Way and
 9 Aurora, which means West Wallingford, East Fremont. And the
 10 discussion there, that's the entirety of the consideration
 11 of the impacts of what we were just discussing in Appendix
 12 F.
 13 **Q. All right.**
 14 A. And the residents of that neighborhood could walk you to the
 15 sites. They could show you the exceptional trees that will
 16 be lost, the tree groves that will be scraped to bare dirt,
 17 the edge impacts that will be increased.
 18 **Q. And is any of that discussed in the EIS?**
 19 A. No.
 20 **Q. All right. All right. Apart from the -- so we've gone**
 21 **through the changes in zoning inside the urban villages, the**
 22 **expansions, the commercial area, upzones, and the text**
 23 **changes.**
 24 **Were there also text changes that didn't immediately**
 25 **change zoning, but opened the door for further zoning**

RICHARDSON, Jeff

1 accuracy assessment that was performed, we're able to be
2 able to objectively understand that getting to any specific
3 number at 24 percent or 26.4 percent, I can't remember the
4 exact number in that study, is somewhat -- it's a fool's
5 errand to try to get to that level of detail, because
6 there's always uncertainty when (inaudible) study that is
7 performed. That's kind of the main conclusion of that
8 study.

9 **Q. Okay. And the articles that we -- you had talked about, the**
10 **ones from 2014 and 2016, those didn't -- were those**
11 **drafted -- prepared -- those didn't cover the Seattle's 2016**
12 **assessment; correct? So those articles were not written in**
13 **response to the 2016 tree canopy assessment; is that**
14 **correct?**

15 A. Those were written before the assessment. So the authors
16 would have had the ability to read my 2014 paper before they
17 went ahead and did the 2016 report, that Exhibit 79.

18 **Q. Okay. So you mentioned that you didn't necessarily want to**
19 **get involved with submitting a proposal for Seattle's 2016**
20 **assessment. Seattle submitted a request for proposals; is**
21 **that correct? And one in --**

22 A. I did not know that there was a request for proposals. All
23 I know is that my advisor, Monika Moskal, let me know that
24 the City was interested in performing land use/land cover
25 assessments using the leaf-off data, leaf-off LiDAR data.

1 **assessment to have been peer reviewed?**

2 A. I'm not familiar with the process by which city tree canopy
3 assessments are reviewed internally.

4 **Q. Have you reviewed any other city tree canopy assessments,**
5 **other than Seattle's?**

6 A. As mentioned, I've actually done several cities in the
7 region's tree canopy assessments myself, and have gone
8 through a due process just based on that. But I haven't
9 reviewed specifically other cities' tree canopy assessments.

10 **Q. Okay. What cities have you done the tree canopy assessment**
11 **for?**

12 A. As I mentioned earlier, I have done one for Olympia,
13 Seattle, Bay Bridge Island, and all of King County.

14 **Q. Uh-huh. So you mentioned it was your opinion that**
15 **essentially any tree canopy cover loss would, in your**
16 **opinion, be a significant impact.**

17 A. Specifically tree canopy cover as it relates to the tree
18 canopy as an urban forest canopy. So I would not say that a
19 (inaudible) trees -- tree canopy loss would be significant,
20 but when you're looking at city-wide level when performing
21 this kind of assessment, any sort of tree canopy loss that
22 was found as a result of a remote sensing study would be
23 significant.

24 **Q. Uh-huh. Are you familiar with the work of the University of**
25 **Vermont spatial analysis laboratory that did the 2016**

1 **Q. And there was a team from the University of Washington, your**
2 **colleagues that did submit a proposal for that assessment;**
3 **is that right?**

4 A. That is correct, but I only learned about that when I was
5 preparing for this hearing. I did not know about that at
6 the time.

7 **Q. And you're familiar with the work of Jarlath O'Neil-Dunne**
8 **who heads the University of Vermont's spatial analysis**
9 **laboratory?**

10 A. I was familiar with him before this case, yes.

11 **Q. Does he have a good reputation in the field?**

12 A. He has a reputation -- he has a very good reputation in --
13 he provides a lot of basically information on forums to help
14 people learn how to do this type of assessment. I'd say his
15 reputation is mostly based on being a helpful resource. I'm
16 not so familiar with his reputation as a scholar.

17 **Q. So you corrected yourself a little bit earlier ago for using**
18 **academia jargon.**

19 **Is -- would you say -- when you say the -- something has**
20 **peer reviewed it, are you -- is that a common standard for**
21 **articles that you want to get published in a scientific**
22 **journal, an academic journal?**

23 A. Yes. It's a necessity to have peer review to be in a
24 scientific journal, yes.

25 **Q. Do you know if it would be common for a city's tree canopy**

1 **Seattle assessment and are you familiar that they have a**
2 **history of doing these tree canopy assessments using a**
3 **combination of LiDAR and aerial imagery?**

4 A. I'm mostly familiar with Jarlath as a person who is the head
5 of that tree canopy -- sorry -- that spatial analysis
6 laboratory, and I knew that he had a -- I knew him
7 specifically as someone who did land use/land cover mapping
8 in cities.

9 I didn't -- I wasn't really aware of the breadth of that
10 before I became part of this study. Because, again, there's
11 not a lot of peer review studies that I'm aware of that I
12 have reviewed personally that relate to work done by that
13 Vermont lab.

14 **Q. And so you've -- have you looked at the data set, Seattle's**
15 **GIS data set based on the 2016 assessment, tree canopy cover**
16 **assessment?**

17 A. I have not looked at any specific data sets, only the
18 reports that we have mentioned all before.

19 **Q. Okay. So you haven't done any of your own, you know, ground**
20 **truthing to -- if you're questioning the accuracy of the**
21 **assessment, you haven't done any -- look at -- looking at**
22 **the data and comparing it to some sampling in Seattle?**

23 A. I have not. It would be difficult to do that now, because
24 you want to do your ground truthing at the same time the
25 data is collected, so you would want to do it in 2016, and

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July 24, 2018



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Hearing - Day Seven - 7/24/2018

<p style="text-align: right;">Page 1</p> <p style="text-align: center;">BEFORE THE HEARING EXAMINER CITY OF SEATTLE</p> <hr/> <p>In the matter of the Appeal of:) WALLINGFORD COMMUNITY COUNCIL,) Hearing Examiner File ET AL.,) W-17-006 through W-17-014 of adequacy of the FEIS issued) By the Director, Office of) Planning and Community Development)</p> <hr/> <p style="text-align: center;">HEARING, DAY SEVEN - JULY 24, 2018 Heard Before Hearing Examiner Ryan Vancil</p> <hr/> <p>TRANSCRIBED BY: Shanna Barr, CET Court-Certified Transcription</p>	<p style="text-align: right;">Page 3</p> <p style="text-align: center;">A P P E A R A N C E S (Continued)</p> <p>1 2 3 On Behalf of Appellant Morgan Community Association: 4 PHILLIP A. TAVEL 5 Law Offices of Aaron M. Lukoff & Associates 6 215 Flora Street 7 Bellingham, Washington 98225-4441 8 9 On Behalf of Appellant Seattle Coalition for 10 Affordability, Livability & Equity: 11 DAVID A. BRICKLIN 12 Bricklin & Newman, LLP 13 1424 Fourth Avenue, Suite 500 14 Seattle, Washington 98101-2258 15 16 On Behalf of Appellant Seniors United for Neighborhoods: 17 DAVID WARD 18 6815 Ravenna Avenue Northeast 19 Seattle, Washington 98115 20 21 On Behalf of Appellant Wallingford Community Council: 22 G. LEE RAAEN 23 Law Office of G. Lee Raaen 24 3301 Burke Avenue North, Suite 340 25 Seattle, Washington 98103</p>
<p style="text-align: right;">Page 2</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>1 2 3 On Behalf of Appellant Beacon Hill Council of Seattle: 4 MIRA LATOSZEK 5 2821 Beacon Avenue South 6 Seattle, Washington 98144 7 8 On Behalf of Appellant Fremont Neighborhood Council: 9 TOBY THALER 10 Attorney at Law 11 Post Office Box 1188 12 Seattle, Washington 98111-1188 13 14 On Behalf of Appellant Friends of the North Rainier 15 Neighborhood Plan: 16 TALIS M. ABOLINS 17 Advocates Law Group 18 Post Office Box 18737 19 Seattle, Washington 98118-0737 20 21 On Behalf of Appellant Friends of Ravenna-Cowen: 22 JUDITH BENDICH 23 Attorney at Law 24 1754 Northeast Sixty-Second Street 25 Seattle, Washington 98115-6821</p>	<p style="text-align: right;">Page 4</p> <p style="text-align: center;">A P P E A R A N C E S (Continued)</p> <p>1 2 3 On Behalf of Appellant West Seattle Junction 4 Neighborhood Organization: 5 RICH KOEHLER 6 Land Use Chair 7 4210 Southwest Oregon Street 8 Seattle, Washington 98116 9 10 On Behalf of Respondent City of Seattle: 11 DALE JOHNSON 12 JEFF WEBER 13 DANIEL MITCHELL 14 Seattle City Attorney's Office 15 701 Fifth Avenue, Suite 2050 16 Seattle, Washington 98104-7097 17 18 19 20 21 22 23 24 25</p>

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1 And I want to point out that this is a potentially much

2 bigger issue, and I'm going to raise my second point, which

3 is -- so pursuant to your direction yesterday, at about

4 10:30 p.m. last night we received from Mr. Bricklin the,

5 quote/unquote, notes of Mr. Levitus' testimony. Mr. Levitus

6 is testifying later this morning. Those notes -- and we'll

7 get to this -- this is a 25-page document with citations,

8 footnotes, graphics. This is an expert report. There's no

9 way, unless Mr. Levitus is planning to speak for about eight

10 hours, that he's going to read this document. And so the

11 City's position -- this is an illustration of where this

12 whole issue is going -- is it really is not appropriate for

13 a document like that to be submitted into evidence at this

14 point. I mean, we asked for discovery of experts, we didn't

15 receive that document. We took Mr. Levitus' deposition, we

16 didn't receive that. Now we've received it 12 hours or less

17 before Mr. Levitus is testifying. And even if we were able

18 to effectively review that overnight and use it for

19 cross-examination, essentially it's creating a situation if

20 it comes into evidence where there's going to be an enormous

21 volume of material that should have been disclosed earlier

22 that Mr. Levitus will not have testified to. Your Honor is

23 going to have to sort through that material for purposes of

24 your decision, and then, God forbid, a review in court is

25 going to have to figure out what to do with all that. So we

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1 -o0o-

2 July 24, 2018

3

4 HEARING OFFICER: We'll return to the record for July 24,

5 2018, continuing with the appellant's case.

6 MR. WEBER: Your Honor, before we begin, could I address

7 an issue about exhibits?

8 HEARING OFFICER: Yes.

9 MR. WEBER: Two issues, actually. So, at the end of the

10 day yesterday, I think there was an outstanding question

11 about Exhibits 121 and 124, which were the notes of Mr.

12 Thaler and Ms. Ayres, and we had reserved the question of

13 how to deal with those. I guess I want to say the City does

14 continue to object to introduction of those as exhibits

15 because they are in this case more or less notes of what

16 those two people said, but the City's position is it's

17 appropriate that if they're going to use notes the City get

18 to see those notes. But we're not comfortable with the idea

19 of those kinds of documents going into evidence because it's

20 quite possible that there would be material in those kinds

21 of documents that the person at the stand does not actually

22 talk about, and in that case it's essentially evidence

23 that's coming in without prior disclosure and someone has to

24 then sort through what the witness said versus what's in the

25 exhibit. It's problematic.

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1 object to those notes being admit under to evidence.

2 And I guess at the risk of sounding too apocalyptic, I

3 think this is really a major question as to how hearing

4 examiner proceedings are going to go in the future. And if

5 the Examiner would like to have perhaps Mr. Bricklin give

6 you those notes so you can review them in camera and decide

7 how you want to deal with this, the City would be okay with

8 that. But I think you face a really significant issue here

9 as this has developed about how to deal with these kinds of

10 documents, and the City does object not only to 121 and 124,

11 but to the notes of Mr. Levitus, as well, being admitted.

12 HEARING OFFICER: Any response from the appellants?

13 MR. BRICKLIN: Well, there's kind of a couple of layers, I

14 guess. I certainly agree that -- I mean, first of all, I am

15 not sure that it's necessary that -- I think the Examiner

16 yesterday made the statement that, well, once they're marked

17 as exhibits I'd have to consider them in making my decision.

18 I'm not actually sure that's true. So, for instance, I

19 think about an exhibit that's offered and marked and then

20 the Examiner decides it's inadmissible for whatever reason.

21 It's still an exhibit. It still has an exhibit number.

22 It's part of the record. It's available in the record if

23 there's a later judicial review so they can look at the

24 exhibit, understand why it was objected to and whether the

25 objection was valid. So my point is that simply because a

LEVITUS, David

1 **Q. -- the --**
 2 A. The higher the fee that -- you know, simple, you know,
 3 question for any profit-seeking developer or anyone trying
 4 to make a budget work, they're going to generally pay the --
 5 what costs less. And so, you know, if fees are relatively
 6 low, they're lower than the cost of constructing on site or
 7 even slightly higher, developers will tend to pay the fee
 8 instead of building affordable housing on site.
 9 **Q. And so what's the environmental impact of raising the fee**
 10 **and incentivising more on-site development? How does that**
 11 **play out in terms of impacts?**
 12 A. Well, it -- a couple of things. One, it means that there is
 13 a hundred percent guarantee that those affordable units will
 14 be exactly in -- literally in the same building where the
 15 new market-rate units are. So it ensures a level of
 16 integration that can't be necessarily guaranteed otherwise.
 17 It also means there's no lag in between when a new
 18 market-rate construction happens, new -- and when the
 19 affordable housing gets built. Because oftentimes,
 20 generally speaking, in Seattle and other places, when a
 21 developer building a new building pays an in-lieu fee it
 22 takes several years for that money to then be spent on
 23 affordable housing construction by a nonprofit or the City
 24 or what have you. So it has question- -- implications for
 25 both the geographic distribution and the timing of new

1 **Q. All right. So the first three bullets there would be**
 2 **addressed equally well. And the fourth one would**
 3 **actually -- this proposal would do a better job of**
 4 **distributing the benefits and burdens of growth equitably?**
 5 A. Um-hum.
 6 **Q. Okay.**
 7 A. And, you know, the EIS acknowledges in the -- in its
 8 Appendix A that these community stabilizing investments like
 9 subsidized housing are critical to preventing displacement
 10 and need to be put in place before the rapid market pace
 11 growth begins. You know, as I said, the geographic
 12 distribution of units is the key to prevent this
 13 acceleration of segregation and --
 14 **Q. So you're saying that the EIS actually acknowledges what**
 15 **you're talking about with the timing?**
 16 A. Yes.
 17 **Q. But your alternative would do a better job of addressing**
 18 **that concern?**
 19 A. Right. And that's supported in literature, most recently --
 20 that's in here, but work by Miriam Zuk and Karen Chapple out
 21 of Berkeley about, you know, what are best practices when it
 22 comes to preventing displacement. And a lot of it is about
 23 getting those community stabilizing investments in there,
 24 like subsidizing housing, before the market-rate housing
 25 really takes off in a particular neighborhood.

1 affordable units, and that may lead to differences in
 2 displacement and segregation.
 3 **Q. And why do you believe that an alternative that involved**
 4 **higher in-lieu fees would accomplish the objectives of the**
 5 **proposal as they're stated in the EIS?**
 6 A. So --
 7 **Q. And you may want to go back to that page. So that's -- that**
 8 **was --**
 9 A. 2.4?
 10 **Q. Page 2.4, right.**
 11 A. So the higher in-lieu fees, I believe, would -- first off,
 12 you know, there's not necessarily in this alternative any
 13 consideration of changing the incentives being offered to
 14 developers. The density is still offered, so they're not --
 15 they're still going to build housing. And so they still
 16 will increase the overall production of housing. I think
 17 the crucial piece is I don't think it will affect the number
 18 of new units being built. It won't reduce it significantly
 19 below the 6,200. And the most important difference is that
 20 it will distribute the benefits and burdens of growth more
 21 equitably. It won't likely generate a city in which
 22 affordable units gets concentrated in -- already in
 23 low-income areas. And which those units are being built at
 24 the same time as market-rate units in the areas most at risk
 25 of displacement.

1 **Q. All right. And then you also talked in this first**
 2 **alternative, a different variation of it, I guess, a tiered**
 3 **system? What did you mean by that?**
 4 A. So there's many schemes across the country where, you know,
 5 the amount you have to pay or perform increases if you build
 6 off site. So if you're more than a mile from the site, you
 7 have to do 20 percent more affordable housing or payment, 20
 8 percent. You know, if you're 2 miles from the site, so
 9 again --
 10 **Q. It bumps up again?**
 11 A. It bumps up. So, you know, you don't have to build on site,
 12 but it's encouraging things being built close by.
 13 **Q. All right. And why do you think that kind of alternative**
 14 **would meet the objectives of the proposal as well or better**
 15 **than the proposal itself?**
 16 A. Well, I think it's for the exact same reason. It prevents
 17 new affordable units from being built far away from the area
 18 where the market construction is happening and where
 19 wealthier, primarily whiter population is moving in. So
 20 it -- you know, again, distribute the benefits and burdens
 21 of growth more equitably.
 22 **Q. Is there academic literature that suggests that the kind of**
 23 **program you're describing would do a better job of**
 24 **addressing these equitable -- equity issues than the City's**
 25 **proposal?**

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July 25, 2018

HEARING EXAMINER: We're returning with appellants' case, July 25, 2018.

MS. SAWYER: Hello.

HEARING EXAMINER: Good morning.

MS. SAWYER: Oh, I'm sorry, I'm Amanda Sawyer, I'm with JuNO. And I'll be questioning this morning.

HEARING EXAMINER: Are the --

MR. BRICKLIN: And I think if I can facilitate this, there's a question about the documents. There's at least one, and maybe more than one, very thick document, traffic data. And I think the question is whether we need to put in a 100-page document with a lot of data in it or --

MS. SAWYER: Or I have a smaller copy --

MR. BRICKLIN: There's a summary. I gather that the data that fills up the bulk of that document is summarized. And there's no question as to the summary in the front of that document is that right? Is that what the summary is?

MS. SAWYER: Well, it's an additional exhibit that's used that data.

HEARING EXAMINER: Has the city seen the summary?

MR. BRICKLIN: No -- well, yes, because it was provided as

EXHIBIT INDEX (continuing)

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one of the --

MR. JOHNSON: So if you can give us the exhibit number, we can look at it.

MR. BRICKLIN: So do you know the JuNO exhibit number?

MS. SAWYER: The JuNO exhibit number is 107.

MR. KOEHLER: For the big fat one.

MS. SAWYER: I can provide everyone with their copy.

MR. BRICKLIN: Sure you can do that if you want.

MR. KOEHLER: Maybe we can do this as we're going.

MR. BRICKLIN: That's fine if you want to do it when you get to it. Yeah, I think that would be easier.

MS. SAWYER: This is your copy. I made a copy of everything that we referred to and (inaudible).

MR. MITCHELL: This is ours.

MR. BRICKLIN: And I think I heard Amanda say that she's not planning to ask all of those be admitted but rather the witness will be referring to some of them. I say that in terms of not asking the clerk to mark them all initially.

HEARING EXAMINER: Right. We'll do those as we come in because I'm not sure if these are all in the order where they will be accepted or not. This is a stack enough that I don't want to get too far into marking things in advance.

MS. SAWYER: Thank you.

HEARING EXAMINER: Are you ready to proceed with the witness?

REES, Janine

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1 in demand indicated here?

2 A. It is problematic because it does provide reference to the

3 Seattle Comprehensive Plan with respect to increased demand.

4 And the comprehensive plan was adopted in 2016. And to my

5 knowledge, it did not anticipate all the additional increase

6 in service demand anticipated under MHA.

7 **Q. So what does the EIS say about current fire and emergency**

8 **response times?**

9 A. That the city standard is to meet the fire and emergency

10 response standards set by the national fire protection

11 association 90 percent of the time, 90th percentile.

12 **Q. Okay. So as we discussed with the same Berkshire Report**

13 **metric. Is that midway down page 3.361?**

14 A. Yes.

15 **Q. Okay. Does the MHA EIS say what the National Fire**

16 **Protection Association response -- fire and emergency**

17 **response time requirements are?**

18 A. The EIS doesn't, but you can find it in other city documents

19 and in the NFPA, National Fire Protection Association

20 Standard NFPA 1710.

21 **Q. Would you please turn to tab 136, which I would ask to be**

22 **marked as an exhibit?**

23 MR. JOHNSON: I'm sorry, what was the number?

24 MS. TOBIN-PRESSER: 136.

25 HEARING EXAMINER: Marked as 205.

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1 (Exhibit No. 205 marked for identification.)

2 **Q. (By Ms. Tobin-Presser) Ms. Rees, do you recognize this**

3 **document?**

4 A. I do.

5 **Q. And what is it?**

6 A. It's a publication from the City of Seattle, Seattle Fire

7 Department website titled arrival of an engine company

8 within four minutes travel time to 90 percent of fire

9 suppression incidents per quarter.

10 **Q. Is the website address at the bottom of the page?**

11 A. It is.

12 MS. TOBIN-PRESSER: I would offer Exhibit 205 into

13 evidence.

14 MR. JOHNSON: No objection.

15 **Q. (By Ms. Tobin-Presser) When you --**

16 **HEARING EXAMINER: 205 is admitted.**

17 (Exhibit No. 205 admitted into evidence.)

18 **Q. (By Ms. Tobin-Presser) Would you please look at page 1,**

19 **would you please read the two sentences that begin with the**

20 **National Fire Protection Association?**

21 A. At the bottom it says the National Fire Protection

22 Association, NFPA sets standards concerning response time to

23 fires and medical emergencies among other things. Seattle

24 Fire Department, SFD's goal is to meet NFPA 1710. The NFPA

25 1710 measure to provide for the arrival of an engine company

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1 within 4 minutes travel time to 90 percent of fire

2 suppression incidents.

3 **Q. And why is that important?**

4 A. Well, as it says earlier in that paragraph, seconds matter,

5 fires can double in size every 60 seconds.

6 **Q. According to this city document, is Seattle Fire Department**

7 **currently meeting this standard for responding to fire and**

8 **medical emergencies?**

9 A. No.

10 **Q. Does the MHA EIS identify the level of increased demand that**

11 **would be likely under the preferred alternative?**

12 A. No.

13 **Q. Does the EIS identify the current response times for the**

14 **West Seattle Junction Urban Village?**

15 A. No.

16 **Q. Does it identify the current fire station's specific**

17 **response times for any specific area it proposes upzone?**

18 A. No.

19 **Q. Is that data available?**

20 A. It used to be.

21 **Q. What do you mean it used to be?**

22 A. The Seattle Fire Department used to formerly publish

23 response time data online for every fire station and every

24 individual unit. And the detailed data, the website -- the

25 whole website is gone, it doesn't exist any more. But it

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1 allowed you to search by fire station, by specific engine,

2 by ladder, by medic, what their average response time was.

3 **Q. So was that website available when you prepared your**

4 **comments, that's tab 155?**

5 A. Yes, it was.

6 **Q. And did you site to it?**

7 A. I did.

8 **Q. So looking at tab 155, your comment, if you look**

9 **at -- starting at the bottom -- on page 4 where it says Fire**

10 **EMS, does this exhibit contain data that you collected from**

11 **that website regarding fire and response times, emergency --**

12 A. It does. I looked at every apparatus, that's what they call

13 a fire truck or engine or a ladder or medic, it's called an

14 apparatus. And I looked for the most recent data that they

15 provided that was searchable, it was for 2014 and 2015. And

16 for Fire Station 32, which was in the West Seattle Junction,

17 I reviewed the total calls as well as the 90th percentile

18 response times for all their apparatus for both years.

19 **Q. And is that the table we can see at the bottom of page 4 and**

20 **the top of page 5 at tab 155?**

21 A. Yes, it is.

22 **Q. Can you summarize the data for us?**

23 A. So for arrival within 4 minutes being at the 90th percentile

24 being the desired metric, only engine 32 in 2015 met that

25 response time and they only met it by 2 seconds, and that is