

VOLUME 13

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Hearing - Day 13

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

August 22, 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 13 - August 22, 2018
Heard before Hearing Examiner Ryan Vancil

Transcribed by: Bonnie Reed, CET
Court-Certified Transcription

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DIRECT EXAMINATION

BY MR. TAVEL:

Q. Okay. So, Ms. Scarlett, can you tell us what neighborhood you live in?

A. I live in the South Park neighborhood.

Q. And how long have you lived there?

A. I've lived there 11 years.

Q. And are you familiar with the MHA proposal that is the subject of this hearing?

A. Yes.

Q. And so when did you first become aware of the MHA proposal?

A. In December of 2017.

Q. And what was it that brought it to your attention?

A. I got a flier in the mail, and it was very cartoony, but I read the fine print on the back and it mentioned zoning. It didn't specifically say what the event was; they said that it was an open house, come for snacks type of thing. And then I went up to Shelby's Ice Cream, and that's when I first saw the rezone maps --

Q. Okay.

A. -- and that's when I first found out about this.

Q. And so do you remember things that struck you when you first saw the rezone maps?

A. Yes. I felt like there were no people from my neighborhood there. I was actually the only person at the South Park

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-o0o-
August 22, 2018

FEMALE SPEAKER: Good morning.

HEARING EXAMINER: Continue with Appellant's case.

FEMALE SPEAKER: You're on.

MR. TAVEL: Oh, I'm sorry. Oh, I was waiting for more. My apologies. Phillip Tavel this morning for SCALE. And, I guess, do I just go right into the questioning or -- sorry.

HEARING EXAMINER: You call the witness.

MR. TAVEL: Oh, yes. So --

HEARING EXAMINER: Okay. And I'll swear the witness in. Please state your name and spell it for the record.

THE WITNESS: Jennifer Scarlett. J-E-N-N-I-F-E-R, S-C-A-R-L-E-T-T.

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

THE WITNESS: Yes.

HEARING EXAMINER: Thank you.

JENNIFER SCARLETT: Witness herein, having first been duly sworn on oath, was examined and testified as follows:

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table at Shelby's until a little bit later, and then three more people showed up. But basically I remember thinking, you know, this is -- this is my neighborhood; this is -- these are my neighbor's homes, and here people are talking about putting apartment buildings where my neighbors live.

Q. Oh.

A. So it was alarming.

Q. Okay. So what -- tell us a little bit about your role within any neighborhood groups or groups within South Park. Are you part of any?

A. Yes, I'm part of the Duwamish Valley Neighborhood Preservation Coalition, and I've been doing -- holding meetings and kind of spreading the information to educate people about zoning and land use and also affordable housing and preservation of affordable housing.

Q. And --

A. So...

Q. And how long have you been involved with that group?

A. It's been about a year now. They actually found me. They found out about the upzone from me because of the fliers that I put up and the meetings that I was holding. So they actually contacted me and asked me to join them because they were an established 501(C)(3), so...

Q. And actually just tell us very briefly about the fliers that you put up in the meetings that you were having.

SCARLETT, Jennifer

1 A. I held educational meetings about zoning and HALA and the
 2 history of zoning in South Park and what zoning changes mean
 3 and the different types of buildings and sizes.
 4 **Q. Okay.**
 5 A. And basically the Growth Management Act and the comp plan
 6 and neighborhood plans and just trying to get people to be
 7 able to also comment on the draft EIS --
 8 **Q. Okay.**
 9 A. -- before the period ended.
 10 **Q. And tell me, what's your understanding of what that EIS is?**
 11 A. The EIS is the Environmental Impact Statement. It's
 12 supposed to show the existing environment and the possible
 13 adverse impacts from the legislation.
 14 **Q. Okay.**
 15 A. The MHA legislation.
 16 **Q. And did you have a chance to review that?**
 17 A. I did.
 18 **Q. And tell us a little bit about what you found when you were**
 19 **going through the EIS.**
 20 A. Well, I found that there were a lot of inconsistencies with
 21 what MHA was being advertised as, the proposal. I found
 22 that the affordable housing units were very few, and that
 23 the analysis was lacking. And I also found that they had
 24 lumped South Park in with -- for other completely different
 25 urban villages and analyzed impacts to South Park based on a

1 **Q. Yeah, impacts that you felt the EIS was not --**
 2 A. Well, I definitely --
 3 **Q. -- covering for South Park.**
 4 A. Yeah, I definitely felt the tree canopy and the
 5 displacements and the land use impacts were not covered --
 6 **Q. Okay.**
 7 A. -- at all. Transportation -- there were many -- most of the
 8 issues that we deal with are on a daily basis in South Park
 9 weren't visible in the EIS.
 10 **Q. Okay.**
 11 A. So the -- a person reading the EIS wouldn't be able to even
 12 see, really, what South Park is.
 13 **Q. Okay.**
 14 A. How this going to affect us.
 15 **Q. And so with respect to maybe land use, could you be a little**
 16 **more specific about what you thought was missing there that**
 17 **would have told a better story or was -- sorry. Let me**
 18 **rephrase that. That would have been more accurate with**
 19 **respect to the environmental impacts on South Park. So are**
 20 **there -- are there specific environmental impacts that the**
 21 **MHA would have on South Park that you remember not being**
 22 **talked about in the EIS?**
 23 A. Yes. Specifically the fact that we have critical areas in
 24 South Park.
 25 **Q. Okay. And "critical" meaning what?**

1 kind of combined impact.
 2 **Q. And actually -- so tell us a little bit about that. Do you**
 3 **remember what -- which neighborhoods were lumped in**
 4 **together?**
 5 A. Yes. There's -- yeah, there's five other. We were lumped
 6 in by the low access to opportunity and high-displacement
 7 risk.
 8 **Q. Okay.**
 9 A. I don't remember the exact ones, but I know that the -- you
 10 know, the tree -- the tree canopy is different in all of
 11 these different neighborhoods. I'm very familiar with all
 12 of Seattle. I've been a courier for over 20 years in this
 13 area, and I've lived in a lot of places in Seattle,
 14 including some of the other urban villages. So I realized
 15 pretty much immediately that their impacts from this
 16 proposal would be very different from South Park's.
 17 **Q. And so did you look and see whether or not the EIS had**
 18 **covered South Park and the differences that you saw between**
 19 **South Park and those other neighborhoods that it was lumped**
 20 **in with?**
 21 A. No, it didn't show any of the differences. It really didn't
 22 show any of the existing environment or the impacts.
 23 **Q. And are -- and -- can you tell us any of those that you**
 24 **remember that are ones that weren't covered by the EIS?**
 25 A. Of the impact?

1 A. So we have flood zones in South Park, and we have
 2 liquefaction zones in South Park.
 3 **Q. Okay.**
 4 A. We also have sensitive shoreline area in South Park.
 5 **Q. Right.**
 6 A. We also have the Superfund site, which is just beginning to
 7 clean up, so the EPA is just starting that activity now.
 8 **Q. Okay.**
 9 A. It didn't talk about the fact that we were isolated --
 10 **Q. Okay.**
 11 A. -- by different geography and topography.
 12 **Q. Meaning, like, the river or --**
 13 A. The -- well, we have the river on one side and we have the
 14 huge Roxbury hill up to Myers Way and White Center.
 15 **Q. Right.**
 16 A. So we really have no access to a lot of other areas.
 17 **Q. Okay. And --**
 18 A. And I could go over a, you know, a map real quick and kind
 19 of just --
 20 **Q. Yes, please.**
 21 A. -- highlight.
 22 **Q. Let's use that.**
 23 A. It's easier for me to just --
 24 **Q. Which map? So this is the one -- and I'm sorry, did we say**
 25 **this one has already been marked?**

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1 and density in the South Park area not knowing these
 2 impacts, not knowing the existing environment and what we
 3 deal with --
 4 **Q. Mm-hmm.**
 5 A. -- there on a daily basis.
 6 **Q. Okay.**
 7 A. Not knowing how inaccessible South Park is and also the
 8 environmental injustice that South Park has suffered for
 9 decades.
 10 **Q. And when you say that, what do you mean specifically by**
 11 **that?**
 12 A. I mean that because we've had this encroachment of
 13 industrial rezoning over the years --
 14 **Q. Mm-hmm.**
 15 A. -- and we've already lost so much of the surrounding
 16 neighborhood --
 17 **Q. Right.**
 18 A. -- that we're impacted by pollution in a way that other
 19 neighborhoods are not.
 20 **Q. Okay.**
 21 A. And a lot of these toxic sites aren't cleaned up yet;
 22 they're just starting to do these things. So we're still
 23 suffering. We still have the worst air quality, and --
 24 **Q. And when you say "worst air quality," what do you mean by**
 25 **that?**

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1 A. We actually have more pollution -- particulate pollution
 2 than pretty much -- we're -- I think we're equal with the
 3 parts of Eastlake that are directly underneath the freeway.
 4 So basically because of the diesel traffic and the freight
 5 corridors, Highway 99 and Highway 509, and then also 14th
 6 Avenue South, which is a big Boeing --
 7 **Q. Right.**
 8 A. -- route, the diesel particulate in South Park is -- is some
 9 of the worst in the area.
 10 **Q. And so to that extent, when you see that the Environmental**
 11 **Impact Statement is talking about obviously a large upzoning**
 12 **to your area, did it talk about the impact on the current**
 13 **health issues in South Park at all?**
 14 A. No, it did not.
 15 **Q. Did that strike you as odd that the Environmental Impact**
 16 **Statement didn't cover that?**
 17 A. Well, it did, and then I found out that there was an initial
 18 scoping process and that in that scoping process that South
 19 Park knew nothing about that they excluded health impacts.
 20 And I felt like South Park needed its own EIS because
 21 knowing what we know about land use and uses and the
 22 environment in South Park, there is no way that an EIS for
 23 South Park would not include health impacts.
 24 **Q. Okay. And so do you remember there being anything in the**
 25 **EIS that spoke about existing health issues in South Park?**

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1 MR. MITCHELL: Your Honor, if I could just interject an
 2 objection. In the prehearing motions there was a ruling on
 3 this issue about whether the types of issues that he's
 4 talking about here were appropriate, and the ruling was that
 5 they were not. So in the interest of time, I guess I'd
 6 encourage or request that the appellant be bound by that
 7 order.
 8 MS. BENDICH: Mr. Examiner, may I respond to that?
 9 Because I was here during part of that.
 10 HEARING EXAMINER: (Inaudible) counsel who's on the
 11 case --
 12 MS. BENDICH: Can I --
 13 HEARING EXAMINER: -- respond.
 14 MS. BENDICH: I'm --
 15 HEARING EXAMINER: Why are you responding instead of him?
 16 MS. BENDICH: Because I don't think he is aware. Can I
 17 talk with him? Can I have a conference?
 18 HEARING EXAMINER: You can talk with him, but I don't want
 19 you inserting yourself over him.
 20 MS. BENDICH: Okay. All right.
 21 MR. TAVEL: Okay. I believe that the motion actually
 22 spoke to Beacon Hill and specifically to the impacts of the
 23 air traffic over Beacon Hill, which is obviously a different
 24 issue from the existing industrial pollution in South Park.
 25 MR. MITCHELL: I guess my response would be, clearly the

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1 idea that impacts that are already existing were not
 2 attributable to the proposal was the subject of the motion,
 3 and the examiner ruled that existing situations such as
 4 health impacts were impacts that were not attributable to
 5 the proposal. The fact that we're -- he's now bringing up
 6 with respect to a different neighborhood doesn't -- I don't
 7 think that changes the matter.
 8 HEARING EXAMINER: I need to bring up the order. I don't
 9 remember it being -- encompassing of all issues of this
 10 type. I remember it dismissing specific issues.
 11 MR. TAVEL: And I guess I would only state --
 12 HEARING EXAMINER: And I'm not inviting additional
 13 argument.
 14 MR. TAVEL: Oh, my apologies.
 15 HEARING EXAMINER: I think I understand your point.
 16 MR. TAVEL: Okay. This was --
 17 HEARING EXAMINER: I need to pull open the order on the
 18 motion.
 19 MR. MITCHELL: It was on page 3 of your order, Your Honor.
 20 HEARING EXAMINER: I apologize. Due to the volume of
 21 activity in the case, it's not easy for me to locate things.
 22 MR. TAVEL: This was an order on the City's motion; is
 23 that correct?
 24 MR. MITCHELL: That's correct.
 25 HEARING EXAMINER: I believe we had a single order on

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1 to consider the localized environmental impacts of MHA in
 2 lower income areas, the FEIS ignores that communities with
 3 the fewest resources for combating the health effects of
 4 poor air quality will be the same community whose air
 5 quality suffers the most."
 6 "The FEIS takes inadequate measure of the various
 7 capacities of each community in Seattle to cope with the
 8 increased environmental burden MHA imposes on that
 9 community. But the environmental burden and the coping
 10 capacity vary from community to community, and the FEIS
 11 should have considered both factors at the community level."
 12 And that, I do not believe, was dismissed.
 13 HEARING EXAMINER: No, it wasn't dismissed. That's what I
 14 am saying. I've already indicated we're not, you know,
 15 ruling on whether it was dismissed before and now the
 16 question is whether it's subject to appeal under SEPA.
 17 MS. NEWMAN: I --
 18 MR. TAVEL: And it's obviously our position that, you
 19 know, with respect to the EIS they have to take into account
 20 existing -- existing conditions, especially when, if you're
 21 talking about upzoning and rebuilding but you're already
 22 talking about ground air quality being that bad, that's
 23 exactly what the Environmental Impact Statement is supposed
 24 to be for.
 25 HEARING EXAMINER: All right. So, frankly, the last

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1 sentence you said is the one point I understand that comes
 2 into an Environmental Impact Statement is a description
 3 necessary for existing conditions.
 4 MR. TAVEL: Correct.
 5 HEARING EXAMINER: Did there have to be analysis of
 6 existing conditions and for existing impacts? I -- I'm not
 7 sure that that's the case, but if you -- you're saying that
 8 it should have been a full disclosure of existing conditions
 9 and that should have been included in it, then I'll allow
 10 that testimony for that purpose.
 11 MR. TAVEL: Yes. And that is the purpose.
 12 **Q. (By Mr. Tavel) And so, again, to sort of end that line of**
 13 **questioning there, when you look through the EIS, again, you**
 14 **didn't find any of the specific existing issues mentioned in**
 15 **the EIS and how upzoning and more building would impact that**
 16 **for your community?**
 17 A. Yes, I did not. And I'd like to elaborate on the land
 18 use --
 19 **Q. Yes.**
 20 A. -- from the South Park map, the satellite map. One of the
 21 other issues regarding concurrency is that we have what's
 22 called a sliver on the river, which is an area on the
 23 Duwamish River that is also contaminated --
 24 **Q. Mm-hmm.**
 25 A. -- and has some residual King County single-family homes.

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1 **Q. Right.**
 2 A. And that's an annexation process that was happening, and
 3 there's been some -- some issues with it.
 4 **Q. Mm-hmm.**
 5 A. So it's kind of coming up within the next couple of years,
 6 and that wasn't touched on as well. Just very quickly, we
 7 have a large liquefaction zone in South Park because there's
 8 a lot of fill. There was actually a bend in the river that
 9 has been filled and a lake --
 10 **Q. Oh.**
 11 A. -- that has been filled. So we have areas of flooding as
 12 well. And part of South Park and the urban village area is
 13 actually in a FEMA flood zone.
 14 **Q. Oh.**
 15 A. And we have other localized flooding along basically 5th and
 16 Donovan is an area that floods yearly, and also -- let's
 17 see. It would be the 1200 block of Concord.
 18 **Q. Okay.**
 19 A. And along the base of Catholic Hill, which is a large hill
 20 in the center of South Park. That hill has slide and
 21 drainage issues and flooding along the base of the hill all
 22 the way around.
 23 **Q. And were these anything that you found in the EIS mentioned?**
 24 A. No.
 25 **Q. Okay. And what else would you like to add?**

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1 A. I would also like to add that when Highway 99 was cut
 2 through South Park, that only -- there was only two access
 3 points across Highway 99 between the west and the east side
 4 of South Park, so part of the neighborhood is completely cut
 5 off from the other. It's a long ways to go around; it's not
 6 really walkable. There's -- one of the overpasses is
 7 basically around Henderson Streets going from Catholic Hill,
 8 which is the large hill, to -- and that's just a pedestrian
 9 overpass.
 10 **Q. Mm-hmm.**
 11 A. There's no vehicle traffic there, and it's small. And then
 12 the other access is only under the underpass on Cloverdale.
 13 **Q. Okay.**
 14 A. So -- and this is -- so we have one whole side of the
 15 neighborhood is kind of isolated towards the west, and then
 16 the other side, with the business district, is on the -- the
 17 east side, the far east side. It's not centrally located to
 18 the neighborhood. And I'd also like to add that South Park
 19 does not have services and amenities. We don't have a
 20 grocery store, a pharmacy, a bank, a post office. Most
 21 everyone needs to use their vehicle because of the
 22 topography and geography --
 23 **Q. Mm-hmm.**
 24 A. -- to go shopping. The bus line -- we don't have frequent
 25 transit and the bus line doesn't even go to the Safeway in

WILSON, Kate

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1 that's being advanced here -- but even if that were the
 2 case, that is irrelevant to what the document says and
 3 whether or not it's adequate.
 4 HEARING EXAMINER: Overruled. The City has a thought
 5 process behind this, and they've been mid-step in trying to
 6 explain the thought process to it. The appellants are
 7 trying to understand that thought process that results --
 8 that created the result, and the whole hearing is about how
 9 did we get here, not just about what's on the pages. It
 10 also includes the work product that went into it.
 11 **Q. (By Ms. Bendich) So I believe we were talking about the**
 12 **maps.**
 13 **A. Mm-hmm.**
 14 **Q. Who suggested what?**
 15 **A. So -- let's see. In meeting with Mark Johnson, I asked him**
 16 **what he thought should be mapped, so we discussed those**
 17 **properties which are listed on a historic register or have**
 18 **been determined eligible. Or we also discussed mapping**
 19 **those designated historic districts within the city, so**
 20 **those that are either designated Seattle historic districts**
 21 **or those that are National Register listed historic**
 22 **districts. The rationale for not mapping the historic**
 23 **districts is that --**
 24 **Q. I don't want the rationale. I want to know who said what.**
 25 **Okay. You just said --**

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1 **A. Okay.**
 2 **Q. -- Mr. Johnson and you discussed these various things. What**
 3 **did -- was there anything specifically that he suggested?**
 4 **A. I was just about to answer that**
 5 **Q. Okay. Go ahead.**
 6 **A. So Mark Johnson said not to have the historic district**
 7 **because the proposal states that it would not rezone within**
 8 **historic districts. So that decision, the directive from**
 9 **Mark Johnson was to not put those on maps.**
 10 **Q. Okay. And what about things that were in the City's**
 11 **database? Just surveyed properties. Did you discuss -- did**
 12 **he discuss anything about that?**
 13 **A. I don't recall discussing that with Mark, but I did discuss**
 14 **that with Paula Johnson. Paula Johnson said that she did**
 15 **not think that would be appropriate because the -- there are**
 16 **various issues which I've already testified about with the**
 17 **data that's within that database.**
 18 **Q. And then you also mention that you had talked with Charise**
 19 **Graham, do you recall that?**
 20 **A. Yes.**
 21 **Q. And what did -- what was -- what was it that she talked**
 22 **about?**
 23 **A. So she and I met; we looked over the scope of work. We, she**
 24 **and I, discussed how to address significance criteria, how**
 25 **to define significant, which you have to do for EIS**

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1 typically, and she said that the -- she felt the most
 2 appropriate metric would be to use the projected growth
 3 rates.
 4 **Q. So it -- it was Ms. Graham who suggested this 50 percent**
 5 **that Mr. Bricklin asked you about?**
 6 **A. That was suggested by Paula Johnson, and then I went to**
 7 **Charise Graham who is the project manager -- was the project**
 8 **manager for this, and she agreed she felt that that would be**
 9 **an appropriate metric.**
 10 **Q. Okay. So this didn't come from you?**
 11 **A. It was a discussion between Paula Johnson and I. We**
 12 **discussed numbers, but Paula Johnson felt 50 percent would**
 13 **be reasonable.**
 14 **Q. Thank you. And was -- no. Do you agree that a draft and a**
 15 **final -- well, that a draft EIS is to educate the public and**
 16 **decision makers about what the overall proposals are?**
 17 **A. Yes, and to solicit public comment.**
 18 **Q. Okay. You mentioned the programmatic EISs you were involved**
 19 **with. Did any of those involve zoning?**
 20 **A. No. For the school district, I don't believe they involved**
 21 **zoning.**
 22 **Q. Didn't it -- did it involve anything with respect to**
 23 **parcels, individual parcels?**
 24 **A. Well, it involved all of the school's potential project**
 25 **locations, which are, of course, on specific parcels.**

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1 **Q. Okay. But nothing broader than that?**
 2 **A. What do you mean?**
 3 **Q. Well, it didn't go into the neighborhood to rezone anything**
 4 **next to the school district?**
 5 **A. I don't believe so, no.**
 6 **Q. Okay. Anywhere you -- you talked about this apples to**
 7 **apples approach, that the reason that you -- I won't say it**
 8 **was you decided -- the reason that either Mr. Johnson --**
 9 **that either Ms. Johnson or Mark Johnson decided not to use**
 10 **most mapping other than the state WISAARD data?**
 11 **A. Mm-hmm.**
 12 **Q. Was this apples to apples approach your call, your**
 13 **testimony?**
 14 **A. Yes.**
 15 **Q. You wanted to make sure that there was a spread --**
 16 **A. Yes.**
 17 **Q. -- that reflected various sections of the city?**
 18 **A. Yes.**
 19 **Q. Is there anywhere in section 3.5 of the EIS where you**
 20 **explicitly -- where it explicitly states why there was only**
 21 **that map?**
 22 **A. I don't believe so.**
 23 **Q. So a decision maker who's looking at this, or the public**
 24 **wouldn't know, would they, that this was the rationale for**
 25 **putting only that map in there?**

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1 REDIRECT EXAMINATION
 2 BY MR. KISIELIUS:
 3 Q. Good afternoon, Ms. Wilson.
 4 A. Hi.
 5 Q. I have a couple questions for you about your testimony today
 6 but also about your testimony from the last time you
 7 appeared, which is now a couple weeks ago. So I want to
 8 start with something that Mr. Bricklin asked you about
 9 referring to Exhibit 237; that's Hearing Examiner Exhibit
 10 237. I don't have a reference because David didn't identify
 11 it in his cross-examination so I'm not sure, but I have an
 12 extra --
 13 MS. NEWMAN: Is it Hearing Examiner 237?
 14 MR. KISIELIUS: Yes. Yeah.
 15 MS. NEWMAN: I have all of them.
 16 MR. KISIELIUS: Okay. Great. I'm going to hand you a
 17 copy because I'm not sure you (inaudible).
 18 MS. BENDICH: I don't have it.
 19 MS. NEWMAN: Mr. Examiner, I'm assuming that I'm not going
 20 to get a chance to --
 21 HEARING EXAMINER: Right. Yeah, Mr. Bricklin was -- we
 22 were at a hard end on his questions.
 23 MS. NEWMAN: Okay.
 24 A. Yes.
 25 Q. (By Mr. Kisielius) Do you recall that email and your

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1 testimony about it?
 2 A. Yes.
 3 Q. And I believe Mr. Bricklin had you focus on Mr. Mark
 4 Johnson's statements in the email about the budget as
 5 informed by the expectations for the historic resources
 6 analysis?
 7 A. Right.
 8 Q. So in your experience, is it common to scope a budget for
 9 work, whether on an EIS or otherwise, based on what you or
 10 other professionals expect you will find based on what you
 11 know at the time?
 12 A. Yes, absolutely.
 13 Q. And in general, did those expectations that are used for
 14 budgeting purposes dictate or influence your conclusions of
 15 your analysis?
 16 A. No, they are a starting point only. They -- they just
 17 inform the beginning of it, but until I've done the
 18 analysis, it -- I don't know what the outcome will be.
 19 Q. Now, it's -- that's in the abstract. Let's talk about this
 20 specific example. Did this email or the expectations that
 21 are expressed in this email influence or dictate your
 22 analysis or conclusions?
 23 A. No.
 24 Q. Do those expectations initially dictate the level of effort
 25 you will undertake in your analysis?

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1 A. No.
 2 Q. Okay. And did you, as a professional, continue to exercise
 3 your professional judgment about whether that expected level
 4 of effort is appropriate once you get into the work?
 5 A. Yes, if I ever think there is going to be an issue, I would
 6 address it immediately.
 7 Q. Okay. So if your initial work suggested that you would be
 8 required to do more --
 9 A. Mm-hmm.
 10 Q. -- to complete the analysis, you'd address that immediately?
 11 A. Yes, I -- I go to -- I would go to, and I have in the past,
 12 gone to project manager and discussed the issues and tried
 13 to figure out what we might be able to do, which sometimes
 14 is an amendment or adjusting the expectations with the
 15 client.
 16 Q. Did you do that for this project?
 17 A. No.
 18 Q. Is that because you -- is it consistent with your testimony
 19 now you didn't feel the need to?
 20 A. Correct.
 21 Q. Okay. I don't think I'm going to have more questions about
 22 this in particular.
 23 Now, I want to switch to the exhibit that Ms. Bendich
 24 asked you about, Exhibit 238. I don't know, is that still
 25 on the table near you?

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1 A. Which one is that?
 2 Q. That's the draft of chapter 3.5 --
 3 A. Yes.
 4 Q. -- historic resources?
 5 A. Yes.
 6 Q. So you've talked about it today. I'm going to ask you
 7 questions both about your testimony about that today but
 8 also when you last appeared, when Mr. Bricklin was asking
 9 you questions about it. So starting there, I think both
 10 Mr. Bricklin and Ms. Bendich had to focus on comments and --
 11 on page 3 -- I'm sorry, my Bates numbering is cut off. One,
 12 two, three, the fourth page, comment RW3.
 13 A. Yes.
 14 Q. I think this was related to your metric for a standard of
 15 significance where he says, quote, "Metric is useful but
 16 incomplete." Can you summarize, just based on this comment,
 17 why he believed the metric to be incomplete?
 18 MS. BENDICH: Objection to -- objection to her not having
 19 information about Mr. Wineman. She can't testify to what's
 20 in his mind.
 21 MR. KISIELIUS: I -- my question asked her based on the
 22 comment, to explain what she understood the comment to mean.
 23 MS. BENDICH: Yeah, okay.
 24 MR. KISIELIUS: I'm trying to save time without reading
 25 the whole thing again.

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1 A. I understood it to mean that -- that using additional
 2 information about surveyed properties may be beneficial to
 3 further explain this.
 4 **Q. (By Mr. Kisielius) And did you get the impression he was**
 5 **also asking for more discussion of location of historic**
 6 **buildings in your analysis?**
 7 A. Yes.
 8 **Q. And did -- after -- so this is a preliminary draft, correct?**
 9 A. Yes.
 10 **Q. And after this preliminary draft and after reviewing his**
 11 **comment, did you include more information about the subject**
 12 **of Mr. Wineman's comment?**
 13 A. Yes.
 14 **Q. I want to point you to a couple -- switching now, I'm sorry,**
 15 **from the draft to the actual final EIS, I'm going to ask you**
 16 **to look at a couple passages and tell me if -- if those were**
 17 **added after the preliminary draft and whether or not those**
 18 **sections address Mr. Wineman's comments. So I'll start with**
 19 **the second paragraph under section 3.5.2, and I'll give you**
 20 **a page number for that in just a second. Page No. 3.304.**
 21 A. Yes.
 22 **Q. So do you see that second paragraph under the impact**
 23 **section?**
 24 A. Yes.
 25 **Q. It begins, "In addition to growth rates proposed, rezoning**

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1 **changes have the potential to impact historic-aged**
 2 **resources"?**
 3 A. Yes.
 4 **Q. So that paragraph, was that added after Mr. Wineman's**
 5 **comments?**
 6 A. Yes.
 7 **Q. And did they respond to Mr. Wineman's comments?**
 8 A. I believe so, yes.
 9 **Q. Would you briefly explain how?**
 10 A. Well, they addressed potential changes in scale, which would
 11 address potential changes in the character of the areas in
 12 the study area.
 13 **Q. And this goes -- the passage starts, "In addition to growth**
 14 **rates" --**
 15 A. Yes.
 16 **Q. -- so this was addressing his statement that -- well, let me**
 17 **ask you, is this addressing his statement that the growth**
 18 **rate threshold was useful but incomplete?**
 19 A. Correct.
 20 **Q. Okay. Let's take a look at Exhibit 3.5-2 and 3.5-3 on pages**
 21 **3.300 and 3.301.**
 22 A. Yes.
 23 **Q. So was this -- were these added after the preliminary draft**
 24 **bearing Mr. Wineman's comments?**
 25 A. Yes.

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1 **Q. And are they responsive to Mr. Wineman's comments?**
 2 A. Yes.
 3 **Q. How?**
 4 A. They show the locations of surveyed and properties.
 5 **Q. Okay. Let's look at 3.5-1 -- Exhibit -- sorry, 3.5-1 that**
 6 **appears on page 3.298.**
 7 A. Yes.
 8 **Q. Was this added after the preliminary draft bearing**
 9 **Mr. Wineman's comments?**
 10 A. Yes.
 11 **Q. And was this responsive to Mr. Wineman's comments?**
 12 A. Yes, it -- it breaks it down by specific urban villages.
 13 **Q. Okay. And then let's look at page 3.297. I'm going to ask**
 14 **you to look at that middle paragraph of the three there.**
 15 A. Yes.
 16 **Q. And there's -- the beginning of that paragraph is included**
 17 **in the draft, but is the section beginning about midway**
 18 **through that starts, "The study area also contains historic**
 19 **properties that are listed in and that have been determined**
 20 **eligible for listing in the national historic register of**
 21 **places" --**
 22 A. Yes.
 23 **Q. -- was that added after Mr. Wineman's comments?**
 24 A. Yes.
 25 **Q. And is it responsive to Mr. Wineman's comments?**

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1 A. Yes.
 2 **Q. And could you tell us how?**
 3 A. I'm sorry?
 4 **Q. Sorry. Could you tell us how --**
 5 A. Oh, sorry.
 6 **Q. -- it's responsive to Mr. Wineman's comments?**
 7 A. Oh, yes. It continues on to say the numbers and -- and then
 8 it talks -- it compares different areas and which ones do or
 9 don't have those types of properties.
 10 **Q. Okay. I'd like to -- now I'm going to ask you to go back to**
 11 **the draft that we were just looking at, which is Exhibit**
 12 **238. I think Ms. Bendich today asked you to look at another**
 13 **of Mr. Wineman's comments, RW14 I believe is the one, second**
 14 **to last page?**
 15 A. Yes.
 16 **Q. Do you remember testifying about that?**
 17 A. Yes.
 18 **Q. Can you tell me your understanding of Mr. Wineman's comment**
 19 **there?**
 20 A. That it --
 21 **Q. Let's break it up. There's two sentences. Let's start with**
 22 **the first one.**
 23 A. Okay. He's saying that since there will be SEPA review, is
 24 there an opportunity to avoid -- and then I think in spite
 25 of review it's likely that some resources will be lost. And

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1 | --

2 **Q. Let's start -- and I think that first sentence that you kind**

3 **of skipped over needs some clarification.**

4 A. Mm-hmm.

5 **Q. So let's take a look. This is a comment that is attached to**

6 **the preliminary draft of section 3.5.4. I'd like you to**

7 **turn now back to the document, the actual EIS, to the same**

8 **section which is on page 3.313.**

9 A. Yes.

10 **Q. Was that section itself amended since the preliminary draft**

11 **to address Mr. Wineman's comment there?**

12 A. Yes, it was.

13 **Q. Can you tell us how?**

14 A. Yes, we added this next section, which discusses the --

15 implementing these -- the proposed mitigation measures,

16 which then could improve the potential impacts.

17 **Q. All right. That's the first part of the first sentence?**

18 A. Mm-hmm.

19 **Q. I think you mentioned in that second part of the first**

20 **sentence he said it is likely that some resources will be**

21 **lost even with that SEPA review. In your estimation, does**

22 **the section that you wrote identify that potential impact?**

23 A. Yes.

24 **Q. Okay. Can you tell us where?**

25 A. Yes.

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1 HEARING EXAMINER: Sorry, you're still -- are you still

2 discussing what's under 3.5.4?

3 MR. KISIELIUS: I'm sorry. I did jump back to the

4 preliminary draft, and we're just talking about how they

5 addressed his comments, so we're moving away from that

6 section now.

7 HEARING EXAMINER: Before you do --

8 MR. KISIELIUS: Of course.

9 HEARING EXAMINER: -- could you identify which segment was

10 added since Mr. Wineman's comments -- you indicated that

11 there were some that were added. And which phrase is that?

12 **Q. (By Mr. Kisielius) So, Ms. Wilson, could you please**

13 **identify for the examiner which -- by comparing Exhibit 238**

14 **and the -- the final EIS, can you tell us which sections of**

15 **3.5.4 were added --**

16 A. Yes.

17 **Q. -- that are responsive to Mr. Wineman's comment?**

18 A. Everything after the first sentence was added since this

19 very early draft.

20 **Q. Okay. So the second part of -- because -- switching back**

21 **now and I apologize for the back and forth --**

22 A. Mm-hmm.

23 **Q. -- but going back to 238, comment RW14, you had mentioned in**

24 **the first section -- first sentence that he had highlighted**

25 **that it's likely that some resources will be lost, even with**

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1 **those protections?**

2 A. Correct.

3 **Q. I was just asking you to identify where in the section you**

4 **identify that potential impact.**

5 A. Yes, on 3.305 it's discussed. Let's see. On the -- the

6 last paragraph, that there are projects that are exempt from

7 SEPA, so those projects could result in impacts to historic

8 resources.

9 **Q. Okay. Last time I'm going to ask you, back to the**

10 **preliminary draft in that comment RW14 focusing on his**

11 **second sentence, did you read that second sentence as being**

12 **comparable to the comment that we had earlier discussed in**

13 **RW3?**

14 MS. BENDICH: Objection; leading.

15 HEARING EXAMINER: Didn't you just say read something?

16 MR. KISIELIUS: I just (inaudible).

17 HEARING EXAMINER: No, I understand the (inaudible).

18 MR. KISIELIUS: I just asked her if she interpreted that

19 second sentence to be the same comment as what she had

20 earlier discussed in RW3.

21 HEARING EXAMINER: Sustained.

22 MR. KISIELIUS: Okay.

23 **Q. (By Mr. Kisielius) Let's talk about that second sentence.**

24 **Is it -- what's your impression of that comment and**

25 **especially in relation to the comment that we had discussed**

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1 **earlier in RW3?**

2 A. I think he's trying to point out that not all projects are

3 subject to SEPA review, and therefore there could be impacts

4 to historic resources.

5 **Q. I'm looking at the second sentence there, also the impact**

6 **typology set forth --**

7 A. Oh. Oh.

8 **Q. -- only identifies -- that sentence.**

9 A. Oh, yes. Sorry. Only identifies growth rate as an

10 indicator of (inaudible), so I think we addressed that as --

11 when we discussed scale as well, potential impacts to scale.

12 **Q. So all those -- I had asked you earlier in your testimony to**

13 **point out some specific examples where you responded to RW3;**

14 **do you think that those also respond to this comment as**

15 **well?**

16 A. Yes, I do.

17 **Q. Thank you. Let's talk more generally about this back and**

18 **forth in comments from Mr. Wineman and otherwise. Is this**

19 **type of iterative process and revisions to address review by**

20 **others common in your experience?**

21 A. Yes.

22 **Q. Okay. And I think -- I want to talk to you more generally**

23 **about you're on a team. Ms. Bendich -- I think when you**

24 **started your testimony, you were inclined to say "we."**

25 **Ms. Bendich asked you to attribute direction to specific**

1 neighborhood are likely to occur if historic buildings are
 2 redeveloped or demolished and new buildings are constructed
 3 that are not architecturally sympathetic to the existing
 4 historic characteristics of a neighborhood."
 5 **Q. So is this -- I'll stop you there in the interest of time,**
 6 **but is this an example of where you discussed that topic?**
 7 A. Yes.
 8 **Q. And is this level of discussion of this topic that you**
 9 **included in this section sufficient to inform a decision**
 10 **maker about historic fabric and the potential impacts to**
 11 **historic resources associated with historic fabric?**
 12 A. Yes.
 13 **Q. And when you were answering Mr. Bricklin's questions in**
 14 **which he used that phrase, were you responding with that**
 15 **specific technical term in mind? When Mr. Bricklin asked**
 16 **you about impacts to historical fabric and what you did or**
 17 **didn't do --**
 18 A. Mm-hmm.
 19 **Q. -- were you interpreting that to mean the phrases you just**
 20 **defined?**
 21 A. Yes.
 22 **Q. Okay. Mr. Bricklin also asked you about the intended**
 23 **benefits of mitigation.**
 24 A. Mm-hmm.
 25 **Q. And he was -- had you focused on section 3.5.3, which is on**

1 **marginalized or underrepresented immigrant communities in**
 2 **preparing thematic context statements relating to those**
 3 **resources."**
 4 A. Yes.
 5 **Q. Is that (inaudible) by preceding analysis?**
 6 A. Yes. Let's see. Sorry.
 7 **Q. Is it informed by the analysis on 3.306?**
 8 A. Yes, sorry.
 9 **Q. Can you point us to which section is that?**
 10 A. Sure. It's the second paragraph.
 11 **Q. And that -- we're picking some examples here.**
 12 A. Mm-hmm.
 13 **Q. Is it safe to say that the mitigation here generally is**
 14 **tied -- similarly tied to earlier sections of the analysis?**
 15 A. Yes, some mitigation measures tie to more than one; but,
 16 like in this situation, it's a one-to-one, yes.
 17 **Q. Ms. Bendich today asked you a question about analysis that**
 18 **impacts along an urban village by urban village basis. It's**
 19 **a precise question with a precise answer. How did you**
 20 **understand that question when she asked you whether or not**
 21 **you analyzed impacts on an urban village by an urban village**
 22 **basis?**
 23 A. In my mind, urban village by urban village means, like, you
 24 list every single one and you, you know, go by -- you know,
 25 down the line. So in that sense, we did not do that in

1 **3.311 and extends to 3.312.**
 2 A. Yes.
 3 **Q. In your answer to one of his questions, you answered that --**
 4 **he asked you about the intended benefits of mitigation, and**
 5 **he asked you to look at this section and see whether you**
 6 **thought it included the discussion of the intended benefits**
 7 **of mitigation. I think you used the words, "It was**
 8 **implied," in that section. What did you mean by that?**
 9 A. When you take this list with the text of the chapter, you
 10 would then understand how they go together. They're --
 11 it's -- the mitigation measures are informed by the
 12 potential impacts, so --
 13 **Q. Okay.**
 14 A. -- they go together.
 15 **Q. Okay. So maybe it would help if you could give us --**
 16 A. Sure.
 17 **Q. -- an example. Do you want to --**
 18 A. Sure. So I think the biggest one is this last bullet; we've
 19 been talking about this. It's changing the SEPA exemption
 20 thresholds, and that is in direct response to what we were
 21 just discussing, which is that certain projects are exempt
 22 from SEPA and could impact historic resources, so changing
 23 those thresholds might potentially mitigate that.
 24 **Q. Okay. How about the fourth bullet, "The funding city-led**
 25 **thematic historic context inventories that focus on**

1 every instance, no.
 2 **Q. But did you more generally look at differences between urban**
 3 **villages?**
 4 A. Yes.
 5 **Q. And did you document that in the chapter?**
 6 A. Yes.
 7 **Q. Let's take a look. I got a couple examples. Can we look at**
 8 **3.296?**
 9 A. Yes.
 10 **Q. Can you tell us how?**
 11 A. Sure. So, like, in this first paragraph here we discuss
 12 urban villages that might have a higher likelihood for
 13 containing certain resources, but we talked about -- I talk
 14 about 23rd and Union, Jackson, Columbia City, also calling
 15 out Licton Springs, so that's one example here.
 16 **Q. I think we talked about another example in 3.297 when you're**
 17 **answering a different question, but can you look in that**
 18 **middle paragraph and tell us how that's an example of it as**
 19 **well?**
 20 A. Yes, so this was comparing urban villages in terms of which
 21 ones have determined eligible properties versus those that
 22 don't.
 23 **Q. Okay.**
 24 A. There's --
 25 **Q. What about the Exhibit 3.5-1 on the subsequent page, 3.298?**

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1 A. Yes.

2 **Q. Is that right? Because it was a complete and comparable**

3 **data set. Do you agree with that testimony?**

4 A. Yes.

5 **Q. And --**

6 MS. NEWMAN: I'm going to object. This is repeating the

7 same thing and asking for agreement. We don't need -- I

8 think it's repetitive and unnecessary to have a second

9 witness come up and say the same thing twice, and we're

10 limited on time. And we -- they've -- I don't know why they

11 have two different witnesses talking about the same subject

12 matter.

13 MR. KISIELIUS: May I respond?

14 HEARING EXAMINER: Mm-hmm.

15 MR. KISIELIUS: So in cross-examination there were

16 questions raised about Ms. Wilson's qualifications, first

17 and foremost, and so I think -- and there was questions

18 about the hierarchy at ESA, and so I think this was -- this

19 line of questioning was invited by the very questions that

20 they elicited or asked on cross that more generally --

21 HEARING EXAMINER: I agree. Overruled.

22 **Q. (By Mr. Kisielius) So we talked about WISAARD, but I want**

23 **to focus now on the City data. She testified that you**

24 **decided not to use the City data because it had gaps and**

25 **could be misleading?**

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1 A. Mm-hmm.

2 **Q. Do you agree with that?**

3 A. I do.

4 **Q. Can you explain in your words why you thought that use of**

5 **the City data could be misleading?**

6 A. Sure. There were 27 urban villages, I believe, and only 11

7 of them had been systematically surveyed, so that seemed

8 like, you know, a little more than a third would have

9 information compared to the other two-thirds, so that didn't

10 seem like that would provide the balanced look at -- at all

11 of the historic resources throughout the city.

12 **Q. Okay. And in your estimation, are the -- I'm focusing here**

13 **on city inventory properties.**

14 A. Right.

15 **Q. Are they a reliable -- just the number of them -- a reliable**

16 **reflection of the historic character of the city or its**

17 **neighborhoods?**

18 A. There's --

19 MS. BENDICH: Object -- object to foundation. So far this

20 witness hasn't testified she's actually looked at them.

21 MR. KISIELIUS: So, Mr. Examiner, I'm being -- I've got

22 objections that say I'm going through things too

23 meticulously and too thoroughly and duplicating, and now I'm

24 getting the objection that I'm not going through it enough,

25 and I'm trying to find the sideboards here.

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1 MS. BENDICH: But she's testifying as to the nature of the

2 data within that data set, and she has not testified that

3 she's actually reviewed it, so I object on foundation.

4 HEARING EXAMINER: Do you want to establish some

5 foundation?

6 **Q. (By Mr. Kisielius) Are you familiar with City --**

7 HEARING EXAMINER: And I'm looking for something broader

8 than just that issue. I'm wondering if that would be

9 appropriate. We have a witness who's sat through the other

10 witnesses' testimony and has been present for that. Is

11 there something broader we can do to establish -- to address

12 the efficiency question that's been raised so that we don't

13 have to reestablish a foundation --

14 MR. KISIELIUS: Okay.

15 HEARING EXAMINER: -- on every issue? And I don't know

16 how many more issues you even have on this line of

17 questioning, but --

18 MR. KISIELIUS: Not many on this one, but I'll give it a

19 shot.

20 **Q. (By Mr. Kisielius) So, Ms. Johnson, are you familiar with**

21 **the same data sets that Ms. -- I might have misspoke.**

22 **Ms. Johnson, did I say that?**

23 A. Yes, you did.

24 **Q. Are you familiar with the same data sets that Ms. Wilson**

25 **testified to?**

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1 A. Yes, I am.

2 **Q. And based on your first-hand experience and work?**

3 A. Yes.

4 **Q. Okay. And specifically, are you familiar with city**

5 **inventoried properties?**

6 A. Yes.

7 **Q. Okay. So back to the question: Are the numbers of city**

8 **inventoried properties a reliable reflection of the historic**

9 **character of the city or its neighborhoods?**

10 MS. BENDICH: I have the same objection as to foundation.

11 Familiar doesn't necessarily mean that you've actually

12 looked at the data itself.

13 MR. KISIELIUS: I just asked if she had experience with it

14 first-hand and in her professional capacity.

15 MS. BENDICH: Still not --

16 HEARING EXAMINER: Overruled.

17 MS. BENDICH: Okay.

18 **Q. (By Mr. Kisielius) Do you need me to ask the question**

19 **again?**

20 A. Please.

21 **Q. Okay. Are the numbers of city inventoried properties a**

22 **reliable reflection of the historic character of the city or**

23 **its neighborhoods?**

24 A. As with a lot of cultural historic questions, it depends

25 kind of on answer. We know there are 5,000 inventoried

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1 city-wide. The distribution is not even across the city,
 2 and so they are available. They are not all of the same
 3 caliber and they are not of the same recent nature, so a lot
 4 of them -- and I read Ms. Sodt's testimony. You know, she
 5 points out that they often have to ground truth their own
 6 records, so that is another consideration.

7 **Q. Okay. I want to ask you a couple questions to try to clear**
 8 **up some -- some questions that might remain about some of**
 9 **the characterizations of different types of historic**
 10 **resources. And let's talk about historic districts,**
 11 **specifically. I'm going to ask you to describe the**
 12 **difference between a landmark and a historic district.**
 13 **First of all, how do they differ; how do they overlap?**

14 A. Sure. A landmark is a single building or structure or
 15 object. It is individually nominated as a landmark. It has
 16 specific controls and incentives developed for that specific
 17 property. So often it is exterior features that are
 18 specifically drawn out, but it can include things like
 19 gardens, it can include things interior such as remarkable
 20 stairwells or woodwork in a certain library, you know,
 21 buildings, things like that. And so it's -- it's not a
 22 one-size-fits-all process. The controls and incentives
 23 process is specific to each individual landmark.
 24 A historic district is a geographic locality, and the
 25 defining of the historic district involves a lot of context

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1 for how those boundaries are drawn. It involves
 2 inventorying the buildings within the district, proposed
 3 district boundaries, and classifying each building as
 4 whether it is contributing to that historic district or
 5 noncontributing. And so it's a combination of types of
 6 buildings that might be inside a historic district.

7 And I can't think of a specific example, but I -- there
 8 probably are landmarks within historic districts in the
 9 city. I can't think of a specific example.

10 **Q. Okay. That's sort of the overlap that potentially --**
 11 A. Yeah, it's -- it's not typical.

12 **Q. Okay. And I'm going to ask you some questions about**
 13 **protections afforded to those. Does SEPA generally require**
 14 **you to consider established historic districts in the review**
 15 **of a nonproject action like this one?**

16 A. Yes.

17 **Q. And did you do that here?**

18 A. Yes.

19 **Q. Okay. And I'd like to -- to have you distinguish between**
 20 **historic districts and historic fabric. I think Ms. Wilson**
 21 **started testifying about that. Do you -- first of all, do**
 22 **you agree with the characterization of historic fabric?**

23 A. Yes.

24 **Q. And is that used in relation to establishment of historic**
 25 **districts?**

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1 A. I'm sorry, can you --

2 **Q. Do you consider historic fabric when you're thinking about**
 3 **whether to establish a historic district?**

4 A. Yes.

5 **Q. Okay. Given your experience with nonproject EISs, do you**
 6 **agree with Ms. Wilson's testimony about the sufficiency of**
 7 **the discussion of historic fabric in this analysis?**

8 A. Yes.

9 **Q. Okay. I'm going to ask you a question about mitigation.**
 10 **You heard Ms. Wilson testify about her understanding of the**
 11 **intended benefits of the mitigation being formed by the**
 12 **preceding analysis. So first, do you agree with that?**

13 A. Yes.

14 **Q. I want to ask you a different question, though. Given your**
 15 **involvement with nonproject actions, can you compare the**
 16 **level of discussion of mitigation in the analysis in this**
 17 **EIS, the MHA EIS, with what you have seen in other**
 18 **nonproject EISs? And here I'm focused on the analysis for**
 19 **historic resources.**

20 A. Right.

21 MS. BENDICH: Objection based on foundation. We don't
 22 know what she's comparing it to.

23 MS. NEWMAN: I second that objection. I think we -- this
 24 is too abstract, and there's no foundation whatsoever to say
 25 generally what the level of discussion for what nonprofit

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1 action compared to this one. It's a very vague -- we need a
 2 more concrete -- what nonproject action are you talking
 3 about?

4 MS. BENDICH: Does it include zoning, doesn't include
 5 zoning? You know, what's the nature of it? That's the
 6 objection, to lack of foundation.

7 MR. KISIELIUS: I understand. They might want to specify
 8 more, and they're welcome to do that in cross-examination,
 9 I believe there's an expert who's testified to having worked
 10 on multiple EISs including nonproject EISs. The question is
 11 fair to ask her in her experience in general to characterize
 12 the level of discussion of mitigation from this EIS to other
 13 ones. I don't think you need to walk through it blow by
 14 blow, and it's fair to ask a witness, an expert witness, to
 15 provide this type of broader characterization, and I'm just
 16 trying to be efficient.

17 HEARING EXAMINER: And I think the objection is based more
 18 on an issue of clarification as to what the witness means or
 19 might mean in response to the question. The question's not
 20 vague; it's within the meaning that the counsel that's
 21 asking it and the witness that's responding. If there are
 22 issues or questions about clarification, those can be raised
 23 in cross. Overruled.

24 **Q. (By Mr. Kisielius) Do you need me to repeat the question?**
 25 A. No.

1 **Q. Okay.**
 2 A. This nonproject EIS has the most extensive list of
 3 mitigation measures that I have seen. It is very specific.
 4 It is very detailed, and it is quite extensive.
 5 **Q. Let's talk about the threshold for significance in the**
 6 **analysis. Ms. Wilson testified to that significance**
 7 **threshold and testified that that was something that you --**
 8 **for which you provided input.**
 9 A. Yes.
 10 **Q. In your experience, is it common to use that kind of a**
 11 **threshold for significance in the context of a historic**
 12 **resources analysis for a nonproject EIS?**
 13 A. Yes, because it's helpful to understand that the level at
 14 which you consider an impact, then, is significant.
 15 **Q. So how did you choose that threshold, and why did you choose**
 16 **that threshold?**
 17 A. Well, this is complicated to be able to compare the 27
 18 different UVs.
 19 **Q. Urban villages?**
 20 A. Urban villages. Not university villages. And so the raw
 21 numbers were not going to be helpful because, you know,
 22 several of these -- like Northgate is supposed to have
 23 thousands of new housing units, whereas I believe Fremont
 24 maybe a couple hundred. So, you know, increase of 100 in
 25 Fremont would be a much larger impact than an increase of

1 **so she couldn't answer the question, so I'd like to ask you.**
 2 **Well, let me step back, how were involved in the analysis of**
 3 **historic resources for the uptown EIS?**
 4 A. I provided senior review.
 5 **Q. Okay.**
 6 MS. NEWMAN: For what -- what was that?
 7 THE WITNESS: I provided senior review.
 8 **Q. (By Mr. Kisielius) And did uptown set a threshold for**
 9 **significance like the one used in MHA?**
 10 A. No, it did not.
 11 **Q. Okay. And I thought I heard you say that the significance**
 12 **threshold that you used in MHA analysis was typical. So**
 13 **what that make uptown analysis atypical?**
 14 A. Well, let me clarify. What I was saying is that it is
 15 typical to define a significance threshold, not --
 16 50 percent isn't always going to be an accurate way. It's
 17 got to be with what is the -- what is the action or
 18 project -- no nonproject action that is being evaluated. So
 19 it's typical to have a significance threshold identified,
 20 and uptown did not.
 21 **Q. Okay. And why?**
 22 A. I -- I think they -- in -- in the review process for that
 23 particular EIS, they decided to set rel- -- to discuss
 24 relative impacts between the two alternatives, and they made
 25 some assumptions that the impacts would likely be the

1 100 in the Northgate urban village.
 2 So we decided we needed to think about, well, what is
 3 expected under the no-action alternative and then at what
 4 point, then, would we consider it clicks over to a
 5 significant impact? And we thought 50 percent above the
 6 expected no action was a useful metric.
 7 **Q. Okay. And do you think that was a reasonable approach?**
 8 A. Yes.
 9 **Q. So you established that threshold for identifying**
 10 **significant potential impacts on historic resources, but did**
 11 **you also discuss impacts that did not exceed that threshold?**
 12 A. Yes.
 13 **Q. Okay.**
 14 HEARING EXAMINER: Mr. Kisielius, I just want to check in
 15 with you on time that you anticipate remaining for cross --
 16 or, sorry, direct.
 17 MR. KISIELIUS: I don't have a lot more. My guess is two
 18 minutes tops, maybe.
 19 HEARING EXAMINER: All right. Let's go ahead and finish
 20 direct, then. Thank you.
 21 **Q. (By Mr. Kisielius) In her cross-examination, Ms. Wilson was**
 22 **asked a question about whether this significance threshold**
 23 **that you've just described was used in another EIS for**
 24 **uptown. I heard you in your list of EISs in which you had**
 25 **involvement; one of those was uptown. She was not involved**

1 same -- to the same parcels based on what is known about the
 2 uptown, the urban village.
 3 **Q. Mm-hmm.**
 4 A. So that -- and I think the assumption, then, was that for
 5 cultural -- for historic buildings, if a building is
 6 demolished, this -- the impact is the same whether it would
 7 be a 40-story or -- 40 feet or 65 feet.
 8 **Q. Okay. I want to ask you some more questions about uptown,**
 9 **and I think -- just so you know, I think the section of the**
 10 **historic resources analysis from the draft EIS is, I think,**
 11 **still on the witness stand next to you on that pile over**
 12 **there.**
 13 A. Okay.
 14 MS. BENDICH: It's that blue --
 15 THE WITNESS: Yep.
 16 MR. KISIELIUS: And if you would like to refer to it, I'm
 17 going to -- so City of Seattle 121, which is in volume 8.
 18 I'm not sure whether we're going to need to enter it, but I
 19 just want to make it available in case it will help her
 20 answer questions.
 21 HEARING EXAMINER: Sorry, is that the whole one or
 22 something (inaudible)?
 23 MR. KISIELIUS: No, it's similarly an excerpt of --
 24 HEARING EXAMINER: Mm-hmm.
 25 MR. KISIELIUS: -- just the analysis. The one that was

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1 entered already is the draft EIS. I have the chapter for
 2 the final EIS that I have available. So I guess we can mark
 3 that if -- I just anticipate questions.
 4 HEARING EXAMINER: You're in charge.
 5 MR. KISIELIUS: Okay.
 6 HEARING EXAMINER: Will you identify the number and --
 7 MR. KISIELIUS: It's our 121.
 8 HEARING EXAMINER: Marked as 263.
 9 (Exhibit 263 is marked.)
 10 MS. BENDICH: I know I have it, but I can't find it.
 11 HEARING EXAMINER: Is this a -- it's an excerpt as well.
 12 Is it an entire section or --
 13 MR. KISIELIUS: Should be the entire section of the file.
 14 HEARING EXAMINER: I'm pretty sure it's not. 1 -- which
 15 one were we looking at?
 16 MR. KISIELIUS: 121.
 17 HEARING EXAMINER: I don't know what else is in here, but
 18 there's a -- this is mid-sentence on the last page, so...
 19 MR. KISIELIUS: Let me check the electronic version.
 20 HEARING EXAMINER: Let's make sure that this isn't --
 21 MR. KISIELIUS: I apologize if that's the case. Let me
 22 just double-check here.
 23 THE WITNESS: I believe that's because it goes to the next
 24 discipline, transportation.
 25 MR. KISIELIUS: So --

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1 MS. NEWMAN: But it's --
 2 THE WITNESS: Yeah, so it's the con- --
 3 HEARING EXAMINER: Right.
 4 THE WITNESS: -- but it's not about cultural resources.
 5 HEARING EXAMINER: Thank you for (inaudible).
 6 MS. NEWMAN: Oh.
 7 MR. KISIELIUS: Thank you. All right. I'm finally caught
 8 up.
 9 **Q. (By Mr. Kisielius) Okay. So -- and perhaps just to -- it**
 10 **sounds like you're familiar with 121 there, that's**
 11 **Exhibit -- sorry, I missed the number.**
 12 HEARING EXAMINER: 263.
 13 FEMALE SPEAKER: 263.
 14 **Q. (By Mr. Kisielius) 263. Do you recognize that as the**
 15 **final -- an excerpt of the final EIS for uptown?**
 16 A. Yes.
 17 **Q. Okay. I want to ask you some questions about the data sets**
 18 **you may have used there and compare them to the approach you**
 19 **took in the EIS here. So how did the subject matter**
 20 **reviewed in uptown EIS compare the subject matter of the MHA**
 21 **EIS in matters that are pertinent to deciding what data sets**
 22 **you would use for a cultural resources analysis?**
 23 A. I think the biggest issue is the size of the study area.
 24 For uptown was 1 urban village versus 27, but also there is
 25 actually fairly decent information available, recent

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1 information about uptown, so we were able to utilize that
 2 and because we weren't troubled by any old information, we
 3 could make reasonable use of that data set
 4 **Q. Okay. So I think you're --**
 5 A. Am I answering the wrong question?
 6 **Q. No, you're heading right where I -- what that's exactly what**
 7 **I wanted to explore a little bit more with you. So that**
 8 **sounds like a difference in approach that you utilize in**
 9 **uptown in terms of the data set that you considered?**
 10 A. Yes.
 11 **Q. Can you describe some of the ways in which it was the same?**
 12 A. Sure. We looked at available context statements, reviewed
 13 city landmark information, and reviewed WISAARD. We just
 14 were able to summarize that information a little bit
 15 differently, but I -- I feel that they were reviewed in the
 16 same level of detail.
 17 **Q. Okay. But you did include in that instance mapping of**
 18 **designated Seattle landmarks and buildings older than 50**
 19 **years or between 25 and 50 years, I think that was what**
 20 **Ms. Bendich was asking Ms. Wilson about. You didn't do that**
 21 **for MHA EIS; is that correct?**
 22 A. Correct.
 23 **Q. And why? Why would you do it in one instance and not the**
 24 **other?**
 25 A. Again, I think it's a factor of what the potential impact is

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1 seen to be from the very start. We also had -- you know,
 2 there were ten landmarks in the uptown EIS study area, so
 3 that -- and I think eight of them were also other landmark
 4 status, so it was -- it was a group of buildings that could
 5 be summarized in a synced fashion.
 6 **Q. Okay.**
 7 A. We didn't include the 70-some inventory buildings, for
 8 example. That information we reviewed but did not include
 9 on any maps.
 10 **Q. Okay. And did I hear you correctly that you said you had**
 11 **different information available to you about the study area?**
 12 A. Well, an inventory, you have -- a recent inventory of the
 13 uptown urban village had been conducted. There was a
 14 context statement prepared.
 15 **Q. And is that -- earlier you were talking about the data**
 16 **that's available when you're talking about a broader**
 17 **geographic area like what was at issue in MHA. Was that an**
 18 **example of a data set that you had available for one**
 19 **neighborhood uptown --**
 20 A. Yes.
 21 **Q. -- that you might not have available for all the urban**
 22 **villages?**
 23 A. Correct.
 24 **Q. Okay. Let me ask you, if you had mapped the designated**
 25 **Seattle landmarks and buildings older than 50 years or**

1 **between 25 and 50 years in the MHA EIS, what would have been**
 2 **the outcome in -- for that analysis?**
 3 MS. NEWMAN: Objection. That's speculative. It wasn't
 4 done. This is -- if you didn't do the analysis, how can you
 5 tell us what the outcome is? It would be purely
 6 speculative.
 7 HEARING EXAMINER: That could depend on the answer. I
 8 mean, if it means there would be more dots on the map, that
 9 wouldn't be speculative. If it means there would be a
 10 better analysis, then I see what you mean, but it's
 11 anticipating a particular answer.
 12 MR. KISIELIUS: And I can speak to this as well. She's an
 13 expert, and she's allowed to take hypotheticals in advance
 14 and answer.
 15 MS. NEWMAN: It's not a hypothetical. It's saying if you
 16 had done this what would be the outcome, and I presume we're
 17 looking for an outcome of their -- you know, it wouldn't be
 18 a problem, but how can you conclude it wouldn't be a problem
 19 if you don't do the analysis.
 20 MR. KISIELIUS: I'd suggest that's the precise nature of a
 21 hypothetical.
 22 MS. NEWMAN: It's not a hypothetical. It's asking for a
 23 conclusion of what the outcome would be if you had done a
 24 certain amount of work, not a hypothetical. That's -- a
 25 hypothetical is, you know, in this example if the landmark

1 like if they had mapped it. That's essentially the
 2 question, isn't it?
 3 MR. KISIELIUS: Yes.
 4 HEARING EXAMINER: Not necessarily any determination on
 5 significance or outcome with a decision maker. Overruled.
 6 A. So in terms of the city landmarks, it would have shown a
 7 distribution, but we -- we would have had to find some way
 8 to highlight those neighborhoods that haven't been
 9 systematically inventoried. We know there are uneven --
 10 **Q. (By Mr. Kisielius) Let me unpack that.**
 11 A. Yeah.
 12 **Q. What do you mean by that? What's -- because I'm not sure.**
 13 **I want to make sure I understand the significance --**
 14 A. Sure. Well --
 15 **Q. -- of those that hadn't been inventoried.**
 16 A. Sure. So on page 3.302, Exhibit 3.5-4, the historic
 17 resources survey status, this actually seems to me to help
 18 identify the issue that I'm trying -- that I don't -- that I
 19 think mapping would have masked, and that is that we know
 20 there are listed properties in almost every urban village
 21 but that there's not systematic survey data available for
 22 all of those. So I don't think that a map would have helped
 23 to persuade that the issue was an issue better than the
 24 words and the table.
 25 **Q. Okay. And let me just unpack, too, that you're referring to**

1 was such and such and so and so, would that be affected?
 2 You know, this is asking for the conclusion of analysis that
 3 wasn't done.
 4 HEARING EXAMINER: Which analysis are you asking about?
 5 MR. KISIELIUS: I was just asking --
 6 HEARING EXAMINER: (Inaudible) MHA?
 7 MR. KISIELIUS: And I wasn't asking for a conclusion of
 8 the analysis; I was asking what the outcome had been.
 9 MS. NEWMAN: If what?
 10 HEARING EXAMINER: Which -- for which analysis?
 11 MR. KISIELIUS: If they had -- so -- so I was asking, as a
 12 hypothetical, that had they mapped, and here I'm --
 13 HEARING EXAMINER: Had they mapped, and that -- this is
 14 part of what I -- distinction on the question I'm having. I
 15 mean what I'm hearing from the witness is that they did the
 16 same analysis for both EISs, so I'm not sure you asked about
 17 analysis.
 18 MR. KISIELIUS: I asked about mapping, what would have
 19 been the --
 20 HEARING EXAMINER: What would be?
 21 MR. KISIELIUS: -- the outcome if they had mapped.
 22 HEARING EXAMINER: Mapped it.
 23 MR. KISIELIUS: Yes.
 24 HEARING EXAMINER: I think that it's within the expertise
 25 enough of this witness to understand what the map would look

1 **Exhibit 3.5-4 on page 3.302. And just -- I know Ms. Wilson**
 2 **testified about this, but just to confirm, you've got three**
 3 **columns there and you're talking about the systematic**
 4 **inventory conducted in the middle column?**
 5 A. Correct.
 6 **Q. So what more -- can you describe the level of information**
 7 **that you have available for those urban villages that are**
 8 **marked with an X because they do have a systematic inventory**
 9 **as compared to those that do not?**
 10 A. Well, if there's almost a direct correlation between those
 11 that have systematic inventory and those that have historic
 12 context statement and so that -- it's just an added
 13 evaluation that has happened for these neighborhoods,
 14 whereas we know there are historic resources throughout
 15 every urban village and we've identified that the lack of
 16 survey is an issue to adequately understand the potential
 17 for impacts to historic resources. So by focusing on the
 18 systematic survey and those neighborhoods which have
 19 historic context statements, we are kind of giving the short
 20 shrift, then, to those that have not had it.
 21 And it -- Katie's earlier testimony with the two
 22 examples that we prepared showing the difference between
 23 South Park and Westwood-Highland Park is a real clear
 24 demonstration of how that could skew the potential to think
 25 that there aren't historic resources in Westwood-Highland

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1 Park.

2 **Q. Okay. Thank you. That's helpful. I want to ask a**

3 **question, and maybe in anticipation of one of the other --**

4 **you heard the Examiner asking Ms. Wilson about the**

5 **protections afforded through the landmark process, and I'm**

6 **wondering, first of all, do you have experience with that**

7 **process?**

8 A. Some, yes.

9 **Q. Can you describe your understanding of how that process**

10 **works and the protections under the city code?**

11 A. Sure. It's --

12 MS. BENDICH: Objection; it's repetitive. We've already

13 gone through this.

14 MR. KISIELIUS: I'm simply trying to provide information

15 that I heard the Examiner request.

16 HEARING EXAMINER: I was provided that by Ms. Wilson.

17 MR. KISIELIUS: Okay.

18 HEARING EXAMINER: Is there something unique that

19 Ms. Johnson is --

20 MR. KISIELIUS: Is there additional information?

21 HEARING EXAMINER: -- testimony on would elucidate?

22 MR. KISIELIUS: I didn't mean to interrupt that.

23 HEARING EXAMINER: That's all right. I was stumbling over

24 my own tongue, so...

25 **Q. (By Mr. Kisielius) Do you have additional information**

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1 **beyond what Ms. -- what Ms. Wilson provided, having heard**

2 **her testimony?**

3 A. Yes. I -- I didn't think she correctly displayed --

4 described how your question, Your Honor, about adjacent

5 buildings. So the code actually says if there is --

6 MR. KISIELIUS: If there is an objection, I want to make

7 sure that we -- she's allowed to proceed.

8 HEARING EXAMINER: Oh, yeah. Overruled for that reason.

9 But it's new information that wasn't with the last witness.

10 THE WITNESS: Okay.

11 MR. KISIELIUS: I didn't mean to interrupt that. Sorry.

12 THE WITNESS: That's fine.

13 A. So if a SEPA action is being proposed across the street or

14 adjacent to a listed landmark, it must undergo historic

15 review. And there is a list of the types of mitigation that

16 need to be considered to reduce impacts to that landmark

17 building. And I believe there's four or five options for

18 ways that those impacts to that adjacent or across the

19 street project to modify that project to reduce impacts to

20 the listed landmark.

21 **Q. Okay. I want to ask you some bigger-picture questions now.**

22 **You've heard Ms. Wilson's testimony. You've reviewed the**

23 **testimony of some of the appellant's witnesses on historic**

24 **resources. Do you -- having heard all that testimony, do**

25 **you believe that you used reasonable -- that this section**

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1 **used reasonable and standard methods of your profession to**

2 **assess and disclose the potential impacts historic resources**

3 **from this nonproject action?**

4 A. Yes. We looked at the specifics of this project, and we

5 developed an analysis that reflected that.

6 **Q. And have you heard anything in the appellant's witness**

7 **testimony on historic resources that causes you to question**

8 **any of your conclusions or the approach that you took?**

9 A. No.

10 **Q. Okay. I have no further questions for you.**

11 A. Thank you.

12 HEARING EXAMINER: We'll take a break, and we'll come back

13 at 3:35.

14 (Recess)

15 MS. BENDICH: Hello, Ms. Johnson. I'm Judith Bendich.

16 THE COURT: Did we finish with direct? Yes.

17 MR. KISIELIUS: Yes.

18 MS. BENDICH: Yes.

19 MR. KISIELIUS: But I failed to ask for admission of

20 Exhibit 263.

21 HEARING EXAMINER: Okay.

22 MS. BENDICH: No objection.

23 HEARING EXAMINER: Okay. And 262?

24 MR. KISIELIUS: Yes, that as well. I thought I had.

25 MS. BENDICH: No objection.

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1 HEARING EXAMINER: 262 and 263 are admitted.

2 (Exhibit 263 is admitted. 262 previously admitted.)

3 HEARING EXAMINER: Cross.

4 MS. BENDICH: Yes. Thank you.

5

6 **CROSS EXAMINATION**

7 **BY MS. BENDICH:**

8 **Q. Ms. Johnson, I believe you've talked about the Landmarks**

9 **Preservation Board and their various ordinances that apply**

10 **to the landmarks designations, and there's a whole procedure**

11 **that the Landmarks Board is supposed to follow; is that**

12 **correct?**

13 A. Yes.

14 **Q. Okay. So in certain situations, the Landmarks Preservation**

15 **Board can say that there are no controls that it places over**

16 **a property that is -- it has landmarked; isn't that correct?**

17 A. There are properties that have no controls and incentives

18 that are listed on their website, correct.

19 **Q. Okay. So in that instance, the owner or developer can**

20 **demolish the building, right?**

21 A. It would still require historic review.

22 **Q. But hasn't that actually happened because there was -- there**

23 **were no controls placed by the board such as the Galbraith**

24 **House on Capitol Hill at 17th and Howell and the Wayne**

25 **Apartments in Belltown?**

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

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EXHIBIT INDEX

NO.	DESCRIPTION	ADMITTED
264	City of Seattle Resolution 31546, 9/22/2014 (City Exhibit 6).....	39
265	Seattle Housing Affordability and Livability Agenda Final Advisory Committee Recommendations, 7/13/2015 (City Exhibit 7).....	39
266	Housing Seattle: A Roadmap to an Affordable and Livable City: An Action Plan to Address Seattle's Affordability Crisis, 7/13/2015 (City Exhibit 8)....	39
267	Seattle City Council Legislative Summary for Resolution 31622, 10/16/2015 (City Exhibit 10).....	39
268	Seattle City Council Legislative Summary for Resolution 31612, 11/17/2015 (City Exhibit 11).....	39
269	Seattle City Council Legislative Summary for Council Bill 118736, 8/17/2016 (City Exhibit 13)....	39
270	Director's Report on the Mayor's Recommended Comprehensive Plan, 5/2016 (without appendix) (City Exhibit 115).....	70
271	Memorandum from Eric McConachie and Lish Whitson to the Planning, Land Use and Zoning Committee, 9/6/2016 (City Exhibit 116).....	70
272	Memorandum from Eric McConachie and Lish Whitson to the Planning, Land Use and Zoning Committee, 9/19/2016 (City Exhibit 117).....	70

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1 MR. THALER: And they haven't -- we did discuss it at the
2 end of the day yesterday, but I don't know where we left it,
3 other than they would think about it.
4 MR. KISIELIUS: Tadas Kisielius on behalf of the City. I
5 think we -- where we left things was a partial resolution.
6 I'll start more globally before we get to the specifics of
7 the issue Mr. Thaler has identified.
8 HEARING EXAMINER: Um-hmm.
9 MR. KISIELIUS: As the Examiner pointed out yesterday, we
10 were talking about things in the abstract. We were trying
11 to identify specifics. The problem I think we encountered
12 was that there are three party representatives here out of
13 nine.
14 And so in terms of the task at hand, Mr. Wentlandt was
15 specifically identified on one, if not a number of parties'
16 witness lists by name, and so there's absolutely no
17 objection from the City's standpoint with respect to
18 Mr. Wentlandt.
19 HEARING EXAMINER: Um-hmm.
20 MR. KISIELIUS: The only other two specific instances we
21 were able to discuss yesterday were presented by a counsel
22 who was present, is Mr. Gifford and then Mr. Thaler's
23 issues.
24 So starting with Mr. Gifford, I don't think -- well, we're
25 not aware that he was named specifically on anybody's list.

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1 -oOo-
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3
4 HEARING EXAMINER: Let's start with checking in with the
5 parties on how we're proceeding with witness testimony.
6 MR. THALER: Toby Thaler, Fremont Neighborhood Council.
7 I have a proposed statement that we've discussed before.
8 I have discussed with Counsel. This is the statement by a
9 witness who -- we replaced a real estate agent that was
10 on -- who was on --
11 HEARING EXAMINER: I'm sorry. Before we get to that, this
12 is a new item. The item --
13 MR. THALER: Yes.
14 HEARING EXAMINER: -- that we ended the day with yesterday
15 was to discuss how --
16 MR. THALER: Ah.
17 HEARING EXAMINER: -- the parties would proceed with
18 direct and/or cross of particular witnesses. So if we could
19 address that first and then get to any new issues that have
20 come up.
21 MR. THALER: Okay. The only issue I have in that regard
22 is whether Leslie Price needs to be called, if I can't
23 compel the presence of Robert Feldstein.
24 HEARING EXAMINER: And I had asked that the parties have
25 communication with each on those.

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1 HEARING EXAMINER: Let's put him aside for a minute.
2 MR. KISIELIUS: Okay. For Mr. Thaler's, he has two
3 witnesses he's identified; one for whom he's got a subpoena
4 that he was going to try to serve. And the other one he has
5 not. Both of them were identified on Mr. Thaler's list.
6 I think the City's objection to those witnesses is not
7 grounded in whether or not he specifically called them.
8 Rather, it's grounded in -- there's two issues. First is
9 he's presenting them as rebuttal witnesses to issues where
10 it's not clear that that rebuttal is even necessary, given
11 the fact that he's going to have access to a witness to talk
12 about some of the legislative enactments that he's most
13 interested in present today. And so we're trying to -- the
14 only reason we see that Mr. Thaler would want to call
15 different witnesses would be to elicit what we believe to be
16 irrelevant testimony to the adequacy of the EIS.
17 The legislative enactments that we've presented and that
18 Mr. Wentlandt has testified to and will continue to testify
19 to are important in that they shape the scope of the
20 proposal that was in review. But Mr. Thaler, I think, is
21 seeking to elicit testimony about sort of the palace
22 intrigue and backroom politics, which, again, we don't agree
23 with the narrative that is important to him. But we also,
24 more importantly, believe that that is irrelevant to the
25 issues of the adequacy of the appeal.

WENTLANDT, Geoff

1 but that person isn't available either and we want to
 2 substitute to now submit written testimony, it makes the
 3 whole idea of a witness and exhibit list meaningless.
 4 And I also think there's a substantial question about
 5 whether the testimony that is proposed here is within the
 6 scope of what was disclosed by Friends of North Rainier for
 7 Mr. Teffel. I don't think it is.

8 But at this point for the appellants to do this at this
 9 late stage -- we certainly probably would want to examine
 10 this person. They should have done this weeks ago. It's
 11 just completely inappropriate at this point to bring in a
 12 substitute witness who himself is not available and then ask
 13 to submit written testimony after the close of the
 14 appellants' case.

15 HEARING EXAMINER: Let me ask one question for refinement.
 16 We had outstanding opportunities -- they were
 17 not-yet-addressed opportunities for the appellants to submit
 18 declarations. Because I remember early on there was the
 19 offer for appellants which was well taken to expedite us
 20 through to -- instead of bringing in a witness, to provide
 21 declarations. And at some point I believe after the first
 22 week or so, there was actually a firm deadline set for when
 23 those declarations were due.

24 Can any of the party representatives remind me of what
 25 that deadline was?

1 HEARING EXAMINER: I don't recall it as being a rolling
 2 opportunity that at the end of the third week we would be
 3 still getting declarations in. But we -- but no -- that the
 4 other party had -- wasn't even aware that it would be
 5 coming. I believe it was -- the City had asked for more
 6 clarity than that.

7 MS. BENDICH: Okay.

8 HEARING EXAMINER: And I also agree that it wasn't a firm
 9 and hard deadline that we could consider it, but I think
 10 there's more to this than to say, no, that it's an
 11 individual that was not on the witness list, that we're
 12 getting off the field at this point, so...

13 Any additional issues that we want to address before we
 14 return to Mr. Wentlandt's testimony?

15 Okay. Thank you all.

16 Mr. Wentlandt, you're still under oath from yesterday.

17 THE WITNESS: Yes.

18
 19 **GEOFFREY WENDTLAND: Witness herein, having been**
 20 **previously sworn on oath,**
 21 **resumed the stand:**

22
 23 DIRECT EXAMINATION (Continued)

24 BY MR. KISIELIUS:

25 **Q. Good morning, Mr. Wentlandt.**

1 MS. NEWMAN: I reluctantly will. July 23rd.

2 MR. THALER: Well, on the other hand, I can't remember how
 3 it came back, but Gordon Lagerquist's statement, due to his
 4 vacation time, was submitted on August 9th.

5 MR. WEBER: But I think that's a different matter. I
 6 mean, Mr. Lagerquist actually on an exhibit list. He was
 7 scheduled. He had an availability issue that was resolved.
 8 This is --

9 HEARING EXAMINER: Well, it was submitted by an appellant.

10 MR. THALER: By us.

11 HEARING EXAMINER: And the City didn't object.

12 MR. THALER: No.

13 HEARING EXAMINER: So the fact that they didn't object at
 14 that time doesn't necessarily mean that the deadline didn't
 15 have any meaning.

16 MR. WEBER: So you're correct.

17 HEARING EXAMINER: I think we're --

18 MS. BENDICH: My recollection is --

19 HEARING EXAMINER: -- a bit far afield for this one. But
 20 I appreciate you bringing him to our attention, and I'll
 21 hand the declaration back.

22 MS. BENDICH: My recollection is slightly different. It
 23 was as each appellant said they wanted to submit a
 24 declaration that we had a time limit set for them to submit
 25 it.

1 A. Good morning.

2 **Q. So we were -- started yesterday and you had discussed a**
 3 **sequence of documents -- and I wonder if that binder -- I'm**
 4 **sorry. I should have checked this earlier. Is Binder No. 5**
 5 **still in front of you?**

6 A. No. I have Binder No. 2 here.

7 **Q. I apologize.**

8 MR. KISIELIUS: Thank you, Jeff.

9 **Q. (By Mr. Kisielius) And could you please turn to Tab 11,**
 10 **which had been marked as Exhibit 268.**

11 A. Yes.

12 **Q. And I just want make sure we -- I believe we had talked**
 13 **about the goal of producing a certain number of affordable**
 14 **units. Could you remind us of what that was?**

15 A. This is in Resolution 31612. And the goal is stated at Line
 16 22 on the first page, "These programs should be developed to
 17 achieve a projected production level no fewer than 6,000
 18 affordable units" --

19 **Q. Okay.**

20 A. -- "for households at 60 percent AMI."

21 **Q. And I believe you also testified that it would also consider**
 22 **commercial and residential components, that they may shape**
 23 **it. What I don't recall whether you said yesterday was**
 24 **whether it discussed citywide implementation.**

25 A. Yes. The resolution does discuss citywide implementation.

1 And there is actually a map that addresses that that's in
 2 the attachment to the resolution. You can find that map at
 3 Bates stamp 004472. It's Attachment A titled
 4 "Implementation Areas," and that shows commercial and
 5 multifamily zoned lands throughout the city.

6 **Q. Okay. Can you turn now to Tab 13, City of Seattle Exhibit**
 7 **13. We had that marked for --**
 8 HEARING EXAMINER: And did we skip 12?
 9 MR. KISIELIUS: We did. 269.
 10 HEARING EXAMINER: Marked as 269.

11 **Q. (By Mr. Kisielius) Do you have that in front of you,**
 12 **Mr. Wentlandt?**
 13 A. Yes, I do.

14 **Q. Okay. Could you tell us what this document is?**
 15 A. So this is an ordinance that was passed by the City Council
 16 in August of 2016, and that ordinance establishes a new
 17 chapter, 23.58C, of the municipal code, which is the
 18 residential framework for mandatory housing affordability.

19 **Q. Okay. And did that include a payment or performance**
 20 **structure?**
 21 A. Yes, it did. Without paging through the ordinance itself,
 22 it includes separate sections on both the requirements for
 23 payment as well as the requirements for performance.

24 **Q. Okay. But did it specify any amounts for that payment or**
 25 **performance?**

1 **Q. Okay. And is that culmination, that specific proposal,**
 2 **reflected in MHA?**
 3 A. Yes, it is. It's the subject of the MHA EIS we're
 4 discussing.

5 **Q. So I'm going to turn to that, but before I do that, I'd like**
 6 **to offer into evidence Exhibits 264 through 269.**
 7 MS. NEWMAN: No objection.
 8 MR. THALER: No.
 9 HEARING EXAMINER: 264 through 269 are admitted.
 10 (Exhibit Nos. 264, 265, 266, 267, 268, 269 into evidence.)

11 **Q. (By Mr. Kisielius) Okay. So let's turn to the EIS, then.**
 12 **And I think that should be in front of you as Exhibit 2 in a**
 13 **different binder. And I'm going to ask you to turn to Page**
 14 **2.4 of the EIS.**
 15 A. I have to get used to --
 16 **Q. I cannot function.**
 17 A. I have to get used to this copy.
 18 Okay. I'm there.

19 **Q. Okay. So you'll see in the upper left-hand corner the**
 20 **section titled, "Objectives of the Proposal."**
 21 A. Um-hmm.

22 **Q. Can you describe the objectives?**
 23 A. Well, there are four objective statements there. The first
 24 one is address the pressing need for housing, affordable,
 25 and available to a broad range of households, so it's a

1 A. No, it didn't specify any percentage or dollar requirement
 2 amounts.

3 **Q. Okay. Did the ordinance itself effectuate any rezones?**
 4 A. It did not.

5 **Q. Okay. So we've talked about a sequence of documents, enacts**
 6 **by the Council, documents produced by the mayor's office.**
 7 **Can you describe -- how would you characterize the**
 8 **progression of the direction these documents provide in**
 9 **terms of their specificity?**
 10 A. Well, I would say that the progression is from general
 11 towards specific. The first documents that we walked
 12 through discussed a general concept for an inclusionary
 13 housing program that addressed both residential and
 14 commercial and included an increase in capacity in exchange
 15 for imposing requirement.
 16 And then, as we walked through these various resolutions
 17 and eventually the ordinance, they became more focused.
 18 They established a goal of 6,000 units at a specific AMI
 19 level. And eventually the ordinance included even more
 20 specifics on how the program -- the program mechanics in
 21 terms of duration of affordability and the time at which
 22 requirements must be recorded and permit documents,
 23 et cetera. So it was clearly from a general concept of an
 24 inclusionary housing program towards a more specific
 25 proposal.

1 general statement about affordable housing.
 2 The second objective is increase overall production of
 3 housing to help meet current and projected high demand. So
 4 that objective is, you know, just clearly saying that there
 5 should be more overall production of housing. The third
 6 objective is leverage development to create at least 6,200
 7 net new rent and income-restricted housing units serving the
 8 60 percent AMI level in the study area over a 20-year
 9 period.
 10 And the last one is distribute the benefits and burdens of
 11 growth equitably.

12 **Q. So you had just testified about the direction from Council**
 13 **and from the mayor leading towards a proposal. Do these**
 14 **objectives reflect that direction that you had understood**
 15 **from those prior documents?**
 16 A. Yes, they do. We talked about the direction to increase
 17 overall production of housing, which is reflected in the
 18 second bullet. Then we addressed producing at least 6,000
 19 units at the -- affordable units at the 60 percent AMI level
 20 as a goal.

21 **Q. And one of the reasons I ask is because there was a**
 22 **suggestion that these objectives don't specifically include**
 23 **increasing development capacity or upzoning. Do you agree**
 24 **with that statement?**
 25 A. I don't agree with that because both the second and the

1 A. I was.
 2 **Q. He was talking about Fremont.**
 3 A. Um-hmm.
 4 **Q. And I think he said it was incorrectly characterized.**
 5 **Having heard his testimony, do you agree?**
 6 A. I don't agree. His -- and that's because his testimony was
 7 based on, you know, a few antidotal data points about
 8 specific rents or for-sale prices in his neighborhood;
 9 whereas, the approach that's reflected here was based on
 10 comprehensive data about average rents in market sub areas
 11 of the city.
 12 **Q. Okay. I think we're done with Appendix E, so you can go**
 13 **back to your page reference.**
 14 **And I want to switch now. We just talked about the --**
 15 **those geographic distinctions. That was the first factor.**
 16 **I want to talk now about the second factor. Could you**
 17 **describe what that second factor is?**
 18 A. The second factor is basically the size of the upzone.
 19 **Q. And by size, what do you mean? Do you mean physical size or**
 20 **scale?**
 21 A. The amount of increased development capacity. That can be
 22 an increase in the height limit or the increase in the
 23 amount of floor area that could be built --
 24 **Q. Okay.**
 25 A. -- into the zoning change.

1 **Q. And how did the City organize the scale of the zoning**
 2 **change?**
 3 A. Well, if you turn to Page 2.20 of the EIS, it's described
 4 there. And I'll just walk through that a little bit. There
 5 were a set of zone categories that were set up. And those
 6 are seen in the margin there of Page 2.20. And so within
 7 each of those categories, the zones have the same
 8 approximately -- you know, similar or the same height limits
 9 or total amount of floor area that could be built. So a
 10 zoning increase that is within the same category -- let's
 11 just take Category 2 there, a Lowrise 1 zone. That would be
 12 rezoned to Lowrise 1 or Lowrise 2. That would have the
 13 lowest amount of zoning increase, which would be shown with
 14 an M suffix. That's also described here on the same page.
 15 A greater zoning increase would be moving from one
 16 category to the next. So an example would be a Lowrise 1
 17 zone. It's upzoned to a lowrise three zone, which would be
 18 the next category. It's a bigger zoning increase, more
 19 additional development capacity is conveyed. And that would
 20 be indicated with an M1 suffix.
 21 And an even greater increase in capacity -- and this
 22 example would be from a Lowrise 1 zone, say, to a -- you
 23 know, two or more categories. For example, a neighborhood
 24 commercial zone with a 75-foot height limit. And that would
 25 be indicated with an M2 suffix.

1 **Q. Okay. So I want to talk about those suffixes and the**
 2 **changes that you just described. And I'm going to ask you,**
 3 **in the course of this hearing, we've heard some different**
 4 **vernacular used to describe different types of upzones.**
 5 **Some of the appellant witnesses have talked about, and**
 6 **they've tried to distinguish between what they**
 7 **called "mapping upzones" and "text upzones." And then they**
 8 **said there was always a combination of the two that they**
 9 **called a "double upzone."**
 10 A. Um-hmm.
 11 **Q. So does this -- how does that translate or how does -- does**
 12 **the scale of -- changes that you used here, the M, M1, M2,**
 13 **does that capture all of those?**
 14 A. It does. And that's described here in the EIS. You can
 15 actually look at Page 2.21. In the last paragraph of that
 16 page, it says, "In certain zones, the proposal would modify
 17 development standards in the land use code, but the map zone
 18 designation would remain the same."
 19 And then it -- and then it goes on to specify that that
 20 would occur in the Lowrise 1, Lowrise 2, and lowrise three
 21 zones, as well as MR and HR. So a zoning increase could
 22 occur in Lowrise 1, and the name of that zone would continue
 23 to be Lowrise 1. Development standards would change, and
 24 that would be indicated with the attachment of the M suffix.
 25 **Q. Okay. But does -- so I just want to be clear, because**

1 **that's helpful. But does the -- what they call the mapping**
 2 **upzone, is it sort of -- does it cross to one of your M, M1,**
 3 **M2 directly at the exclusion of others, or is it subsumed by**
 4 **one of your M, M1, M2 categories?**
 5 A. Could you just repeat that, please?
 6 **Q. Yeah. I mean, did the suffixes that you use, M, M1, M2,**
 7 **correlate directly to what they're calling a map zone or a**
 8 **zoning upzone, or do they sort of both fall in the same**
 9 **category?**
 10 A. Both the map upzones and the text upzones are covered by the
 11 M, M1, or M2.
 12 **Q. And I apologize. I was asking that question poorly. But**
 13 **just -- maybe it will help to give a very specific example.**
 14 **So in that Lowrise 1 example that you gave --**
 15 A. Yeah.
 16 **Q. -- if -- and we'll get to some specific examples later. If**
 17 **there's a Lowrise 1, stays Lowrise 1, but there's a change**
 18 **to the code, how would that correspond to your M, M1, M-2s?**
 19 A. Those would always be an M --
 20 **Q. Okay.**
 21 A. -- in every case.
 22 **Q. But if you had a Lowrise 1 that was rezoned to Lowrise 2,**
 23 **would that also be an M?**
 24 A. In that example, yes, it would still be an M.
 25 **Q. And this concept of the double upzone, just to be clear,**

1 that's also captured by this M, M1, M2?
 2 A. Um-hmm.
 3 **Q. Okay. All right. So let's go back. We have just talked**
 4 **about those two factors, tying them together. Can you**
 5 **explain how the amount of the payment or performance**
 6 **requirements vary through the study area among the**
 7 **alternatives, based on those two factors? And maybe if you**
 8 **want to refer back to your -- you had started talking about**
 9 **Exhibit 2-6 on Page 2.19.**
 10 A. Yeah. So if we look at that Exhibit 2-6 -- if you were a
 11 developer under the, you know, proposed MHA, you would
 12 identify what your affordable housing requirement is by
 13 looking at which market area of the city you are in: low,
 14 medium, or high. Let's say you're in a medium area. And
 15 you would also have a suffix attached to the zone
 16 designation. Let's say it's an M1 suffix.
 17 So you would look at this table. And, for residential
 18 development, an M1 area in a medium area, you would see that
 19 the affordable housing requirement would be 9 percent of the
 20 units that you build on your project or a contribution of
 21 \$20 per square foot.
 22 **Q. Okay. I'm going to ask you some questions about the**
 23 **percentages, but before I do that, I want to focus in again**
 24 **on the scale of zone change that's characterized by those**
 25 **suffixes, the M, M1, M2. So you've testified how that was**

1 terms -- you had referenced feasibility.
 2 A. Yeah.
 3 **Q. So where were you in relation to what the City thought**
 4 **was --**
 5 A. Yeah.
 6 **Q. -- the tipping point for feasibility?**
 7 A. Yeah. I'd just like to just add one more point on the prior
 8 question, too, is that it would also jeopardize the ability
 9 to increase overall housing production if economic
 10 feasibility broadly decreases.
 11 **Q. Yeah.**
 12 A. And to your question about -- wait. Could you just repeat
 13 the --
 14 **Q. Yeah. So in terms of the number that was chosen or the**
 15 **numbers they have chosen there at the high end, where did**
 16 **you feel -- where did the City feel that was in relation to**
 17 **the tipping point for feasibility?**
 18 A. We felt that we were at or near the limit of what would be
 19 broadly feasible.
 20 **Q. Okay. Was that based on the CAI report?**
 21 A. It was based in part on the CAI report.
 22 **Q. Okay. What else was it based on? What other input did you**
 23 **consider?**
 24 A. So during earlier phases of development of the concept for
 25 MHA, the City received a variety of input from experts and

1 used to determine how much of a payment or performance would
 2 be required. Is that concept used elsewhere in the EIS and
 3 any substantive sections?
 4 A. It is. We've discussed it here in terms of identifying the
 5 affordable housing requirement. But because the M, M1, and
 6 M2 is basically a characterization of how big the zone
 7 increase is, that same information can be used throughout
 8 the EIS to identify where greater or lesser zoning changes
 9 occur. So it can be used in the land use section to
 10 identify bigger zoning changes, aesthetics, and also in the
 11 derivation of the amounts of growth.
 12 **Q. Okay. So let's focus in on the level of requirements that**
 13 **are shown in this exhibit. Some appellant witnesses have**
 14 **suggested that this -- that the EIS should have evaluated**
 15 **alternatives with a higher payment requirement. Can you**
 16 **explain why the City decided not to do that?**
 17 A. The City didn't do that because requirements that were
 18 higher could unduly suppress housing production by causing
 19 projects to become economically infeasible.
 20 **Q. Okay. What would it do to the ability to achieve that goal**
 21 **of 6,200 units?**
 22 A. It would jeopardize the goal to -- or the ability to achieve
 23 the goal of 6,200 units.
 24 **Q. Okay. And in terms of the percentages reflected here,**
 25 **the -- what was the understanding of where you were in**

1 stakeholders in the, you know, development and building
 2 community. That included affordable housing developers,
 3 market-rate housing developers. And at that earlier time,
 4 it was felt that the 5-to-7-percent range was really the
 5 maximum of the amounts that could be charged without
 6 starting to negatively impact development feasibility.
 7 So one thing the CAI report helped us do is to, you know,
 8 take another look at that and document that amounts could be
 9 increased a little bit higher, all the way up to 11 percent
 10 and still be in something of a safe harbor for not unduly
 11 affecting economic feasibility.
 12 **Q. Okay. I'd like you to turn to Page 2.64 of the EIS.**
 13 HEARING EXAMINER: What page was that?
 14 MR. KISIELIUS: 2.64.
 15 **Q. (By Mr. Kisielius) Is this where the EIS generally**
 16 **discusses the issue of whether higher requirements are**
 17 **appropriate?**
 18 A. Yeah. There's a section here that's titled -- well, this is
 19 in the alternatives considered, but not included in the
 20 detailed analysis section of the EIS.
 21 And then there's a section titled, "Increased MHA
 22 Performance and Payment Requirements." And there's some
 23 discussion in here about why -- well, kind of what just
 24 walked through in terms of why the City considered but
 25 decided not to evaluate such an alternative in detail.

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1 **Q. Okay. And so there's a discussion here about testing a 25**
 2 **percent requirement. What was the result of that?**
 3 A. The result of testing that requirement, using the same
 4 information from the CAI models was that most of the
 5 prototypes in medium market areas and around half of them in
 6 high market areas would start to become economically
 7 infeasible.
 8 **Q. So why did you test that amount, 25 percent, and not**
 9 **requirements somewhere between 11 and 25 percent?**
 10 A. We looked at 25 percent because that was an amount that a
 11 lot of comments and scoping asked us to look at. You know,
 12 also, you know, commonly heard a request for 25 percent
 13 amounts in community meetings. And another reason was to
 14 look -- to test an amount that could kind of, you know, set
 15 a trend line or be, you know, adequately, kind of, distanced
 16 from the amounts we were looking at to provide a meaningful
 17 point of comparison.
 18 **Q. Okay. You just talked about a trend line there. What could**
 19 **you determine, based on the evaluation of 11 percent and 25**
 20 **percent?**
 21 A. Well, if you look at the 11 percent and most of it -- most
 22 of the prototypes in medium and high are feasible. And then
 23 you look at 25 percent and you see that, you know, that's
 24 changed significantly. You can see that, you know, the
 25 trend from 11 percent to 25 percent is you're becoming less

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1 and less -- let's just say more and more prototypes become
 2 infeasible.
 3 **Q. Okay. So just to put a finer point on it, why did the City**
 4 **decide not to propose requirements higher than 11 percent?**
 5 A. Because we felt that that could lead -- or jeopardize
 6 development broadly becoming economically infeasible that
 7 would potentially decrease overall housing production and
 8 jeopardize a goal of producing 6,000 affordable units.
 9 **Q. Okay. So I want to come back to the springboard for this**
 10 **discussion. I mentioned that appellants have argued that**
 11 **the City should have crafted alternatives to evaluate**
 12 **requirements somewhere between 11 and 25 percent. Do you**
 13 **agree that SEPA requires the City to evaluate alternatives**
 14 **that include requirements higher than 11 percent?**
 15 MS. NEWMAN: Objection. I think that's a legal -- calls
 16 for a legal conclusion. He's not a lawyer and we can't have
 17 a legal conclusion from a witness.
 18 MR. KISIELIUS: We've had other SEPA experts, people who
 19 are looking at EISs and testify based on their experience of
 20 EISs on this very question from appellants. To preclude the
 21 City from eliciting the same testimony from nonlawyers would
 22 be unfair.
 23 MS. NEWMAN: I would have objected to those, if I had been
 24 here. I don't think it's appropriate for a legal conclusion
 25 from any witness, even if it's a lawyer who works on --

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1 HEARING EXAMINER: Simply because there wasn't an
 2 objection raised before doesn't mean -- is there -- that
 3 would, you know --
 4 MR. KISIELIUS: I also think this -- I'm sorry.
 5 Mr. Wentlandt, as somebody with experience in EIS, is
 6 somebody that works at the City in preparing those. One of
 7 his responsibilities is to ensure that the product that he
 8 is working on, that he's responsible for, satisfies those
 9 very requirements. So understanding he's not a lawyer,
 10 that's his job. He's supposed to come up with an adequate
 11 document.
 12 HEARING EXAMINER: And what's the legal conclusion being
 13 called for, Ms. Newman?
 14 MS. NEWMAN: The question -- I can't recall the exact
 15 wording, but it was: Is that consistent with SEPA,
 16 essentially. I mean, it was literally asking a question
 17 that the examiner will be determining and a legal argument
 18 will be made on. I think maybe a rephrasing of the question
 19 would --
 20 THE COURT: That's pretty general. I would allow that
 21 from someone who works with SEPA. They regularly -- you
 22 know, they work with the code. I'm used to this argument
 23 coming up, for example -- you know, this threshold comes up
 24 more as to whether a witness can determine if there's a
 25 significant impact.

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1 MS. NEWMAN: Um-hmm.
 2 HEARING EXAMINER: That's more of a legal conclusion that
 3 I have to decide, as opposed to does this meet the bounds of
 4 the code that you work with on a regular basis, in your
 5 opinion and experience.
 6 So I'll allow the question for this. But I do understand
 7 the point, and just because it hasn't been raised before, if
 8 someone wants to start objecting along those lines, I would
 9 certainly allow it.
 10 A. So no, I do not agree that SEPA would require a study of
 11 amounts between 11 and 25 percent.
 12 **Q. (By Mr. Kisielius) Why not?**
 13 A. Because it would essentially be a different proposal than
 14 what the City was suggesting and would not, in our
 15 estimation, meet the objectives of the proposal we were
 16 looking at.
 17 **Q. Okay. I want to talk about another framework concept in the**
 18 **EIS. Can you please describe the growth and equity**
 19 **analysis?**
 20 A. Yeah.
 21 **Q. And I note -- I just want to preface that by saying I know**
 22 **we're going to have another witness talk about some of the**
 23 **mechanics or the details. I want to kind of stay at a**
 24 **30,000-foot level just as a foundation for some of your**
 25 **later testimony.**

1 speaks directly to this concept. And that's the thing that
 2 you would want to look to first.
 3 You know, to just touch on the criteria that was referred
 4 to in the Steinbrueck Strategy report, it was one of several
 5 factors to look at. And I believe it was something along
 6 the lines of the boundaries should be set at right of
 7 ways -- right-of-way areas. And remember they were wavy
 8 lines previously. This was saying they should be set to
 9 right of ways and, where possible, arterial roads should be
 10 considered.

11 And, you know, so there's some judgment involved in
 12 applying that criteria, along with other criteria, and then
 13 balancing it with the, you know, clear comprehensive plan
 14 policy directive.

15 **Q. Okay. Let's change to a different subject. I want to talk**
 16 **about the study area, what is and is not within the scope of**
 17 **MHA. And, specifically, I want to address some testimony**
 18 **that suggested that there's some areas outside the urban**
 19 **villages that are not currently zoned single family that**
 20 **were not -- that are part of MHA but weren't analyzed here.**
 21 **So I want to focus on that.**

22 **Let's start with just -- can you describe the extent of**
 23 **the study area, as defined in the EIS? And, as you need to,**
 24 **if you want to point to sections of the EIS, that would be**
 25 **helpful.**

1 **Q. Is that consistent with what's with -- what's depicted in**
 2 **the map that you just referred to, Exhibit 2-1 on Page 2.3?**

3 A. No. You can see on this map that there are a number of
 4 areas in green that are outside of the urban villages. The
 5 urban villages on this map are shown with the black line.

6 **Q. Okay. That witness testified that he had not reviewed that**
 7 **section or that map, but he was relying on a different map.**
 8 **So I'm going to have you turn to that now. It's a map on**
 9 **Page 3.105, Exhibit 3.2-2.**

10 A. Okay. I see that map.

11 **Q. So does -- do you interpret that map as indicating that**
 12 **areas outside of urban villages are not within the study**
 13 **area?**

14 A. No, I don't.

15 **Q. I think that witness was looking at the map key, and he**
 16 **specifically pointed out to the first category. It says, In**
 17 **MHA study area.**

18 A. Yeah.

19 **Q. Is that -- is the area shown there meant to describe the**
 20 **entirety of the study area?**

21 A. No. It's under a bold header, urban centers and villages.
 22 So this is indicating the urban centers and villages that
 23 are in the study area.

24 **Q. Okay. And what's the distinction it's trying to draw there?**
 25 **What are the outside NHA study areas?**

1 A. Okay. So I would point to the very beginning of Chapter 2
 2 of the EIS defines the study area.

3 **Q. You're looking at 2.2? That page?**

4 A. Yes. That's where I'm headed. There's a narrative
 5 description of the study area, as well as a map. And the
 6 narrative says that the study area for the EIS includes
 7 existing multifamily and commercial zones in the city of
 8 Seattle. Areas currently zoned single family, residential
 9 in existing urban villages, and areas zoned single family in
 10 potential urban village expansion areas identified in the
 11 2035 planning process. And the map at Page 2.3 shows in
 12 green the lands in the EIS study area.

13 **Q. Okay. And is the study area meant to refer to locations**
 14 **where zoning might change either through changes to the**
 15 **existing zoning that doesn't change, or to an upzone -- I**
 16 **mean to a rezone? Excuse me.**

17 A. Yes.

18 **Q. Okay. One witness, Mr. -- I hope I'm pronouncing his name**
 19 **directly -- Mr. Moehring testified that he thought the area**
 20 **analyzed in the EIS was narrower and didn't look at areas**
 21 **outside the urban villages. So of the categories you**
 22 **described there, the three, the urban villages, urban**
 23 **village expansion areas, and areas outside of the urban**
 24 **villages, he was saying that third one wasn't analyzed.**

25 A. Um-hmm.

1 A. Well, there's a finer gray line around urban villages that
 2 are outside of the MHA study area. So what this map is
 3 showing is a distinction between urban centers and villages
 4 in the study area and those outside of it.

5 **Q. Okay. Are the areas outside of urban villages that will be**
 6 **rezoned depicted in the detailed zoning maps in Appendix H?**

7 A. Yes.

8 **Q. We heard a lot of testimony about Appendix H. But that's --**
 9 **we'll be back there. If you could --**

10 A. Well -- oh. Well, just to answer the question, yes, all
 11 those areas outside of the villages are shown in detail in
 12 Appendix H.

13 **Q. Okay. I want you to maybe point to an example. Can you**
 14 **find Appendix H there?**

15 A. Yeah. All right.

16 **Q. So maybe let's turn to Page H-102, which is Exhibit H-101.**

17 A. Yeah. So Appendix H is organized where each urban village
 18 has a map for each alternative. And then there are a few
 19 additional maps that are provided to show the location of
 20 other areas proposed for zoning change that might be, you
 21 know, far -- you know, further removed from an urban village
 22 and not captured in the more zoomed-in maps.

23 **Q. Okay.**

24 A. And H-102 is an example of that.

25 **Q. Okay. And what is that depicting?**

1 A. So on this map, you've seen the northeast quadrant of the
2 city, and you can see on this map, for example, the areas in
3 color that are not gray are all proposed for a zoning
4 change. So you can see a string of properties along Lake
5 City Way in this example and out along Sand Point Way. So
6 you can see all of the areas indicated for zoning change
7 that are outside of the urban villages.

8 MR. THALER: Okay. And I'm sorry to interrupt. Could you
9 tell me which page you're on?

10 THE WITNESS: I'm on H-102.

11 MR. THALER: Thank you.

12 MR. KISIELIUS: And it's Exhibit H-101.

13 **Q. (By Mr. Kisielius) So that, you said, is the north -- sort**
14 **of the northeast part of Seattle. Is there a similar map?**
15 **And you don't need to point them all out, but is there**
16 **similar ones for the entirety of the city? A similar one**
17 **for each section of the city, the collection of which makes**
18 **up the entirety of the city?**

19 A. Yes.

20 **Q. Okay. We're going to come back to the maps in more detail.**
21 **I was really just focused on the study area. And I just**
22 **want to ask you: Did the EIS include in the study area of**
23 **all properties that will be rezoned or zoning will change**
24 **pursuant to MHA?**

25 A. Yes.

1 implementation of MHA to achieve the objective of at least
2 6,200 affordable housing units built in the study area by
3 the year 2035.

4 **Q. Okay. And so let's focus on the action alternatives then.**

5 A. Yeah.

6 **Q. How did they differ at the highest level?**

7 A. Yeah. So at the highest level, Alternatives 2, 3, and the
8 Preferred Alternative differ in the intensity and location
9 of the development capacity increases and the pattern and
10 amounts of housing growth across the city that could result.

11 **Q. Okay. And can you describe how 2 and 3 and the Preferred**
12 **vary? That's the sort of --**

13 A. Yeah.

14 **Q. The way they differ, can you describe more specifically what**
15 **each one shows with respect to that specific criteria?**

16 A. Yeah. I kind of like to walk through 2 and 3 a little bit
17 to do that. The basic idea is they differ in whether they
18 explicitly consider the growth and equity typology. And to
19 kind of walk through that, I'd like the start at Page 2.29,
20 which is the summary of Alternative 2.

21 **Q. Okay.**

22 A. And the first statement on that page is that Alternative 2
23 would implement MHA in the study area. The basic plan
24 concepts, MHA implementation principles and guidance from
25 comprehensive plan and land use code, are used to inform the

1 **Q. Okay. And the specific intention was that it didn't include**
2 **or look at areas outside urban villages. Are those depicted**
3 **in these maps?**

4 A. Yes, they are.

5 **Q. Okay. And we'll get into analysis of those areas with some**
6 **of the other witnesses.**

7 **Okay. So that was the study area. I want to switch**
8 **subjects again and now focus a little bit on alternatives**
9 **and their differences. And so I'll have you page back to**
10 **Chapter 2 again.**

11 A. Okay.

12 **Q. We're referencing 2.15.**

13 A. Okay. I'm at -- I'm at Page 2.15.

14 **Q. Okay. So you can feel free to refer to that, but I just**
15 **want you to give an overview of what were the alternatives**
16 **evaluated in the EIS.**

17 A. Okay. So it's stated here under Section 2.3, Proposed
18 Action and Alternatives -- it says the EIS considers four
19 alternatives. Alternative 1, no action. Assumes that MHA
20 is not implemented in the study area. No development
21 capacity increases or area-wide rezones would be adopted.

22 And in the next paragraph, it gives a summary of the
23 action alternatives, Alternatives 2, 3, and the Preferred
24 Alternative -- I'm sorry. The next sentence is,
25 Alternatives 2, 3, and the Preferred Alternative all assume

1 development capacity increases under Alternative 2. The
2 overall pattern in distribution of growth follows the urban
3 village and centers' growth strategy.

4 And the third paragraph in that same section says that
5 Alternative 2 proposes urban village boundary expansions
6 approximating a full 10-minute walkshed in 10 urban
7 villages.

8 And in the last paragraph of this page, I want to note
9 that in Alternative 2, total estimated citywide growth until
10 2035, including the additional increment of growth
11 associated with MHA. Would be 95,342 total housing units.

12 And I just want to highlight that because Alternative 1
13 assumes an amount of growth that's very similar to the
14 amount analyzed in the 2035 plan. And so Alternative 2
15 increases that amount of growth by approximately 19,000
16 housing units. And that's derived from the capacity
17 increases that are summarized above there.

18 **Q. Okay. That's Alternative 2.**

19 A. Yeah, Alternative 2. And I just want to, to the next page,
20 flip in. There's a -- there's an Exhibit 2.9 -- 2-9 that,
21 you know, summarily sums -- summarizes what I just read,
22 really. And in the -- that three-column brief table, middle
23 column is the intensity of development capacity increases
24 and expansion of urban village boundaries. So it's, you
25 know, summarizing that description I just read. And I want

1 difference in the amounts of M1 and M2 follow from that.
 2 You can -- looking at the -- maybe just one more point on
 3 that. You know, on the same page, the zoning -- the types
 4 of zoning changes -- small urban village boundary
 5 expansions, fewer applications of Lowrise 1, and Lowrise 2
 6 in multifamily zones, et cetera, are described.
 7 **Q. Okay. So with these exhibits, they're organized based on**
 8 **the urban villages that fall within the typology of the**
 9 **growth and equity analysis.**
 10 A. Yes.
 11 **Q. Is that fair?**
 12 A. Yeah.
 13 **Q. So I want to ask you to describe how this works in practice.**
 14 **Is this sort of the summary level --**
 15 A. Yeah.
 16 **Q. -- in terms of acted out -- are Appendix H within that?**
 17 A. Yeah. I just wanted to maybe make one more point -- is
 18 that, you know, just at a high level, all of the action
 19 alternatives increase overall growth by about 19- or 20,000
 20 housing units, compared to no action in total across the
 21 city. But the distribution and the pattern of that growth
 22 varies substantially between Alternative 2, 3, and
 23 preferred.
 24 **Q. Okay. Are the differences -- we were just talking about**
 25 **those images in Chapter 2. Are the differences in the**

1 **development capacity increases between alternatives also**
 2 **shown on a map? And I'll have you to turn to Page 3.194.**
 3 A. Yeah. Thank you.
 4 **Q. So tell us what we're looking at here in Exhibit 3.3-23.**
 5 A. So this is locations of the M, M1, and M2 zoning changes
 6 under Alternative 2.
 7 **Q. Okay. And is there a similar graphic showing the locations**
 8 **of M, M1, M2 shown for Alternative 3?**
 9 A. Yeah. So just pausing on this map for a minute, you'll see
 10 that, the darker shades of red and pink. In this
 11 Alternative 2 map you'll see a lot of those in the southern
 12 half of the city. You can see a lot in Othello, Rainier
 13 Beach, North Beacon Hill, Westwood-Highland Park. And then,
 14 you know, you see mostly lighter pink shades for the M2 or
 15 capacity increases in villages such as Fremont, Upper Queen
 16 Anne, et cetera.
 17 So you can now flip to the same map for Alternative 3, and
 18 you'll see a different -- you know, a very different pattern
 19 of where those M, M1, and M2 increases are. You'll see at
 20 Page 3.200 -- this is Exhibit 3.3-25. You know, more of
 21 those darker pink and red tones in villages, including
 22 Roosevelt, Wallingford, Crown Hill. And then if look, you
 23 know, at the southern half of the city in southeast -- in
 24 this map, Othello and Rainier Beach, et cetera, have, you
 25 know, mostly the lighter pink shade for the M-level capacity

1 increase.
 2 **Q. And that different allocation of the extent of the capacity**
 3 **increase in Alternative 3, the difference from Alternative 2**
 4 **is based on the growth and equity analysis?**
 5 A. That's right.
 6 **Q. And is there one for the Preferred Alternative as well?**
 7 A. There is. That you can see at Page 3.204. And the
 8 distribution of those different -- of shades is similar to
 9 Alternative 3, but, you know, not the same.
 10 **Q. Okay. So now I'd like to ask you how this works in practice**
 11 **by focusing on some of the more detailed maps.**
 12 A. Um-hmm.
 13 **Q. I'm going to ask you to turn to -- well, let me ask you, as**
 14 **you're turning to Appendix H, I'm going to ask you a couple**
 15 **questions.**
 16 **Do those maps in Appendix H show the specific locations**
 17 **and intensities of the capacity increases?**
 18 A. Yes, they do.
 19 **Q. You had earlier testified sort of the organization of**
 20 **Appendix H.**
 21 A. Yeah. For each village, there's -- each urban village,
 22 there's a detailed zones proposal map for Alternative 2, 3,
 23 and preferred.
 24 **Q. Let's turn to Page H-54, which is Map H-53.**
 25 MR. KISIELIUS: And, Mr. Examiner, I'm going to project it

1 on the screen, if that's okay. I've got a minute to go, in
 2 theory.
 3 **Q. (By Mr. Kisielius) Okay. I've also got it up on the screen**
 4 **here.**
 5 A. Okay.
 6 **Q. Before we get into detail about this specific map, I want**
 7 **you to orient us to this map. There's been a lot of**
 8 **testimony about it. But I want to start with the framework.**
 9 **What does it describe? And I want you to distinguish**
 10 **between properties shown in color, compared to parts of the**
 11 **map that are shown in gray.**
 12 A. Yeah. So any area on the map that's shown in color is
 13 proposed for MHA implementation and would have a zoning
 14 increase.
 15 **Q. Okay. And those shown in gray?**
 16 A. All the areas shown in gray are outside of the study area
 17 and have no zoning increase proposed.
 18 **Q. Okay. And the differences in color, what do those**
 19 **correspond?**
 20 A. Yeah. You can see in the legend in the left that they
 21 correspond to different zoning designations that the land
 22 would be rezoned to in order to implement MHA.
 23 **Q. And then some of them appear to have crosshatching. What**
 24 **does that represent?**
 25 A. Yeah. You can see in the legend it says the hatched areas

1 have a larger increase in zoning or change in zone type. So
 2 these are, you know, larger than M zoning increases.
 3 **Q. Okay. Now, I want to be very clear about this point again**
 4 **because I think there's been different vernacular used. We**
 5 **had talked about that earlier the distinction appellant**
 6 **witnesses made between map upzones --**
 7 A. Um-hmm.
 8 **Q. -- and text upzones. Are both of those depicted on these**
 9 **maps?**
 10 A. Yes, they are. Everywhere that is a color is a zone change.
 11 And would it be helpful if we, you know, maybe zoomed in and
 12 looked --
 13 **Q. Sure.**
 14 A. -- at an example here?
 15 **Q. Where would you like me to zoom in?**
 16 A. How about -- how about we go to -- so north of the orange
 17 block in the center of the graphic there's a medium brown
 18 shade there. There's a darker brown rectangle. Let's go
 19 just north of that to that -- or just south of the park
 20 indicated in the lighter green. So just south of that --
 21 south of Plum Street.
 22 **Q. Okay.**
 23 A. So, you know, you can zoom into these maps and read them.
 24 And for each zone change area, you'll see a notation.
 25 Starting at the left, before the slash, is the name of the

1 A. Okay.
 2 **Q. I'll let you get there.**
 3 A. Yeah.
 4 **Q. Or maybe during the break we had that out, but it's okay.**
 5 A. So I see Appendix F.
 6 **Q. So does this depict or do these exhibits here, F-1, F-2,**
 7 **F-3, F-4, and F-5 show some of the changes to the capacity**
 8 **within the existing zones?**
 9 A. That's right. So you can see there's a left column that's
 10 existing, which is Lowrise 1 and a right column proposed --
 11 well, for any designation, but, you know, the proposed zone
 12 name. And then you can look across to the right and it will
 13 show you the existing standard floor area ratio, for
 14 example, and how that number would change under the
 15 proposed, or height limit under existing and proposed. So
 16 this is -- this is describing all of the text changes.
 17 **Q. Okay. And so can you tie that together with the map that**
 18 **you were looking at earlier --**
 19 A. Sure.
 20 **Q. -- using the LR2 example that you were referring to that's**
 21 **just south of Plum Street?**
 22 A. Right. So let's -- looking at LR2, I'm looking at Page
 23 F-2 -- Exhibit F-2. And there's -- Lowrise 2 is the second
 24 row in this table. And it tells you that -- let's just take
 25 row houses, for example. For a row house development, the

1 existing zone, which is LR2. And after the slash is the
 2 name of the proposed zone, which in this case would continue
 3 to be LR2 but would have the M in parentheses. So this is
 4 an example where the zone name is staying the same.
 5 Development capacity increase is conveyed by change to the
 6 zoning code.
 7 **Q. Okay.**
 8 A. And you can tell that there's a zone change, A, because
 9 everywhere in color in the map has a rezone; and, B, the
 10 attachment of the M suffix.
 11 **Q. Okay.**
 12 A. And you could --
 13 **Q. And let's maybe just distinguish, if you look to the left of**
 14 **that in the crosshatched area.**
 15 A. Right. So, in this case, you see it's an existing
 16 single-family zone, SF before the slash, and then it's
 17 proposed to be rezoned to LR1, with an M1 notation. And
 18 that's a bigger zoning increase and it's -- and that -- you
 19 know, it's in a hatched area, which is telling you that it's
 20 a -- it's a greater zoning increase.
 21 **Q. Okay. And, again, for purposes of clarity -- I'm going to**
 22 **leave this up on the screen. But turning to Appendix F,**
 23 **Mr. Thaler testified to Appendix F and looked at the text**
 24 **upzone -- what he called text upzones in the first couple of**
 25 **pages of Exhibit F.**

1 existing LR2 floor area ratio limit is 1.2. Under the
 2 proposed LR2, that would increase to 1.4. The existing
 3 height limit is 30 feet. Under the proposed, that would
 4 change to 40 feet.
 5 **Q. Okay. And so is it correct to say that with the map that we**
 6 **were looking at, the fact that that area is shown in color**
 7 **and the notation that you read, LR2, suffix M, is that**
 8 **intended to depict the changes that are here?**
 9 A. That's correct.
 10 **Q. Okay. I'm going to zoom out of this back to the big picture**
 11 **here and maybe go over a couple more examples, because I'd**
 12 **like to help -- like you to help me understand how much the**
 13 **alternatives differ in terms of the location and intensity**
 14 **the development capacity increases.**
 15 **So maybe we can start with this one, if I can -- there we**
 16 **go -- zoom back out. And, again, can you tell us which**
 17 **urban village we're looking at here?**
 18 A. Yeah. We're looking at the North Beacon Hill urban village.
 19 **Q. Okay.**
 20 A. There's a light rail station in the center of this urban
 21 village in that middle of that orange, which is along Beacon
 22 Avenue South. The solid line is the existing urban village
 23 boundary, and the dotted line or dashed line is the proposed
 24 urban village boundary.
 25 I'll just highlight a couple of things. You'll see that

1 the proposed urban village boundary in this Alternative 2
2 extends all the way south to Jefferson Park. Most of the
3 land within the existing urban village boundary is a darker
4 shade of brown, with hatching, indicating a greater zoning
5 increase.

6 And why don't we flip to --

7 **Q. The next one?**

8 A. We can contrast this with Alternative 3 for the North Beacon
9 Hill urban village. You'll see that the urban village
10 expansion is about half as large. Much of the area
11 stretching down to Jefferson Park is not proposed for
12 rezone. You see more yellow indicating residential small
13 lot around the edges of the existing urban village and
14 within the existing urban village, compared to the, you
15 know, hatched, darker shades of brown we saw on Alternative
16 2. So the location and configuration of those zoning
17 changes is quite different between those two maps.

18 **Q. Okay. Now is the preferred on the next page, Page 56?**

19 A. So the preferred here shows a large urban village boundary
20 similar to Alternative 3, extending to Jefferson Park.
21 You'll see that in this -- on this map there are more
22 hatched areas and, you know, medium and darker shades of
23 brown within the existing urban village. That's -- the
24 significance of that is that under Alternative 3, greater
25 zoning increases in these types of urban villages are really

1 A. That's correct.

2 **Q. Okay. How about the Preferred Alternative for this urban
3 village?**

4 A. So here we see a larger urban village expansion than
5 Alternative 3, but not as large as Alternative 2. And
6 almost all the area in the expansion is residential small
7 lot, similar to Alternative 3, and a few larger capacity
8 increases, indicated with hatching, are located in very
9 close proximity to the light rail station.

10 **Q. Okay. I just want to do a couple more examples. Maybe we
11 should turn to Crown Hill --**

12 A. Sure.

13 **Q. -- which is Page H-27. Map is Exhibit H-26. Let me know
14 when you're there.**

15 A. You said -- I'm sorry. Okay. I'm there.

16 **Q. Okay. We're looking at H-26, Crown Hill --**

17 A. Okay.

18 **Q. -- Narrative 2.**

19 A. Yeah. So this is another urban village proposed for
20 expansion. You'll see in this example -- so here in Crown
21 Hill we have 15th Avenue running north-south through the
22 center of the village turning into Holman Road. And there's
23 neighborhood commercial all along -- or commercial zoning
24 all along that corridor.

25 In this alternative you see a block -- about two blocks of

1 focused very close to the light rail station. It's a little
2 different than what we saw in Alternative 3.

3 **Q. Okay. Let's maybe choose a different example. I'm going to
4 turn to Page H-63, which is Map Page 65. No. Excuse me.
5 It's Exhibit H-62 on Page H-63.**

6 A. Okay. We are --

7 **Q. Othello.**

8 A. Yeah. We're looking at the Othello urban village. And in
9 this map you see a very large urban village boundary
10 expansion that's extending to the west -- or, yeah, the east
11 of the existing urban village boundary. The light rail
12 station in this urban village is in the larger area of
13 orange, neighborhood commercial zoning towards the south
14 half of the village. You'll see that there are quite a few
15 blocks of lowrise zoning indicated with brown and hatching
16 inside and outside of the village.

17 **Q. Okay. Turn to Alternative 3.**

18 A. Yeah. And then under Alternative 3 here, you would then see
19 a dramatically smaller urban village boundary expansion. It
20 includes only a few blocks to the -- to the east. And you
21 would see many more applications of the residential small
22 lot zone, so much more yellow on this map both inside of and
23 at the edge of the existing urban village boundary.

24 **Q. And, again, those distinctions were based on application of
25 the growth and equity principles?**

1 lowrise multifamily zoning proposed flanking that corridor.
2 And I want to just kind of keep it limited and focus on
3 that. Maybe we could flip to Alternative 3.

4 I would just point out here, you know, that Alternative
5 3 -- that you'll notice that the orange commercial zoning in
6 this alternative is proposed to expand a block on either
7 side of the 15th Avenue corridor. You know, that was
8 something that was based on public input, you know, looking
9 at focusing more development along 15th Avenue and
10 increasing the depth of parcels to accommodate that
11 development, something that was studied in Alternative 3.

12 And in this -- contrasting this alternative with
13 Alternative 2, you also see that the entirety of the
14 existing urban village boundary is proposed for lowrise
15 multifamily zoning with hatching. And in the prior map we
16 looked at, most of that was residential small lot.

17 **Q. Okay.**

18 A. So there's different pattern intensity of zoning increases.
19 I just want to maybe just point out more -- sorry. Before
20 we flip from 2 to 3, another, sort of, you know, nuance or
21 detail in the upper left corner of the urban village to the
22 southwest of the green rectangle there.

23 **Q. Yeah. Let's just look at that.**

24 A. So the extent of the urban village boundary is a dashed line
25 where you see Lowrise 1 -- you know, proposed for Lowrise 1,

1 and that line extends straight down 19th Avenue Northwest.
2 I just want to contrast that with Alternative 3 -- or I'm
3 sorry -- with the Preferred Alternative, so we can flip to
4 the Preferred Alternative.

5 **Q. Okay. Bear with me.**

6 **A.** And this particular area has a different shape configuration
7 under the Preferred Alternative. And this is an example
8 where a refinement was made. We heard and, you know,
9 observed on the ground, you know, from residents and also
10 looking at it, you know, on the ground that there's a very
11 narrow right of way along 19th Avenue Northwest. It has to
12 do with Olympic Manor being built, you know, directly to the
13 west here. And you can see that in the curvilinear streets.
14 That's Olympic Manor. And at the -- you know, the back edge
15 of that, you know, large subdivision from the '50s, there
16 was, you know, kind of a leftover substandard right of way.
17 And, you know, this is just one example of where, you
18 know, detailed refinement was made to trim back the extent
19 of the urban village boundary based on, you know, a very
20 localized condition. I just wanted to point that out. It
21 would be impossible to point out, you know, a myriad other
22 examples of that. But that's, you know, just one example I
23 wanted to go through.

24 **Q. Let's take maybe one more. Turn to Roosevelt, H-69 -- Page**
25 **H-69. Do that first. And that's Exhibit H-68 of Appendix**

1 3, but not the same. The urban village boundary expansion
2 is -- it only extends two blocks to the west of 15th
3 Northeast.

4 Most of the -- almost all the lands in the urban village
5 boundary expansion are proposed for residential small lot
6 zoning. Less of the land in that expansion area is proposed
7 to go to a lowrise designation than an Alternative 3.
8 You'll also see that there are some areas of residential
9 small lots proposed within the existing boundary. And
10 that's different from Alternative 3.

11 **Q. Okay. And so we've focused here on four examples and kind**
12 **of walked through them to show the differences in terms of**
13 **the allocation of the development capacity and the changes**
14 **to the urban village boundary. Is it fair to say that all**
15 **of the urban villages depicted there have similar kinds of**
16 **differences between the alternatives?**

17 **A.** Yes.

18 **Q. Okay. I know this -- I'm going to ask what might seem like**
19 **an obvious question, but I just want to make it clear**
20 **because we heard some testimony. Do the zoning changes,**
21 **these capacity increases that we're talking about, actually**
22 **create any direct impacts?**

23 **A.** No, they don't. A zoning change on its own and changing the
24 zoning on a map or the development standards doesn't, you
25 know, cause any direct impact. It's -- the impact really is

1 **H.**
2 **A.** Okay. This is the Roosevelt urban village. The -- there's
3 a light rail station at the center of this urban village
4 basically in the middle of the largest orange area that's,
5 you know, near the intersection of 65th and Roosevelt Way
6 and 12th Avenue. This is -- you'll see that in this
7 alternative most of the areas that are at the edges of the
8 commercial core are proposed for residential small lot
9 zoning. You can see that with the, you know, yellow shade
10 on this map. And there's a very small urban village
11 boundary expansion proposed that is just one block east of
12 15th Avenue. And there's relatively -- you know, a small
13 amount of hatching indicating greater capacity increases
14 that are directly around the commercial core here.

15 **Q. Okay.**

16 **A.** I can contrast that with Alternative 3. Under this
17 alternative, you see that all of the lands within the
18 existing urban village boundary are proposed for various
19 lowrise multifamily zones, Lowrise 1 and Lowrise 2. And the
20 urban village boundary expansion is a different
21 configuration. It is larger, extending to the -- to the
22 east of 15th Avenue and for, you know, five blocks along the
23 65th Avenue right of way.

24 **Q. And the preferred?**

25 **A.** Preferred Alternative, again, looks similar to Alternative

1 stemming from the growth or development that could occur in
2 the future, you know, pursuant to those zoning changes.
3 But, you know, many areas that are rezoned, you know -- you
4 may not have -- or will have a dramatically different amount
5 of development over a 20-year period. Changing the zoning
6 doesn't mean that certain sites will redevelop. And so the
7 zoning change itself is not the impacts.

8 **Q. And what I'm -- I guess what I'm responding to is there was**
9 **some testimony that because of the changes -- the types of**
10 **changes that we're talking about here imply uses other than**
11 **the current use that, by definition, means that the people**
12 **that are there are gone and the home that is there is gone.**

13 **So I just wanted to make clear you're not changing**
14 **anything directly. Is that consistent with your**
15 **understanding?**

16 **A.** That's right.

17 **Q. So do you know exactly where actual projects will occur?**

18 **A.** No. There's -- we don't know the specific pattern or
19 locations of developments that would happen.

20 **Q. Okay. And do you know exactly what a specific project will**
21 **look like that could be built, pursuant to --**

22 **A.** No. And any development project, it could take on many
23 different forms, have different, you know, uses. There's a
24 range allowed by the code. It would be impossible to tell
25 what the exact design or configuration would be.

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1 alternative has a different proportion of the, you know,
 2 intensity of the zone changes.
 3 **Q. Okay.**
 4 A. And --
 5 **Q. How about in terms of -- focused again on the differences**
 6 **between the alternatives, how do they differ in terms of the**
 7 **distribution of the zoned land use? Can you turn to 3.129.**
 8 A. Yeah. Yes. .129?
 9 **Q. Yes.**
 10 A. Okay. So this is another way to look at it or evaluate it.
 11 This is showing you the proportions of zoned land that would
 12 be single family residential small lot, multifamily, or
 13 commercial mixed use -- there's not much industrial -- for
 14 each of the types of urban villages under each alternative.
 15 So let's look at, you know, the second set, the low
 16 displacement risk, high access to opportunity villages.
 17 This would be, you know, Roosevelt, Queen Anne, and so
 18 forth. You can see under Alternative 1, no action, that 46
 19 percent of the land is zoned single family.
 20 And, you know, under Alternative 2, then, there's no
 21 single family within this group of villages, that much of it
 22 is converted to residential small lot, 36 percent. The
 23 amount of multifamily zoning increases from 28 percent to 41
 24 percent.
 25 So, you know, under -- and that percentage breakout looks

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1 very different between Alternative 2 and Alternative 3.
 2 Under Alternative 3, 69 percent of the land would be
 3 multifamily.
 4 So this is telling you that between Alternative 2 and
 5 Alternative 3, the shift under Alternative 3 is to add much
 6 more multifamily land. The shift under Alternative 2 is to
 7 add a significant amount of residential small lot land and
 8 some multifamily land.
 9 **Q. Okay. So we talked about how the alternatives differ in**
 10 **terms of development capacity increases. Do they differ by**
 11 **height?**
 12 A. They do.
 13 **Q. Allowed height, I should say. Can you --**
 14 A. Yeah.
 15 **Q. Can you turn to Page 3.195.**
 16 A. This is in the aesthetics section. There's a citywide map
 17 for MHA height limit changes. So increased height limits,
 18 as I think we've heard, are going to have some aesthetic
 19 impacts. So you can look at this map and see it's showing
 20 you the degree of height limit changes in all areas in the
 21 study area. The darker shades are greater increases in
 22 heights. And there's a similar map. We're looking at
 23 Alternative 2. There's a similar map for Alternative 3.
 24 **Q. Okay.**
 25 A. And that pattern would look very different under Alternative

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1 3 of where the height is increasing.
 2 **Q. Can you turn to Page 3.205?**
 3 A. 205?
 4 **Q. Sorry. Just to compare --**
 5 A. Yeah.
 6 **Q. -- the Alternative 3 against the Preferred Alternative in**
 7 **terms of the allowed height --**
 8 A. Yeah.
 9 **Q. -- and the differences shown there.**
 10 A. Yeah. The locations of the darker shades of red and pink
 11 for greater height increases is -- you know, the
 12 distribution of those is -- you know, is different. The map
 13 on 205 has a much different pattern of greater height
 14 increases than the previous map we looked at.
 15 **Q. Okay. All right. So we're focusing a lot of time here on**
 16 **alternatives. I want to touch on some more details about**
 17 **those. You've talked about how these alternatives were**
 18 **formulated, allocation of development capacity increases.**
 19 **Is it correct to say there could be many other alternatives**
 20 **that could be constructed to locate different intensities of**
 21 **development capacity in different ways than what was**
 22 **analyzed in this EIS?**
 23 A. Yeah. There could be a massive number of combinations of
 24 the zone map changes that we looked at. We just browsed
 25 through a few maps. And there could be many other

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1 variations of those maps.
 2 **Q. Would you say in terms of the development capacity increases**
 3 **and the differences between them analyzed if the**
 4 **alternatives in the EIS are fairly representative of the**
 5 **types of increases that could reasonably occur in other**
 6 **alternatives that could have been evaluated in reallocated**
 7 **development capacity differently?**
 8 A. Yeah, I would. The different maps for Alternative 2 and 3
 9 represent something of bookends, where, you know, for most
 10 areas in the study area, one includes, you know, a
 11 relatively lower amount of zoning change or capacity
 12 increase, and one includes a relatively higher amount. And
 13 so there could be other map choices, you know, within the
 14 range that's shown between Alternative 2 and 3.
 15 **Q. Okay. There are approaches to development capacity**
 16 **increases that might be perceived as being dramatically**
 17 **different. For example, let's say, shifting to 12-, 14-, or**
 18 **20-story buildings or higher. Do you think it would have**
 19 **been reasonable to look at those approaches?**
 20 A. I don't. And the reason is because, as we talked about, the
 21 proposal generally followed the comprehensive plan urban
 22 village growth strategy. And it was, you know, based on a
 23 proposed concept for MHA that would implement, you know,
 24 modest, approximately one-story or so, zoning increases. A
 25 very dramatically different landscape of zoning changes,

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1 let's just say, you know, proposing, you know, high-rise
 2 buildings outside of an urban village, for example, or even
 3 proposing high-rise buildings within residential urban
 4 villages. That would be very different from the
 5 comprehensive plan growth strategy. And it would be, you
 6 know, very different from the fundamental proposal of MHA.
 7 And so, you know, those types of dramatically different
 8 patterns wouldn't -- would not be reasonable to evaluate.
 9 **Q. All right. And so even though you didn't evaluate the many
 10 other ways you could have allocated development capacity, do
 11 you believe that the alternatives that you evaluated in this
 12 EIS give decision-makers the information they need to
 13 understand the impacts of and make choices about those
 14 capacity increases?**
 15 A. I do. And I believe that the -- you know, the range of
 16 alternatives gives decision-makers, you know, information
 17 that they can use to make, you know, other combinations,
 18 other choices, you know, within the bounds of the impacts
 19 that are evaluated.
 20 **Q. Okay. Now, some have suggested alternatives where large
 21 portions of the study area don't get any development
 22 capacity increases. Why wasn't that type of alternative
 23 studied?**
 24 A. That would be, you know, a different proposal. The MHA
 25 proposal was to apply capacity increases and affordable

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1 housing requirements broadly to all commercial and
 2 multifamily zoned areas in urban villages. And to hold out
 3 or not apply MHA to, you know, large areas within villages
 4 or only in some sections of the city would be, you know, a
 5 different concept than the MHA proposal.
 6 **Q. Okay. And is that still reviewed -- that concept still
 7 reviewed in the no-action alternative?**
 8 A. Well, right. You know, no action would not implement MHA.
 9 And, you know, the decision-makers, you know, could decide,
 10 you know, not to implement zoning changes in certain areas.
 11 MR. KISIELIUS: Okay. I'm about to switch to another
 12 section, and I could get going on that in the six minutes we
 13 have left, but --
 14 HEARING EXAMINER: What is your estimated time in the
 15 sections we will be going through? Just kind of give us
 16 a --
 17 MR. KISIELIUS: So I'm --
 18 THE COURT: -- high-level outline of where you're going.
 19 MR. KISIELIUS: Where we're going, we're going to be
 20 talking about the components of the aesthetic impact
 21 analysis that the City prepared.
 22 HEARING EXAMINER: Okay. Aesthetics.
 23 MR. KISIELIUS: We'll talk a little bit about the
 24 present --
 25 HEARING EXAMINER: That will take?

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1 MR. KISIELIUS: So I could tell you overall, in terms of
 2 the number of questions, I'm over halfway --
 3 HEARING EXAMINER: Um-hmm.
 4 MR. KISIELIUS: -- by just number.
 5 HEARING EXAMINER: Um-hmm.
 6 MR. KISIELIUS: And I think in terms of the volume and
 7 pace, more than that.
 8 HEARING EXAMINER: Um-hmm.
 9 MR. KISIELIUS: I don't know that I've estimated how long
 10 each of these will take.
 11 HEARING EXAMINER: And that's fine. I won't ask you to do
 12 that.
 13 MR. KISIELIUS: We'll talk about comparisons to other
 14 EISs. We'll talk about comp plan consistency issues; some
 15 of the specifics about the zone changes that have been
 16 proposed, the text changes --
 17 HEARING EXAMINER: Um-hmm.
 18 MR. KISIELIUS: -- and some of the economic issues. And
 19 then I think we're --
 20 HEARING EXAMINER: Um-hmm.
 21 MR. KISIELIUS: And, sorry, some of the procedural, just
 22 working with consultants.
 23 THE COURT: Um-hmm. And you indicated how much time?
 24 MR. KISIELIUS: Let's see.
 25 HEARING EXAMINER: Now all we need to --

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1 MR. KISIELIUS: Probably -- certainly at least an hour.
 2 HEARING EXAMINER: Right
 3 MR. KISIELIUS: I don't think it would be more than two.
 4 HEARING EXAMINER: Um-hmm. Okay.
 5 MR. KISIELIUS: I'm guessing. Sorry.
 6 HEARING EXAMINER: Um-hmm. Do you think we could finish
 7 aesthetics in 30 minutes or less or before 12:30?
 8 MR. KISIELIUS: Yes. Yes.
 9 HEARING EXAMINER: Let's just go ahead. We can get --
 10 MR. KISIELIUS: Yes.
 11 HEARING EXAMINER: -- that section done, then,
 12 MR. KISIELIUS: Okay.
 13 **Q. (By Mr. Kisielius) The -- there's one mapping clarification
 14 I want to make before we get to aesthetics, and I think we
 15 can get to both of these. The appellants' witnesses have
 16 suggested that the EIS did not really explain the
 17 differences in the alternatives. And they were particularly
 18 suggesting that the magnitude of the development capacity
 19 increases should have been shown like a Seattle Times map.
 20 Did you review that Seattle Times map? It's Hearing
 21 Examiner Exhibit 69 for the record.**
 22 A. Yes, I did.
 23 **Q. And did the EIS provide a map like that?**
 24 A. Yes, it did. If you look at the Seattle Times map, it looks
 25 very similar to -- I'll just say it specifically. Exhibit

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1 3.3-27 --

2 **Q. Okay.**

3 A. -- which is one of the citywide maps of the M, M1, and M2

4 zoning changes. You know, if you hold those two maps up

5 side by side, they are --

6 HEARING EXAMINER: What is the page of that?

7 THE WITNESS: 3.204.

8 A. Let's see if I can call up the other one.

9 MS. NEWMAN: Do you know who introduced this map, the

10 Seattle one? I can look it up.

11 THE WITNESS: I don't. It's Exhibit 69, though.

12 MS. NEWMAN: Is this yours or mine?

13 MR. KISIELIUS: It's yours.

14 THE WITNESS: Wait a minute. Did you find it, Claudia?

15 MS. NEWMAN: Oh, I have it, yeah. Sorry. I thought you

16 were --

17 THE WITNESS: Oh.

18 MS. NEWMAN: I was just -- it's FNC, if anyone cares to

19 know.

20 THE WITNESS: And my understanding is that this is --

21 MS. NEWMAN: Are you asking me a question? I'm sorry.

22 THE WITNESS: No. I just -- I --

23 MS. NEWMAN: I thought I heard something.

24 THE WITNESS: No, no. Because I thought -- I thought you

25 were looking for it. I wanted to make sure you weren't --

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1 MS. NEWMAN: Oh, I have it.

2 THE WITNESS: Okay.

3 MS. NEWMAN: I'm all set. Thank you.

4 THE WITNESS: And I just want to confirm this has been

5 admitted.

6 HEARING EXAMINER: Yes, it has. Yes.

7 **Q. (By Mr. Kisielius) Great. So we've projected Exhibit 69 on**

8 **the screen here. And you're looking at, you said, Page**

9 **3.204, Exhibit 3.3-27.**

10 A. Yes.

11 **Q. And you were describing some similarities between these.**

12 A. Yeah. The maps are basically showing the same information

13 where there are, you know, greater and lesser zoning changes

14 proposed. They -- you know, they show essentially the same

15 information. I mean, one notable thing is that the Seattle

16 Times map shows the lesser increases in a darker tone, and

17 the City of Seattle map shows the lesser increases in a

18 lighter tone. They basically show the same information with

19 reversed legends.

20 **Q. Okay. I'm going to revisit Appendix H. You don't need to**

21 **go there. I'm just going to call up on the screen Exhibit**

22 **H-56, which is Page H-57 in the back.**

23 **Okay. So we were looking at these before and we were**

24 **getting into some detail. I noticed you were reading some**

25 **notation. And you had testified earlier about the color**

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1 **depicting -- that the proposal was changing something about**

2 **the underlying parcels. And in some of those instances**

3 **within the urban village, you could actually read a**

4 **notation. But I'm looking at -- here at H-56 there's some**

5 **properties where it doesn't have that notation.**

6 A. Um-hmm.

7 **Q. So I'd ask you to read the bottom sentence of that key.**

8 **It's out. We'll try to zoom it up so you can read off the**

9 **screen and you don't have to pull it up.**

10 A. Yeah. I don't have -- I can get it. Just a second here.

11 It says, Not all zoning changes are labeled. Refer to the

12 MHA interactive web map for detailed zoning labels.

13 **Q. So can you describe what that web map is?**

14 A. It's an online version of these same alternative maps that's

15 zoomable so a user can zoom into the area they're interested

16 in, even click on a specific parcel and bring up information

17 about what the proposal is.

18 **Q. Okay. I'm going to bring up that online web map version on**

19 **the screen here, and maybe we can give an example. Is this**

20 **the web map that you're referring to in that key?**

21 A. Yes.

22 **Q. And can you get there from links on the EIS web page?**

23 A. Yeah. And the link is also provided in the EIS.

24 **Q. Okay. So you had said earlier you can do property searches.**

25 **I guess I won't read into the record the specific street**

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1 **address we've kind of picked here from an urban village, but**

2 **I will just say it's on Rainier Avenue South, and entering**

3 **it into the search and clicking on "search."**

4 **Okay. So tell us what we're looking at here on the**

5 **specific property we've pulled up.**

6 A. So you can see the address. You can see that it says

7 zoning. It tells you what the current zone is, C-265, and

8 what the proposed zone is, NC-275, with an M designation.

9 And there's some other information that's provided,

10 including links back to the EIS where you can get more

11 information about what those designations are.

12 **Q. And does the notation remain the same? Does the coloring**

13 **represent a change that would occur due to MHA from a --**

14 A. Yeah.

15 **Q. -- (inaudible) standpoint?**

16 A. You can see that in the legend where, you know, there's a

17 legend for what the proposed zones are for a residential

18 small lot and so forth. And so for -- go ahead. Yeah.

19 **Q. I didn't want to cut you off, but you had said earlier you**

20 **can just click on a parcel. So if I change that -- right**

21 **now we're looking at the one that's in crosshatched and**

22 **orange. But if I were to click on this one --**

23 A. Yeah. That will bring up the summary information for that

24 specific parcel. So a property owner could type in their

25 address and this would come up.

1 **Q. Okay. And does it also give the tier performance and**
 2 **payment amount for each?**
 3 A. Yeah. It tells you what the M tier is and what the
 4 affordable housing requirement would be.
 5 **Q. So I'm going toggle back now to the maps in H. I provided**
 6 **the reference to this. Is it the case that in those**
 7 **instances in which you have parcels that don't show the**
 8 **specific detail with the notation change that if you went to**
 9 **those parcels on the web map, it would include that**
 10 **information?**
 11 A. Yes, correct.
 12 HEARING EXAMINER: Counsel, I just want to ask how we're
 13 proposing this to be reflected in the record. These could
 14 be just illustrative. We've got testimony.
 15 MR. KISIELIUS: I believe the purpose was to describe sort
 16 of the functionality of it that we got through the
 17 testimony.
 18 HEARING EXAMINER: Um-hmm.
 19 MR. KISIELIUS: The link and the access to that was we
 20 could provide the specific page from the section.
 21 MS. NEWMAN: I named it as an exhibit, this interactive
 22 map.
 23 HEARING EXAMINER: So it's already in the record?
 24 MS. NEWMAN: It's -- well, no, it's not technically in the
 25 record, but it's one of my exhibits that I named. And I was

1 planning on using it, too, so I don't...
 2 HEARING EXAMINER: So it's a single exhibit, the
 3 interactive map?
 4 MS. NEWMAN: Yeah. But it's hard -- there's no hard copy
 5 of it.
 6 HEARING EXAMINER: Right.
 7 MR. KISIELIUS: It'd be the equivalent of getting some
 8 sort of an app into the record.
 9 HEARING EXAMINER: Right. We need to learn to do that.
 10 MS. NEWMAN: I would -- I mean, we could just have it --
 11 HEARING EXAMINER: Catch up with the modern times.
 12 MS. NEWMAN: -- be illustrative and not submit it as an
 13 exhibit.
 14 MR. KISIELIUS: I think -- I think the testimony is -- and
 15 how it operates is sort of the important part for the City.
 16 I can't --
 17 HEARING EXAMINER: Yeah, I agree. I'm just thinking is
 18 there any merit or need to provide the -- a decision-maker
 19 the opportunity to go in and look at this?
 20 MR. KISIELIUS: A proposal -- and maybe we can think some
 21 more about this. But a proposal would be to have, if --
 22 enter as an exhibit just the actual -- the page address at
 23 least as a road map. That way they can get --
 24 HEARING EXAMINER: Right.
 25 MR. KISIELIUS: -- to where it is.

1 HEARING EXAMINER: And then that's the exhibit,
 2 essentially, and the parties understand what the parameters
 3 of that are and that it could be accessed by the
 4 decision-maker.
 5 MR. KISIELIUS: Yes.
 6 HEARING EXAMINER: Are there issues with that?
 7 MS. NEWMAN: No. It's -- there's a lot of information
 8 there.
 9 HEARING EXAMINER: I'm not sure I want to go look at it.
 10 MS. NEWMAN: But I --
 11 HEARING EXAMINER: It's part of --
 12 MS. NEWMAN: -- think -- I actually don't --
 13 HEARING EXAMINER: It is part of the actual record and --
 14 MS. NEWMAN: -- have a problem with that.
 15 HEARING EXAMINER: It's similar to the comments. I mean,
 16 if somebody wants to go find these comments --
 17 MS. NEWMAN: Right.
 18 HEARING EXAMINER: To me, that's a better way to address
 19 the comments, as well, so that all of those are in the
 20 record, instead of --
 21 MS. NEWMAN: And just say they're there. That's right.
 22 MS. BENDICH: Yeah.
 23 HEARING EXAMINER: -- you guys having to go through them
 24 all now.
 25 MS. NEWMAN: Which I probably wouldn't object to that, to

1 be honest.
 2 MS. BENDICH: No. I wouldn't object to that either. It's
 3 a big pain, otherwise.
 4 MS. NEWMAN: It's kind of an easy one than -- yeah.
 5 MR. THALER: It's almost like -- it's analogous to a field
 6 trip, in a way.
 7 HEARING EXAMINER: Right.
 8 MS. NEWMAN: So --
 9 HEARING EXAMINER: And that may be useful for enhancing my
 10 site visits, actually, so I actually could use it.
 11 MS. NEWMAN: Okay.
 12 HEARING EXAMINER: Any issues with those two items for the
 13 parties?
 14 MR. THALER: No. I think we can do this.
 15 HEARING EXAMINER: Essentially web --
 16 MS. BENDICH: Yeah.
 17 MR. KISIELIUS: Yeah.
 18 HEARING EXAMINER: -- address, whatever it is. Yeah. So
 19 we'll do two exhibits, one for the comments and one for the
 20 mapping.
 21 MS. BENDICH: The only -- with respect to the comments --
 22 HEARING EXAMINER: Um-hmm.
 23 MS. BENDICH: -- there are a few comments that were never
 24 put in properly. People had complained. And I have one of
 25 those that I will submit.

1 HEARING EXAMINER: Um-hmm.
 2 MS. BENDICH: So that's -- other than that, it's fine to
 3 have that website address. It would be great.
 4 HEARING EXAMINER: So -- all right. I'm not sure quite
 5 what to do with the comment that's not -- we've left the
 6 record open for the parties to identify comments that were
 7 part of it.
 8 MS. BENDICH: Well, there was an email subsequently that
 9 said they were putting into it the record, but not exactly
 10 in the same place. That was the problem. So I'm just
 11 not -- I'll need to double-check where it is.
 12 HEARING EXAMINER: Okay. We'll get to that when you come
 13 to that email. But, for right now, would one party take
 14 responsibility for providing two sheets of paper --
 15 MR. KISIELIUS: We can do that?
 16 HEARING EXAMINER: -- with the websites and we'll mark
 17 those whenever we get to that.
 18 MR. KISIELIUS: Okay.
 19 HEARING EXAMINER: Thank you.
 20 Sorry to interrupt.
 21 MR. KISIELIUS: No, no, no. That's helpful to me.
 22 **Q. (By Mr. Kisielius) Mr. Wentlandt, we're going to switch**
 23 **to --**
 24 MS. NEWMAN: Oh, did we just resolve that we're not going
 25 to be submitting identifying --

1 HEARING EXAMINER: Yes.
 2 MS. NEWMAN: -- comments next Thursday?
 3 HEARING EXAMINER: Yes.
 4 MS. NEWMAN: That deadline is off the table?
 5 HEARING EXAMINER: Yes.
 6 MS. NEWMAN: Okay.
 7 HEARING EXAMINER: You get your weekend back.
 8 MS. NEWMAN: Okay. Exactly. Okay.
 9 MS. BENDICH: Get our trees back, too.
 10 MS. NEWMAN: Yeah. Yeah.
 11 HEARING EXAMINER: The only thing I'll -- to finish on
 12 that, I would suggest on that is if you believe there are
 13 comment letters that you want a physical copy of in the
 14 record, I will allow that still.
 15 MS. NEWMAN: Okay.
 16 HEARING EXAMINER: The question being, for example, on
 17 appeal, how easy is it for a judge to access that --
 18 MS. BENDICH: Right.
 19 HEARING EXAMINER: -- and are they going to look at it or
 20 not. I will look at it, but you may want that as an
 21 opportunity to have a --
 22 MR. THALER: A specific (inaudible).
 23 HEARING EXAMINER: -- robust record, as it were, for
 24 access to those comment letters, and that's fine.
 25 MS. BENDICH: Okay. Thank you.

1 **Q. (By Mr. Kisielius) Okay. I'm going to change the subject**
 2 **just a little bit here in the time we have remaining before**
 3 **the lunch hour to talk a little bit about --**
 4 HEARING EXAMINER: And if you don't finish aesthetics
 5 before 12:30, it's all right.
 6 MR. KISIELIUS: Well, I think it's a pretty targeted --
 7 HEARING EXAMINER: Take your shot.
 8 MS. BENDICH: -- targeted discussion.
 9 **Q. (By Mr. Kisielius) And I'll preface this by saying that**
 10 **Mr. Gifford is going to be talking about his analysis in the**
 11 **aesthetics section.**
 12 A. Okay.
 13 **Q. I want to focus on something about the underlying images.**
 14 **So here we're talking about the images on Pages 3.178**
 15 **through 3.189. There's been a lot of testimony about this**
 16 **already. Are you there?**
 17 A. Yes.
 18 **Q. Okay. So here I'm talking about Exhibits 3.3-10 through**
 19 **3.3-22. Can you briefly describe the origin of those**
 20 **images? Did the City prepare them?**
 21 A. Yes. The City prepared these.
 22 **Q. Okay. And on what are they based?**
 23 A. So these images are based on the models that are included in
 24 Appendix F.
 25 **Q. Okay.**

1 A. And those models were prepared by ZGF Architects. They
 2 prepared those models for the urban design study. And
 3 they -- well, I'll pause there, I guess. Or I'll just say
 4 that those were, you know, dimensionally accurate models of
 5 the proposed development standards. You know, so with the
 6 specific setbacks, FRA ratios, and height limit, et cetera.
 7 **Q. Okay. And, here, if you don't mind turning to Appendix H,**
 8 **I'll try to limit the toggling back and forth. Excuse me.**
 9 **Appendix F that you were just referring to.**
 10 A. Yeah.
 11 **Q. I noticed Appendix F has got some -- about 11 or 12 pages of**
 12 **text, but then we're -- were you referring to the urban**
 13 **design and neighborhood character study?**
 14 A. Yes.
 15 **Q. Okay. And is there was some testimony from**
 16 **Ms. Tobin-Presser that she looked at the timing of this**
 17 **study, the urban design and neighborhood character study,**
 18 **and testified that it -- her words were, I think, does not**
 19 **show the Preferred Alternative because it predates the**
 20 **Preferred Alternative. Do you -- first of all, do you agree**
 21 **that it predates the formulation of the Preferred**
 22 **Alternatives?**
 23 A. I do agree.
 24 **Q. But do you agree it does not show the Preferred Alternative**
 25 **because it predates it?**

1 A. I do not agree. The models in here are of the set of
 2 development standards that are very close to the same as the
 3 standards under the Preferred Alternative. There are very
 4 few differences and they're -- they accurately depict
 5 development standards proposed under the Preferred
 6 Alternative.
 7 **Q. Okay. And so you have testified at length to the**
 8 **differences between the alternatives in terms of the**
 9 **allocation of development capacity.**
 10 A. Um-hmm.
 11 **Q. Do those changes that are depicted in the Preferred**
 12 **Alternative make a difference in terms of the building types**
 13 **that are shown in this document?**
 14 A. No. It would be the same building types.
 15 **Q. So let's turn to a couple examples here and maybe just**
 16 **going --**
 17 A. I just want to maybe just add, you know, one thing, you
 18 know, making the link here. These dimensionally accurate
 19 models prepared by ZGF were basically brought into a
 20 dimensionally accurate base -- representative base
 21 environment that you see in the exhibits under 3.3. So all
 22 of the setbacks, the space between the buildings, et cetera,
 23 is -- you know, is accurate to the -- to the foot.
 24 **Q. Okay. And that's helpful. I want to -- I want to come back**
 25 **to that. I just want to -- but I do want to start with**

1 maybe -- and maybe to draw the connection, if you go to --
 2 just, for example, Page 20 of that report in Appendix F,
 3 that's Lowrise 1 apartments, small site.
 4 A. I see that.
 5 **Q. I believe there was some criticism from Mr. Hill that**
 6 **this -- he was referring to this high angle that limits some**
 7 **of the perspective, in his opinion. First and foremost,**
 8 **does the document itself provide other views of these**
 9 **structures?**
 10 A. It does.
 11 **Q. Flip back maybe two pages to Page 18.**
 12 A. Page 18.
 13 HEARING EXAMINER: I'm sorry. Are you still on F?
 14 THE WITNESS: I am, yes.
 15 **Q. (By Mr. Kisielius) Do you see some of these other images**
 16 **there?**
 17 A. Yeah. These are -- on Page 18 are renderings of the
 18 different prototypes with scale elements included, including
 19 people and trees.
 20 **Q. Okay. And in light of your testimony about -- just a second**
 21 **ago about how these were incorporated and put then into the**
 22 **graphics that are shown in the EIS itself, did those**
 23 **exhibits in the EIS itself provide another street-level**
 24 **perspective of the same types of housing structures that**
 25 **Mr. Hill seemed to suggest were missing?**

1 A. They did. And I just want to make the point that the -- you
 2 know, the axonometric high angle images are serving one
 3 purpose, which is to show -- you see most of the lot. You
 4 can see, you know, a lot of the setbacks. You can see front
 5 yards and backyards. That's enabled by that, you know,
 6 higher angle view. And then the -- when those are brought
 7 into the context in the aesthetics chapter, you can see how
 8 that environment looks from street level at a -- you know,
 9 as you would see it on the sidewalk.
 10 **Q. Okay. There's been some criticism that we've heard from**
 11 **testimony that the City used drawings or generic depictions**
 12 **rather than photographs of specific locations. Can you**
 13 **please explain why the generic locations were selected as**
 14 **compared to specific photographs?**
 15 A. They're selected to represent a -- you know, a broadly
 16 representative condition that could apply to many locations,
 17 not all locations. It would be impossible to capture every
 18 specific nuance, site nuance, topographical condition,
 19 et cetera, in a -- in a set of aesthetic images. The text
 20 describes how site-specific factors could, you know, vary
 21 or, you know, augment impacts from the kind of
 22 representative condition. But it wouldn't be possible to,
 23 you know, do a rendering for each specific location. And it
 24 would also not be possible to know that development would
 25 happen, you know, in an area with some specific condition,

1 MR. KISIELIUS: Okay. I got done with the aesthetic
 2 section sooner than I thought.
 3 HEARING EXAMINER: Nicely done.
 4 MR. KISIELIUS: So I can proceed or we can --
 5 HEARING EXAMINER: Let's just go to 12:30.
 6 **Q. (By Mr. Kisielius) Okay. Change the subject again.**
 7 **We've heard some testimony about comparisons to other EISs**
 8 **that evaluated MHA in specific neighborhoods, suggesting**
 9 **that the City should have taken a similar approach for the**
 10 **remaining parts of the city, rather than the citywide**
 11 **approaches reflected here.**
 12 A. Um-hmm.
 13 **Q. Are you familiar with that testimony?**
 14 A. I am.
 15 **Q. And are you familiar with the EISs that people have used as**
 16 **an example?**
 17 A. Yes.
 18 **Q. How are you familiar with them?**
 19 A. They were prepared by our department, the Office of Planning
 20 and Community Development. I contributed or reviewed
 21 subsections of both of those examples, which were the Uptown
 22 and U-district EISs.
 23 **Q. Okay. Can you step back and give us some context about each**
 24 **of those neighbors' specific EISs? For what purposes did**
 25 **the City start the Uptown EIS?**

1 A. It was a -- for the purpose of a -- you know, a major
2 reenvisioning of the future of the neighborhood. In that
3 case, you know, South Lake Union has changed dramatically.
4 It had an EIS and major rezone in the last decade. And
5 there was an interest in, you know, re-evaluating the plan,
6 essentially, for the adjacent uptown neighborhood. There
7 were major, you know, changes to the character of that
8 section of the city.

9 Also, the community group in that area, you know, really
10 wanted to prepare a new plan. And that was a several-year
11 planning process.

12 **Q. Okay. And what about U-district?**

13 A. U-district was also a major reenvisioning of the future of
14 that neighborhood. That was largely in response to a new
15 light rail station that would be opening in the center of
16 the neighborhood. It looked at a completely different urban
17 form, including towers, that had never been -- well, except
18 for one, you know, in that part of the city.

19 **Q. Okay. And at what part of the process for each of these did
20 the City decide to incorporate implementation of MHA into
21 those proposals?**

22 A. Both of those proposals started long before MHA was
23 proposed. And the City integrated MHA into both those
24 proposals late in the process.

25 **Q. Okay. So just to be clear, the City -- did the City start**

1 MR. KISIELIUS: Okay.

2 MS. NEWMAN: -- give you a heads up.

3 MR. KISIELIUS: That was -- I wasn't -- I was just stating
4 my characterization of the testimony --

5 MS. NEWMAN: Okay.

6 MR. KISIELIUS: -- and to the extent that you disagree,
7 you're welcome to sort of ask him.

8 MS. NEWMAN: Okay.

9 **Q. (By Mr. Kisielius) So there's been some testimony that the
10 City's neighborhood planning framework means the City should
11 conduct neighborhood-specific EISs for MHA. Do you agree
12 with that?**

13 A. No.

14 MS. BENDICH: I object to the characterization of that,
15 actually. I don't think they were was suggesting that just
16 because it's in the comprehensive plan that's why we were
17 doing it. They were doing it because the inadequacy or
18 failure to do that.

19 MR. KISIELIUS: I can rephrase to avoid the objection.

20 HEARING EXAMINER: Okay.

21 **Q. (By Mr. Kisielius) Do you think that the City's
22 neighborhood planning framework means that the City must
23 conduct neighborhood-specific EISs for MHA?**

24 A. No.

25 **Q. I'm going to switch subjects here and talk about comp plan**

1 **those processes with the express purpose of implementing
2 MHA?**

3 A. No. They were started for completely different purposes.

4 **Q. So given your involvement in those EISs and your testimony
5 now, do you think it's correct to infer that the City prefer
6 those EISs -- pursue those EISs because the lead agency
7 concluded that a neighborhood's specific EIS was needed or
8 required to address implementation of MHA?**

9 A. No. Those EISs do not at all suggest that the City would be
10 required to prepare a neighborhood-specific EIS to implement
11 MHA.

12 **Q. Okay. And I think more generally on that topic, there's
13 been the suggestion in these proceedings that the City's
14 neighborhood planning framework means that the City must
15 conduct neighborhood-specific EIS to MHA.**

16 MS. NEWMAN: Can I -- I'm feeling like there's a lot of
17 leading questions happening here. Can you veer away from
18 that? I'm hearing you testify a lot more than him.

19 MR. KISIELIUS: I'm simply just trying to restate --

20 MS. NEWMAN: Okay.

21 MR. KISIELIUS: -- some testimony and asking him if he
22 agrees with that. And so I guess to the degree that you
23 think that --

24 MS. NEWMAN: I'll object. I'll keep an ear out. But I
25 just wanted to --

1 consistency, and I want to ask some questions in response to
2 a specific topic of Mr. Steinbrueck's testimony. Were you
3 here for that?

4 A. Yes.

5 **Q. I think, again, just to set the stage here, Mr. Gifford is
6 going to talk about many of the topics that Mr. Steinbrueck
7 addressed, but I want to focus you on one specific line of
8 testimony related to the City's evaluation of the proposal's
9 consistency with the comp plan.**

10 A. Okay.

11 **Q. So how would you -- how would you generally characterize
12 Mr. Steinbrueck's testimony on that specific topic?**

13 A. I think Mr. Steinbrueck stated that the City did not
14 evaluate consistency with the comprehensive plan. I think
15 he also purported that the proposal was consistent with --
16 or inconsistent with the comprehensive plan.

17 **Q. So let's start with maybe the process question of whether
18 you did. As an employee of the City responsible for
19 managing the environmental review of this proposal and other
20 environmental reviews and based on your knowledge and
21 experience with SEPA, what's your understanding of the
22 extent to which the City, as a lead agency, has to address a
23 proposal's consistency with the comprehensive plan?**

24 A. Well, I think the SEPA regulations say that in the
25 description of the proposal, the City should provide a

1 summary of plans, including the comprehensive plan and land
2 use regulations and a description of the extent that they're
3 consistent or inconsistent.

4 **Q. Okay.**

5 A. I think it also says that in the evaluation of alternatives
6 that the City shall -- or the lead agency shall provide a
7 generalized or a general discussion of the consistency of
8 policy changes with the comprehensive plan and --

9 **Q. And, in your practice, how -- what is the City's standard
10 practice for addressing those requirements?**

11 A. The last part is that I think it says that the City is
12 not -- or the lead agency is not required to analyze every
13 possible policy change. And the standard -- the standard
14 practice is -- to do that is to provide a summary of the
15 comprehensive plan and a summary discussion of how the
16 proposal is consistent or not with it in the description of
17 the description of the action. The City commonly lists the
18 most relevant or a selection of the most relevant goals and
19 policies in that section.

20 **Q. Okay. Does the City typically compile exhaustive lists of
21 comprehensive plan policies and describe for each whether
22 they're consistent or inconsistent?**

23 A. No. The City, in past actions -- you know, the EISs does
24 not -- has not compiled an exhaustive list of policies.

25 **Q. And you just testified about sort of picking some**

1 A. Yeah.

2 **Q. Putting that aside, are there other ways that the City
3 strives to address the regulatory requirements that you've
4 just testified about? Other ways to address the consistency
5 or inconsistency with the comprehensive plan?**

6 A. Yes. There are a number of ways, aside from, you know,
7 listing many policy statements and evaluate for consistency,
8 and those include quantitative measures.

9 So in this EIS, for example, you know, there are a number
10 of quantitative ways that the EIS presenting information, in
11 direct comparison with the Seattle 2035 Comprehensive Plan.
12 You know, a key -- a key way is just the overall structure
13 and approach to this EIS, which is we had a recently
14 completed major update to the Seattle 2035 plan that was
15 adopted in 2016. And the structure of this EIS essentially
16 takes that as the no-action alternative and then uses the
17 same planning horizon for the action alternatives so that
18 you can pinpoint the differences in the -- you know, the
19 amount in distribution of growth compared to the amount in
20 distribution of growth, you know, as was evaluated in the
21 fresh 2035 plan and EIS. So direct apples-to-apples
22 comparison there that's quantitative and, you know, is
23 probably much more informative than listing of a policy
24 statement.

25 That quantitative approach -- it carries through in other

1 **representative ones. Are there other ways that the City
2 generally addresses these?**

3 MS. NEWMAN: Objection. That mischaracterizes his
4 testimony. That is not what he said.

5 MR. KISIELIUS: I guess we don't have a court reporter,
6 but I thought I heard him say it.

7 MS. NEWMAN: I am the court reporter. I can -- if we
8 rewind it and --

9 HEARING EXAMINER: Well, we can't do that quickly or
10 easily -- efficiently. We could do it, but --

11 MS. NEWMAN: I can suggest he said that the City commonly
12 lists the most relevant or a selection of the most relevant
13 goals and policies in that section. And you characterized
14 it as a few representative policies, which is very
15 different.

16 MR. KISIELIUS: So I'm sorry. Could you read the exact
17 words?

18 MS. NEWMAN: Commonly lists the most relevant or a
19 selection of the most relevant goals and policies in that
20 section.

21 **Q. (By Mr. Kisielius) So is that a consistent statement of
22 your testimony?**

23 A. Yes.

24 **Q. Okay. So that approach -- you've talked about that
25 approach?**

1 impact evaluations as well. So the extent that there are
2 level-of-service standards that are established in the
3 comprehensive plan or other plans that nest within the
4 comprehensive plan, those are evaluated quantitatively in
5 this EIS; for example, a parks and open space
6 level-of-service standard, the transportation
7 level-of-service standard. So those are, you know,
8 quantitative ways that, you know, are different from listing
9 policies. They're evaluated.

10 The other way that's important is, you know, aside from
11 listing policy statements, there's generalized discussion
12 consistent with the -- you know, what it says in SEPA about
13 the extent the preparers of the EIS believe that the
14 proposal is consistent with the -- with the growth plan.

15 You know, in this case, you know, without pointing to
16 text, there are, you know, a number of locations where the
17 EIS describes how the overall pattern of growth is following
18 the City's comprehensive plan growth strategy that centered
19 around urban villages.

20 Mr. Steinbrueck himself said that urban villages are the
21 underpinning of the City's comprehensive plan growth
22 strategy, and this EIS focuses on the urban villages as
23 the -- you know, the center of the analysis and how growth
24 and change is occurring in each village. You know, the
25 structure of the maps focuses on urban villages. And there

1 are, you know, general text statements about how the, you
2 know, proposal is generally consistent with the
3 comprehensive plan's overall vision for growth.

4 Q. Okay. So in --

5 HEARING EXAMINER: And we'll break there and come back at
6 1:45.

7 MR. KISIELIUS: Can I just to -- can I ask one more
8 question and that way we'll come back here --

9 HEARING EXAMINER: Okay.

10 MR. KISIELIUS: -- refreshed.

11 Q. (By Mr. Kisielius) Just, is the City's approach on this
12 topic in the MHA EIS consistent with the approach that you
13 just described generally as the City's approach?

14 A. Yes.

15 MR. KISIELIUS: Thank you.

16 HEARING EXAMINER: Thank you. 1:45.

17 MS. BENDICH: Can I have one favor, Your Honor? I know
18 you want to close the doors -- close the doors right now, so
19 I wanted to look at a couple of exhibits and things before
20 just to prepare for cross-examination, and I won't have
21 enough time. There's only 15 minutes before we open up.

22 HEARING EXAMINER: So --

23 MS. NEWMAN: This is a --

24 MR. THALER: Yes, I second that. I'd like to have access
25 to a space to work.

1 DIRECT EXAMINATION (Resumed)

2 BY MR. KISIELIUS:

3 Q. Mr. Wentlandt, we were just talking about comp plan
4 consistency issues, and I want to ask you to take a look at
5 Hearing Examiner Exhibits 7 and 8. I'm going to hand you a
6 copy of those.

7 So were you present when Mr. Steinbrueck testified about
8 these documents?

9 A. Yes.

10 Q. And what's your understanding of what these lists represent
11 to Mr. Steinbrueck?

12 A. Well, Exhibit 7 are comprehensive plan goals and policies
13 that he says are not listed, analyzed, or discussed in the
14 whole EIS. And Exhibit 8 are a list of policies he believes
15 are -- that the proposal is inconsistent with the
16 comprehensive plan.

17 Q. Okay. So maybe let's focus on 8. Have you reviewed those
18 policies?

19 A. I have.

20 Q. And do you agree with Mr. Steinbrueck that the proposal is
21 inconsistent with all of these policies?

22 A. I don't. I looked at this and, in my review, I basically
23 felt that there are kind of three categories here. The
24 first is that about a dozen of these policies, I believe,
25 actually would support or do support the proposed action or

1 HEARING EXAMINER: Typically I don't do that. I know that
2 when I was a practitioner here that had not been the
3 practice of this office. The problem is, I like to leave my
4 notes here. Opposing counsel like to leave their notes
5 here.

6 MS. BENDICH: I know. We've had --

7 HEARING EXAMINER: This is not a workroom. It's a hearing
8 room. Is there something from the actual record that's
9 sitting behind me that you don't have that you need access
10 to?

11 MS. BENDICH: No. It's actually stuff on the table,
12 some -- well, they're the same exhibits that are on the
13 table.

14 HEARING EXAMINER: There may be some empty meetings rooms
15 or something like that, but I can -- I can't --

16 MS. BENDICH: Okay. All right.

17 HEARING EXAMINER: -- just leave this as a workroom.
18 Thank you.

19 MR. KISIELIUS: Thank you.

20 (Lunch recess)

21 HEARING EXAMINER: And we continue with direct with
22 Mr. Wentlandt.

23 ///

24 ///

25 ///

1 consist -- you know, support the proposed action.

2 Most of the policies, something around 60 of the ones that
3 are listed in 8, are not inconsistent and really aren't
4 directly related and are not harmed by the proposal. And
5 then there are seven that are identified here in Exhibit 8
6 that the City has identified as needing amendment or is
7 proposed for amendment.

8 Q. Okay. Could you maybe -- I don't want to walk through every
9 single policy that was there.

10 A. Um-hmm.

11 Q. Could you give us an example of -- I think you had three
12 buckets or three categories there. Could you give us an
13 example of each?

14 A. Sure. I'm going to -- I'll start with -- just looking at
15 the first page here. Let's look at LU 7.2 -- I think is a
16 good example of a policy that supports the proposed action
17 strongly. The policy says, User range of single-family
18 zones. And then it has a couple -- you know, several
19 bullets. A couple of the bullets are -- allow different
20 densities that reflect historical development patterns and
21 respond to neighborhood plans calling for development or
22 infill development that maintains single-family character
23 but also allows for a greater range of housing types.

24 And the proposal does just that, and the -- you know,
25 really, the key way that it does that is by dramatically

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1 expanding the use of the residential small lot zone, which
 2 is technically, as proposed, a single-family zone. It has
 3 the, you know, same scale and proportions as other
 4 single-family zones, but would allow more housing units --
 5 more variety of housing types. Those are, you know,
 6 described in the EIS.

7 But, you know, to put a finer point on it, a lot of those
 8 housing types would be much more consistent than the
 9 historical development patterns in some of the older
 10 neighborhoods like Wallingford, Green Lake, that have
 11 small -- you know, very small lots, smaller than 5,000
 12 square feet. And, you know, this basic concept of
 13 diversifying the housing stock within single-family zones in
 14 urban villages is kind of a key component of the proposal
 15 that's strongly supported by this policy.

16 **Q. Okay. So that was an example of one that you've categorized**
 17 **in that first bucket, strongly supports. So let's maybe**
 18 **move onto the second bucket, which I think you said was --**

19 A. Yeah. Let's look at --

20 **Q. Let's make sure.**

21 A. Okay.

22 **Q. I don't want to put words in your mouth. So how did you**
 23 **characterize the second bucket?**

24 A. I characterized the second bucket as policies that aren't
 25 harmed at all by the proposal; that they're not really

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1 directly relevant; or that the proposal, you know, could be
 2 implemented while the policy, you know, still informs other
 3 actions or can be carried forward.

4 And so let's look at -- on the -- also on the first page,
 5 NR-P35, Seek to preserve environmentally sensitive
 6 hillsides, particularly those in the Cheasty greenbelt and
 7 seek to protect them from further residential development.

8 Well, you know, there's nothing in the proposal that would
 9 call for parks to divest of lands in the greenbelt or to
 10 alter the environmental protections for sensitive hillsides.
 11 So, you know, this is an example of a policy that's not
 12 really harmed at all by the proposal.

13 **Q. Okay. And that third category there you said there were**
 14 **examples of ones that were identified as needing amendment.**

15 A. Yeah. No. There's one of those on the first page as well.
 16 Let's look at NR-P9. And that policy says, Seek to maintain
 17 single-family zoned areas within the urban village. I'll
 18 just stop there. And this is in the category of the
 19 neighborhood plan policies that the City identifies as being
 20 proposed for amendment in the EIS to remove the
 21 inconsistency that's created when a -- you know, when the
 22 policy is explicitly calling for the maintenance of
 23 single-family zoned areas within an urban village. You
 24 know, the EIS and other documents disclose that to implement
 25 the MHA proposal there would, you know -- there would be

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1 rezones of single-family lands within urban villages. And
 2 this policy would explicitly conflict with that. And, you
 3 know, the City would propose to, you know, amend, to keep
 4 the intent of the policy, but remove the explicit
 5 inconsistency.

6 **Q. Okay. And you engaged in that effort. You reviewed them.**
 7 **I want to go back to a more general question which is: Do**
 8 **you agree that an EIS under SEPA for a nonproject action is**
 9 **required to review comprehensive plan policies to this level**
 10 **of detail?**

11 A. No, I don't.

12 **Q. Okay. So on a related note, there's been some testimony**
 13 **about the extent to which the City has described the**
 14 **anticipated changes to comprehensive plan policies. Are you**
 15 **familiar with that testimony?**

16 A. Yeah, I believe I am.

17 **Q. Can you generally describe the level of detail that the City**
 18 **prepared for anticipated changes to the comp plan and zoning**
 19 **code? And if you -- I'd invite you to refer to Appendix F,**
 20 **if that will help.**

21 A. Okay. Oh, Appendix F?

22 **Q. Yes.**

23 A. Yeah. There -- well, I -- yeah.

24 **Q. Or you can start in Chapter 2. It's --**

25 A. I'll just say that, you know, to start with, at the very

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1 beginning of Chapter 2, you know, the introduction and the
 2 proposed action overview, there are a series of bullet
 3 points. I'm at Page 2.2. And I'll just read that -- the
 4 two. You know, so right at the outset it says that, Expand
 5 the boundaries of certain urban villages on the
 6 comprehensive plan's future land use map. Right up front
 7 saying that the future land use map would be amended.

8 And the bullet after that is, Modify certain rezone
 9 criteria in the land use code and policies in the
 10 neighborhood plan section of the comprehensive plan
 11 concerning single-family zoning in urban villages.

12 So right at the outset it identifies the two amendments
 13 that are proposed to the comprehensive plan or its policies.

14 **Q. Okay.**

15 A. And there are many other places. I'm flipping through
 16 Appendix F now. And what I would note here about Appendix F
 17 is that it's identifying in a great deal of detail and
 18 specifics the specific amendments to the land use code that
 19 would occur under the action alternatives. Those are in the
 20 tables beginning at Exhibit F-1. Following the tables, it
 21 identifies in specificity the changes that are proposed for
 22 the rezoned criteria.

23 **Q. And I want to table that one and come back to that one --**

24 A. Okay.

25 **Q. -- for more discussion, but keep going.**

1 A. And at the -- there's a section on Page F-11 of Appendix F
 2 that's titled "Amendments to Policies in Neighborhood Plan
 3 Element of the Comprehensive Plan." And the paragraph says
 4 that several policies in individual urban villages contained
 5 in the neighborhood plan policy section of the comprehensive
 6 plan may conflict with elements of the proposed action
 7 concerning changes to single-family zones within urban
 8 villages. Amendments to these policies are docketed and the
 9 policies would be modified to remove potential
 10 inconsistencies. The potential impacts of these policy
 11 amendments is considered in the EIS.

12 And, you know, to elaborate on that for just a minute,
 13 what I would emphasize is that the statement is specific to
 14 neighborhood plan policies concerning changes to
 15 single-family zones within urban villages. And that's the
 16 extent of the neighborhood plan policy changes that are
 17 proposed, only those that explicitly conflict with the idea
 18 of adding more housing options and changing zoning to
 19 single-family lands within urban villages.

20 **Q. So what does it mean --**
 21 HEARING EXAMINER: Would you give me that page number
 22 again?

23 THE WITNESS: F-11. It's Bates stamped 002064.

24 **Q. (By Mr. Kisielius) What does it mean -- you had**
 25 **mentioned -- you had read there that it said amendments to**

1 MS. NEWMAN: Oh, Christy. Okay.

2 **Q. (By Mr. Kisielius) So at Page 1 of the actual resolution,**
 3 **which is Bates stamped 004936, it says -- Section 1,**
 4 **comprehensive plan docket of amendments to be considered in**
 5 **2018 describes the following amendments proposed by --**

6 MS. NEWMAN: Can I --

7 **Q. (By Mr. Kisielius) -- individuals or organizations that**
 8 **should be reviewed.**

9 MS. NEWMAN: Can I get this exhibit up? I don't have it
 10 in front of me. Can I just --

11 MR. KISELIUS: Just --

12 MS. NEWMAN: Yeah. Okay. Okay. Thanks.

13 **Q. (By Mr. Kisielius) And under that Section 1, there are, you**
 14 **know, several policies that are proposed by organizations.**
 15 **Section 2 of the resolution is titled, "The Mandatory**
 16 **Housing Affordability Amendments," where the Council is**
 17 **requesting that the executive provide recommendations for**
 18 **potential amendments to the comprehensive plan policies and**
 19 **maps to facilitate the implementation of the mandatory**
 20 **housing affordability citywide. Can you -- does that**
 21 **section reference an attached memorandum as providing**
 22 **further description --**

23 A. It does.

24 **Q. -- of the potential amendments?**

25 A. It does. Immediately following the resolution at Bates

1 **these policies are docketed. What does that mean?**

2 A. Well, the comprehensive plan can only be amended once per
 3 year, and the Council establishes a docket for the
 4 amendments that it will consider in that annual update or
 5 annual amendment cycle. But it's referred to as the docket.

6 **Q. I want to refer you to an exhibit. And I think it's already**
 7 **been admitted, and that's -- Mr. Weber is helping me find**
 8 **the hearing examiner reference. But for your purposes,**
 9 **it's --**

10 MR. WEBER: Hearing Examiner 244.

11 **Q. (By Mr. Kisielius) -- Exhibit 244.**
 12 **And I'm going to ask you to take a look at Exhibit Tab 30.**
 13 **I'll have that for you shortly. So are you familiar with**
 14 **that document?**

15 A. Yes.

16 **Q. And is this documentation of the policies that will be**
 17 **amended?**

18 A. Yes.

19 **Q. Can you tell us where?**

20 MS. NEWMAN: Which document is this?

21 MR. KISELIUS: This is Exhibit 244.

22 MS. NEWMAN: Of the City?

23 MR. KISELIUS: Which is City Exhibit 30. This is one --

24 MS. NEWMAN: Oh, it's already been introduced.

25 MR. KISELIUS: Yeah. Yeah. This one Christy --

1 stamp 004942, there's an memorandum from the director of the
 2 Office of Planning and Community Development to the City
 3 Council's PLUZ committee regarding comprehensive plan
 4 amendments related to implementation of MHA. And it
 5 describes that this memo is providing additional information
 6 to decision-makers and the public about comprehensive plan
 7 amendments being proposed. And I would just -- there's some
 8 context.

9 **Q. I'll ask you to turn, though, to Page 4 of that attached**
 10 **memo, which is Bates stamp 004945.**

11 A. Yeah. And here there's two -- there's two sections on that
 12 page.

13 **Q. Focus on the second one there.**

14 A. Okay. Make amendments to specific neighborhood plan
 15 policies. And the second -- the start of the second
 16 paragraph is -- I'll just direct attention to that.
 17 Amendments would remove explicit references to preservation
 18 of zoning. And this is referring to single-family zoning in
 19 urban villages in favor of statements to preserve physical
 20 scale or character, where appropriate.

21 **Q. And can you read the last sentence of that paragraph?**

22 A. The following neighborhood plan policies would be amended.

23 **Q. And can you turn to the next page?**

24 A. Yeah. And then are a list of the specific neighborhood plan
 25 policies that are proposed for amendment.

1 Q. Okay. So going back to the resolution, then, Section 2, I
 2 believe you were referring to on Page 2 of the resolution,
 3 Bates stamp 4937 --
 4 A. Um-hmm.
 5 Q. -- where the -- that paragraph reads, The potential
 6 amendments -- I'm reading Line 16. The potential amendments
 7 are further described in the memorandum dated July 10th,
 8 2017. Included as Attachment -- I'm skipping some.
 9 Included as Attachment 8 of this resolution -- were the
 10 amendments that you just described, those that are
 11 referenced here in this paragraph?
 12 A. Correct.
 13 Q. Okay. And so, again, is this documentation of the policies
 14 that will be amended?
 15 A. Yes. It --
 16 Q. Okay.
 17 A. It -- yes.
 18 Q. So --
 19 MS. BENDICH: Objection as to his saying they will be
 20 amended. This is up to the City Council. These are being
 21 proposed for amendment; is that correct?
 22 Q. (By Mr. Kisielius) Are these the -- I'll rephrase the
 23 question. Are these the policies that will be amended if
 24 MHA is implemented?
 25 A. Yes, absolutely. And the City Council, of course, makes the

1 final decision.
 2 Q. Okay. So Ms. Tobin-Presser talked about this a bit. She
 3 also introduced or talked about, what I'm going to refer to
 4 as, meeting-in-a-box --
 5 A. Um-hmm.
 6 Q. -- materials. Those are -- I believe they are Exhibit 49 --
 7 Examiner Exhibit 49. And I think multiple parties have -- I
 8 think Ms. Tobin-Presser entered it from a different one.
 9 MR. KISIELIUS: I know the City reference, if you need to
 10 find it, Claudia. It's --
 11 MS. NEWMAN: No. I have it.
 12 MR. KISIELIUS: Okay.
 13 MS. NEWMAN: Thanks. I mean, I don't have it up, but I --
 14 MR. KISIELIUS: Okay.
 15 MS. NEWMAN: -- can get it.
 16 MR. KISIELIUS: And bear with me. I apologize.
 17 Q. (By Mr. Kisielius) Okay. So you're familiar with that
 18 document?
 19 A. Yes.
 20 Q. And do the policies that are depicted here or shown here
 21 match that list of policies that we were just talking about?
 22 A. Yes.
 23 Q. And Ms. Tobin-Presser talked about the various formulations.
 24 There's a couple options for each: A, B, C, and D. Ms.
 25 Tobin-Presser focused on those options for West Seattle

1 Junction. So I'm going to ask you to turn to that. Are you
 2 there?
 3 A. Yes.
 4 Q. Sorry. It's on Page 007664.
 5 Okay. So her testimony was that only Option B was
 6 consistent with MHA and that the A and C reflected some
 7 version of a deviation from MHA. Do you agree with that?
 8 A. No, I don't. All four of the new policy options, as they're
 9 titled, you know, would remove the inconsistency in
 10 different ways. And so all four would be consistent with
 11 the MHA proposal.
 12 Q. And is that true of all the different policy proposals
 13 reflected in this document?
 14 A. Yes.
 15 Q. Okay. Let's go back to the general discussion of the extent
 16 to which the level of detail with which the amendments were
 17 provided for the neighborhood plan policies. In your
 18 experience, is the level of detail provided consistent with
 19 the City's past practice?
 20 A. Yeah. It's consistent with the City's past practice not to
 21 include, you know, specific line-in and line-out mandatory
 22 language of comprehensive plan policies in an area-wide
 23 rezone or nonproject EIS that would result -- sorry -- in a
 24 nonproject EIS that would result in an area-wide rezone.
 25 Q. Okay. And, in your opinion, did you have sufficient

1 information to conduct SEPA review of the proposal, even if
 2 you didn't have that line-in, line-out analysis of every
 3 single policy change?
 4 A. Yeah. Absolutely. In particular, because the EIS provides,
 5 you know, a much deep -- it provides complete detail and
 6 full information about what the effect of those exact policy
 7 changes would be, you know, with the changes to the maps;
 8 you know, implementing the zone changes. And so the
 9 decision-maker has, you know, full information on what the
 10 impact of the proposal is without having, you know, specific
 11 mandatory language for these neighborhood plan policy
 12 amendments.
 13 Q. Okay. I am done with that specific binder, so you can put
 14 it down, but probably keep it close by.
 15 A. Okay.
 16 Q. I do want to go back to Appendix F, though, if you have that
 17 open. And you described, among the changes that are listed,
 18 there was discussion of changes to the rezone criteria. I
 19 told you I'd want to come back to it, so if you could turn
 20 to Page F-6, please. I'd like to direct your attention to
 21 the specific changes proposed to the rezone criteria for the
 22 three single-family zones identified in 23.34.010 on that
 23 page.
 24 A. Um-hmm.
 25 Q. There's been a lot of testimony about this. Just for

1 villages. They'd only exist outside of the urban villages.
 2 **Q. Okay. I'm going to switch subjects again on you.**
 3 **I want to talk about a different allegation about adequacy**
 4 **of the environmental review of impacts to small businesses.**
 5 A. Um-hmm.
 6 **Q. Were you present for testimony in which people addressed**
 7 **that topic?**
 8 A. Yeah. I think I remember Mr. Koehler addressing it.
 9 **Q. And how would you characterize that testimony?**
 10 A. I think he generally testified that the EIS doesn't consider
 11 impacts to businesses at all, and he relayed that to his
 12 neighborhood.
 13 **Q. So do you agree?**
 14 A. I don't agree.
 15 **Q. Where in the EIS did the City address potential impacts to**
 16 **businesses? And I'm going to ask you to maybe direct you --**
 17 **can you tell us whether there is language on 3.77 that might**
 18 **address that topic?**
 19 MS. NEWMAN: 3.77?
 20 MR. KISIELIUS: Sorry. Yes. 3.77.
 21 A. So on this page, under the header "Cultural Displacement,"
 22 there is a discussion of impacts to businesses.
 23 **Q. And does this section continue onto the next page?**
 24 A. Yeah. Yeah. On this page there's, New development may have
 25 direct impacts on existing cultural institutions and

1 **Q. So, in light of that, is the level of discussion in this EIS**
 2 **about those types of impacts consistent with what you**
 3 **typically see in a nonproject EIS?**
 4 A. I think it's probably more than what you'd see in a -- in a
 5 typical nonproject EIS because we really -- well, in this
 6 EIS, you know, it looks very closely at cultural
 7 displacement and loss of business is an important component
 8 of that.
 9 **Q. Is that why you did that level of effort here?**
 10 A. That's right.
 11 **Q. Okay. I'm going to continue to change subjects on you. The**
 12 **last topics here are a little bit scattershot. I want to**
 13 **talk about rental versus ownership. And are you familiar**
 14 **with the testimony from appellant witnesses that the EIS did**
 15 **not give sufficient attention to ownership housing?**
 16 A. Yes.
 17 **Q. And, in particular, do you recall the testimony of Mr. Reid?**
 18 A. I do.
 19 **Q. Okay. Can you -- how would you characterize his?**
 20 A. Well, related to ownership housing, I believe Mr. Reid
 21 testified that the City didn't look in this EIS at all or
 22 enough at ownership housing stock --
 23 **Q. And were you familiar --**
 24 A. -- just generally.
 25 **Q. Do you recall his testimony about the transition from rental**

1 businesses through demolition of commercial buildings. And
 2 it talks about how -- While this chapter focuses on
 3 residential development, it's also important to note that
 4 businesses, institutions, and cultural anchors are also
 5 susceptible to displacement. Commercial displacement is
 6 harder to quantify than residential displacement, and so on
 7 and so forth.
 8 **Q. And so did the City specifically address potential impacts**
 9 **on small businesses in this section?**
 10 A. It did. And, you know, without just reciting the text, what
 11 this section does is that it talks about impacts to
 12 businesses, particularly in the context of cultural
 13 displacement to minority and immigrant populations, where a
 14 business, along with other institutions, can be particular
 15 important for those populations.
 16 So when a business of that nature is lost, for whatever
 17 reason, including displacement, the section describes how
 18 that can accelerate the displacement of population so that a
 19 loss of a business that's of particular cultural importance,
 20 you know, is an important -- is an important factor in how
 21 displacement occurs.
 22 **Q. Okay. Let me ask you more generally. In your experience,**
 23 **is it common to include analysis of potential economic**
 24 **impacts on businesses in a nonproject EIS?**
 25 A. No, it's not. Not common in a nonproject EIS at all.

1 **ownership patterns into --**
 2 A. Right.
 3 **Q. -- rental patterns into the need for more ownership?**
 4 A. Yeah. Mr. Reid characterized the proposed action as an
 5 action that would -- I'm paraphrasing -- create a whole
 6 bunch of rental housing and that his testimony was that
 7 because residents of that rental housing at some point would
 8 want to buy a home later, that the EIS didn't adequately
 9 analyze the chain of housing choices for people who might
 10 enter that, you know, rental housing.
 11 **Q. Okay. And do you recall his testimony about sort of the**
 12 **specific issue of then what happens to that rental**
 13 **population later on down the horizon when they decide to**
 14 **own?**
 15 A. I think he might have said that they would have to move out
 16 to some other place.
 17 **Q. Okay. So with that background -- maybe a little more**
 18 **context and background. You've testified to analysis of**
 19 **growth patterns that were assumed here. You talked about**
 20 **your familiarity with it in the comp plan as a concept. Is**
 21 **it safe to say you're familiar with how nonproject EISs**
 22 **prepared by the City typically analyze growth?**
 23 A. Yes.
 24 **Q. And when an increase in development capacity is proposed, is**
 25 **it typical for the City to look at growth in terms of**

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1 **housing growth or specifically in terms of rental or**
 2 **ownership housing product?**
 3 A. No. When the City looks at growth or projects growth, it
 4 generally projects a quantity of housing units, and it
 5 doesn't attempt to project whether those would be rental or
 6 owner.
 7 **Q. Why is that?**
 8 A. Well, the City has no control over whether housing products
 9 would be rental or ownership, for one thing. The second
 10 important thing is that almost all or -- of the housing
 11 that's built could be either rental or ownership.
 12 Condominium ownership is very common, lots of attached
 13 housing products or ownership products. So, you know, the
 14 housing stock could be owned or rented.
 15 **Q. Okay. So with that characterization, though, are there**
 16 **general development -- certain development forms that are**
 17 **more likely to be ownership and those that are likely to be**
 18 **developed in particular zones?**
 19 A. Yes. There are -- you can make some general statements
 20 about that.
 21 **Q. Okay. Let's go back to the urban design report that's part**
 22 **of Appendix F to the EIS. And I'll direct you to Page 16.**
 23 A. Okay.
 24 **Q. And here we're looking at RSL zone.**
 25 A. Yes.

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1 **Q. Can you look at the bullet list?**
 2 A. Yeah. I'll just call attention to the third bullet in that
 3 list. Encourages modestly sized single-family ownership
 4 homes such as 1500 to 2,000 square feet in size. It expands
 5 access for more people to live in single-family
 6 neighborhoods.
 7 **Q. Okay. That use of the phrase "ownership," does that address**
 8 **the topic we were just discussing?**
 9 A. Yes.
 10 **Q. And let's turn to Page 24 of the same exhibit. And here**
 11 **we're looking at lowrise. Does this page address whether**
 12 **that housing type is intended to be owner or rental?**
 13 A. Yeah. The first bullet point under prototype description is
 14 an attached townhouse homeownership housing products.
 15 **Q. Okay. And I'm going to make you jump around one more time**
 16 **back to the EIS, Page 3.62.**
 17 HEARING EXAMINER: I'm sorry, Mr. Kisielius. I missed
 18 that.
 19 MR. KISIELIUS: 3.62.
 20 HEARING EXAMINER: 3.62.
 21 MR. KISIELIUS: Let me know when you're there.
 22 THE WITNESS: Yeah, I'm there.
 23 **Q. (By Mr. Kisielius) Does this section discuss how the**
 24 **alternatives allow for these types of forms of development**
 25 **and focus on the ownership versus rental distinction?**

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1 A. I'm not sure I'm on --
 2 HEARING EXAMINER: 3.62?
 3 MR. KISIELIUS: Yes.
 4 HEARING EXAMINER: Commercial development?
 5 MR. KISIELIUS: I'm sorry. I'm looking at the paragraph
 6 preceding that section. Sorry.
 7 A. Oh, yeah. So this is a continuation of the prior section on
 8 housing supply. And the last sentence -- well, let's see
 9 here. Housing types in lowrise and residential small lot
 10 zones are more likely to be ground related, like townhouses,
 11 row houses, duplexes, and small single-family home
 12 structures. The action alternatives and Preferred
 13 Alternative can result in a greater share of these types of
 14 units, which are better suited to families with children and
 15 larger households, compared to Alternative 1, no action.
 16 **Q. (By Mr. Kisielius) So go back one page where you started,**
 17 **3.61. And we're looking at the tables there.**
 18 A. Yeah.
 19 **Q. Does that describe the breakdown between RSL and lowrise,**
 20 **for example?**
 21 A. Yeah. So let's just focus on the residential small-lot
 22 line. Lowest applies to lowrise as well. Under no action,
 23 the net capacity for housing growth in the residential small
 24 lot zone is 754 units. Under the action alternatives, it's,
 25 you know, 4- to 5,000 units.

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1 So what that's doing is dramatically increasing the amount
 2 of homes in that residential small lot form basically
 3 because you're transitioning of a locked stock of
 4 single-family zoned areas into areas that can accommodate,
 5 you know, one or two more, you know, ground-related homes
 6 that would be conducive to families.
 7 So, you know, the point is that exact opposite from what
 8 Mr. Reid testified, that the proposed action is dramatically
 9 increasing the amount of ownership options, compared to
 10 taking no action.
 11 **Q. Okay. Let's go back to Mr. Reid's contention. Can the City**
 12 **be sure what portion of the initial growth will be rental**
 13 **versus ownership?**
 14 A. No. You still couldn't guarantee, you know, so -- right.
 15 The units could be more conducive more to ownership, but, of
 16 course, they could be rental as well.
 17 **Q. And then going back to your experience with analyzing growth**
 18 **patterns in nonproject EISs on behalf of the City, is the**
 19 **evolution over time of ownership versus rental over a**
 20 **20-year horizon something that you would typically look at**
 21 **in the context of a nonproject EIS?**
 22 A. Well, it would be -- I mean, no. It would be extremely
 23 unusual to do an analysis along the lines of what Mr. Reid
 24 suggested which is to somehow, you know, analyze the number
 25 of households that would first move into rental housing in

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1 some, you know, growth projection and then have a subsequent
 2 analysis of how many of those might want to move into
 3 ownership later. I've never seen an analysis like that in
 4 an EIS or any other environmental document, for that matter.
 5 **Q. Okay. I'm going to change subjects on you again, and I only**
 6 **have a couple more, so we're almost done with my questions.**
 7 **I want to ask you about Accessible Mount Baker. Were you**
 8 **present for Mr. James' testimony about the Accessible Mount**
 9 **Baker effort with which he was involved?**
 10 A. Yes.
 11 **Q. Mr. James and some of the questions Mr. James was asked**
 12 **referred to this as a planning effort. How would you**
 13 **characterize Accessible Mount Baker?**
 14 A. It was an urban design and transportation planning effort.
 15 It looked at increasing livability and walkability within
 16 the Mount Baker urban village.
 17 **Q. Okay. How would you describe -- would you -- well, is it**
 18 **fair to describe it as a conceptual plan?**
 19 A. Yeah. It was a conceptual plan. It identified a vision for
 20 some specific improvements. Yeah.
 21 **Q. Did it propose -- was proposing to rezone anything at that**
 22 **time?**
 23 A. Well, I just want to be clear because there's a couple of
 24 plans. The Accessible Mount Baker plan was really about the
 25 reconfiguration of roadways and didn't -- you know, didn't

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1 include a rezone proposal. There's an urban design
 2 framework that was prepared around the same time that did
 3 include some recommendations for zoning changes.
 4 **Q. Okay.**
 5 A. Or I think the urban design framework, I'm sorry, was before
 6 the Accessible Mount Baker plan that had to do with the
 7 transportation improvements.
 8 **Q. Well, I think their focus was the park and the park planning**
 9 **effort.**
 10 A. Um-hmm.
 11 **Q. Mr. James said something about the Parks Department was**
 12 **ready, and he used the phrase "put a shovel in the ground"**
 13 **with respect to that park plan. What's your understanding**
 14 **of the status of Parks' efforts to acquire that property?**
 15 A. Well, my understanding is -- and I've talked directly with
 16 Parks staff about this at length, is that there's no
 17 specific parcel that's proposed for acquisition or that
 18 Parks is seeking to acquire at -- you know, at this time.
 19 The plan identified, you know, several specific areas
 20 where -- or ways that more open space could be created in
 21 the Mount Baker town center area that wasn't just limited to
 22 acquiring a parcel and making it a park. It included, as
 23 Mr. James mentioned, open space and better landscaping
 24 within reconfigured right of ways. It also included a
 25 recommendation to reconfigure the bus layover area that's in

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1 that area. It included incorporating an open space into new
 2 development.
 3 So while Parks wants to see more open space in -- you
 4 know, in that urban village in that area, there's no
 5 specific effort to acquire any one parcel right now.
 6 **Q. Okay. And, given that, do you think it's appropriate to**
 7 **change the zoning as part of MHA to reflect the potential**
 8 **for a park at a specific location?**
 9 A. No, I don't. There's no one location identified. And we
 10 probably -- you know, it probably would not be prudent to,
 11 you know, make a zoning change about a potential future park
 12 anyway.
 13 **Q. Okay. Just going back, you said Parks is looking at that**
 14 **issue -- I forget the words he used -- is aware of the open**
 15 **space issue. Does the EIS discuss the shortage of open**
 16 **space in that urban village?**
 17 A. It does. It identifies it as one of the underserved urban
 18 villages for open space.
 19 **Q. Okay. And would MHA preclude further implementation of**
 20 **development of a park in the specific location that**
 21 **Mr. James was testifying about?**
 22 A. Not at all. That same parcel could be acquired with the
 23 zoning that's proposed. And the testimony, you know,
 24 assumed, I think, that somehow the zoning proposal would
 25 make it impossible for that parcel to be acquired. And I

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1 think that's a wrong assumption.
 2 **Q. Okay. I just have a few more questions for you. I want to**
 3 **change topics yet one more time. And I'm going to show you**
 4 **what's been marked -- or what has been admitted as Hearing**
 5 **Examiner Exhibit 237. This is an email. And were you**
 6 **present for the testimony about this email?**
 7 A. I was.
 8 **Q. I'm going to ask you some questions because it pertains to**
 9 **the way that it -- or let me step back. Did you -- are you**
 10 **the person who was responsible for working with and managing**
 11 **the consultants that were on this project?**
 12 A. Yes.
 13 **Q. Okay. Ms. Wilson was asking questions about the part of the**
 14 **email that evaluated the extent of the budget based on the**
 15 **perception that it was unlikely there was -- there would be**
 16 **significant impacts.**
 17 A. Um-hmm.
 18 **Q. In your experience as the lead staff person for managing the**
 19 **consultants on this project and in others, are you**
 20 **responsible for budgeting? You said yes, I think.**
 21 A. Yes.
 22 **Q. Okay. I just -- sorry. I realize that was a repeating**
 23 **question.**
 24 **So is it common practice to estimate a budget based on**
 25 **what the level of effort the team anticipates at the outset,**

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1 HEARING EXAMINER: Is there a question?
 2 MS. BENDICH: Yes. That was the question.
 3 **Q. (By Ms. Bendich) Does it say that with respect to**
 4 **Alternative 3 or the Preferred Alternative?**
 5 A. I can look.
 6 MR. KISIELIUS: Mr. Examiner, I'm going to object. It
 7 feels like Ms. Bendich is utilizing this as if it was a
 8 deposition in order to find citations within the EIS.
 9 MS. BENDICH: Well, I'm asking it, Counsel, because I
 10 didn't find it. That's why I'm asking that question. So
 11 I'd like our witness to find it for me.
 12 HEARING EXAMINER: Well, the witness has indicated that he
 13 can find it. He found one citation. Now we've got an
 14 additional question following up on that. If the witness
 15 thinks he can find it, then that's fine. Otherwise, he's
 16 indicated it's in the EIS, and we go with that answer. But
 17 as long as the witness is looking, it seems to me he can...
 18 A. Okay. Well, I stand by my statement that I think it's
 19 stated explicitly in text somewhere here. I can't put my
 20 finger on that right now, but I would also add, in response
 21 to your question, that, you know, consistent with my
 22 testimony, all of the zone changes that are proposed for
 23 each alternative are indicated in all of the maps. So every
 24 area that's in color on those maps, as I discussed earlier
 25 as proposed for rezone, and that, in and of itself, you

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1 know, discloses that all of the areas within urban villages
 2 are proposed for rezone to residential small lot, lowrise,
 3 or another designation. And I think there's probably a
 4 clearer statement somewhere in here that I can't put my
 5 finger on at the moment.
 6 **Q. (By Ms. Bendich) Okay. In doing the EIS, were you**
 7 **considering the comprehensive plans, other goals for**
 8 **concurrency with schools, open space, libraries, community**
 9 **areas, which I think are all identified in the comprehensive**
 10 **plan, as goals for the urban villages?**
 11 A. The consultants who worked on the impact analysis were --
 12 yes, were looking at, you know, level-of-service standards
 13 that have to -- you know, are a measure of concurrency.
 14 **Q. Okay. And I think you testified that the upzoning itself**
 15 **for all the areas didn't consider spaces where those might**
 16 **go. Is that what your testimony was?**
 17 A. No.
 18 **Q. Well, are there any areas designated on any of these maps**
 19 **where open space would go that's not there now?**
 20 A. Okay. I see your question. It's about open space. There
 21 are no new open spaces proposed as a part of the EIS,
 22 although, the EIS does discuss ways to create more open
 23 space as mitigation measures.
 24 **Q. Okay. Are there any spaces on the maps where a school might**
 25 **go?**

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1 A. That -- no, that was not a part of this action.
 2 **Q. Okay. Or other things like libraries?**
 3 A. That -- again, that was not a part of this action.
 4 **Q. So I believe you testified that the EIS doesn't preclude it.**
 5 **These maps don't preclude it. You would simply buy that**
 6 **property back, I suppose, to use that parcel or parcels for**
 7 **whatever that particular use was. Is that your testimony?**
 8 A. My testimony was that additional open spaces could be
 9 acquired.
 10 **Q. Acquired. And by acquired, you mean you have to buy them;**
 11 **is that correct?**
 12 A. Right. The -- typically, yeah, when you -- you are -- that
 13 when Parks Department has -- acquires lands, it has to buy
 14 the land.
 15 **Q. And it has to buy it at the market price at that point; is**
 16 **that correct?**
 17 A. That's correct.
 18 **Q. All right. And the upzoning would increase the market**
 19 **price, would it not?**
 20 A. I don't think that's clear at all.
 21 **Q. You don't think so. Would you agree that if there's a flood**
 22 **zone or that there's an area where you had repeated water**
 23 **rising that the density shouldn't be increased there?**
 24 A. As a general -- a general statement, I think that would be
 25 something that would make sense to consider, yeah.

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1 **Q. Okay. So you heard testimony, I believe, from Jennifer**
 2 **Scarlett, who resides in South Park.**
 3 A. I wasn't there for Ms. Scarlett's testimony.
 4 **Q. All right. She described areas that routinely get flooded**
 5 **in South Park that have been designated here for upzone.**
 6 **Would you disagree with that?**
 7 MR. KISIELIUS: Objection. He just said he wasn't there
 8 for the testimony.
 9 HEARING EXAMINER: Sustained.
 10 MS. BENDICH: No. I'm just -- okay.
 11 **Q. (By Ms. Bendich) Would you agree that there should not be**
 12 **increased density in areas that are subject to any seasonal**
 13 **or other rainstorm water in those areas?**
 14 A. Yeah. I would need more information about the nature of the
 15 flooding and what the issues are.
 16 **Q. Okay. So if -- and you have environmentally critical areas**
 17 **identified on GIS maps that the City has, right?**
 18 A. And in the EIS, yeah.
 19 **Q. Okay. So -- okay. So I -- well --**
 20 MR. THALER: I can get to that.
 21 MS. BENDICH: You can get to it.
 22 **Q. (By Ms. Bendich) So does the -- does SEPA or the Seattle**
 23 **Municipal Code say that the environmental impact statement**
 24 **should state what the governing document -- what the**
 25 **governing regulations would be that would be inconsistent**

VOLUME 15

AUGUST 24, 2018

Hearing - Day 15

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

August 24, 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 15 - August 24, 2018
Heard before Hearing Examiner Ryan Vancil

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Court-Certified Transcription

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MR. KISIELIUS: We have two more items.

HEARING EXAMINER: Yes.

MS. BENDICH: Okay.

(Inaudible colloquy).

MS. BENDICH: If I could I have that marked?

MR. KISIELIUS: One is I think just a housekeeping item in the -- Ms. Johnson sent an exhibit list -- an updated exhibit list at the end of the day yesterday. And it showed that one of the exhibits that we had used with Mr. Wentlandt, Exhibit 264, had not yet been admitted. And I had thought I had offered that, and there were no objections. Just --

HEARING EXAMINER: We'll get that corrected on the list. It is admitted.

MR. KISIELIUS: Thank you. And then the Examiner asked us to coordinate about potential --

HEARING EXAMINER: Sure.

(Inaudible colloquy).

MR. KISIELIUS: And then the Examiner had asked us to coordinate on a briefing schedule, and we don't have agreement yet. We're going to need --

HEARING EXAMINER: Sure.

MR. KISIELIUS: -- a couple more days to figure that out.

HEARING EXAMINER: Okay.

MR. KISIELIUS: But the City also made a proposal, and the

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August 24, 2018

HEARING EXAMINER: Continue the hearing, August 24th. Are there any procedural items we need to address?

MR. THALER: Possibly. I'm just opening Gordon Lagerquist's exhibits with his testimony. Did we get an exhibit number for that? Did I get that admitted yet?

MR. KISIELIUS: It was Exhibit 239, Toby.

MS. NEWMAN: Yes, 239, and it was admitted.

MR. THALER: So you said 239. Then no, I have nothing.

MS. BENDICH: And I don't know whether it's procedural or substantive, but yesterday I had requested to make a summary of Mr. Steinbrueck's testimony from that exhibit that --

HEARING EXAMINER: Right.

MS. BENDICH: -- it had regarding how many potential housing units there were. And I hadn't done that. So would you like that now or after the testimony?

HEARING EXAMINER: Might as well get started with that. Then we're going to continue with cross -- direct for -- with appellants for Mr. Wentlandt.

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appellants --

MS. NEWMAN: We're going to get back to them.

HEARING EXAMINER: I think the main thing is that it's out there and we're in discussion about it --

MS. BENDICH: Okay.

HEARING EXAMINER: -- before vacation schedules or trial schedules get -- start getting set for --

MS. BENDICH: So, Mr. Examiner, I think -- has the exhibit been marked?

HEARING EXAMINER: No, we were addressing two other items.

MS. BENDICH: Oh, okay.

HEARING EXAMINER: We'll get to that as soon as we get to Mr. Wentlandt and cross. I've got one other procedural item --

MS. BENDICH: Okay, sure.

HEARING EXAMINER: -- to address first.

The -- I had a question about exhibit -- what was marked as Exhibit 273 submitted by appellants.

There was extensive discussion about it yesterday, and I wasn't sure if there was -- there was no use of it actually, so I don't know if there was any effort to put it in the record. Are we putting it in as denied? Is there still going to be some discussion about it? What are we doing on this?

MR. THALER: What is it?

ALVARADO, Emily

1 **there at the bottom of the page?**
 2 A. "In the EIS study area, 50 percent of residential
 3 development will choose the performance option and
 4 50 percent will choose the payment option. All commercial
 5 development will choose the payment option. New affordable
 6 housing funded by the Office of Housing, OH, requires a
 7 contribution of \$80,000 per unit from OH based on a model
 8 project leveraging 4 percent Low Income Housing Tax Credits
 9 and no additional public funds. 10 percent of MHA payment
 10 revenue would go to program administration."
 11 **Q. So is it correct that the proposal under analysis here**
 12 **allows developers a choice between providing affordable**
 13 **units on site or making a payment that the Office of Housing**
 14 **then uses to construct affordable housing?**
 15 A. Yes. There's both a payment and a performance option, and
 16 both create affordable housing outcomes.
 17 **Q. So in the case of the payment option, can you describe**
 18 **generally how that works? Who actually builds the housing?**
 19 A. Right, so under the payment option, payment revenue comes to
 20 our Office of Housing, and we invest those payments as we
 21 have for over 35 years. Our office has a long-standing
 22 track record of investing public resources and affordable
 23 housing, notably our Seattle Housing Levy and also federal
 24 resources.
 25 And because of that long-standing track record, we have an

1 developers like Homestead Community Land Trust and Habitat
 2 for Humanity.
 3 That makes up a large, strong community of affordable
 4 housing developers, which is pretty unique nationally to
 5 have that much capacity -- dedicated capacity in the
 6 community, which has grown alongside our Levy.
 7 And those organizations develop and own housing that often
 8 includes nonhousing components including ground floor
 9 commercial or cultural spaces. And many of the projects
 10 that have been developed in the community have won awards
 11 for their architecture design and programming.
 12 **Q. So going back to page G-9, the second bullet that you read,**
 13 **does that generally get at the concept of leverage?**
 14 A. Yeah, it -- it gets at the concept of leverage. Essentially
 15 stated another way, when our office invests funds in an
 16 affordable housing development, we are actually a minority
 17 investor.
 18 So for the City funds that are invested, along with that
 19 comes a lot of other funds. The majority of funds that go
 20 to an affordable housing development are coming in the form
 21 of private debt and equity produced through the Low Income
 22 Housing Tax Credit and private investment.
 23 And so what this assumption shows is that for \$80,000 in
 24 City subsidy, we are able to actually produce an entire unit
 25 assumed to cost approximately \$265,000. Because the

1 infrastructure internally designed to invest dollars with an
 2 eye towards stewardship and competition. When we invest our
 3 dollars, we do it through a competitive, rigorous process.
 4 Typically, an annual NOFA or a Notice of Funds Availability
 5 is issued. Although, we can invest dollars beyond that
 6 annual NOFA through site-specific RFPs, for example.
 7 And we analyze a project that comes into us competitively.
 8 We have a team of lenders who do complex underwriting,
 9 financial and legal negotiations to make sure that we have
 10 strong outcomes on those projects. When we invest in a
 11 project, we do so accompany that with a regulatory agreement
 12 that restricts the property, and we do ongoing monitoring on
 13 that property.
 14 The actual developer is not the City. The City does not
 15 own or operate affordable housing. We invest in both
 16 nonprofit organizations and for-profit companies who
 17 develop, own and manage the properties.
 18 Those affordable housing developers include notable
 19 community partners like Mercy Housing Northwest, Solid
 20 Ground, Bellwether Housing.
 21 We invest in our community development corporations,
 22 including Capitol Hill Housing, InterIm Community
 23 Development Association, SouthEast Effective Development.
 24 We also have for-profit developers that we invest in,
 25 including Inland Development, and affordable home ownership

1 remainder of that funds, the funds are coming in the way of
 2 4 percent Low Income Housing Tax Credits.
 3 I should say that the Low Income Housing Tax Credit
 4 program is a nationally established program with strong
 5 bipartisan support. It is a program that avails two kinds
 6 of tax credits and bonds, the 9 percent and the 4 percent.
 7 Locally, our 9 percent Low Income Housing Tax Credits are
 8 competitive and limited, and we primarily prioritize those
 9 for projects that serve homeless households and homeless
 10 individuals.
 11 Our 4 percent program is not competitive and is unlimited
 12 and is currently under utilized, and that is why we can base
 13 the assumption on continuing to invest our City subsidy and
 14 having that subsidy matched by the Low Income Housing Tax
 15 Credits. And that assumption remains to be a reasonable
 16 one.
 17 **Q. So you mentioned the total unit cost. I think you said**
 18 **\$265,000. So based on an \$80,000 City contribution, is it**
 19 **correct that's leverage of approximately 1 to 1.25?**
 20 A. Correct.
 21 **Q. Now, that \$265,000-per-unit cost, does that include land**
 22 **cost?**
 23 A. It does. We built that \$80,000 and \$265,000 assumption
 24 based on average unit costs that we had seen for several
 25 years that were leveraging 4 percent tax credits prior to

1 the assumptions and modeling that was developed here.
 2 And all of those unit costs include land costs. And the
 3 land costs that they are average based on are land costs
 4 across the city representing a range of projects in both
 5 high-, medium- and low-cost areas.
 6 **Q. So you may have covered this a bit, but is the leverage**
 7 **ratio you're assuming consistent with the amount of leverage**
 8 **that OH is currently achieving in the 4 percent tax credit**
 9 **projects it's currently funding?**
 10 A. Well, in fact, this assumption is even more conservative
 11 than the leverage we are actually achieving. And I remember
 12 that Mr. Levitus, who testified some time ago, talked about
 13 a Rick Jacobus report which mentioned a leverage ratio that
 14 we had achieved as a City many years ago as being quite
 15 higher, and that is true.
 16 And we continue to achieve a higher leverage ratio than
 17 was assumed here. Which I believe demonstrates the
 18 reasonableness of these assumptions that even in a time if
 19 leverage were continued to decline we would still be meeting
 20 the goals as spelled out by this analysis.
 21 **Q. So I think we have heard testimony about sort of the**
 22 **national scene and what might or might not be happening with**
 23 **these 4 percent tax credits because of things the Trump**
 24 **administration is doing. Can you just explain how those**
 25 **national trends differ from what's going on here and whether**

1 country and definitely holding to a level that continues to
 2 make these assumptions reasonable.
 3 **Q. So appellants' witness Mr. Bloom suggested that if MHA were**
 4 **not in effect the City could access the leveraged funds in**
 5 **some other way. Is that the case?**
 6 A. Well, Mr. Bloom's correct that the Low Income Housing Tax
 7 Credit program is agnostic to the source of City revenue
 8 that comes -- that they put their dollars alongside.
 9 However, what it means is we need additional revenue in
 10 order to fully utilize this rev -- this leverage. And I
 11 don't know of and I don't believe it is knowable of any
 12 other revenue source that will be dedicated to affordable
 13 housing that is on the horizon to come to our office to be
 14 able to leverage these tax credits.
 15 So, you know, there are possibilities. One could increase
 16 property taxes again for affordable housing. That could
 17 raise revenue. That revenue could leverage these tax
 18 credits. No discussion either politically or from a policy
 19 matter of doing that.
 20 There was a discussion about a potential employee hours
 21 tax that could have been resources that would have leveraged
 22 this. And as we know, that discussion ended with -- over
 23 appeal of that tax source.
 24 So at this present moment, while hypothetically one could
 25 use different revenue to leverage tax credits, I don't know

1 **or not that's a concern?**
 2 A. Absolutely. As we -- as we know, market realities are very
 3 locally based. And as a result of the national tax reform,
 4 there was some concern about the extent to which investors
 5 would find the Low Income Housing Tax Credit an appealing
 6 investment, and that has resulted in a change in the tax
 7 credit pricing in place across the country.
 8 And a significant change in tax credit pricing could
 9 threaten one's proposed leverage. However, locally, what we
 10 are seeing in projects is, although there has been maybe a
 11 several cent decline in the value of the tax credit, it
 12 remains looking at about a dollar-for-dollar tax credit.
 13 And that is for several reasons. One, Seattle remains a
 14 very competitive real estate market, generally. Two, we
 15 have strong investor appeal locally because of the strength
 16 of our affordable housing development community. So they
 17 choose specific developers and projects who they like to
 18 invest in, and because of the long-standing track record,
 19 they like to invest in our partners.
 20 And also, we are told, quite frankly, that investment
 21 stays strong because of the presence of Office of Housing
 22 financing and the lending and ongoing monitoring that we
 23 provide that makes our investments attractive.
 24 So a slight decline we've seen in the pricing, but it
 25 remains competitive, one of the strongest markets in the

1 of any resource that is imminent and on its way to our
 2 office that we could expend to utilize this leverage.
 3 **Q. So now I want to turn to where the payment funded units are**
 4 **assumed to be located. And I think -- at this point could**
 5 **you turn to page G-10 and read the third bullet there at the**
 6 **top of the page?**
 7 A. "For analysis purposes the distribution of affordable
 8 housing funded through MHA payments to each urban village is
 9 proportional to that urban village's share of the
 10 twenty-year citywide residential growth estimate in each EIS
 11 alternative."
 12 **Q. So the appellants have taken issue with that assumption.**
 13 **And before getting into that, I just want to acknowledge or**
 14 **ask you to confirm, there's no requirement in this proposal**
 15 **that OH actually spend the payment revenues to achieve that**
 16 **precise distribution?**
 17 A. That's correct. We have a real broader locational priority.
 18 And I would say first and foremost our locational priorities
 19 are guided by Federal Fair Housing Law. And Federal Fair
 20 Housing Law requires that we create housing choice for
 21 low-income people, and housing choice reflects an
 22 understanding of distributing across our city.
 23 I would say that part of Fair Housing Law requires us to
 24 affirmatively further fair housing. We were one of the few
 25 jurisdictions who was able to submit an assessment of fair

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1 housing to HUD prior to shutting down the rule that requires
 2 local jurisdictions to do so. And in that, we maintain our
 3 commitment to invest in affordable housing across the city.
 4 In 2015 when HUD published a rule clarifying what that
 5 means to affirmatively further fair housing, they
 6 acknowledged explicitly that means both investments in areas
 7 with a high access to opportunity and also in existing
 8 low-income communities where affordable housing can act has
 9 a revitalization or stabilization against displacement.
 10 We have a long-standing track record in following that
 11 overarching locational theme of investing both in
 12 high-opportunity communities and in communities at risk of
 13 displacement.
 14 **Q. So I think you've begun to address it, but even without a**
 15 **specific requirement that you spend money to meet that**
 16 **precise distribution, can you give us your explanation of**
 17 **why you think it is reasonable to make that assumption?**
 18 **A.** Absolutely. First, I would say that deviating from an
 19 assumption that allocated the affordable housing
 20 proportionately to where growth was occurring would be
 21 purely speculative. So assuming that we didn't do this, we
 22 would just be speculating on where affordable housing might
 23 be, and that as a basis makes this claim reasonable.
 24 Second, I believe that our track record clearly
 25 demonstrates investment across the city and throughout the

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1 city. Our track record of thirty-five years shows that we
 2 have invested in -- significantly in areas that have seen a
 3 rapid rate of growth, areas like the Downtown core and South
 4 Lake Union, areas like the Central District. So we have
 5 been investing as a long-standing track record in
 6 communities that have experienced growth.
 7 And we have invested in areas that have high risk of
 8 displacement, invested in areas with high access to
 9 opportunity and we've also invested in areas with
 10 significantly high land costs.
 11 **Q. So I want to turn to how OH determines where to locate**
 12 **projects funded with MHA payments.**
 13 **So to start, I think you've got Binder 8 over here, and I**
 14 **think the Examiner probably has access to Binder 8 as well.**
 15 **I'll have you turn to Tab 125 in that binder. And we're not**
 16 **going to mark this as an exhibit, because it's just an**
 17 **excerpt of the code.**
 18 **So if you look down in the lower, right-hand corner, the**
 19 **Bates number -- if you go to the page that is Bates numbered**
 20 **008647.**
 21 **MR. THALER:** And what tab was it again?
 22 **MR. WEBER:** This is Tab 125, City Exhibit 125.
 23 **Q. (By Mr. Weber) So at the bottom of 008647, there's the**
 24 **subsection of 2358C, 040B that reads, "Use of cash**
 25 **contributions." And sub 3 at the very bottom of the page**

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1 **is, "Location." Could you just read that and the following**
 2 **couple of subsections?**
 3 **A.** Yes. "Location. For purposes of determining the location
 4 for use of cash contributions, the City shall consider the
 5 extent to which the housing supported by cash contributions
 6 advances the following factors. (A) affirmatively affirming
 7 fair housing choice, (B) locating within an urban center or
 8 urban village, (C) locating in proximity to frequent bus
 9 service or current or planned light rail or streetcar stops,
 10 (D) furthering City policies to promote economic opportunity
 11 and community development in addressing the needs of
 12 communities vulnerable to displacement and (E) locating near
 13 developments that generate cash contributions."
 14 **Q. So this is the code direction to OH about location of**
 15 **payment projects?**
 16 **A.** Correct.
 17 **Q. Now, could you turn to our Binder No. 5? Which should also**
 18 **be up there.**
 19 **MS. NEWMAN:** What exhibit is that?
 20 **MR. WEBER:** The one that she just read from.
 21 **MS. NEWMAN:** Oh, okay.
 22 **MS. BENDICH:** It wasn't an exhibit.
 23 **MR. WEBER:** It was City Exhibit 125, but we didn't mark
 24 it. It was just a section of the code. But this one I do
 25 want to mark. If we could turn to Tab 22 in Binder 5, this

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1 is City Exhibit 22.
 2 **HEARING EXAMINER:** Marked as 275.
 3 (Exhibit 275 marked for identification.)
 4 **Q. (By Mr. Weber) So, Ms. Alvarado, looking at Tab 22 in Binder**
 5 **5, do you recognize this document?**
 6 **A.** I do. These are our Office of Housing Housing Funding
 7 Policies which are adopted by Council.
 8 **Q. So can you turn to page 62 of that document? Which is Bates**
 9 **number 004906.**
 10 **So do the housing policies have a process for addressing**
 11 **the situation where MHA payment funded projects diverge to**
 12 **substantially in location from the location of projects**
 13 **generating MHA payments, and can you describe how this**
 14 **discusses that process?**
 15 **A.** Yes. If I may, I'm just going to zoom back a minute to put
 16 that in context. Your question is asking about the extent
 17 to which there is an accountability measure to that last
 18 criteria about locating near developments that generate cash
 19 contributions.
 20 But the code is pretty clear that we are to look at all of
 21 those criteria as we're assessing locations worthy of
 22 investment in our MHA payments. And we -- I would point out
 23 that for the purposes of (A) through (D) from the code, we
 24 have again a long-standing track record of investing
 25 relative to those -- to those other criteria. And I think

1 that track record helps to demonstrate that we have been
 2 able to invest in that way.
 3 A few things I want to point out that help to create that
 4 accountability is, one, I talked about our affordable
 5 housing developers. And they have for years brought us
 6 projects to invest in that represent those locational
 7 criteria, so they too care about investing in areas
 8 proximate to growth is occurring like in Downtown, South
 9 Lake Union. And they have a history of bringing us projects
 10 to invest in in those areas.
 11 We have community development corporations who are
 12 specifically interested in stabilizing low-income
 13 communities and have a history and a projected, continued
 14 interest in delivering projects that would further our --
 15 our City policies to promote economic opportunity and
 16 community development in addressing displacement. So we
 17 already have the track record that helps to build on that.
 18 We also have historically a significant number of
 19 investments in the Downtown core. And a lot of that were
 20 investments at a time when the resources that we would
 21 invest were coming from Incentive Zoning Program.
 22 And under that Incentive Zoning Program, the buildings
 23 that were generating the payments were in Downtown and South
 24 Lake Union, and we already have the track record that shows
 25 we've been able to reinvest those funds near the projects

1 **Q. (By Mr. Weber) So looking at Tab 21, which has just been**
 2 **marked, do you recognize this document?**
 3 A. Yes. This is our Seattle Office of Housing Annual
 4 Investment Report from 2017 that was submitted to City
 5 Council in March of 2018.
 6 **Q. So if you could turn to page 13 of that document? Which is**
 7 **the Bates number 004830. So just tell us what this map is**
 8 **titled.**
 9 A. This is the Map A, Rental Housing Investments.
 10 **Q. And can you explain what programs primarily account for the**
 11 **affordable rental projects that are shown on this map?**
 12 A. Yes. As I described earlier, our office has for over
 13 thirty-five years invested public resources in affordable
 14 housing. The bulk of those resources come from our voter
 15 approved Seattle Housing Levy which establishes goals, and
 16 those goals have been exceeded on each levy and continues to
 17 be approved by the voters as recent has 2016.
 18 So those resources, in addition to federal resources,
 19 including CDBG and HOME dollars and payments coming off of
 20 the Incentive Zoning Program, have been invested in rental
 21 housing projects as owned and operated by the affordable
 22 housing developers I described earlier in the locations that
 23 constitute in this map.
 24 The yellow dots are previously invested-in projects. As a
 25 reminder, those are affordable for at least fifty years.

1 which have contributed the payments. So that is a
 2 historical analysis.
 3 To the point of whether we -- what we then have added as
 4 an accountability measure to help make sure that we are
 5 locating near developments that generate cash contributions
 6 we made more robust within these housing funding policies
 7 adopted by Counsel a reporting metric.
 8 And under that reporting metric, we will annually report
 9 on where our investments are located. And in the event that
 10 there are -- there are geographic areas identified on the
 11 page that you brought our attention to in which there is a
 12 substantial differentiation in the amount of money and
 13 payments that's generated and our level of investment, we
 14 can identify one of those geographic areas as a priority
 15 area for investment in our Notice of Funds Availability so
 16 indicating to our affordable housing developers that that is
 17 now becoming a priority area for them to identify
 18 opportunities for acquisition and eventual investment.
 19 **Q. So now I'd like to have you turn to Tab 21 in Binder 5.**
 20 MR. WEBER: And if we could get that marked as well? So
 21 this is City of Seattle Exhibit 21.
 22 HEARING EXAMINER: Did you say a tab?
 23 MR. WEBER: 21.
 24 HEARING EXAMINER: 21. Marked as 276.
 25 (Exhibit 276 marked for identification.)

1 And the orange dot represents our new rental investments in
 2 2017. Last year we invested over \$100 million in affordable
 3 rental and home ownership projects.
 4 **Q. And the small yellow dots that are the pre-2017 projects,**
 5 **what period of time do those span generally?**
 6 A. I believe this is approximately -- approximately between
 7 19 -- early 1980s and present day.
 8 **Q. Okay. So looking at the small yellow dots, the pre to 2017**
 9 **investments, can you generally characterize the distribution**
 10 **of those across the city taken into account zoning?**
 11 A. Sure. I would -- I would say that they are generally
 12 distributed across the city. There are a few notable
 13 points.
 14 First, there is a -- more of a concentration in the
 15 central core, our city's center, Downtown, and Downtown
 16 actually -- or the city center area more broadly represents
 17 areas that fulfill many, if not all, of the locational
 18 priorities that are set out in the MHA framework in that
 19 they are high-opportunity areas. They are areas that have
 20 strong access to transit and that they are areas in
 21 approximate to locations that we're generating Incentive
 22 Zoning payments at the time.
 23 In addition, you'll see affordable housing that's located
 24 near high-capacity transit. Notably some of the dots that
 25 are going down on MLK through the Rainier Valley are

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1 projects located near high-capacity transit. We have had a
 2 long-standing priority of investing near transit, and we
 3 have some particular opportunities to leverage on public
 4 property offered by the transit agencies.
 5 We know that low-income households second to housing costs
 6 is transportation costs, and so there has been a
 7 long-standing interest in making sure that low-income
 8 people, who are the highest utilizers of our transit system,
 9 are able to access that transit. And we have had the
 10 ability to carry out that promise.
 11 I would say that we are critiqued notably for portions of
 12 northern West Seattle or Magnolia, for example, that are
 13 notably absent of affordable housing investments.
 14 And I would say that those typically correspond to the
 15 areas that are zoned Single Family in our city and that much
 16 of our affordable housing investments is in areas where
 17 there is the capacity to be able to have the land zoned
 18 Multifamily and where we can make economical investments.
 19 **Q. So given all the considerations that we've just walked**
 20 **through that OH uses to determine where to spend payment**
 21 **revenues and the City's past record, do you think the EIS's**
 22 **assumption as to the distribution of payment funded units is**
 23 **a reasonable assumption for purposes of an EIS?**
 24 A. Yes.
 25 **Q. So we've heard testimony from some of the appellant**

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1 **witnesses who have raised a concern that because of the**
 2 **difference in land prices in different parts of the city**
 3 **that OH will end up concentrating MHA payment funded**
 4 **affordable housing projects in low-cost areas in a manner**
 5 **that they think might be contrary to social equity.**
 6 **Given all the things that we've just walked through, do**
 7 **you think that's a likely result?**
 8 A. It is not a likely result. And I would -- I was here to
 9 listen to Mr. Levitus's testimony in particular where he
 10 mentioned that. And in that testimony he acknowledged that
 11 in his view past performance would not be indicative of our
 12 future performance in investment. Which I think goes to the
 13 fact that, in fact, our past performance does achieve the
 14 locational priorities that are set out.
 15 That also points to the fact that our future performance,
 16 his basis that we may concentrate properties is just wholly
 17 speculative. It is not grounded in anything that we've done
 18 before.
 19 What I can say is that an assumption that we will not fund
 20 affordable housing in high-cost areas is really unfounded.
 21 First, we have policies that are designed to encourage
 22 affordable housing developers to invest in areas in a way
 23 that's agnostic to land cost.
 24 Put otherwise, we don't underwrite to land cost. And in
 25 our housing funding policies, which you pointed to earlier,

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1 we have some explicit language that acknowledges that, one,
 2 we would not encourage an affordable housing developer to go
 3 to a lower cost land if -- if it had other outcomes like
 4 challenges for development or environmental contamination.
 5 And we also say that we acknowledge explicitly that
 6 high-cost areas will have higher land costs. And all we
 7 look for is that the cost of that land is comparable to
 8 other land costs in the micro area. So we want it to be a
 9 competitive site but not competitive across the city. So
 10 we -- we have policies that are explicitly encouraging our
 11 developers to look for affordable housing in high-cost
 12 locations.
 13 Second is that that assumes that in all cases our
 14 affordable housing developers would be competing for land on
 15 the private market against market-rate developers, and
 16 that's not the case either.
 17 While in some cases affordable housing developers are
 18 purchasing acquisition sites, they're purchasing land on the
 19 private market, there are many instances in which we have
 20 advantages for affordable housing developers to access
 21 lower-cost land in high-cost markets.
 22 And a few examples are, for example, that in 2015 the
 23 Washington State Legislature passed a new policy that
 24 requires Sound Transit to avail at least 80 percent of its
 25 property to qualified entities if they make that affordable

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1 at 80 percent of area median income or below.
 2 And qualified entities per that state statute is nonprofit
 3 organizations. So we already through that policy that's
 4 encapsulated in the RCWs have an advantage for affordable
 5 housing across Sound Transit properties.
 6 We know that they have hundreds of properties and that
 7 they continue to acquire as they seek to extend light rail,
 8 and we've worked very closely with them on successfully
 9 capitalizing on those properties in the past. For example,
 10 last year we invested almost 250 affordable units at
 11 Roosevelt, a high-cost area. And in that case, we got the
 12 land well below market.
 13 Another area is that last year the State passed HB 2382, I
 14 believe is the house bill number, and that asks local
 15 jurisdictions to offer public property and state government
 16 as well to offer public property at a discount or no cost
 17 for affordable housing development.
 18 And we have active engagement by our local City Council to
 19 push on us to implement that state -- that state law. So
 20 again, additional opportunities where we can be availed
 21 high-cost land at a reduced rate which would help us access
 22 that property.
 23 Third, we also have mission-oriented land sellers who sell
 24 at a discount for affordable housing in a way that they
 25 wouldn't sell to the market. A good example is I believe

two or so years ago we invested at Arhora Court in the University District, high-cost land availed at very low or no cost by a church in that community.

So we continue to operationalize those opportunities and working closely with Sound Transit and other public entities to ensure that we can secure more affordable high-cost land.

One that's coming up -- we have some of these that we know we will have opportunities to invest in in the coming years as well. We've been working for many years on the redevelopment at Fort Lawton out in Magnolia, a former Army base, which would give opportunities for investment in hundreds of affordable units in that community, or at K Site in Uptown to name a few.

Q. So can you describe how OH at this point is able to predict and shape the pipeline of projects in the future? I mean, the ones that you already know are coming, can you describe how you can predict and shape that?

A. Sure. So we have an intent to apply process. Every year we ask far in advance of our Notice of Funds Availability for projects to come to us and let us know that they are interested or may intend to apply to our NOFA. So we see projects on the horizon.

We also have the opportunity to do site-specific RFPs. We, in fact, amended our Housing Funding Policies earlier in this year or last year, I can't recall exactly which,

showing.

A. Sure. So I believe Mr. Wentland testified the other day about the growth with equity analysis which was one of the underpinnings of the Comprehensive Plan. These are the map overlays taken explicitly from that exercise.

And what we did is that we put our investments across these maps. The first map shows access to opportunity ranked from high access to opportunity with the blue and also showing areas throughout going to low access to opportunity in the orange.

On the second map, there is a map of displacement risk which looks at high and low displacement risk areas, and pursuant to our Housing Funding Policies which have us reporting annually on the range of locational criteria including these, we did so produce the maps in this report showing where our 2017 investments fall.

Q. And so on Map F, how would you characterize the level of opportunity in the areas where the 2017 rental investments were made? Are those generally high access to opportunity areas?

A. I would say, while not all, the preponderance of the dots appear to me to be in areas with the highest, the darkest blue, opportunity if not high in the blue and green shading.

Q. And then moving to Map G, the Displacement Risk Index, how would you characterize what the level of displacement risk

creating a new allowance for our office directly to acquire sites. And then what we do is we issue a competitive request for proposals to achieve affordable housing development on those sites.

So, one, we see through the intent to apply who is seeking funding, and we know very clearly where those projects are located. And we're able to supplement that with our own directed opportunities that we can initiate ourselves.

So going back to the locational priorities or criteria, for example, we could not only indicate in our NOFA that an area becomes a new priority area for investment by virtue of the community generating a significant amount of MHA payment or we could ourselves go to acquire property in that community and issue an RFP on that property in order to achieve those affordable housing outcomes.

Q. So could you turn to page 19 of this document? So we're -- we're still in Tab 21. Page 19 has Map F. So the large orange dots here represent 2017 rental investments?

A. Orange dots, yes.

Q. What did I say?

A. I think you said orange.

Q. Okay. So the orange dots represent 2017 rental investments?

A. Correct.

Q. So before we go further, can you -- describe for us what the map is on which those orange dots are located and what it's

is relative to the orange dots representing the 2017 investments?

A. Again, here I would say, while not all, the preponderance of the dots are showing up in areas with at least the middle, yellow, may be agnostic to displacement risk up to the more orange or red high displacement risk areas.

Q. So generally speaking, what do these maps tell you about the City's past ability and practice in terms of locating investment scenarios of high opportunity and high displacement risk?

A. I think they demonstrate both our success and our integrity with meeting our locational priorities to invest both in areas with high access to opportunity and in areas experiencing displacement.

MR. WEBER: So actually, could I move to admit Exhibits 275 and 276 at this point?

MS. BENDICH: No objection.

HEARING EXAMINER: 275 and 276 are admitted. (Exhibit Nos. 275 and 276 are admitted into evidence.)

Q. (By Mr. Weber) So more questions about the payment funded projects relative to displacement. In your experience, do payment funded projects have advantages in addressing persons who might be otherwise displaced from a particular neighborhood?

A. Yes. I believe that our affordable housing supported by our

1 City investments meet many social equity goals that would
 2 otherwise not be met through performance units.
 3 First, I would say that our projects have an opportunity
 4 to support family-sized units in a way that is not delivered
 5 by market-rate housing. Notably, we know that a lot of
 6 market-rate development falls more thin on its delivery of
 7 two-bedroom units, for example.
 8 We have a significant amount of investments, particularly
 9 more recently, where 30 to 50 percent of the units are in
 10 the two-bedroom and three-bedroom range. So to the extent
 11 that people who are displaced or who need affordable housing
 12 are seeking that family-sized housing, they can achieve
 13 those benefits in affordable housing funded through our
 14 office.
 15 Second, I would say that the EIS acknowledges that
 16 residential or economic or direct displacement is not the
 17 only kind of displacement. But in addition, there is
 18 phenomenon of cultural displacement.
 19 And to that end, as I mentioned early earlier, a lot of
 20 the investments that we fund through our office have ground
 21 floor components that support anti-displacement of cultural
 22 communities.
 23 An example for example is I believe that it was last year
 24 we funded Four Seas development in the
 25 Chinatown-International District. While that will be

1 A good example is at Mercy Othello at the Othello light
 2 rail station, there's an affordable housing development.
 3 Which when they analyzed who was actually applying for the
 4 housing and who became residents, the vast majority were
 5 coming from the local Rainier Valley community or from south
 6 King County from people who had already been displaced from
 7 the local community with almost no people coming from out of
 8 state to live in that development.
 9 **Q. So I guess to sum up based on all the things you've**
 10 **discussed, do you in your experience feel like OH in**
 11 **investing these payment revenues is going to further social**
 12 **equity objectives?**
 13 **A.** Absolutely. We will further social equity objectives. We
 14 will further our locational priorities. And I think that
 15 anyone who articulated a hypothesis that we wouldn't do that
 16 that that hypothesis is completely unfounded in our history
 17 or in our policies.
 18 **Q. Thank you very much.**
 19 HEARING EXAMINER: Cross?
 20 MS. NEWMAN: I don't have any cross.
 21 MR. THALER: I will.
 22 MS. BENDICH: I have some questions too.
 23 MR. THALER: Why don't you go first?
 24 MS. BENDICH: No, no, why don't you?
 25 MR. THALER: All right, you want me to go first. All

1 affordable housing above, the ground floor will be continued
 2 to be owned by a long-standing family, the Chan family, who
 3 operated the Four Seas restaurant, and will continue to
 4 think about how they have commercial space on the ground
 5 floor that serves the local community.
 6 We funded the Liberty Bank Building in the Central
 7 District, and the intention, in addition to having
 8 affordable housing, is to have ground floor business spaces
 9 available to local businesses supporting the African
 10 American community experiencing tremendous displacement in
 11 that community.
 12 We know that we made an investment at the Filipino
 13 Community Center in southeast Seattle. And that ground
 14 floor -- that property is adjacent to their cultural
 15 community center, and the ground floor will support a youth
 16 innovation center supporting the youth of Rainier Valley.
 17 So the additional aspects of the building that are the
 18 nonresidential components can have additional efforts to
 19 address displacement.
 20 Third, I would say that we have a demonstrated track
 21 record of our affordable housing developers doing additional
 22 outreach, advertising and marketing to local communities to
 23 ensure that the projects there can support people who may
 24 have been already displaced or may be at risk of
 25 displacement in the community.

1 right.
 2
 3 CROSS-EXAMINATION
 4 BY MR. THALER:
 5 **Q. Well, thank you very much. That's an impressive list of**
 6 **accomplishments. And I truly do appreciate the work that**
 7 **the Office of Housing is doing. And, in fact, my first**
 8 **question is did the Office of Housing help fund the project**
 9 **that the Fremont Neighborhood Council did called Solstice in**
 10 **east Fremont?**
 11 **A.** Yes, I believe we did.
 12 **Q. Good. Look back to see, yes?**
 13 UNIDENTIFIED FEMALE VOICE: We did.
 14 THE WITNESS: Yes.
 15 **Q. (By Mr. Thaler) Well, so my first question is Fremont is**
 16 **considered to be on the map? You know where it is, I**
 17 **assume?**
 18 **A.** Uh-huh.
 19 **Q. It's a high-opportunity, low-risk neighborhood? Is that --**
 20 **A.** Uh-huh.
 21 **Q. -- how it's characterized?**
 22 **A.** Yes.
 23 **Q. Would it surprise you to know that as somebody who's lived**
 24 **there for forty years that I've seen many people displaced?**
 25 **A.** No, that would not surprise me.

1 A. Yes.
 2 **Q. Is there any component of home ownership in the MHA**
 3 **proposal?**
 4 A. Yes.
 5 **Q. Can you describe it?**
 6 A. Home ownership is an affordable housing outcome, so if the
 7 residential development that was created was a condominium,
 8 for example, or a home ownership product otherwise,
 9 performance would result in affordable home ownership as the
 10 affordable housing requirement and also that when payments
 11 are generated and come to our office they can be invested in
 12 affordable home ownership.
 13 **Q. Could you point to me to any part of the EIS where the home**
 14 **ownership is discussed --**
 15 MR. WEBER: Objection.
 16 MR. THALER: -- as home ownership?
 17 MR. WEBER: Again, this goes beyond the scope of her
 18 testimony.
 19 MR. THALER: It's -- she's claiming that the EI -- that
 20 the MHA covers home ownership, and she -- I want to explore
 21 that. Where is it?
 22 MR. WEBER: I guess I'd point out Mr. Wentlandt testified
 23 about this issue and you could have asked him questions
 24 about that, but she didn't.
 25 MR. THALER: We've delayed Mr. Wentlandt, Jeff.

1 A. No.
 2 MS. BENDICH: Are you done?
 3 MR. THALER: Nothing further.
 4 MS. BENDICH: Okay. I just have a few questions.
 5
 6 CROSS - EXAMINATION
 7 BY MS. BENDICH:
 8 **Q. Number one, I too would like to thank you. You mentioned**
 9 **Roosevelt. That's one of the areas that our community**
 10 **worked hard to get.**
 11 **And I just want to make sure I have the same exhibit,**
 12 **because I don't have a computer with the exhibits on them.**
 13 **The investment report you're talking about, was that -- have**
 14 **on the face of it -- and I think it was 276, Tab 21. Does**
 15 **that have on the face of it Attachment 2?**
 16 MR. WEBER: No, that is --
 17 THE WITNESS: No.
 18 MR. WEBER: -- not the same thing.
 19 MS. BENDICH: It's not the same thing.
 20 **Q. (By Ms. Bendich) Is this a report also that this -- that**
 21 **the department of -- the Office of Housing submitted to the**
 22 **City Council? You did say you --**
 23 A. I don't have that report that you're referencing in front of
 24 me.
 25 **Q. Okay. I'm just -- I would -- just want to know, is it -- is**

1 MR. WEBER: Well, so you can ask questions of him.
 2 MR. THALER: I can ask questions of her.
 3 HEARING EXAMINER: Only of items that she's raised in
 4 direct.
 5 MR. THALER: Not -- not even in a follow-up to a question?
 6 HEARING EXAMINER: She did not do a whole exploration
 7 through the EIS. And that is what you're asking, isn't it?
 8 Is there a specific section or something that's related to
 9 the question that you raised that's more narrow?
 10 MR. THALER: Well, if you're -- if you're sustaining the
 11 objection, that's -- I'm not going to argue.
 12 **Q. (By Mr. Thaler) You talked about the paucity of -- I can't**
 13 **remember exactly how you framed it. You talked about the**
 14 **paucity of low-income housing in the Single Family zones; is**
 15 **that -- is that correct?**
 16 A. I testified that from our map it is notable that we have the
 17 fewest number of investments in areas that are presently
 18 zoned Single Family.
 19 **Q. Are you familiar with Fremont?**
 20 A. I have some familiarity with the neighborhood of Fremont.
 21 **Q. Would it surprise you that we are less than 50 percent**
 22 **Single Family?**
 23 A. Not surprise me.
 24 **Q. Would it surprise you that Ballard contains large areas of**
 25 **Lowrise and Neighborhood Commercial?**

1 **it a report that the Office of Housing submitted?**
 2 A. Can you say what it is?
 3 **Q. Here, I'll show it to you.**
 4 A. Yes, that is a report that we submitted.
 5 **Q. And this is different from the investment report at 276?**
 6 A. Correct.
 7 **Q. You're familiar with it, however?**
 8 A. Yes.
 9 MS. BENDICH: So that we have a complete record, I'd like
 10 to move to -- I'd like to have it marked and entered as an
 11 exhibit as well.
 12 MR. KISIELIUS: Are these exhibits on anybody's list?
 13 MR. WEBER: They're actually -- this is on our list. We
 14 just didn't use it.
 15 MS. BENDICH: Oh, okay, well, fine. We can -- if you
 16 would give me the number of your list?
 17 MR. WEBER: It'd take me a minute to do that.
 18 MS. BENDICH: It's better because I don't have a color
 19 copy of it.
 20 MR. WEBER: It appears to be Tab 20. Although, I'm not
 21 100 percent sure from looking at yours that it's -- it's the
 22 same.
 23 MS. BENDICH: It says -- it says, "Attachment 2."
 24 MR. WEBER: Yeah, but the cover doesn't look quite the
 25 same.

JACOBUS, Rick

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1 integration. And I think it's not overstating it to say
 2 that the research has driven us see change in the ways
 3 cities think about the location of affordable housing, that
 4 we think about it differently now than we did twenty years
 5 ago.
 6 And the shorthand version of that is that we have -- we
 7 have proven through the academic research that where a
 8 family lives makes a big difference in the outcomes
 9 particularly for their children.
 10 And so the research has primarily focused on the outcomes
 11 for children in neighborhoods of high concentrations of
 12 poverty. And they've shown fairly convincingly that
 13 children who grow up in concentrated poverty have problems
 14 later in life. They do less well economically. They do
 15 less well in terms of their involvement in the criminal
 16 justice system.
 17 And most recently, the study that Mr. Levitus mentioned by
 18 Chetty and Hendren show that -- I think convincingly that it
 19 was the neighborhoods themselves that are -- that are a
 20 causal factor in that, that it's not just that the people
 21 who choose to live in neighborhoods of concentrated poverty
 22 have different outcomes for their children are less -- less
 23 successful outcomes for their children. It's that the
 24 neighborhood themselves are making a difference.
 25 So this has driven a lot of interest in inclusionary

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1 housing because we see inclusionary housing as a strategy to
 2 provide access to opportunity, but I think there's been a
 3 misunderstanding that's very common of the research when we
 4 apply it to the specific design of inclusionary housing.
 5 And the difference is about the difference between living in
 6 a neighborhood of opportunity versus living in the exact
 7 building with market-rate home -- or market-rate residents.
 8 The theory at one point had been or at least was commonly
 9 referred to as that -- the idea that people would sort of
 10 rub elbows with their neighbors, that there would be this
 11 social capital that would be built as a result of living in
 12 the same building.
 13 And that assumption has been tested a number of times by,
 14 you know, well-funded and well-resourced research projects.
 15 And there's yet to be a single case where they've
 16 convincingly shown that that socialization is the result of
 17 the change that we see. We see this change, but the change
 18 seems to be attributable to attributes of the neighborhood
 19 rather than the neighbors or the building.
 20 People when they leave a neighborhood of high poverty they
 21 leave behind a high crime rate, they leave behind
 22 environmental pollution, they leave behind health concerns
 23 and other sort of distress factors. And when they move into
 24 a neighborhood of opportunity, they gain access to the most
 25 important factor being high-quality schools but also parks,

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1 cleaner air and to some degree access to jobs.
 2 So those factors that you see the differences in
 3 neighborhood account for the difference that we see in the
 4 outcome. So it's very important for policy to continue to
 5 strive to achieve an economic integration at the
 6 neighborhood scale. But we can't find any evidence so far
 7 that shows that being in the same building with people of
 8 higher economic means makes any additional -- adds any
 9 additional benefit.
 10 So what that -- I think that means for the design of an
 11 inclusionary housing program is that where you can count on
 12 and where you can -- where you can achieve the kinds of
 13 results that Ms. Alvarado was describing in Seattle you have
 14 the opportunity to achieve a greater social impact through
 15 the fee because you can serve more people.
 16 So if it's true that more people can be served in
 17 comparably high-resource, high-opportunity neighborhoods
 18 through the payment of the fee, the social impact is greater
 19 with the fee. That's not always true, but in Seattle it
 20 seems to be consistently the case.
 21 **Q. So I want to walk-through a couple of points about --**
 22 **A. Uh-huh.**
 23 **Q. -- the Seattle situation. We heard testimony from**
 24 **Mr. Levitus and others that the payment approach would be**
 25 **problematic because nonprofit developers, it was alleged,**

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1 **would have to compete for land and they wouldn't be able to**
 2 **achieve projects in the areas where from an equity**
 3 **standpoint --**
 4 **A. Sure.**
 5 **Q. -- the projects should be. Now, you've done some study of**
 6 **the results the City of Seattle has achieved in its prior**
 7 **programs, correct?**
 8 **A. Correct.**
 9 **Q. And what did you find about the City's ability and track**
 10 **record to locate payment units in high-cost areas and avoid**
 11 **concentration in low-cost areas?**
 12 **A. Yeah, I was hired in 2013 and 2014 to do an assessment of**
 13 **the Incentive Zoning Program that they were talking about a**
 14 **minute ago. And under the Incentive Zoning Program,**
 15 **developers had a choice to pay the fee or to build units on**
 16 **site, and in that program the majority of the projects chose**
 17 **to pay the fee.**
 18 **And we were brought in to analyze the sort of social**
 19 **impact of that. And I should say our client was the City**
 20 **Council, not the Office of Housing. And I think there was a**
 21 **concern among the City Councilmembers that perhaps this --**
 22 **the high reliance on the fee was undermining the social**
 23 **impact of the program.**
 24 **What we found was quite the opposite. We found that the**
 25 **fees that were paid were reinvested by the Office of Housing**

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1 into projects. And thanks to the leverage that we've been
 2 talking about, they were able to generate significantly more
 3 units.
 4 And in our estimate was that three times more families
 5 were housed through the fee program than would have been
 6 provided with affordable housing had the overall program not
 7 allowed the payment of the fees. So if the units had been
 8 built on site, you would have seen one-third fewer -- or
 9 one-third of the total number of units. So that's a pretty
 10 significant difference in the overall impact.
 11 But we also found at the same time that the -- the housing
 12 that was funded with the fees served families at a
 13 significantly lower income. And in many cases people
 14 earning half of what they would have needed to live in the
 15 on-site unit were able to live in the units that were funded
 16 with the fee.
 17 You heard Ms. Alvarado talk previously about the unit
 18 size. And our research showed exactly what she's
 19 describing. Which was that the on-site projects
 20 predominantly were studios and one-bedroom units. Almost no
 21 two-bedroom units in the on-site projects. So if they -- if
 22 the units had all been built through the performance option,
 23 they would have produced studio and one-bedroom units.
 24 Off site the Office of Housing was able to get a sizable
 25 number of two- and in some cases three-bedroom units funded.

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1 So it's a different population that was served through the
 2 off-site program than would have been served on site.
 3 The last thing that I think was crucial in our analysis
 4 was that we looked at the location of the off-site, the
 5 funded projects, and we were unable to discern any
 6 difference in quality and opportunity between those
 7 locations and the locations that were paying the fee.
 8 So just as the map that you were just looking at showed,
 9 our analysis showed that they were successful in locating
 10 affordable projects in the same neighborhoods that were
 11 producing the market-rate units that were paying a fee.
 12 And to me that -- that -- you know, that led us to say
 13 that the fee program, the utilization of the fee magnified
 14 the social impact of the program relative to an on-site
 15 performance.
 16 **Q. And just to go back to one of those points. Did you find**
 17 **that the City was successful in locating the payment units**
 18 **in areas with high land costs?**
 19 **A.** Yes, the highest. They were -- they were -- they were not
 20 entirely, but they were very largely located in the highest
 21 cost locations in the city.
 22 **Q. So I want to talk a little bit more about the leverage**
 23 **concept.**
 24 **A.** Sure.
 25 **Q. So you've explained a little bit what you found in the past.**

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1 **Can you talk a little bit more generally about the success**
 2 **of Seattle in leveraging funds versus what might happen in**
 3 **other parts of the country and the infrastructure that**
 4 **exists here that may or may not exist in those other places?**
 5 **A.** Sure. And I think that the concern that Mr. Levitus raised
 6 in his testimony about the utilization of fees is not an
 7 unfounded concern. There's -- there's a valid set of
 8 concerns that need to be appropriately attended to.
 9 And where we have seen problems with the fees it's
 10 consistently in places where the City doesn't have the
 11 capacity to really effectively invest. The -- the City of
 12 Seattle has a very strong infrastructure for affordable
 13 housing, and that's made a big difference in the City's
 14 ability to use the fees effectively.
 15 While we were doing this work in Seattle, we were doing
 16 similar work in Denver with the Denver City Council. And in
 17 Denver, they had the kind of outcome that the -- Mr. Levitus
 18 was concerned might happen in Seattle. Which is that the
 19 downtown projects paid the fee and the fees were invested in
 20 projects out in the neighborhoods and not downtown. Now,
 21 they were invested in working-class neighborhoods, not poor
 22 neighborhoods, but still, there was a geographic difference.
 23 And the reason for that difference is that in Denver they
 24 don't have an Office of Housing. They don't have a housing
 25 department of any sort. They have a single staff person who

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1 manages their entire inclusionary housing program. And so
 2 they don't have the ability to do the kinds of policy
 3 analysis and the kinds of targeting that the City of Seattle
 4 has.
 5 Seattle's been effective in using the in lieu fees largely
 6 because of the infrastructure that's created thanks to the
 7 Housing Levy. So Seattle is relatively unique in the
 8 country in the extent to which the voters have supported
 9 funding for affordable housing.
 10 And that has allowed the City to build a lot of capacity
 11 internally to administer those kinds of funds and also
 12 externally to have the partnerships that you heard about
 13 earlier with the nonprofit housing developers and the
 14 for-profit housing developers.
 15 That infrastructure structure is an important asset that
 16 the City of Seattle brings to this program. And because of
 17 that, the City has the opportunity to get a more effective,
 18 more leveraged outcome than another city with less of that
 19 kind of capacity would be able to do.
 20 **Q. So continuing on the question of leverage, I think it was**
 21 **noted by Ms. Alvarado that in 2014 you had suggested that**
 22 **the City's leverage rate might decline, and you've now heard**
 23 **her testimony about what has happened since.**
 24 **In light of both what you understand has happened since**
 25 **and also your understanding of the national situation with**

1 **Low Income Housing Tax Credits, are you worried about the**
 2 **validity of the leverage assumption that underlies this EIS?**
 3 A. No. Let me first just validate the national analysis. I
 4 think it is the case that the Low Income Housing Tax
 5 Credit -- which is the key to this City's success with
 6 leverage, the Low Income Housing Tax Credit requires
 7 continued support from the federal government.
 8 I think that Ms. Alvarado stated it exactly as I would,
 9 that we -- we just faced a very significant challenge where
 10 the tax reform could have eliminated the Low Income Housing
 11 Tax Credit were it not for bipartisan support. And even in
 12 this environment which is not a favorable environment for,
 13 you know, affordable housing in Washington, the tax credit
 14 was -- was saved by intervention from republican legislators
 15 because it is a popular program that is working.
 16 And so I think we have every reason to believe that we
 17 will continue to have access -- that Seattle will continue
 18 to succeed in accessing federal and state and even county
 19 resources at approximately the rates that they have in the
 20 past.
 21 I think it's prudent to assume that the leverage rate may
 22 decline over time and the -- as the cost of land and other,
 23 you know, costs rise that the local contribution will become
 24 greater in these projects.
 25 But I -- I'm surprised by the implication in Mr. Levitus's

1 know, at the sort of high level should be the biggest
 2 concern, right? It's not just a question of where units are
 3 located but also how many people are served.
 4 I think the fee option allows a significantly larger
 5 number of families to benefit from affordable housing and to
 6 access opportunity. But I also think that the fee approach
 7 will allow for an increased -- an improvement in the
 8 program's performance on geographic integration as well.
 9 I think that it is -- when we think about access to
 10 opportunity, we have to think both about where people end up
 11 and how many people end up there. And so if we can -- as
 12 Seattle has proven it can, if we can locate more affordable
 13 units in neighborhoods with good schools, good parks, and
 14 neighborhoods that aren't suffering from high crime, et
 15 cetera, then we can have a much greater impact.
 16 So I think it's very clear that the mixed approach is the
 17 superior of the two options.
 18 **Q. So I want to turn to the EIS's analysis of the relationship**
 19 **between new development and economic displacement in a**
 20 **particular neighborhood.**
 21 **And you wrote back in 2015 that new development can**
 22 **increase housing prices in a particular neighborhood even as**
 23 **new development generally moderates price increases on a**
 24 **broader scale; is that correct?**
 25 A. That is what I wrote, yes.

1 testimony that because the leverage rate might decline that
 2 we should somehow give up on all of the benefits that are
 3 available to us through, you know, sort of a more efficient
 4 program.
 5 We can do more now because of that leverage. At some
 6 point it could happen that that leverage is not -- you know,
 7 is not as strong as it is now, but as long as it's better
 8 than the on-site performance, we should take advantage of
 9 it. And I think Seattle is in a good position to do that.
 10 **Q. So have you reviewed the objectives of the proposal as set**
 11 **forth in the EIS?**
 12 A. Yes, I have.
 13 **Q. So in your opinion, is the mixed performance payment**
 14 **approach of this proposal a reasonable way of meeting those**
 15 **objectives?**
 16 A. Yes, I think it's a very reasonable approach.
 17 **Q. So as you've observed, in essence Mr. Levitus and others**
 18 **have contended that this proposal will not serve social**
 19 **equity goal given its allowance of in lieu payments.**
 20 A. Uh-huh.
 21 **Q. In your opinion, will the mixed approach here improve or**
 22 **worsen social equity versus a totally on-site approach?**
 23 A. I think that it's very clear that the mixed approach will
 24 improve the social equity outcomes both in the number of
 25 people who are provided with affordable housing. Which, you

1 **Q. And does the EIS acknowledge that effect?**
 2 A. Yes, it does.
 3 **Q. How would you characterize the state of the research**
 4 **nationally on that question at the time in 2015 that you**
 5 **were writing?**
 6 A. Well, this is a really challenging issue. It's something
 7 that I believe to be true, but I've spent -- since I
 8 published that, I've spent rather a lot of time discussing
 9 the issue and debating the issue. I've had several public
 10 debates on the topic.
 11 And, unfortunately, there's not convincing data one way or
 12 the other as to how new development impacts the prices of or
 13 the rents for apartments at a local level. There certainly
 14 wasn't at the time, and there's been very little progress
 15 since then. So I've been unable to provide the data to
 16 prove the assertion that I made.
 17 There have been several research projects that have
 18 attempted to study the question. And much like the research
 19 that was conducted for this EIS, what they found is that
 20 overwhelmingly at the large scale the more development
 21 happens the lower the rents are, that new development is
 22 correlated with reductions in rent rather than increases.
 23 The theory that I'm asserting there and that I think many
 24 people believe intuitively is that, while that may be true
 25 overall, there are exceptions where a given neighborhood is

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1 impacted by new development because it generates demand or
 2 interest in that neighborhood, that a new development
 3 becomes like an amenity in a neighborhood that drives higher
 4 rents. We don't see that in the overall data because it's
 5 not happening everywhere.
 6 And I've talked about most of the academic researchers who
 7 study these kinds of urban economic questions in order to
 8 encourage someone to take up the question and to prove my
 9 point. And so far what I've heard consistently is, "We
 10 don't have the data we would need to address that question."
 11 So my sense of the state of the field at the time and now
 12 is that there is simply no evidence to prove one way or the
 13 other conclusively whether new development causes higher
 14 rents or is the result of higher rents.
 15 And the question is when we -- when we build an apartment
 16 building in a neighborhood, the rents are going up in that
 17 neighborhood, it's very hard to piece apart whether it's the
 18 new apartment building causing higher rents or whether the
 19 higher rents are making it so that a developer is willing to
 20 take on building a new development in the neighborhood. And
 21 I think the reason it's hard to piece apart is because both
 22 things are clearly happening at the same time.
 23 So we can't really know without a much more resourced
 24 study. You would need a comparison group, and you'd need
 25 sort of randomly assigned neighborhoods and then withhold

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1 development in one area and let it happen in another and see
 2 the difference. And no one's able to undertake that kind of
 3 research.
 4 HEARING EXAMINER: Mr. Weber?
 5 MR. WEBER: Yeah.
 6 HEARING EXAMINER: I'd ask what amount of time do you
 7 anticipate --
 8 MR. WEBER: You know, we don't have a whole lot more. We
 9 might have another fifteen minutes.
 10 HEARING EXAMINER: I'm going to ask you to stop.
 11 MR. WEBER: Okay.
 12 HEARING EXAMINER: And I'm going to go to 1:30 for lunch,
 13 and then we'll come back and finish up with you and cross.
 14 MR. WEBER: Okay.
 15 HEARING EXAMINER: Thank you.
 16 THE WITNESS: Thank you.
 17 (Lunch recess)
 18 HEARING EXAMINER: We continue with direct with
 19 Mr. Jacobus.
 20 MR. WEBER: Thank you.
 21 **Q. (By Mr. Weber) So, Mr. Jacobus, we were returning to the**
 22 **subject of the research on the relationship between new**
 23 **development and economic displacement at the neighborhood**
 24 **scale. If the City in this EIS had wanted to do additional**
 25 **analysis on this topic, does the research provide a clear**

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1 **roadmap of how we would have wanted to do that given the**
 2 **data that was available?**
 3 A. I'm not aware of a research methodology that was available
 4 to the City or that is available now that would do a better
 5 job than what was done in the EIS of convincing people about
 6 the, you know, results of development in lower income
 7 neighborhoods. The research -- and I feel, like, very
 8 confident of such research if it existed. The research that
 9 exists is unconvincing to both sides on this question.
 10 Mr. Levitus suggested that perhaps some sort of case studies
 11 could have shed more light on it, and I've certainly seen
 12 other communities look at case studies. But I have not seen
 13 that result in anyone being convinced one way or the other
 14 about what's happening. The fundamental question of: When
 15 we build a new real estate residential project in a
 16 neighborhood, does it drive rents up or bring them down is
 17 something that, you know, you can't answer with a simple
 18 case study. So I'm not aware of a way that the EIS could
 19 have been conducted that would have provided a more
 20 definitive answer or a more convincing answer than the one
 21 that was provided. Even though I believe that the
 22 phenomenon of development encouraging and inducing higher
 23 rents is a phenomenon, I can't point to a way to prove it.
 24 **Q. So turning to a different topic, can you turn to Appendix A**
 25 **of the EIS, which is the big volume there to your left. I**

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1 **think we're pretty close to Appendix A already.**
 2 A. I'm not sure how to get to Appendix -- oh, here's Appendix
 3 A. Yes.
 4 **Q. So are you familiar with this document?**
 5 A. Yes.
 6 **Q. So have you in your research become familiar with what other**
 7 **jurisdictions are and are not doing to try to address the**
 8 **types of issues that are addressed by Exhibit A?**
 9 A. Yes, to some degree. I've worked in a number of
 10 jurisdictions on issues related to displacement and housing
 11 strategy, and I've seen this type of study done in other
 12 places, and I've worked on a couple projects.
 13 I do not typically work on EIS -- or EIR in California --
 14 documents. So I've seen this type of work done outside of
 15 the context of the EIS, but simply in the policy development
 16 arena trying to understand the displacement impacts.
 17 **Q. So as a tool or as an attempt to provide a framework for**
 18 **understanding these issues, would you -- how would you**
 19 **characterize this document in Appendix A versus the state of**
 20 **the art elsewhere?**
 21 A. Yeah. Well, let me say that I think that this is a
 22 relatively brand new art, that over the last maybe even
 23 hundred years, we've developed our cities without really
 24 paying close attention to displacement, and there's a -- you
 25 know, there's been in the past a sort of, well, things

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1 change and it just -- it just is, and we live with that
 2 result.
 3 And I think in the last decade or more, there's been an
 4 increased attention to this question. And this
 5 attachment -- this exhibit -- this appendix rather, is part
 6 of a body of emerging research that tries to predict where
 7 displacement will happen. And the academic research that,
 8 you know, underlies this is all published in the last few
 9 years. There really weren't studies prior to five years ago
 10 where anyone attempted to scientifically evaluate the
 11 likelihood of displacement. Displacement and gentrification
 12 were sort of things people talked about without any clear
 13 definition or without any real evidence one way or the
 14 other.
 15 So the idea of mapping displacement risk is a brand new
 16 idea, and as far as I know, Seattle is in the forefront of
 17 attempting to really build its policy around those kinds of
 18 maps. I have a number of clients that have attempted to
 19 estimate the direct displacement. So you know, when you
 20 tear a property down, there's a demolition as a result of a
 21 redevelopment action. I think that's a somewhat established
 22 practice. But the idea of predicting the indirect
 23 displacement, the economic displacement as it's called in
 24 here, is, I think, a cutting edge strategy that Seattle has
 25 undertaken here. And I think it's an important topic, but I

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1 to be most impactful. There are, you know, factors to be
 2 considered, and I spend a lot of my time working with
 3 communities around the country on the design of these
 4 programs, and in every case there's a discussion about
 5 should we allow fees or should we not? How should the fees
 6 be set? And I generally recommend to cities that they
 7 include a fee as a component in their program, and there's a
 8 number of reasons for that. There are a few places where I
 9 find exceptions where I think the fee might not be
 10 appropriate under certain conditions, none of which apply in
 11 Seattle.
 12 The reasons for the fee being an important element of the
 13 program, we've talked about already the leverage, which is
 14 really the driving factor. The idea that we're going to
 15 serve more people as a result of the leverage. And one way
 16 I like to think about that is that the voters in Seattle
 17 have been very generous in supporting affordable housing,
 18 but there's no reason for them to do it on their own. The
 19 people of the United States have a program to fund
 20 affordable housing. And when we build in Seattle with the
 21 low income tax credit, the people of Connecticut are helping
 22 to foot the bill. And you know, a portion of our federal
 23 tax dollars are essentially helping to subsidize that.
 24 You heard Ms. Alvarado mention earlier that the tax credit
 25 is underutilized. The City of Seattle could build more

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1 don't think that it's something where there's an established
 2 best practice that's been, you know, implemented widely.
 3 **Q. And are you aware of any jurisdictions who have done this**
 4 **kind of work that you would say, that's a better model or an**
 5 **approach that's out there that Seattle should have emulated?**
 6 A. I'm not. I've been doing a similar project in Los Angeles
 7 and the approach that we've used is very similar to what was
 8 done in this EIS, and I think it is to the -- it leaves open
 9 many important questions and I don't think that it answers
 10 every possible avenue for further research. So I can't
 11 imagine that there could be better research at some point in
 12 some way. But I don't know of an example, and I certainly
 13 don't think that there's an established practice out there
 14 that's more likely to effectively predict where displacement
 15 would happen or what would happen when new development is
 16 introduced.
 17 **Q. So going back to the broader questions that we started with,**
 18 **in your opinion, based on the research that you've reviewed**
 19 **and your experience, is it your opinion that the mixed**
 20 **performance payment approach that is embodied in this**
 21 **proposal is a reasonable approach? And if so, can you**
 22 **summarize why?**
 23 A. Sure. Yeah, let me just first say I think it's very
 24 reasonable. I think it's both the most common approach and
 25 the approach in a context like Seattle's that's most likely

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1 affordable housing if it put more money -- local money on
 2 the table. There's more federal match available than
 3 they're currently able to access.
 4 And so the constraint that we found in our study and that
 5 I think you heard again in her testimony earlier today, the
 6 constraint on how much affordable housing is built is
 7 primarily the availability of local resources to provide
 8 that local match. And so that's the driver.
 9 Even if there were a one-to-one leverage, even if you
 10 could only get as many units offsite, I think there would
 11 still be some real advantages to the fee option, including
 12 we mentioned also the unit size and the income levels. But
 13 there's another factor which we haven't talked about which
 14 is the flexibility for developers. So there's a key in
 15 about -- in these programs is how do they impact the
 16 feasibility of development? And we do those studies and we
 17 look at what it costs to build and what it costs to comply
 18 with the requirements and we try to make sure that the
 19 program is going to be feasible, that development is still
 20 going to move forward.
 21 What the research has shown that where programs allow
 22 multiple options for a developer, there's less evidence that
 23 the program has an effect on what's feasible. And the fee
 24 is the most common strategy in that regard. And so what we
 25 see is that where you offer the developer the fee option,

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1 more projects are able to comply with the program, and the
 2 program is less likely to result in sort of blocking the
 3 feasibility of a particular project because every project is
 4 different, and sometimes the fee is just a better option.
 5 So where the fee is set appropriately at a level that's
 6 meaningful, we see consistently better performance. I think
 7 the fee in this case is likely to result in a much stronger
 8 social equity outcome than a program that was only allowing
 9 for onsite performance.
 10 And I think the question of where the fees are spent is a
 11 really important question, but I see every reason to believe
 12 that Seattle would continue its track record of spending the
 13 fees appropriately. There are no other cities in America
 14 that are better positioned than Seattle to succeed at that.
 15 Seattle has done a phenomenal job of building the local
 16 capacity inside city hall and outside city hall to be able
 17 to deliver that kind of result. And it would be
 18 irresponsible in my opinion, not to let the Office of
 19 Housing take advantage of that capacity and, you know,
 20 access the leverage that's available.
 21 The stakes are too high, there's too many people that are
 22 at risk to say we're not going to serve more people just
 23 because in some other city they might have trouble achieving
 24 the results that we've proven we can achieve here in
 25 Seattle. The fact that the City has been able to do it

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1 suggests strongly to me that they'll be able to do it in the
 2 future, and I don't see any reason to doubt that. All of
 3 the factors seem to be in place for a successful use of the
 4 fee and a use of the fee that's much more impactful than an
 5 all performance program would have been.
 6 **Q. Thank you very much.**
 7 **A. Sure.**
 8 **MR. WEBER:** I have no further questions.
 9 **HEARING EXAMINER:** Cross.
 10 **MS. BENDICH:** Who is going first? I'm not (inaudible).
 11 **MS. NEWMAN:** I have just a few but I can wait.
 12 **MR. THALER:** I was going to say the same thing.
 13 **MS. NEWMAN:** I can start if you want.
 14 **MR. THALER:** Go ahead.
 15
 16 **CROSS-EXAMINATION**
 17 **BY MS. NEWMAN:**
 18 **Q. Good afternoon.**
 19 **A. Good afternoon.**
 20 **Q. This is Claudia Newman on behalf of SCALE, the appellant.**
 21 **Just a very few questions.**
 22 **If the evidence ultimately shows from this hearing that**
 23 **the majority of projects that get built via the fee payment**
 24 **option will be built in low opportunity areas, then that**
 25 **would undermine the goal of social equity; is that your**

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1 **opinion based on what you said today?**
 2 **A. Depending on how you define low opportunity areas. I think**
 3 **that the research --**
 4 **Q. I can do that for you.**
 5 **A. All right.**
 6 **Q. So areas that -- basically -- have you read -- you said you**
 7 **had read the growth inequity.**
 8 **A. Yeah, you were using that definition.**
 9 **Q. Yeah.**
 10 **A. Yeah. I don't -- I think that generally I agree with that**
 11 **statement, but I would qualify that by saying that the way**
 12 **that the opportunity areas are defined here doesn't**
 13 **correspond to the academic research on areas of concentrated**
 14 **poverty. There's a smaller subset of areas that the**
 15 **academic research would point to as problematic.**
 16 **So the issue is where will projects be located and what**
 17 **will be the environment that the project is located in and**
 18 **some --**
 19 **Q. And some of that --**
 20 **A. -- of the low opportunity areas would still fall outside of**
 21 **the areas of concentrated poverty.**
 22 **Q. Okay. But basically you're saying the question of where**
 23 **fees are spent, where the buildings are built is an**
 24 **important question?**
 25 **A. Absolutely.**

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1 **Q. And a lot of what you said today relies on an assumption**
 2 **that they're built in areas that have better opportunities?**
 3 **A. Correct.**
 4 **Q. I heard you say -- when you were discussing the how new**
 5 **developments impacts prices for rents at local level, there**
 6 **was a statement that you made somewhere that opened up that**
 7 **conversation. What was that statement that you made?**
 8 **A. I'm not sure.**
 9 **Q. Okay. It was basically, I think, a conclusion -- is it**
 10 **accurate to say it was a conclusion that new development**
 11 **does increase rents at a local level?**
 12 **A. Right. There's --**
 13 **Q. That was in writing some -- I just want to...**
 14 **A. I made that statement in several places in writing, yes.**
 15 **Q. Okay. And where -- what places were those?**
 16 **A. So I wrote a book called Inclusionary Housing.**
 17 **Q. Okay.**
 18 **A. And there's a -- I think the quote that Mr. Levitus lifted**
 19 **was from there.**
 20 **Q. Okay.**
 21 **A. I also published that statement or a very similar statement**
 22 **in Shelter Force, which is a magazine for affordable housing**
 23 **professionals.**
 24 **Q. Okay.**
 25 **A. And I simply suggested that this might be the mechanism that**

RAMSEY, Kevin

1 a high level, we look at the different alternatives, and we
2 have methods for estimating how much demolition of existing
3 housing units could occur under the assumptions of those
4 alternatives and the growth assumptions. And we have
5 methods for kind of higher and lower estimates of that which
6 we'll talk about later.

7 And then we take another step where we try to determine
8 what -- you know, what proportion of those demolitions do we
9 think would actually result in the physical displacement of
10 a household. And there are some limitations in the ability
11 to do that, but we -- but we have -- we (inaudible) from the
12 City that tracks instances of physical displacements of
13 low-income households. And that is one data source we use
14 that -- we compare that to demolition permits to try to
15 understand ratios, and we -- we use that generally.

16 **Q. So starting with the demolition question, what are the two**
17 **different methods the EIS uses to estimate demolitions that**
18 **would result from the proposal?**

19 A. Sure. The first we refer to it I believe as the personal
20 allocation model approach. And that takes the growth
21 estimates from each of the alternatives, so the City not
22 only has overall growth estimates, but they also have growth
23 within individual urban villages. So we -- we took those
24 estimates and we also took from the City the -- a buildable
25 lands model basically; so a model that looked at all sites,

1 A. Sure.
2 **Q. Within that basic construct, is it correct that the parcel**
3 **allocation approach does take into account the proposed**
4 **development capacity increases under this proposal?**

5 A. Yeah. That's the whole idea of doing this approach
6 actually. So, you know, so the allocation model, just to
7 kind of finish my thought there, like, we basically allocate
8 growth to the most likely parcels based on the parcel's
9 capacity until all the growth of that urban village is --
10 has been allocated. And there's some nuances in terms of
11 how it's (inaudible) different zones which I can talk about
12 if you'd like.

13 But the whole point is that within each -- we look at
14 this differently. We have a different kind of capacity
15 model for each of the alternatives based on the proposed
16 zoning within those alternatives. So if an alternative --
17 if a parcel under no action can be built to five stories,
18 then under the proposed it can be built to eight stories,
19 you can get more units within those eight stories. So more
20 of the growth can be accommodated on less parcels in -- in
21 the action alternatives because of the additional capacity
22 that's provided.

23 Therefore, that has a big impact on how many demolished
24 units you could expect. If you can accommodate the same
25 amount of growth in less parcels, you'd expect less existing

1 potential development sites, basically parcels across the --
2 you know, within each urban village.

3 And the City has done work to identify which of those
4 is potentially redevelopable, and which of those are not
5 likely to redevelopment based on the parcel characteristics.
6 They're -- within each of the urban villages there's more
7 capacity in potentially redevelopable parcels than the
8 expected growth is under any of the alternatives.

9 So therefore, we took the redevelopable batch that --
10 from their model, and then we ranked all the parcels in
11 terms of something called development ratio where we
12 basically rank them in terms of the likelihood that they
13 would be redeveloped based on kind of the economic return
14 that could be expected, at least in the perspective of
15 additional capacity. So basically if you have a parking lot
16 with nothing developed on it, and you could develop a
17 10-story building, there's quite a bit of additional
18 capacity compared to what you have now so that that would be
19 very high on our list of redevelopable parcels. And
20 something that's already built out to five stories, that
21 would be less of a -- of a -- of a ratio, so that wouldn't
22 be as high on the list.

23 **Q. So --**

24 A. I can elaborate more, too, if you --

25 **Q. I have a specific follow-up question.**

1 units to be demolished to accommodate that same amount of
2 growth. So that's why we chose that approach.

3 **Q. So I think you've given us a good overview of the parcel**
4 **allocation method. Can you now describe the second method?**
5 **What was that called, and how does that one work?**

6 A. Sure. That -- I think it's historic trends is what we
7 called it in there. And basically we just wanted to have
8 another look at it because, you know, parcel allocation,
9 there's a lot of good research that's gone in to trying to
10 determine which are the most likely parcels, but of course,
11 we can't -- we can't guess exact. We can't be -- we can't
12 be sure, that certain about what parcels are going to
13 redevelop. There's a lot of uncertainty there.

14 And with that uncertainty could come uncertainty with
15 the demolition estimate that would come from that approach.
16 So we -- we developed a second approach as well. That
17 looks -- instead of at the capacity on individual parcels,
18 we just forget about the capacity and just look at historic
19 trends. Like, historically we analyzed building permit data
20 and demolition data between 2010 and 2016 within Seattle, so
21 basically up to -- up to the date of the analysis, more or
22 less.

23 And we looked at what was the ratio of -- of net new
24 housing units permitted to the ones demolished within the --
25 the zones. I think we looked at everything except for

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1 downtown zones and single-family zones to try to isolate
 2 down on the types of zones that are in the study area so
 3 that we could have a good historic record and -- and
 4 rationale for kind of applying it to what demolition could
 5 be like moving forward. So that ended up coming up with a
 6 significantly higher ratio or higher number of demolished
 7 units, so it's basically our kind of higher estimate in our
 8 EIS.

9 **Q. So is it correct that that historic trends approach does not**
 10 **take into account the proposed development capacity**
 11 **increases?**

12 A. Exactly, yeah. We don't -- we don't look at the individual
 13 parcels. In fact, it's based on historic trends which is
 14 essentially the no action, so it's very applicable to no
 15 action, but it arguably would be less applicable to the
 16 other ones because of the additional capacity. Does --
 17 does -- would likely change the amount of demolitions you
 18 get per new unit. But that particular method does not
 19 account for that.

20 **Q. And I want to understand the effect of that. So does the**
 21 **fact that the historic trends approach does not take into**
 22 **account the proposed development capacity increases result**
 23 **in overstating or understating the likely number of**
 24 **demolitions?**

25 A. Overstating, definitely, particularly for the action

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1 alternatives. But because of the fact that it doesn't
 2 account for that additional capacity, like I was saying
 3 before, when there's additional capacity at any given
 4 parcel, you can build the same amount of new units on less
 5 parcels because there's more capacity on each parcel. So
 6 from that perspective, less whatever's on those -- those
 7 smaller number of parcels, you know, there's less -- there
 8 would be less demolition associated with the same amount of
 9 growth in the action alternatives where there's more zone
 10 capacity. So that wasn't considered in the historic trends.

11 So I think it's quite likely the historic trends is
 12 overstating, at least for the amount of growth that's
 13 assumed in the EIS. It would be overstating the amount of
 14 demolition. But it's -- but -- but it's conservative and
 15 it's a high-end estimate, so I think it's appropriate to use
 16 it in the EIS, but I think it's definitely a high end.

17 **Q. So you've reviewed the testimony of Mr. Reid?**

18 A. Yes.

19 **Q. So Mr. Reid suggested that the historic trends approach**
 20 **understated demolitions. I take it you disagree with that.**
 21 **Could you say whether you agree and just why not?**

22 A. Yeah. I was reading his testimony, and -- and trying to
 23 understand how -- what logic he was using to get there. It
 24 seemed to me that he -- that there was a misunderstanding of
 25 the historic trends approach the way he was describing his

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1 argument where he -- when we -- when we use the historic
 2 trends approach, I don't know if I -- if I explained this
 3 very well before, but we basically look at what is the --
 4 you know, what is the percentage of -- or the number of
 5 demolished units per new housing unit. And then we can use
 6 that -- you know, say there was 10 demolished units for 100
 7 new units, right, we can use that same ratio and apply it to
 8 the amount of growth expected in -- in the alternatives,
 9 right, to project forward.

10 So we're using a ratio. We're not just looking back
 11 and saying, okay, well, between 2010, 2016, there were 48
 12 demolitions a year. We will just assume it's 40 going
 13 forward. That's not -- that's not what we did. It seemed
 14 like he -- that that's what he was implying was done, and
 15 that wasn't the case.

16 **Q. I think you mentioned it, but did the data you used for the**
 17 **historical trends approach extend up to the time the EIS**
 18 **analysis was done?**

19 A. Yeah. Yeah. We had up until 2016. So that was about the
 20 time when we started that analysis.

21 **Q. Okay. So just to orient the examiner, could you page --**
 22 **turn to the EIS which you've got there and turn to page**
 23 **3.71?**

24 A. Sure.

25 **Q. So without going into every number, is this where we have**

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1 **summarized the demolition estimates under the two methods**
 2 **that you've just described?**

3 A. Yeah. Yeah. This is one place where it's -- it's broken
 4 down a little bit more, but yeah, we have the two different
 5 methods side by side there.

6 **Q. And we have results for outside urban villages, within urban**
 7 **villages, and the total study area?**

8 A. Yes.

9 **Q. So one of the appellant's witness, Mr. Bloom, suggested that**
 10 **the demolition analysis in the EIS ignored demolition of**
 11 **single-family homes; is that correct?**

12 A. No.

13 **Q. Can you explain why that's not correct?**

14 A. Sure. So I'll start with the parcel allocation approach.
 15 That looked at every parcel in the study area, including
 16 single-family parcels, single -- parcels that have
 17 single-family land uses currently, either ones that have
 18 been converted by zoning or just happen to have
 19 single-family land uses. So, yeah, those are considered
 20 with every other parcel when it's -- when the model's
 21 selecting which is the most likely to be redeveloped.

22 And, in fact, with that method, something I alluded to
 23 earlier, rather than just focusing on the -- on the -- the
 24 parcels that have the lowest ratio of currently developed
 25 building -- built stuff compared to what the capacity is, we

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1 actually broke down the amount of growth in each urban
 2 village into different zone classes. So basically assuming
 3 that there would be a diversity of different types of
 4 housing built in the future, including the types of housing
 5 you'd see in low-rise, or residential single family, or the
 6 mid-rise, or the high-rise.
 7 We broke it up into those classes to make sure that the
 8 allocation of growth that came from this model didn't just
 9 go to, like, empty parking lots where you can put high-rises
 10 on them and have no other -- that would've potentially
 11 understated the amount of demolition. We definitely didn't
 12 want to do that, so we -- we -- we had to approach that,
 13 spread it out to make sure that some of that allocated
 14 growth went to low-rise areas, many of which currently have
 15 single-family homes. So we actually went out of our way to
 16 make sure that demolition of single-family homes was -- was
 17 accounted for in that approach.
 18 In the historic trends approach, again, we're looking
 19 at -- at actual demolition and permitted data citywide. I
 20 mentioned before that we didn't look at demolitions in
 21 single-family zones, but we certainly looked at demolition
 22 in low-rise zones that currently have single-family homes.
 23 And, in fact, most of the -- a lot of, you know, the growth
 24 in a low-rise zone like a townhouse zone or something like
 25 that, it's a single-family home that was the previous use.

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1 So there's definitely the demolition of single-family homes
 2 was accounted for via that approach as well just based on
 3 the historic trends of single-family homes being demolished
 4 for those types of uses.
 5 **Q. So turning to the second part of the analysis where you're**
 6 **measuring the displaced households, can you explain how that**
 7 **measurement of displaced households was done and why you**
 8 **chose the method you did to do that measurement?**
 9 **A.** Okay. So, yeah, going from demolitions to displacement.
 10 Yeah, so we acknowledge that not all demolitions of a
 11 housing unit result in the -- the displacement of a
 12 household. Some housing units were previously owner
 13 occupied, and some were not.
 14 And more importantly, that varies across the city. In
 15 different areas, there's different -- there's different
 16 homeownership versus, you know, renter occupancy rates
 17 and -- and previous work is also identified areas of the
 18 city that are higher displacement risk rather than in some
 19 areas versus others. And we wanted -- a lot of what's being
 20 varied in the alternatives that we were studying is the
 21 distribution of growth in different neighborhood types based
 22 on those displacement risk and access to opportunity
 23 categories. So we wanted a method that would not only
 24 acknowledge that not all demolitions result in displacement,
 25 but also that that rate of displacement might vary across

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1 the city in different types of neighborhoods and be able to
 2 fully account for that in our looking kind of at the
 3 relative impacts between different alternatives.
 4 So unfortunately, like, complete data on -- on -- every
 5 household that was physically displaced for any reason,
 6 that -- that doesn't exist. You'd have to survey every
 7 household that -- that moved. And we don't have that
 8 survey, obviously. But -- but there is a really good source
 9 of data in the -- the Seattle's Tenant Relocation Assistance
 10 Ordinance. So basically that is a rule that Seattle has
 11 that in order to get a demolition permit from the City, the
 12 way I understand it -- I'm not an expert in it, but, you
 13 know, I was being guided by folks at the City that knew that
 14 data quite well, that -- that in order to get that
 15 demolition permit, you need to basically -- the -- the
 16 previous residents of the unit need to have the opportunity
 17 to apply for relocation assistance. And those that qualify
 18 based on their income level -- I think it's 50 percent or
 19 below of area median income qualify.
 20 You know, basically the City has records of all the
 21 people that have applied, and who is eligible for that
 22 relocation assistance. And that's -- that's systematically
 23 collected data for every demolition permit across the City
 24 between -- again, we -- I think we had, like, two thousand
 25 to nine hundred thousand sixteen. I'd have to look at the

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1 exact dates. But we had a good period of time for that
 2 data.
 3 And -- and that allowed us -- well, we recognized that
 4 it's not a complete accounting of every physically displaced
 5 household. It is a -- it's -- it's a dataset that gets at
 6 an important group of those households, the low income ones
 7 earning below 50 percent AMI. And it's very reliable time
 8 series data that we could use as a way, again, to
 9 differentiate the relative impacts of different alternatives
 10 because it allowed us to determine what were the -- the
 11 rates of, you know, for every demolition permit in a
 12 neighborhood, how many displaced TRAO -- you know, TRAO's
 13 the shorthand for this Tenant Relocation Ordinance -- TRAO
 14 households were there that -- that were displaced.
 15 So we get kind of a rate kind of similar to before. I
 16 think citywide our analysis found that it was 17 households
 17 displaced that qualified for TRAO for every 100 demolition
 18 permits -- or demolished units that were permitted to be
 19 demolished.
 20 **Q. And so then you took that ratio and applied it to the**
 21 **projected demolitions to get a number that --**
 22 **A.** We did, but again, we didn't -- to use that 17 number, we
 23 actually used the differentiated ones by different -- by the
 24 displacement risk and access to opportunity typology.
 25 There's different -- different amounts, as you might expect,

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1 because some areas are higher displacement risk than others.
 2 There was a different rate for each of those. We were able
 3 to apply the applicable rate to the applicable urban village
 4 when we were looking at how many of those demolitions are
 5 likely to result in the displacement of a low-income
 6 household earning 50 percent of AMI or less.
 7 **Q. So, again, can we have you turn just a few pages to page**
 8 **3.73 of the EIS?**
 9 A. Uh-huh.
 10 **Q. And so, again, without going through every number, is**
 11 **Exhibit 3.1-42 where the results as to displaced households**
 12 **and the various alternatives are set forth?**
 13 A. Yeah, this is the -- you know, how we applied that analysis.
 14 I was just describing how we applied it to the analysis
 15 of -- of -- of impacts, estimations of impacts per the
 16 alternatives, the earlier part where I showed the -- the
 17 calculations. But if you look in that -- the third column
 18 over, the assumed percentage of demolished units resulting
 19 in displacement, those are the different percentages in the
 20 different area typology that I was referring to before.
 21 So, again, it was 17 total study area, but, you know,
 22 in a high displacement risk, high access to opportunity
 23 area, it was 26 percent. So we had applied that percentage
 24 for those types of urban villages.
 25 **Q. Okay. So Mr. Bloom and a number of the appellant's other**

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1 **witnesses suggested that the approach in the EIS was**
 2 **inappropriate because they said it understates the impact of**
 3 **demolition on the supply of existing unsubsidized low-cost**
 4 **housing.**
 5 A. Uh-huh.
 6 **Q. So my question is, why did the EIS analyze physical**
 7 **displacement in terms of displaced low-income households**
 8 **rather than, as Appellant suggested, in terms of the rent**
 9 **levels of the buildings being demolished?**
 10 A. Well, first of all, we don't have data on the rent levels of
 11 every building being demolished. That data doesn't exist
 12 for every building in Seattle. We would have to survey
 13 every individual building in the study area in order to
 14 obtain that.
 15 More importantly, I think we don't know the incomes of
 16 the people in -- living in those units. We would need to
 17 survey all of the households in order to get the incomes of
 18 those people living in those units to understand, you know,
 19 the -- the people living there, are they -- you know, are
 20 they low-income households? Are they high-income households
 21 that happen to be living in -- in -- in a cheaper apartment
 22 because they were able to find one? There's a lot of
 23 examples of that in Seattle.
 24 So, like, because there's so much uncertainty and then
 25 there -- and lack of data to be able to -- to analyze it in

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1 the way in which he was describing, we thought a better way
 2 to analyze it was to look at actual collected data from the
 3 City on -- on -- on the types of households that are of
 4 greatest concern, the low-income households earning
 5 50 percent or less that were being displaced because
 6 that's -- you know, we can actually track that back to
 7 households displaced, as opposed to making assumptions.
 8 **Q. So as I noted, Mr. Bloom was referring to the demolition of**
 9 **unsubsidized housing. If there are no rent and income**
 10 **restrictions put on a unit through government regulation, is**
 11 **there any guarantee that the rents for currently inexpensive**
 12 **units will stay inexpensive?**
 13 A. No. That's an important point. And we demonstrate this in
 14 the -- in the affected environment part of the -- the
 15 chapter as well. Like, rents in Seattle as we know, are
 16 rising fast. We looked at that in different areas of
 17 Seattle to show how it's rising fast in -- in neighborhoods
 18 across the entire city. And -- excuse me -- so there --
 19 there's no guarantee that a -- that a unit that happens to
 20 be affordable today will continue to be affordable in the
 21 future. So that -- that -- yeah.
 22 **Q. So one of the points made by a number of the appellant**
 23 **witnesses was the idea that older buildings tend to be**
 24 **cheaper buildings in terms of rent. Does the EIS discuss**
 25 **that concept?**

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1 A. Definitely, yeah.
 2 **Q. And does the parcel allocation approach to estimating**
 3 **demolitions capture the greater likelihood of older**
 4 **buildings being demolished as opposed to newer buildings?**
 5 A. Certainly. Like, the -- it identifies -- it literally
 6 identifies buildings that are -- that are built out not as
 7 much as -- as the capacity allows under the proposed or no
 8 action, depending on the alternative we're looking at.
 9 And -- and those buildings that are not built out to
 10 capacity are much more likely to be older buildings. A
 11 newer building would have been more likely to have built out
 12 to capacity. Just based on land values in Seattle, you
 13 don't underbuild very often. So, yeah, the -- the mechanics
 14 of the model is -- is very, very likely to identify only
 15 older buildings.
 16 **Q. And as you indicated, is it correct that the EIS provides**
 17 **specific estimates of demolitions for each of the**
 18 **alternatives if a reader wants to focus on that particular**
 19 **number?**
 20 A. Oh, of course, yeah. We looked at it earlier, yes. We
 21 disclose all -- all demolitions. So if you are concerned
 22 that -- that the displaced household estimates is an
 23 underestimate, we acknowledge why that might be the case
 24 in -- in the EIS. There's also the full demolition estimate
 25 is another way to kind of compare the alternatives.

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1 **Q. And also the historic trends approach which is --**
 2 A. Exactly; the historic trends approach as well.
 3 **Q. So a number of the appellant witnesses contended that the**
 4 **use of TRAO eligibility to measure displaced households was**
 5 **inappropriate. Did the EIS acknowledge that issue? Can you**
 6 **talk about that?**
 7 A. Yeah. Yeah, definitely. We -- we -- we provide a lot of
 8 transparency about what the -- the TRAO data is and what are
 9 some potential limitations. I think when we first
 10 introduced the -- in the affected environment section,
 11 there's a -- a pretty lengthy -- there's a pretty lengthy
 12 footnote on that, and it's mentioned in the text several
 13 times later on, particularly in the impact analysis where we
 14 talk about the fact that, you know -- most obviously there
 15 could be displaced households earning greater than
 16 50 percent of AMI and still be a, you know, legitimate, you
 17 know, case of physical displacement. We definitely
 18 acknowledge that.
 19 It could be instances -- I think we acknowledge in the
 20 EIS that -- that certain types of people might be less
 21 likely to -- to turn in an application to, you know,
 22 complete the application process for TRAO, and there -- and
 23 there might be some people that were eligible that might not
 24 have been able to benefit from the program. And I know the
 25 City's doing things to try to address that, but it's

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1 certainly that could've been the case so that they're --
 2 we -- we acknowledge that, you know, while it's a great
 3 source of data, there are limitations, and there's -- and it
 4 likely undercounts the amount of total displacement.
 5 What's really helpful about it, though, is that, again,
 6 it lets us look at the relative difference between
 7 alternatives really effectively because we have complete
 8 data about at least the ones that -- that -- that went
 9 through the application process what was the rate of
 10 displacement that we know occurred in different neighborhood
 11 types. And that allowed us to compare the alternatives.
 12 **Q. And did you -- I think you mentioned this, but did you feel**
 13 **that the historic trends approach which gave a higher**
 14 **estimate compensated for any --**
 15 A. Definitely. Like I said before, historic trends, it's -- it
 16 is -- it is an overestimate, you know, at a very
 17 conservative high end of what the potential demolition could
 18 be. So that is one way in which that would've definitely
 19 compensated for -- and if those percentages are -- derived
 20 from the TRAO analysis are low.
 21 **Q. So a number of appellant witnesses referenced the physical**
 22 **displacement and demolition analysis done in the**
 23 **environmental impact statement for the University District**
 24 **rezone. And they suggested that the City later conceded**
 25 **that that analysis had understated displacement. Have you**

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1 **reviewed the displacement analysis in the University**
 2 **District EIS?**
 3 A. Uh-huh.
 4 **Q. And are the methodology of that analysis and the methodology**
 5 **for the analysis in this EIS the same?**
 6 A. Pretty much, yeah. Well, they do the same thing as the
 7 parcel allocation approach. They don't have a corollary to
 8 the historic trends. So that's something above and beyond
 9 that we did in this one to come up with a higher-end
 10 estimate. In the U District one they used the parcel
 11 allocation approach. Very similar. I think there was --
 12 there's a couple details in how they rank parcels, but it's
 13 pretty much the same idea that we used in this one.
 14 And they -- they looked at both -- so they used that
 15 method to come up with the amount of -- of demolition, and
 16 they also came up with a higher estimate by -- I believe it
 17 was, like, tripling the amount of expected growth compared
 18 to -- compared to the comp plan to come up with a very high
 19 end -- it was essentially a build-out analysis of -- of the
 20 U District, from what I could tell looking at the notes in
 21 my read of the study, assuming that pretty much all parcels
 22 that could be redeveloped would be. So it was -- it was
 23 kind of unnaturally high, but they wanted to have a very
 24 conservative high-end estimate there.
 25 **Q. Were there differences in the sort of fundamental real**

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1 **estate conditions in the U District area they were looking**
 2 **at they were specific to the U District and not the same as**
 3 **the general areas that you were looking at?**
 4 A. Sure. We were looking at a much bigger area of the city, so
 5 I don't think that sort of tripled the amount of expected
 6 growth. It makes less sense citywide. You can't -- you
 7 know, the U District has some demand commissions, and the --
 8 and that doesn't apply to every -- you know, all the 27
 9 neighborhoods looked at in the -- in the MHA EIS.
 10 And the MHA EIS does study -- you know, the
 11 alternatives have additional growth associated with the --
 12 with the action alternatives and proposed zoning upground
 13 [sic] so, you know, there's kind of a corollary in the MHA
 14 analysis.
 15 **Q. So in a nutshell, do you regard the -- a critique of the U**
 16 **District analysis as necessarily implying that there's**
 17 **anything wrong with the analysis in this EIS, given the**
 18 **differences in the conditions?**
 19 A. No. I think -- I think the -- you know, the -- the EI --
 20 the MHA, we went -- we went a lot further in the first pass
 21 than they did in the -- in the U District one by -- by
 22 coming up with this higher-end estimate via the historic
 23 trends approach, which, again, as I've said, is quite likely
 24 overstating the amount of demolition. It's also looking at
 25 higher growth scenarios for the action alternatives. So,

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1 **Q. Using the data you've provided?**
 2 A. Yeah.
 3 **Q. So I want to have you turn to page 3.58 of the EIS. So**
 4 **appellants focused on the third bullet here at the top of**
 5 **page 3.58.**
 6 A. Uh-huh.
 7 **Q. And actually, I'll just have you read that so we're all on**
 8 **the same page.**
 9 A. Sure. "Areas classified as having low-displacement
 10 risk/high access to opportunity have a higher ratio of
 11 low-income households displaced than areas with
 12 high-displacement risk and low access to opportunity. This
 13 suggests access to opportunity may be more strongly
 14 associated with the likelihood of development activity
 15 resulting in displacement than the neighborhood's
 16 displacement risk classification."
 17 **Q. So does that statement cause you any concern as to the**
 18 **validity of the EIS's analysis of physical displacement**
 19 **impacts? And if not, why not?**
 20 A. No, it doesn't give me any concern. And we can turn to the
 21 place where that -- the exhibit where that -- that's found
 22 earlier on to explain why.
 23 **Q. I think you're probably turning to 3.42.**
 24 A. 42. Let's see. Yeah, okay. So -- so what that -- what
 25 that point is commenting on is that the -- so there's four

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1 different -- this typology has four different groups, right,
 2 and it's -- and it's kind of a major -- so, you know,
 3 displacement risk high/low, and access to opportunity to
 4 high/low. And what that -- what it's explaining there is
 5 that the -- that the groups with high access to opportunity
 6 tend to have more displacement than the groups with low
 7 access to opportunity. And -- and that's true. And so much
 8 so that a -- that a low displacement risk, high access to
 9 opportunity area has a higher ratio than a, you know, high
 10 displacement risk, low access to opportunity area. That's
 11 true. We found that.
 12 But if you look at this more carefully you'll notice
 13 that if you just compare the two, like, high displacement
 14 risk, those first two columns that arose there, a high
 15 displacement risk, high access to opportunity area has the
 16 highest ratio. That's 26 out of 100 in a ratio 100
 17 permitted per demolition. And a high displacement risk, low
 18 access to opportunity, the second row there, is -- is 12.
 19 So -- I'm sorry. I should be comparing -- I'm doing
 20 this wrong. So the -- basically so -- so, yeah, the high
 21 displacement, high access to opportunity has got a higher
 22 ratio than a low displacement risk, high access to
 23 opportunity. So if you hold access to opportunity constant,
 24 just look at the two that are -- that are high access to
 25 opportunity and just focus on how they differ in terms of

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1 displacement risk, the high displacement risk has a higher
 2 rate of displacement, as you would expect.
 3 If you do the same thing for the low access to
 4 opportunity ones, those two rows, and you -- and you just
 5 vary the displacement risk, and you'll see that the high
 6 displacement risk has a 12 ratio, and the low displacement
 7 risk has a 7.
 8 So in both cases, displacement risk is high -- you
 9 know, high displacement areas -- displacement risk areas
 10 have more displacement in our findings, it's just that what
 11 we found was access to opportunity had an even bigger
 12 impact, which was interesting, we noted it there, but it
 13 doesn't -- it doesn't undermine the analysis in any way.
 14 **Q. So before we move on, in your opinion, did the EIS**
 15 **sufficiently and appropriately analyze physical displacement**
 16 **impacts?**
 17 A. Yes.
 18 **Q. So turning to economic displacement, does the EIS address**
 19 **economic displacement?**
 20 A. Yes.
 21 **Q. So in connection with your work on this EIS, did you look**
 22 **for other non-project EISs to find examples of such EISs**
 23 **that analyzed economic displacement, and what did you find?**
 24 A. Yeah, we did. And this is not typically a topic covered in
 25 EISs. Typically EISs look at direct impacts and not as much

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1 the indirect impact, which are much harder to -- to
 2 estimate. Sometimes it's discussed qualitatively. But I
 3 did not find any examples at all of an EIS that tried to do
 4 a quantitative analysis of these indirect economic
 5 displacement impacts that could occur from an action.
 6 **Q. So what is economic displacement?**
 7 A. That is the involuntary -- a household that is involuntarily
 8 forced to move from the residence or the community based on
 9 increased housing costs.
 10 **Q. So increases in rents, for example?**
 11 A. Increases in rents puts -- you know, being too much of a
 12 burden and then being forced to move.
 13 **Q. So are there many potential causes of economic displacement?**
 14 A. Yeah. Well, it would all generally be associated with
 15 increased rent, but there's lots of -- you know, there's two
 16 sides to that coin. There's rents, and there's incomes. So
 17 if -- you know, a lot of communities, Seattle included,
 18 you're seeing rents rising at a rate that's faster than --
 19 than incomes are, than wages are, particularly for kind of
 20 low and middle wage workers. Like, there's just a mismatch.
 21 So, you know, the -- the rents are becoming more out of
 22 reach. So, you know, you can solve the problem with housing
 23 affordability by increasing incomes, or you can solve it by
 24 managing housing costs.
 25 **Q. So from a data perspective, is it difficult to measure the**

1 **extent to which economic displacement is occurring?**
 2 A. Yeah. Yes, definitely. There's difficulty. There's
 3 proxies you can use, and we used one. But, like, again,
 4 without surveying every individual household, we don't know
 5 why they move. People move for all sorts of reasons.
 6 Economic displacement might be one of them. They could be
 7 moving for a new job or a new life situation; they're
 8 getting married or having a kid, or whatever. There's lots
 9 of reasons people move, and we would have to survey every
 10 individual household that moved to figure out which among
 11 those are the ones that moved for economic displacement in
 12 order to have, like, real -- the type of data we had for --
 13 from TRAO, for example, for the physical displacement.
 14 There wasn't really a corollary for economic displacement to
 15 use in that way.
 16 **Q. So how does the EIS assess whether economic displacement is**
 17 **occurring? What do you measure?**
 18 A. The standard way to do this that we used and that many other
 19 studies looking at this type of issue used was looking at
 20 the -- basically the number of people at different income
 21 levels that lived in a community at one point in time, and
 22 then looking at a farther point in time down the road, did
 23 that number increase or decrease? And if it decreased --
 24 you know, for example, if households earning less than
 25 50 percent of AMI, if that number decreased over time,

1 than 30 percent AMI and the 30 to 60 percent AMI, there
 2 was -- there was an increase of households across the entire
 3 City of Seattle. But there was a -- there was a significant
 4 loss in that moderate income, the 60 to 80 percent of AMI,
 5 as well as the middle income, the 80 to 100 percent of AMI,
 6 and even the 100 to 120 percent AMI, there -- there was
 7 losses, which is an indicator that there may be economic
 8 displacement occurring, particularly among those middle and
 9 moderate-income households.
 10 We also compared to the remainder of King County just
 11 to see, you know, excluding Seattle, looking at the rest of
 12 King County to see where might those households be -- be
 13 going to. And, you know, within the remainder of King
 14 County as well, those moderate 60 to 80, there's also a loss
 15 there, which just is an indicator the kind of income --
 16 increasing inequality that Seattle's experiencing in its --
 17 we're experiencing across the nation. But there was, you
 18 know, a lot more -- you know, there was growth in
 19 middle-income households in the remainder of King County,
 20 which is an indicator that perhaps some of the middle-income
 21 households are being -- are being relo- -- are relocating to
 22 those areas.
 23 **Q. (By Mr. Weber) So that's general overview. Now I want to**
 24 **turn to the relationship between new development and**
 25 **economic displacement. And within this topic again,**

1 that's -- that's an indicator that economic displacement may
 2 very well be occurring there.
 3 So we used that approach as the best available
 4 indicator from the best available data to identify areas
 5 where there might be displacement. And it allowed us to
 6 look at not only low-income households, but different income
 7 stratas. We can look at what's the affect on moderate
 8 income households and middle income households.
 9 **Q. So at a very high level, what did the EIS find about whether**
 10 **economic displacement of low, moderate, and middle income**
 11 **households is happening in Seattle?**
 12 A. It generally found that it's happening particularly among
 13 the kind of moderate and middle. And I think we can -- I'll
 14 point you to a chart here which -- which illustrates well on
 15 the 3.44. You know, change in the number of households by
 16 income level. So here we're comparing --
 17 MR. THALER: I'm sorry to interrupt. Did you say a page?
 18 THE WITNESS: 3.44.
 19 MR. THALER: Thanks.
 20 THE WITNESS: Exhibit 3.1-30.
 21 A. So it's the change in the number of households by income
 22 level from -- between the year 2000 and then the -- the
 23 latest survey period that was available at the time which is
 24 the 2009 and 2013 American Community Survey. And you can
 25 see that in most -- in the lower income categories, the less

1 **starting at the very, very big picture, what did the EIS**
 2 **find and discuss as to this relationship at the citywide**
 3 **scale?**
 4 A. At the citywide scale, we discuss both findings, as well as
 5 other existing corroborating research that the main driver
 6 of housing costs and the increase in housing costs we've
 7 been experiencing in Seattle is a -- a increased competition
 8 for a limited supply of housing units. So when you have
 9 tremendous job growth like we've had in Seattle, and -- and
 10 the housing construction is not keeping pace with that job
 11 growth, you're getting more and more competition for a
 12 limited supply of units, and that -- that is a driver of
 13 market rate housing costs. And when more people are
 14 competing, they can bid up the rents more. The rents go up
 15 faster.
 16 So from that perspective, the -- you know, from a
 17 citywide perspective, the -- the solution to -- to that type
 18 of economic displacement that would occur based on the
 19 rising rents would be to increase the -- the supply so that
 20 there's less competition for any given unit in Seattle. So,
 21 I mean, we have some analysis that kind of -- in the
 22 affected analysis -- affected environment section that
 23 corroborates that -- that -- that perspective on what's
 24 driving the -- the rates of rents going up.
 25 **Q. And I'm not sure I want you to walk through it, but --**

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1 preferred 3 in the preferred alternative is likely to reduce
 2 upward pressure on market rate housing costs and reduce
 3 economic displacement in the city and region overall when
 4 compared to alternative 1, no action."
 5 **Q. And maybe just read the next sentence, too.**
 6 A. Sure. "This research finding is supported by the historical
 7 analysis of average apartment rents in Seattle shown in
 8 Exhibit 3.1-21 which shows that rents stabilize or decline
 9 during periods of high vacancy and increase during periods
 10 of low vacancy."
 11 **Q. And then turning to page 3.82, referring you to the second**
 12 **to the last bullet, I don't need you to read that, but is**
 13 **the same concept articulated there?**
 14 A. Yes.
 15 **Q. Okay. So shifting gears a little bit, we've talked about**
 16 **the overall concepts. Did the EIS also contain statistical**
 17 **analysis to attempt to quantify the relationship between new**
 18 **development and economic displacement?**
 19 A. Yeah.
 20 **Q. And why did the EIS do this analysis?**
 21 A. So it's easy to say that the City needs more development in
 22 order to moderate housing cost increases and reduce economic
 23 displacement, but that doesn't speak to what are the -- what
 24 are the local neighborhood level impacts of that new growth.
 25 And there's a lot of legitimate concerns about, you know,

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1 what impacts could that have on topics such as economic
 2 displacement, so we wanted to do a much more detailed
 3 analysis of that topic to make sure that the -- you know,
 4 that we're fully analyzing the potential impacts not only
 5 citywide, but also at that -- at that more local scale.
 6 **Q. So if you could turn to appendix M of the EIS, which I think**
 7 **I've tabbed for you there.**
 8 A. Okay. I'm here.
 9 **Q. So I don't want to walk through every page of this, but I**
 10 **think this might be useful as the starting point to have you**
 11 **explain to us what the EIS did in the way of statistical**
 12 **analysis to try to get at this question. What were you**
 13 **comparing in this statistical analysis?**
 14 A. Sure. So if you recall, I was describing earlier when
 15 talking about how we looked at economic displacement
 16 citywide, we were looking at the number of households, the
 17 different income level back in the year 2000 versus a more
 18 recent period, the most recent period available. We did
 19 that same analysis, but at the neighborhood scale. And by
 20 neighborhood, it's census tracts is what we're analyzing
 21 here because that's a good unit of analysis for which the
 22 census data obviously is available.
 23 So the map here on page M2 at the beginning of appendix
 24 M showed -- it's a good illustrator of this. So in the
 25 colored -- no, sorry. Let's go to the next one. Sorry,

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1 Let's go to M4. So, again, so both those maps you can see
 2 the census tract boundaries that you can -- that is kind of
 3 a faint, white line differentiating the different
 4 neighborhoods there.
 5 In the colors there, you can see the change in the
 6 number of households with incomes, in this case, less than
 7 or equal to 50 percent of AMI, between the year 2000, and
 8 then the survey period for which data was available, which
 9 was 2010 to 2014 in this case. So we are comparing those
 10 two different survey periods from the census, how many
 11 households were in that neighborhood. So, and where it's
 12 green or blue, that's where there's an increase in the
 13 number of low-income households at that income level, and
 14 where it was pinkish or red, there was a decrease.
 15 So we -- we looked at and differentiated, you know,
 16 each of those things. And then those dots on top are
 17 looking at housing construction. So we had more complete
 18 data on -- on the housing construction during that period.
 19 We looked at 2000, 2012, we picked kind of a middle year in
 20 that five-year survey period for which the income data was
 21 available. And so we looked at all the housing production
 22 by census tract, and we compare -- in this case on the map
 23 here visually, you can see some neighborhoods at, like,
 24 Downtown, South Lake Union, had a whole bunch of housing
 25 production. Some neighborhoods, you know, Magnolia, some

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1 other places, had very little, right? And you can see how
 2 the places with housing production compare to where there
 3 was a gain or loss of low-income households. So you can
 4 visually look at it here, but we want to do a more rigorous
 5 statistical analysis of that as well.
 6 So we -- if you turn to the next page, you have what's
 7 called a scatter plot. That top one there shows the same
 8 two variables, but it puts them on an X and Y axis, right?
 9 So the horizontal axis there is the change in housing
 10 production. So, you know, the farther out to the right you
 11 go, the more -- the more units produced. And then the Y
 12 axis is the change in the number of households. So you have
 13 some that are gained and some that are losses. So each
 14 point on the scatter plot represents one census tract.
 15 You know, so with each of those -- those variables kind
 16 of plotted out, right? And you can see there's that trend
 17 line there, the dotted line shows the kind of general
 18 statistical trend of the data where while there is -- there
 19 is great variation among census tracts, the general trend
 20 that is shown there is that the more -- census tracts with
 21 more housing production actually had an increase in the
 22 number of households at that lower income level. And you
 23 can measure that trend statistically using a correlation
 24 analysis. That's what that R equals, 0.54, or -- 0.549,
 25 that's a measured -- that's a statistical measure of the --

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1 of how -- how much there is a correlation and how much that
 2 trend is real versus just a bunch of noise in the data. And
 3 that -- that correlation is moderately strong for that
 4 citywide look.

5 **Q. So to sort of back up for a second --**
 6 A. Sure.

7 **Q. -- what we're looking at here then, is it correct that we're**
 8 **looking at a correlation between new housing development and**
 9 **the gain or loss of households at various income levels?**
 10 A. Yep.

11 **Q. And you just walked us through one income level -- and we**
 12 **won't do it -- but if you walked through the subsequent**
 13 **pages you'd find similar analyses for other income levels?**
 14 A. Exactly. We look at -- at a whole bunch of different income
 15 strata, and then even after that we look at -- at race and
 16 gain or loss of households in different racial and ethnic
 17 groups as well. So, yeah, we looked at it several different
 18 times.

19 **Q. And I think you mentioned it, but I just want to focus again**
 20 **in on the date ranges for the data. Can you explain what**
 21 **the date ranges were both for the new housing development**
 22 **and also for the gain or loss of households?**
 23 A. Sure, yeah. To review, for the gain or loss of households,
 24 again, the -- the best data on this is from the census, and
 25 they survey individual households about what their income

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1 levels are, and they track that. So we have data for the
 2 year 2000, which is a one-year survey, the long form that
 3 the census did back in 2000. So we have -- we have that
 4 point in time. More recently the census has changed how
 5 they -- how they do their surveying, and it's a rolling
 6 survey over a period of time. So when you're looking at
 7 neighborhood scale stuff, you need to have a longer period.
 8 So it's a five-year -- it's a five-year American Community
 9 Survey is what's typically used for this type of analysis.

10 So we were looking at the latest one at the time that
 11 was available that actually had tabulations by income level,
 12 which are done by HUD. HUD takes the data from the census
 13 to do that. We have a 2010 to 2014 period. So it's
 14 basically the conditions observed during that five-year
 15 period aggregated together to figure out the percentage of
 16 different households within that neighborhood at different
 17 income levels.

18 So that allowed us to, you know, get counts of
 19 households at those different income levels within the same
 20 geography, the same neighborhood, and then compare. At one
 21 period of time there was 3,000; the next period of time
 22 there was 4,000. Well, there was a gain of 1,000 low-income
 23 households in that neighborhood.

24 **Q. So it was a five-year period for the income data?**
 25 A. The -- the full period was between 2000 -- the year 2000 at

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1 the beginning and then that 5-year period at the end, the
 2 middle of which is about 2012. So it's more like a 12-year
 3 period that was compared in terms of different points in
 4 time when we're looking at how many households live there
 5 now and how many households lived there then. The five --
 6 the 5-year thing is just, you know, the -- the hind end of
 7 the -- the --

8 **Q. The 12 years.**
 9 A. Of the 12 years. The end of that period is a fuzziy
 10 five-year period instead of a one year because that's the
 11 way the data comes. That's all.

12 **Q. So the income data was essentially 12 years. What about the**
 13 **data for the new development?**
 14 A. We used the same period of time. Of course, you don't have
 15 five-year surveys for housing production, so we picked the
 16 middle point of that five-year survey period to -- to have
 17 the best available comparison. But the fur -- the
 18 beginning point was 2000, just like the households. So we
 19 were looking at the same period of time over, you know,
 20 approximately about a 12-year period.

21 **Q. And you mentioned that the data for the income part of this**
 22 **was at the census tract. Is that the smallest geographical**
 23 **unit for which data's available?**
 24 A. You could potentially do this at the block group level,
 25 which is a smaller level than census tracts. I think the

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1 data is available to do that. However, the smaller you
 2 go -- because this is based on a survey. It's not based on
 3 100 percent count of everyone looking in those
 4 neighborhoods. That's why they need a five-year estimate
 5 just to get enough survey sample to have a statistically
 6 relevant estimate of the number of households at different
 7 income levels living there.

8 So when you squeeze down to a smaller neighborhood
 9 level, your margin of error increases significantly. So
 10 that would be a problem with a higher margin of error, would
 11 call into question the analysis, but also I think -- I think
 12 it would be too small to see that kind of halo effect I
 13 think that Reid was referring to, where you get new
 14 development in a neighborhood, and, like, the surrounding
 15 area, housing prices might go up because of the new coffee
 16 shops and new amenities that come with that new development;
 17 that might have this kind of halo effect that -- you know,
 18 it's debatable on how far out does that go.

19 But I thought that the census blocker might be too
 20 tight to really capture that full effect. And I think
 21 the -- if you look at the size of the census tracts on the
 22 map, I think it's a reasonable and available unit of
 23 analysis for trying to capture the full range of that
 24 potential halo effect a new housing production that could
 25 have on this surrounding housing market.