

VOLUME 16

AUGUST 30, 2018

Hearing - Day 16

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

August 30, 2018



206.287.9066 | 800.846.6989

1325 Fourth Avenue, Suite 1840, Seattle, Washington 98101

www.buellrealtime.com

email: info@buellrealtime.com



BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

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

HEARING, DAY 16 - AUGUST 30, 2018
Heard Before Hearing Examiner Ryan Vancil

TRANSCRIBED BY: Bonnie Reed, CET
Court-Certified Transcription

A P P E A R A N C E S (Continued)

1
2
3 On Behalf of Appellant Morgan Community Association:
4 PHILLIP A. TAVEL
5 Law Offices of Aaron M. Lukoff & Associates
6 215 Flora Street
7 Bellingham, Washington 98225-4441
8
9 On Behalf of Appellant Seattle Coalition for
10 Affordability, Livability & Equity:
11 DAVID A. BRICKLIN
12 Bricklin & Newman, LLP
13 1424 Fourth Avenue, Suite 500
14 Seattle, Washington 98101-2258
15
16 On Behalf of Appellant Seniors United for Neighborhoods:
17 DAVID WARD
18 6815 Ravenna Avenue Northeast
19 Seattle, Washington 98115
20
21 On Behalf of Appellant Wallingford Community Council:
22 G. LEE RAAEN
23 Law Office of G. Lee Raaen
24 3301 Burke Avenue North, Suite 340
25 Seattle, Washington 98103

A P P E A R A N C E S

1
2
3 On Behalf of Appellant Beacon Hill Council of Seattle:
4 MIRA LATOSZEK
5 2821 Beacon Avenue South
6 Seattle, Washington 98144
7
8 On Behalf of Appellant Fremont Neighborhood Council:
9 TOBY THALER
10 Attorney at Law
11 Post Office Box 1188
12 Seattle, Washington 98111-1188
13
14 On Behalf of Appellant Friends of the North Rainier
15 Neighborhood Plan:
16 TALIS M. ABOLINS
17 Advocates Law Group
18 Post Office Box 18737
19 Seattle, Washington 98118-0737
20
21 On Behalf of Appellant Friends of Ravenna-Cowen:
22 JUDITH BENDICH
23 Attorney at Law
24 1754 Northeast Sixty-Second Street
25 Seattle, Washington 98115-6821

A P P E A R A N C E S (Continued)

1
2
3 On Behalf of Appellant West Seattle Junction
4 Neighborhood Organization:
5 RICH KOEHLER
6 Land Use Chair
7 4210 Southwest Oregon Street
8 Seattle, Washington 98116
9
10 On Behalf of Respondent City of Seattle:
11 DALE JOHNSON
12 JEFF WEBER
13 DANIEL MITCHELL
14 Seattle City Attorney's Office
15 701 Fifth Avenue, Suite 2050
16 Seattle, Washington 98104-7097
17
18
19
20
21
22
23
24
25

Page 5

EXAMINATION INDEX

WITNESS	PAGE
KEVIN RAMSEY	
Direct Examination, (cont.), by Mr. Weber.....	11
Cross-Examination by Mr. Bricklin.....	34
Cross-Examination by Mr. Thaler.....	75
Examination by the Hearing Examiner.....	92
Redirect Examination by Mr. Weber.....	97
PAULA JOHNSON	
Direct Examination by Mr. Kisielius.....	102
Examination by the Hearing Examiner.....	105
Cross-Examination by Mr. Bricklin.....	107
Cross-Examination by Ms. Bendich.....	107
ARIEL DAVIS	
Direct Examination by Ms. Park.....	109
Cross-Examination by Mr. Bricklin.....	134
Cross-Examination by Ms. Bendich.....	139
Cross-Examination by Mr. Thaler.....	140
Cross-Examination by Mr. Ward.....	144
GEOFFREY WENTLANDT	
Void Dire Examination by Mr. Kisielius.....	168

Page 7

August 30, 2018

-o0o-

HEARING EXAMINER: Continuing the hearing on Thursday, August 30, 2018. And are we finished with direct or still --

MR. WEBER: No, we still have some more on direct.

HEARING EXAMINER: All right. Anything procedural that we need to address before we can continue?

MS. BENDICH: You had asked us if we wanted to submit some of the comments -- some of the comments that were filed independently, that we could do that. So I just wanted to know whether we should do it now or --

HEARING EXAMINER: Well --

MS. BENDICH: I have one. Mr. Bricklin has one.

MR. THALER: I have a couple. One is for copying, one I need too.

HEARING EXAMINER: Okay. And that -- will that be it then?

MS. BENDICH: I have no idea whether others might appear later today to file something. But for me, that's it.

HEARING EXAMINER: Okay. I'd rather do it all at once.

MS. BENDICH: Okay.

HEARING EXAMINER: That makes more sense. So when the appellants are ready to present, then let me know and --

Page 6

EXAMINATION INDEX CONTINUED

NICK WELCH			
Direct Examination by Mr. Weber.....	175		
Cross-Examination by Mr. Thaler.....	205		
Cross-Examination by Mr. Bricklin.....	222		
Cross-Examination by Ms. Bendich.....	235		
EXHIBIT INDEX			
NO.	DESCRIPTION	MARKED	ADMITTED
283	"Housing Production, Filtering and Displacement: Untangling the Relationships".....	18	28
284	Housing supply and affordability study...	25	28
285	Resume of Ariel Davis.....	110	111
286	Travel Demand Model Flow Chart.....	117	119
287	West Seattle Junction Urban Village General Comments on DEIS Analysis.....	161	163
288	Johnson Partnership DEIS Comment letter..	161	163
289	Toby Thaler DEIS Comment Letters.....	161	163
290	Links to EIS Comment Letters.....	164	174
291	Link to Interactive Web map.....	164	174

Page 8

MS. BENDICH: All right.

HEARING EXAMINER: -- we can do that --

MS. BENDICH: Thank you.

HEARING EXAMINER: -- all at one time.

MR. THALER: I have a scheduling matter.

HEARING EXAMINER: Um-hum.

MR. THALER: Robert Feldstein will be appearing. And I believe Mr. Weber is aware, since I've included him in some of the email correspondence, he indicated availability afternoon of Friday the 7th.

HEARING EXAMINER: Okay.

MR. WEBER: And I think this is Mr. Thaler's witness, so the scheduling of his appearance is really up to Mr. Thaler. I mean, in terms of schedule for the hearing overall, I don't think we know yet exactly how this is going to play out and when the appropriate time would be. But it --

HEARING EXAMINER: Right.

MR. WEBER: -- it's great that the contact has been made.

HEARING EXAMINER: Um-hum. Okay. That's what we can do so far.

MR. THALER: Yes. I assumed that the last day the City would likely be done since I'm only aware of Mr. Wineman being necessary on the 7th for the City. So we'll see.

HEARING EXAMINER: All right. We'll see.

MR. BRICKLIN: Actually, that reminded me mentioning

RAMSEY, Kevin

1 AMI. If it was a one-person household, living alone, it
2 would be more of a -- closer to middle-income household.
3 So it corrects for that so that when you're looking at
4 low-income households, you're more likely to really
5 be seeing something -- it's based on their kind of -- the
6 cost per -- in that household in terms of how many mouths to
7 feed and that sort of thing.

8 **Q. So with respect to the data on households at certain income
9 levels, can you describe the timing of the data points that
10 you compared to find the change in households at a given
11 income level?**

12 A. Sure. For the year 2000 -- we -- the first year was the
13 year 2000. Up until 2000, the census data, a long-form
14 survey, which allowed them to do the more detailed kind of
15 demographic and socioeconomic estimates for one year in
16 time, so for the year 2000.

17 More recently, the census has shifted to a rolling survey
18 instead of just a once-every-ten-years survey for that more
19 detailed sub. It's called the American Community Survey.
20 And, therefore, more recent data, when you're looking at the
21 neighborhood scale, comes in five-year estimates.

22 So it's basically over the course of five years, they
23 survey enough households to get enough of a sample of the
24 population in order to have statistically-valid estimates of
25 households of different income levels over that period of

1 availability of the census and HUD data on income levels.
2 Then we used the appropriate comparison for the housing.

3 **Q. So appellants' witness, Mr. Levitus, suggested that the
4 correlation wouldn't capture displacement that occurred
5 either before the new development happened or several years
6 after the new development was built. Is that a concern to
7 you given how this correlation was done?**

8 A. We were concerned about that, and that's the reason that we
9 picked as long a period as we were able to, looking at 2000
10 up to 2012. You know, it's a 12-year period, so we thought
11 that over the course of 12 years we would capture a lot of
12 any sort of anticipatory or kind of lagging displacement
13 that might occur due to -- due to new housing production.

14 So we feel like that was a long enough period to capture
15 that and be a reasonable way to account for that as well as
16 the kind of direct time displacement.

17 **Q. So in suggesting that displacement could be happening in
18 advance of new construction, Mr. Levitus cited the Urban
19 Displacement Project from the University of California at
20 Berkeley, which he quoted as saying, quote, In many cases,
21 we found that displacement precedes gentrification, unquote.
22 Have you reviewed the materials from the UC Berkeley
23 project?**

24 A. Um-hum. Yeah.

25 **Q. And to the extent that study was concerned with the timing**

1 time.
2 So the latest period of time that was available at the
3 time of the analysis was a period of 2010 to 2014. So it's
4 kind of like average conditions over that five-year period.
5 An easy way to think of it is like approximately 2012, kind
6 of the mid point of that period. So we're basically looking
7 at about a 12-year period between 2000 and 2012.

8 **Q. Okay. And that 2010 through 2014 survey was the most recent
9 data available?**

10 A. Yes, it was.

11 **Q. So for the data on development, can you describe the timing
12 of the data points that you compared to find the change in
13 development and why you chose the ending point for that data
14 that you used?**

15 A. Sure. Yeah, we wanted to make sure we had as comparable as
16 possible given the data limitations between change in
17 households at that income scale and a lot of new
18 development. So we picked the same range, the year 2000 to
19 the year 2012. Again, we picked 2012 as the kind of
20 midpoint in that five-year period for which the survey data
21 was administered.

22 **Q. So the -- taking into account the need for data sources for
23 both variables, the correlation used the most recent data
24 available?**

25 A. Yeah. It was really -- it was really driven by the

1 **of displacement, was it particularly concerned with the
2 effect of transit investments on displacement?**

3 MR. BRICKLIN: What kind of investments?

4 MS. BENDICH: What kind?

5 MR. WEBER: Transit investments.

6 MS. BENDICH: What does that mean?

7 MR. WEBER: I'll let the witness address that.

8 MS. BENDICH: Okay. He can address it.

9 A. Yeah. So the quote that I found that he cited from an
10 executive survey of the -- of the Urban Displacement Project
11 work, that particular finding was referring to their
12 analysis of what are the impacts of new rapid transit, you
13 know, investment, like light rail or that sort of thing in a
14 neighborhood. If they're planning for a new station in a
15 neighborhood, what are the impacts on displacement within
16 that neighborhood?

17 So that particular finding was referring to the fact that,
18 you know, well before the transit investment coming in, when
19 they're kind of at that early planning stage for that new
20 transit, because of the certainty of that transit coming in,
21 that changes the market appeal, appeal of the neighborhood,
22 and has a potential to, you know, change housing costs and
23 have displacement effects in advance of that investment.

24 **Q. (By Mr. Weber) So do you think the effects of planning for
25 transit investments on economic displacement are distinct**

Page 21

1 **"However, it is also possible."**
 2 A. Sure. "However, it is also possible that new development
 3 can contribute to economic displacement at the neighborhood
 4 scale. This can occur if new housing brings about amenities
 5 that make the neighborhood more attractive to higher income
 6 households, driving up rents and housing prices."
 7 **Q. And then could you turn to Appendix I of the EIS, which I**
 8 **think -- I hope we've got that tabbed there.**
 9 A. Yes. It will just take a while. Sorry. I is --
 10 (inaudible) refer to G, see if we can get there. Is it past
 11 this part? Oh, there's -- we're in J. Yeah, okay. So
 12 we've got to go forward. In front of H? There we go.
 13 Thanks.
 14 **Q. So could you turn to the bottom of page I-5 in Appendix I.**
 15 A. Okay.
 16 **Q. There's a section here entitled, "The Impacts of Housing**
 17 **Production at the Neighborhood Scale." Does this section of**
 18 **Appendix I provide additional discussion, and can you just**
 19 **briefly summarize what this discussion says, or at least**
 20 **what it covers?**
 21 A. Yeah. So this is from a research -- a literature review
 22 that we did of the economic research literature on these
 23 topics. And this section here talks about the kind of
 24 theoretical possibility for new development to cause
 25 economic displacement in a neighborhood.

Page 22

1 And it cites one study, I believe in New York City --
 2 yeah, New York City, where they did that. It was looking at
 3 very low income at-risk neighborhoods. And in this case, it
 4 was -- it was adding new affordable housing projects in
 5 those neighborhoods. And they found some evidence, I
 6 believe, of economic displacement that occurred, you know,
 7 in that one little case study example.
 8 **Q. So turning to the EIS's discussion of impacts, does the**
 9 **EIS's discussion of impacts reflect this analysis as to the**
 10 **potential for economic displacement in specific**
 11 **neighborhoods?**
 12 A. Yes.
 13 **Q. I'd like to have you turn to page 3.77 of the EIS.**
 14 HEARING EXAMINER: Are we coming back to I?
 15 MR. WEBER: No, I think we're done with I.
 16 THE WITNESS: Three point which one?
 17 **Q. (By Mr. Weber) 3.77.**
 18 A. Okay.
 19 **Q. Is there a discussion there in the second paragraph about**
 20 **that issue? Maybe you could just read the second paragraph.**
 21 **That's probably --**
 22 A. Sure.
 23 **Q. -- the quickest.**
 24 A. Yeah. "Impacts at the neighborhood scale could vary from
 25 expected impacts for the city as a whole. New development

Page 23

1 can come with or precipitate amenities that increase demand
 2 for housing in a particular neighborhood, potentially
 3 increasing housing costs and increasing localized economic
 4 displacement. For this reason, there is potential that
 5 localized economic displacement pressures could vary by
 6 alternative."
 7 **Q. And then if you could turn to page 3.86 of the EIS.**
 8 A. Um-hum.
 9 MR. BRICKLIN: I'm sorry, what was the page?
 10 MR. WEBER: 3.86.
 11 **Q. (By Mr. Weber) If you could just look at the very last**
 12 **sentence on that page. Maybe you could read that as well.**
 13 A. The last sentence here is, "However, new growth also has the
 14 potential to attract new amenities that could increase
 15 housing demand and potentially increase economic
 16 displacement in some neighborhoods, even while reducing
 17 economic displacement pressures in the city as a whole."
 18 **Q. So Mr. Levitus perceived an inconsistency between the**
 19 **sections that I've just had you read and the results of the**
 20 **correlation. In your view, is there any inconsistency**
 21 **between these discussions and the correlation?**
 22 A. No. All these discussions basically point out the fact that
 23 under certain circumstances more growth in a neighborhood
 24 could be associated with more economic displacement in that
 25 neighborhood.

Page 24

1 What we found in our analysis is that at a citywide scale,
 2 that doesn't seem to have historically been the case, those
 3 two things happening together. And there's a lot of
 4 evidence to obviously indicate that, that more supplies is a
 5 positive thing and for -- in terms of reducing economic
 6 displacement pressures.
 7 And I think that's exactly what this says is that you
 8 could have localized circumstances that aren't -- that
 9 aren't always consistent with the overall trend that we
 10 found in our analysis, both at the neighborhood scale as
 11 well as at the citywide scale.
 12 **Q. So Mr. Levitus suggested that what he called a qualitative**
 13 **analysis should be done to address how new development might**
 14 **lead to economic displacement in specific neighborhoods.**
 15 **Did he have any specific guidance for how that should be**
 16 **done, in your view?**
 17 A. No. I read over that testimony, and he didn't really have
 18 very much in terms of guidance. I think he said to go
 19 and -- go out there and interview some folks. But he didn't
 20 really have much indication what types of questions to ask
 21 or how any anecdotal information that would come from kind
 22 of interviews with folks could be integrated in to inform a
 23 better type of analysis than what we did here.
 24 **Q. So, in your view, understanding the whole picture, do you**
 25 **think the kind of anecdotal or qualitative analysis that he**

1 was suggesting would have been a reasonable thing to do in
 2 this case?
 3 A. I think -- I think for this analysis, there -- that I think
 4 we approached it in a way that's consistent with other
 5 studies and addresses the issues, yeah.
 6 Q. So are you familiar with current research nationally on the
 7 issue of the relationship between new development and
 8 economic displacement at the neighborhood level?
 9 A. Yes.
 10 Q. So turning to Binder 8 again, could we turn to Tab 128 in
 11 Binder 8?
 12 A. Oh, gosh. Okay.
 13 MR. WEBER: And if I could have that marked too.
 14 HEARING EXAMINER: This will be 284.
 15 (Exhibit No. 284 marked for identification)
 16 Q. (By Mr. Weber) So, Mr. Ramsey, do you recognize this
 17 document?
 18 A. Yes.
 19 Q. Can you just describe what it is?
 20 A. Yeah. It's a -- it's a research paper that addresses the
 21 issue of -- you know, supply skepticism was what they call
 22 it, but basically concerns that have been heard and
 23 expressed that the kind of fundamental relationship between
 24 supply and demand isn't -- doesn't apply in housing
 25 affordability analysis and that simply adding more growth

1 on the local cost and benefits of new development and of
 2 changes in neighborhoods more generally is necessary.
 3 "Neighbors of proposed new developments fear displacement
 4 from rent increases, but there's little hard evidence of
 5 displacement. We need more research to learn what happens
 6 to rents and how residents fare when their neighborhoods see
 7 new development, either through uncoordinated additions to
 8 supply or through comprehensive neighborhood redevelopment."
 9 Q. So based on this article and the other materials you've
 10 reviewed, in your opinion, did the EIS need to do further
 11 analysis of the potential for new development having
 12 economic displacement impacts in specific neighborhoods?
 13 A. I -- there isn't -- you know, what this is showing, that
 14 there isn't any guidance from the research literature in
 15 terms of additional types of analysis that, you know, that
 16 are established that we could have pursued beyond what we
 17 did. Yeah.
 18 Q. So Mr. Levitus and others emphasized the idea that, in their
 19 view, correlation is not causation. Does the EIS
 20 acknowledge that concept and --
 21 A. Yes, it does.
 22 Q. And does your understanding of the difference between
 23 correlation and causation, does that affect the validity of
 24 the analysis in the EIS to economic displacement? And if
 25 not, why not?

1 isn't an appropriate way to help address housing costs and
 2 economic displacement pressure.
 3 So they review literature around those types of themes to
 4 try to address the more and individual types of arguments
 5 that come from that side.
 6 Q. So this is dated about two weeks before the final EIS was
 7 issued, correct?
 8 A. Yes.
 9 Q. So can you turn to page 8 of this and read -- well, first,
 10 turn to page 8.
 11 A. Um-hum.
 12 Q. Can you read the third paragraph.
 13 A. Sure. "In short, while it is clear that the construction of
 14 new homes will moderate price and rent" -- "moderate price
 15 and rent increases citywide, neither theory nor empirical
 16 evidence provides clear guidance about when localized
 17 spillover effects might occur and when they might actually
 18 cause an increase in prices and rents of
 19 immediately-surrounding homes."
 20 Q. And then could you turn to page 13?
 21 A. Um-hum.
 22 Q. And read the second paragraph there.
 23 A. Sure. "Third, concern about the effects that new
 24 development could have in spurring gentrification, or local
 25 price and rent increases, suggests that additional research

1 A. The EIS is very clear that it was not trying to prove or
 2 disprove causation in terms of the relationship between
 3 economic displacement and new housing development. Instead,
 4 we were looking for a presence of any kind of relationship,
 5 are the -- do these things seem to happen together or not.
 6 Additional study would need to be done to really isolate
 7 down, you know, does one thing cause another. That's a
 8 whole other order, but, you know -- and you might pursue
 9 that if you did find that there was a relationship. We
 10 found that there wasn't a relationship, so there wasn't any
 11 need to continue looking for that causation.
 12 Q. So in sum, in your opinion, did the EIS sufficiently and
 13 appropriately analyze economic displacement impacts?
 14 A. Yes.
 15 MR. WEBER: Before moving on, could I move to admit the
 16 last two exhibits?
 17 HEARING EXAMINER: Any objection to 283 and 284?
 18 MS. BENDICH: No.
 19 MR. BRICKLIN: No.
 20 HEARING EXAMINER: 283 and 284 are admitted.
 21 (Exhibit Nos. 283 and 284 admitted into evidence)
 22 Q. (By Mr. Weber) So shifting gears a bit here, appellants'
 23 expert, Mr. Reed, suggested that the analysis of economic
 24 displacement needed to more specifically address the issue
 25 of older, inexpensive units being replaced with newer, more

1 expensive units, in particular, by including a comprehensive
2 inventory of the ages and rental rates of existing
3 buildings. Does the EIS acknowledge that older housing
4 stock is generally less expensive than new housing?

5 A. Yeah. We did analysis for (inaudible) survey data showing
6 by age of building what the average rents are.

7 Q. And just to orient us in the EIS, can you turn to page 3.29?

8 A. Okay.

9 HEARING EXAMINER: 3.29?

10 MR. WEBER: 3.29.

11 THE WITNESS: Okay.

12 Q. (By Mr. Weber) Is Exhibit 3.1-22 essentially a summary of
13 that data?

14 A. Yes, it is.

15 Q. So in Seattle, does new development typically involve a new
16 building replacing an older building?

17 A. Typically, yes. Or development replacing nothing, like a
18 parking lot or vacant land. But, yes.

19 Q. So, in light of this, is the phenomenon of old, less
20 expensive housing being replaced by new, more expensive
21 housing at a broad scale essentially captured by the
22 EIS's --

23 A. Yeah --

24 Q. -- analysis?

25 A. -- I would say it would be reflected in both approaches that

1 to people earning that income.

2 Q. So does the EIS address the likelihood that inexpensive,
3 older housing would stay inexpensive if there were not
4 development of new housing? And what did the EIS conclude
5 on that point?

6 A. Yeah. We also looked at housing -- or rental -- rents,
7 costs change over time, you know, trends. And we looked at
8 that, both citywide as well as by neighborhood, and showed
9 that rents have been increasing at a fairly strong rate
10 across the city in all types of neighborhoods, and all
11 indications are that it will continue to do so.

12 Q. So turning back to page 3.29?

13 A. Um-hum.

14 Q. Exhibit 3.1-21 on the top of the page. Can you explain this
15 exhibit and what it --

16 A. Yeah.

17 Q. -- says about the concept you were just discussing?

18 A. Yeah. Yeah. So there's two lines here. The blue line
19 there shows average monthly rent in 2016 dollars, so
20 adjusted for inflation. And, obviously, it shows it going
21 up, and going up fairly rapidly in recent years. And then
22 the orange line there shows market vacancy. So basically,
23 from the rental market survey data that they get the
24 price -- you know, the rents from, they also get what is
25 your vacancy in your building. And they can use that to

1 we did use to analyze -- estimate the amount of potential
2 demolition and displacement that could occur.

3 Q. And is it essentially captured at the broad scale in the
4 correlation analysis that you did?

5 A. In the correlation, that's -- to the extent that
6 historically new development has replaced older buildings,
7 then, yes, it would be captured in there. Yes.

8 Q. So does the EIS address the amount of market rate housing
9 that is currently affordable?

10 A. Yes.

11 Q. Can you turn two pages forward to page 3.31?

12 A. Yep.

13 Q. Can you just summarize what the EIS found on the amount of
14 market rate housing that's currently affordable?

15 A. Sure. It analyzed survey data, apartment building survey
16 data that was current as of the time of the analysis. And
17 this one, instead of just presenting the average for all
18 units, it broke down the units by price range relative to
19 affordability level.

20 So it shows that, you know, 73 percent -- you know, almost
21 74 percent of the units were unaffordable to anyone earning
22 below 120 percent of varying median income, for example.
23 And if you look at the bottom there, just a very small
24 sliver is affordable to lower income levels, you know, such
25 as, you know, below 50. You know, 0.3 percent is affordable

1 calculate vacancy rates citywide. And you can see, during
2 periods where the vacancy rate rose to up, you know, above 4
3 or 5 percent, you'll see that rents and inflation adjusted,
4 either flatten out or even decline. And during those
5 periods where the vacancies decline, you know, kind of
6 going, you know, around 2006, 2007, you can see it's -- you
7 know, the vacancy rates are coming down, and then the rents
8 are going up during that period. And particularly in the
9 recent period where rents -- where vacancies have been low
10 and kind of staying low, you know, down well below that
11 5 percent kind of healthy level, rents have been shooting up
12 pretty rapidly. So it shows a pretty direct kind of
13 relationship between those two, inverse relationship between
14 those two.

15 Q. So, as sort of a summary, is it correct to conclude that
16 without new development, there's going to be upward pressure
17 on all housing costs and the inexpensive housing is likely
18 to get more expensive as well?

19 A. Yeah. Basically when there's -- when the vacancies are low,
20 there's more competition for the few available units. That
21 is a major factor in pushing up market rents. You know, the
22 determining factor really in pushing up market rents.
23 So, you know, the one important solution to that problem
24 is to build more housing so that you can build up those
25 vacancy rents -- rates and have less competition over the

Page 33

1 available units.

2 **Q. So in light of all the considerations you've discussed, in**

3 **your opinion, was it reasonable for the EIS to analyze**

4 **economic displacement in the manner it did without taking**

5 **the approach suggested by Mr. Reed as to focusing**

6 **specifically on replacement of older, less expensive**

7 **buildings with newer buildings?**

8 A. Yeah. I think we approached it in the right way.

9 **Q. A number of appellant witnesses raised the question of**

10 **residents being displaced by higher property taxes. Does**

11 **the EIS discuss the effects of higher property taxes?**

12 A. Yes, it does.

13 **Q. And then could I have you turn to page 3.39?**

14 A. Um-hum.

15 **Q. I'm not going to ask you to read it, but is this issue**

16 **addressed in the middle of the page there?**

17 A. Yes.

18 **Q. And then also turning to page 3.64.**

19 A. Um-hum.

20 **Q. Is the issue of property taxes also addressed and then --**

21 A. Yes, addressed in more depth there on this page.

22 **Q. Okay. So I take it you've heard or reviewed the testimony**

23 **of the appellants' experts on housing and socioeconomic**

24 **issues?**

25 A. Yes.

Page 34

1 **Q. Have you heard anything in their testimony that causes you**

2 **to question any of the conclusions or the sufficiency of the**

3 **analysis in the FEIS on housing and socioeconomics,**

4 **including displacement issues?**

5 A. No, I have not.

6 **Q. Do you believe the EIS adequately disclosed housing and**

7 **socioeconomic impacts, including displacement impacts?**

8 A. Yes.

9 **Q. Do you think the EIS adequately disclosed the housing and**

10 **socioeconomic impact concerns, particularly displacement**

11 **concerns, that were raised by the appellants?**

12 A. Yes, I think it adequately did that.

13 **Q. And do you stand by the conclusions and the analysis in the**

14 **housing and socioeconomics portion of the EIS?**

15 A. I do.

16 **Q. Thank you.**

17 MR. WEBER: That's all I have.

18 HEARING EXAMINER: Cross?

19 MS. BENDICH: Dave, I was relying on you.

20 MR. BRICKLIN: Do you want me to go first?

21 MS. BENDICH: Yes.

22

23 **CROSS-EXAMINATION**

24 **BY MR. BRICKLIN:**

25 **Q. Good morning, Mr. Ramsey. My name is Dave Bricklin. I**

Page 35

1 **represent the Seattle Coalition for Affordability,**

2 **Livability & Equity, SCALE, one of the appellants in this**

3 **action.**

4 A. Good morning.

5 **Q. How are you? I reviewed -- I listened to a recording of**

6 **your testimony from last week, as well as listened to your**

7 **testimony today, and reviewed the transcript of last week's**

8 **as well. I -- one of the aspects of Mr. Reed's testimony --**

9 **That you said you reviewed, right?**

10 A. Um-hum.

11 **Q. -- was that the EIS analysis had not addressed impacts --**

12 **had focused on the impacts on rental housing and not**

13 **owner-occupied housing. Do you remember that part of**

14 **Mr. Reed's --**

15 A. I do --

16 **Q. -- testimony?**

17 A. -- remember that argument.

18 **Q. Do you agree with him that the EIS focuses on rental**

19 **housing, not -- and doesn't analyze the impacts on**

20 **owner-occupied housing?**

21 A. I don't agree with that.

22 **Q. You did not address that, though, in your testimony, did**

23 **you?**

24 MR. WEBER: And I would object. If he didn't address it,

25 then it's not a proper subject for cross-examination.

Page 36

1 MR. BRICKLIN: But I just want to confirm that I didn't

2 miss it. I'm not going to go into --

3 MR. WEBER: I'll withdraw the --

4 MR. BRICKLIN: -- it further.

5 MR. WEBER: -- objection in that --

6 MR. BRICKLIN: Yeah. I'm not going to go into it further.

7 MR. WEBER: Yeah.

8 **Q. (By Mr. Bricklin) I just want to acknowledge that you did**

9 **not address it in your (inaudible) --**

10 A. I was not questioned on that topic, no.

11 **Q. That's all I was asking for. Thank you. Regarding economic**

12 **dislocation, you actually spent a fair amount of time**

13 **talking about that again this morning as well as last week.**

14 **And as I understand it, the gist of this is that you believe**

15 **that, at a citywide level, adding housing supply will reduce**

16 **housing price impacts, not necessarily reduce housing prices**

17 **but at least reduce the rate of which they're increasing?**

18 A. Sure.

19 **Q. But you acknowledge and you point to several places in the**

20 **EIS where the EIS acknowledges that this citywide**

21 **correlation won't necessarily play out in any given**

22 **neighborhood, right?**

23 A. We did analysis at the neighborhood scale that shows that

24 that's a general -- as a general rule and trend, that we

25 weren't seeing any additional -- we weren't -- places -- we

JOHNSON, Paula

1 approach was preferable to one that would look only at the
 2 age of the building. What we looked at was a ratio of how
 3 much was built on the parcel now, and then what would the
 4 total available capacity be under each alternative. And we
 5 look at that ratio. Like, so if something is only built out
 6 to about 25 percent of the total capacity, then there's a
 7 lot of room to grow. If something is already built out to
 8 80 percent of capacity, there's less room to grow. There
 9 would be less economic incentive for someone to demolish
 10 that whole building and build a new one because you can't
 11 get that much more square footage out of it. It might be
 12 better to refurbish it or something else if you wanted to
 13 get more revenue out of the building, right? So the -- so
 14 we took that approach, which identified, you know, the
 15 parking lots, the smaller -- the places where it's
 16 economically most feasible to redevelop. Many of those,
 17 obviously, are going to be older buildings, because they
 18 were built earlier on before there was economic pressure to
 19 build out to capacity the way there is today. So we
 20 anticipate that much or all of the buildings identified in
 21 our analysis would be older buildings. That wasn't the
 22 screen that we used. We used one that I think is a better
 23 proxy for the economic incentive and payback that we could
 24 get from redeveloping one lot versus another.

25 **Q. I think that's all I have. Thank you.**

1 A. Good morning.
 2 **Q. So as you heard, I'm going to ask you two very precise**
 3 **questions. And here are the two questions:**
 4 **Does the EIS discuss whether a SEPA-exempt project might**
 5 **negatively impact a landmark directly?**
 6 **The second question is: Does the EIS discuss whether a**
 7 **SEPA-exempt project might negatively impact a landmark's**
 8 **setting?**
 9 A. Yes.
 10 **Q. So I was hoping you could answer that question for us and**
 11 **direct us to the part of the EIS with an explanation of how.**
 12 A. Sure. And I don't know that I have the right volume here.
 13 **Q. You should, right in front of you.**
 14 A. Okay.
 15 **Q. It's 3 -- the 300 section?**
 16 A. You're right. I'm sorry. Yes. On page 3.305, the third
 17 paragraph, the first sentence describes potential impacts
 18 in -- as three potential impacts.
 19 HEARING EXAMINER: I'm sorry. Your second or third
 20 paragraph?
 21 THE WITNESS: The third paragraph.
 22 HEARING EXAMINER: Okay.
 23 THE WITNESS: The second full paragraph, the third --
 24 MR. BRICKLIN: So the paragraph that begins "Potential
 25 impacts"?

1 A. Okay.
 2 HEARING EXAMINER: Thank you, Mr. Ramsey.
 3 THE WITNESS: Thank you.
 4 MR. KISIELIUS: Mr. Examiner, the City would like to
 5 recall Paula Johnson. And just to set the stage here, and
 6 as a reminder, when Ms. Johnson concluded her testimony, the
 7 Examiner had left open the record of her testimony to come
 8 back and answer two very specific questions.
 9 HEARING EXAMINER: Yes.
 10 MR. KISIELIUS: So our intent was just to have her come up
 11 and ask those two very concise questions and --
 12 HEARING EXAMINER: For that succinct matter?
 13 MR. KISIELIUS: Yes.
 14 HEARING EXAMINER: All right.
 15 And, Ms. Johnson, you remain on oath from the earlier
 16 time.
 17 MS. JOHNSON: Okay.

18
 19 PAULA JOHNSON: Witness herein, having previously
 20 been duly sworn, was examined
 21 and testified as follows:

DIRECT EXAMINATION

BY MR. KISIELIUS:

Q. Good morning, Ms. Johnson.

1 THE WITNESS: Yes.
 2 MR. BRICKLIN: All right.
 3 A. So here we describe three ways that there could be potential
 4 impacts: Demolition; redevelopment that impacts the
 5 character of a historic property; and the third, development
 6 adjacent to a designated landmark if that development would
 7 alter the setting of the landmark and the setting is a
 8 contributing element of the eligibility. So that answers --
 9 the full sentence answers that first question.
 10 **Q. Let me just ask a quick --**
 11 A. Sure.
 12 **Q. -- directed question on that.**
 13 **Does the term "historic resources" in that sentence**
 14 **include landmarks?**
 15 A. Yes. And --
 16 **Q. And a second follow-up question.**
 17 **Is that first sentence, in answer to the question, are you**
 18 **considering SEPA -- projects that are exempt from SEPA in**
 19 **that sentence?**
 20 A. Yes. So I would continue that this is -- this incorporates
 21 both SEPA exempt and those subject to SEPA, yes.
 22 **Q. Okay.**
 23 A. And then the second question that refers to setting, and
 24 that -- the last example of how there could be impacts is to
 25 setting of landmarks.

1 MR. BRICKLIN: I'm sorry. What sentence are you referring
2 to there?

3 THE WITNESS: So the last portion of this, the last part
4 of the sentence is about the development adjacent to
5 landmarks. And the second question from the Hearing
6 Examiner was regarding impacts to setting of landmarks.

7 **Q. (By Mr. Weber) Can you just read that clause that you're**
8 **referring to?**

9 A. Sure. "Potential impacts to historic resources could occur
10 if development is adjacent to a designated landmark if the
11 development alters the setting of the landmark and the
12 setting is a contributing element of that landmark's
13 eligibility."

14 **Q. And again, for purposes of answering the second question,**
15 **that your analysis here includes both those projects that**
16 **are pursuant to SEPA or those that are exempt from SEPA?**

17 A. Yes.

18 MR. WEBER: Those are the only questions I have for the
19 witness.

20 HEARING EXAMINER: Any cross?

21 MR. BRICKLIN: No.

22 EXAMINATION

23 BY THE HEARING EXAMINER:

24 **Q. And just to clarify, land -- the sentence ends "landmark's**
25

1 CROSS - EXAMINATION

2 BY MR. BRICKLIN:

3 **Q. Would that include setting, changes in the setting?**

4 A. Yes.

5 **Q. Okay.**

6 HEARING EXAMINER: Great. Thank you for coming.

7 THE WITNESS: Thank you.

8 MS. BENDICH: Actually, I had a --

9 HEARING EXAMINER: I was surprised to see you in the
10 audience. She was just watching.

11 MS. BENDICH: I had a question, actually.

12 CROSS - EXAMINATION

13 BY MS. BENDICH:

14 **Q. So the setting that you're referring to only refers to a**
15 **building that's adjacent to the landmark? Is that what**
16 **you're saying?**

17 A. So development adjacent to a landmark, if it alters the
18 setting of that landmark and the setting is part of its
19 eligibility.

20 **Q. Okay. So if it's a setting where it's overlooking a view**
21 **that -- and a building is put up across the street, does the**
22 **EIS address that?**

23 A. It -- if that is in the nomination and the protected
24 features of the building, it would be addressed as it was
25

1 eligibility"?

2 A. Yes.

3 **Q. So I think this may have been part of the confusion in the**
4 **context of a long hearing and the conversation we were**
5 **having. Is landmarks eligibility -- is a -- is that**
6 **referring to a landmark that's already been designated?**

7 A. Yes. So each --

8 **Q. Can a -- and just let me --**

9 A. Um-hum.

10 **Q. Thank you.**
11 **Can a landmark once designated lose its eligibility? So**
12 **that's where I'm trying to understand more about that. If**
13 **you can --**

14 A. Sure.

15 **Q. -- give a fuller answer --**

16 A. Yes.

17 **Q. -- than "yes," that would be --**

18 A. Yes. So a landmark can lose its eligibility, and it is
19 through losing those characteristics that made it eligible,
20 such as, you know --

21 **Q. The setting?**

22 A. -- the paint being changed. I mean, it can be a small item
23 to a quite significant item.

24 HEARING EXAMINER: Okay.

25 MR. BRICKLIN: Just let me let follow up on that question.

1 reviewed.

2 **Q. Okay. Where in the EIS does it --**

3 HEARING EXAMINER: So this was -- she's back on the very
4 specific point to answer those questions, and now we're
5 going into --

6 MS. BENDICH: Okay.

7 HEARING EXAMINER: -- other questions of the EIS.

8 MS. BENDICH: I was basing it, actually, on my vague
9 recollection of the general questions that the Hearing
10 Examiner was asking, and one of those was view. So that's
11 why I ask said that question. All right. Thank you.

12 HEARING EXAMINER: I asked where -- well, I think Mr. --

13 MS. BENDICH: Okay.

14 HEARING EXAMINER: I don't want to try to repeat it.

15 MS. BENDICH: Okay. All right.

16 HEARING EXAMINER: But we had the very specific questions
17 at the beginning as to what the --

18 MS. BENDICH: Okay.

19 HEARING EXAMINER: -- those impacts were, and you're going
20 beyond those at this point.

21 MS. BENDICH: Okay.

22 HEARING EXAMINER: Thank you. Ms. Johnson.

23 THE WITNESS: Thank you. Thank you.

24 MS. PARK: Good morning. For the record, this is Clara
25 Park for the City of Seattle.

DAVIS, Ariel

1 from Metro along those Corridors or strengthening the tedium
2 requirements for new developments that would go in in some
3 of those neighborhoods where that impact is expected.

4 **Q. Okay. Now, let's talk about parking management strategies
5 and mitigation. Can you please summarize the parking
6 management mitigations?**

7 A. Yeah. So the City already has several programs in place to
8 manage on-street parking. So one is the restrictive parking
9 zone, the RPZ program. And so that's where the City issues
10 permits to residents in certain zones and then that allows
11 them to park beyond the assigned time limits that are
12 otherwise there. And then vehicles without those permits
13 are subject to shorter time limits. And so the City could
14 continue to use that program, adding new RPZs, changing
15 existing boundaries, spreading zones to manage areas that
16 are having parking challenges.

17 We also mentioned the possibility of the City taking a
18 different course with respect to RPZs that are
19 oversubscribed. There are some RPZs where there are more
20 permits issued than spaces available, so they could look at
21 changes to the program in that respect.

22 With the paid parking areas, the City already has a
23 program that they call the Performance Based Parking
24 Program. They collect data annually in all of the on-street
25 paid parking areas and adjust the parking rates, adjust the

1 specific developments, and so we look at a broader level,
2 and the intersection analysis is something that would be
3 done perhaps through -- for SDCI review when they're looking
4 at a project. That's when they would get down to that level
5 of detail.

6 **Q. And does the FEIS specifically note that the study's
7 approach did not include an intersection-level analysis?**

8 A. Yes, it does.

9 **Q. And can you turn to page 3.242?**

10 A. Yes.

11 **Q. And there is a footnote. Is that where that reference is?**

12 A. Yeah. So footnote 2 reads, "Large scale analysis approach
13 differs from the intersection level analysis. It may be
14 more appropriate for assessing these facts of development on
15 individual parcels or blocks."

16 HEARING EXAMINER: Can you please restate the page number.

17 MS. PARK: Page 3.242, and it's the footnote and.

18 **Q. (By Ms. Park) In any nonproject EIS's that you have worked
19 on for the City, did the transportation analysis ever
20 include an intersection analysis?**

21 A. No.

22 **Q. Can you explain why the EIS looked at the p.m. peak hour
23 instead of or in addition to the a.m. peak hour?**

24 A. Sure. So that's a pretty standard practice to use a p.m.
25 peak hour, because p.m. peak hour volumes are generally

1 time limit, adjust which areas actually have paid parking,
2 to try reach their goal of having one to two parking spaces
3 available per block face. So, again, that's the program
4 that they could continue and potentially expand to deal with
5 changing parking demand.

6 And then, lastly, there is the community access and
7 parking program. And that's a program that's really geared
8 to neighborhood level where SDOT staff will work with the
9 community to identify what are kind of the unique challenges
10 in a particular area, and they may make recommendations
11 about changing the time limits or paid parking, changing
12 loading zones, that type of thing.

13 **Q. Thank you. And before we wrap up, I wanted to take a moment
14 just to address some of the points that have been raised by
15 the Appellants. So one of the Appellants' witnesses, Rich
16 Koehler, who is a resident of the West Seattle Junction
17 area, raised some points that I would like to go over with
18 you.**

19 **First, Mr. Koehler noted the FEIS does not include any
20 intersection-level analysis, so can you explain why the
21 analysis did not include intersections?**

22 A. Yeah. So this kind of gets back to the discussion of a
23 project-level versus a programmatic EIS, so -- or a
24 programmatic EIS. Because the proposal is fairly broad and
25 over a large area, we don't have specific locations for

1 higher than the a.m. peak hour volumes. And that's
2 something that we have confirmed locally. Looking at kind
3 of the overall City of Seattle account database, we have
4 found that the p.m. peak hour counts are generally higher
5 than a.m.

6 **Q. Is there any guidance about whether the a.m. versus p.m.
7 peak hours should be used?**

8 A. Yeah. There is a director's rule regarding the screenlines.
9 And in that director's rule, it states that p.m. peak hours
10 should be used.

11 **Q. Okay. And by use --**

12 HEARING EXAMINER: Do you have a number for the director's
13 rule.

14 THE WITNESS: If memory serves, I think it's like 5-2009.

15 HEARING EXAMINER: Do you want to confirm that --

16 THE WITNESS: Sure, I can.

17 HEARING EXAMINER: -- and let us know.

18 THE WITNESS: Yeah.

19 **Q. (By Ms. Park) And by using the p.m. peak hour, how does
20 that affect the analysis? Does it make it more or less
21 conservative?**

22 A. It would make it more conservative. So if we're using the
23 time period that generally has higher volumes, then you can
24 kind of extrapolate that you would see similar impacts in
25 the a.m. peak hours. So, for instance, if you think about

1 the Ballard bridge, the peak direction is northbound in the
 2 p.m. peak hour. You would see similarly -- in the a.m. peak
 3 hour, you would see the peak direction would be southbound.
 4 **Q. Okay. Now, Mr. Koehler specifically testified that the EIS**
 5 **should have looked at the a.m. peak hour for the West**
 6 **Seattle bridge, in particular. Did you get a chance to look**
 7 **at data on hand for the West Seattle bridge?**
 8 A. Yeah. So we looked back at some data that we had on hand,
 9 and we found three days where we had both a.m. and p.m. peak
 10 hour counts. And in two of the three, the p.m. peak hour
 11 was higher than the a.m. peak hour. And in the third one,
 12 the a.m. peak hour was slightly higher than the p.m. peak
 13 hour.
 14 **Q. And did anything in that data suggest the need to consider**
 15 **the a.m. peak hour or deviate from the standard practice of**
 16 **considering the p.m. peak hour only?**
 17 A. Based on our review, we still felt the p.m. peak hour was
 18 reasonable to use.
 19 **Q. All right. Thank you.**
 20 **And just to confirm, I believe you testified that for SDOT**
 21 **citywide traffic counts, it generally shows that citywide**
 22 **p.m. traffic is worse than a.m. traffic; is that correct?**
 23 A. Yes.
 24 **Q. Mr. Koehler also testified that with the zoning changes,**
 25 **some existing rights of way may fail to meet the City's**

1 a road segment, sometimes do a -- excuse me -- segment
 2 analysis instead of intersection analysis at the project
 3 level?
 4 A. So you're asking how we analyze intersections?
 5 **Q. No. Well -- no. I was asking, at the project level, you**
 6 **sometimes do a segment-level analysis like, you know, 23rd**
 7 **Avenue between whatever the two -- between John and Roy.**
 8 A. It's possible. I would say, at the project level,
 9 generally, we are looking specifically at intersections.
 10 **Q. When do you do segment analysis? Are you familiar with**
 11 **doing segment analysis?**
 12 A. Yeah. So, essentially, much of what we were doing in this
 13 EIS is segment analysis. We're looking at the volumes
 14 compared to the capacity on a variety of segments in the
 15 City.
 16 **Q. But is that different from a screenline analysis?**
 17 A. It's kind of -- the screenline basically aggregates multiple
 18 segments. So we might have a segment that has three
 19 arterials crossing it, and so we're looking at the
 20 volume-to-capacity ratio of those segments all grouped
 21 together across the screenline.
 22 **Q. Did you consider doing -- so is a segment analysis a finer**
 23 **grained analysis than a screenline because it breaks out the**
 24 **individual segments instead of aggregating them?**
 25 A. Yeah, we do have that data in the appendix. So in the

1 minimum right-of-way width standard. And he specifically
 2 cited Seattle Municipal Code 23.53.015. Have you had a
 3 chance to look at that code provision?
 4 A. Yes, I have reviewed it.
 5 **Q. And based on your opinion and your experience, is it**
 6 **appropriate to analyze or apply that code section in and on**
 7 **project EIS's such as this?**
 8 A. No, it is not. It's very detailed and requires a lot of
 9 specificity about the type of land use and the specific
 10 details of a street that it would be on, so it's something
 11 that would have to happen at a project-level basis.
 12 **Q. All right. And so, in closing, in your opinion, do you**
 13 **think that the EIS adequately disclosed potential traffic**
 14 **impacts of the proposal?**
 15 A. Yes, I do.
 16 **Q. And do you think that the EIS used reasonable and standard**
 17 **methods to assess the potential impacts of the proposal?**
 18 A. Yes.
 19 MS. PARK: No further questions. Thank you.
 20 HEARING EXAMINER: Mr. Bricklin.
 21
 22 CROSS - EXAMINATION
 23 BY MR. BRICKLIN:
 24 **Q. So you said that -- you were describing an**
 25 **intersection-level analysis, and that's similar to analyzing**

1 appendix, it breaks down for each screenline which arterials
 2 cross the screenline and what the forecasted volumes were on
 3 those segments. It's just rolled up within the chapter.
 4 **Q. Did your firm happen to work on the environment impact**
 5 **statements done for the MHA program in the U District or**
 6 **Queen Anne?**
 7 A. We worked on the U District -- I'm forgetting the -- it's
 8 like the rezone -- I'm not sure if that was -- it was not
 9 the MHA analysis.
 10 **Q. That was programmatic, right?**
 11 A. Yes.
 12 **Q. And in that -- in the body of the EIS you provided a more**
 13 **detailed analysis than you did in this EIS, correct?**
 14 A. For the U District, we did corridor-level travel times, so
 15 similar to what we did here, and we looked at the
 16 screenlines.
 17 **Q. So maybe we're talking about different EIS's. I am**
 18 **referring to the U District urban design alternative EIS**
 19 **published April 2014. Is that the one you're talking about?**
 20 A. Yes, mm-hmm.
 21 **Q. Didn't that include a rather detailed analysis of many**
 22 **different segments of roads in the U District?**
 23 A. To my recollection, we did look at roadway segments, and I
 24 believe we looked at travel time on those roadway segments.
 25 **Q. And so in the -- compared to a citywide project, the U**

VOLUME 17

AUGUST 31, 2018

Hearing - Day 17

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

August 31, 2018



206.287.9066 | 800.846.6989

1325 Fourth Avenue, Suite 1840, Seattle, Washington 98101

www.buellrealtime.com

email: info@buellrealtime.com



EXHIBIT INDEX

NO.	DESCRIPTION	MARKED	RECEIVED
292	Email to Mr. Welch	14	14
293	MHA Summaries	48	48
294	Guide for making an EIS	50	50
295	DEIS comment form	51	51
296	Map of proposed areas affected by MHA	52	53
297	Community Input process	53	54
298	Email	92	92
299	Ms. Graham Resume	115	117
300	Trees for All	127	129
301	2017 Parks and Open Space Plan	131	134
302	2018 Combined Sewer Overflow	146	147
	Long Term Control Plan Update		
303	Excerpt from Sammamish Town Center EIS	175	175
304	Historic resource section of draft EIS	220	221

your deposition?

A. Yes, I believe I did.

Q. And do you wish to correct that testimony?

A. No, I don't believe so.

Q. Okay. We'll get to that. I'd like to shift to the -- start talking about the HALA process. When was the HALA Advisory Committee first established?

A. I believe in 2014.

Q. And did you recall better that it was September 2014, that you testified to that?

A. I don't recall the specific month of 2014.

Q. At this time?

A. At this time.

Q. So if I told you you said September, 2014, you wouldn't argue with that, right?

A. No.

Q. Okay. And at what point was OPCD working on various recommendations from the HALA Advisory Committee?

A. My recollection is that the recommendations from the HALA Advisory Committee came out, I believe in June of 2015. NOPCD began working on implementing some of those recommendations shortly after that.

Q. All right. So what does that implementation include?

A. Well, the recommendations from the HALA Advisory Committee include about 60 or so different strategies. I don't recall

-o0o-

August 31, 2018

THE COURT: We're to continue with cross for Mr. Welch. It looks like we don't have some counsel here. So we're not picking up the conversation on closing argument.

MS. BENDICH: No, but -- we just discussed that. Mr. Bricklin will be here and we will get it resolved today.

THE COURT: We'll wait until they get here.

MS. BENDICH: Okay.

CROSS EXAMINATION (continuing)

BY MS. BENDICH:

Q. Good morning, Mr. Welch?

A. Good morning.

Q. Did you take a look at your deposition yesterday?

A. Yes.

Q. Is there anything you'd like to correct from yesterday's testimony?

A. You had asked me whether I would use the phrase cohesive to describe the Ravenna Neighborhood. And I believe yesterday I said I would describe it as an identifiable place. I wouldn't disagree that it's also a cohesive neighborhood.

Q. In fact you said that in your deposition, did you not?

A. Yes.

Q. Okay. And did you take a look at your description RSL in

which were the very first ones to -- the OPCD undertook by implementation means taking some of those recommendations from that advisory committee and taking the steps to put them into effect.

Q. And on the basis of that, did OPCD prepare maps?

A. Well, it's a little hard for me to answer in a sense that the HALA recommendations are very broad. They include some measures related to land use and zoning such as MHA, but then many other recommendations that are not land use focussed, such as strengthening tenant protections and renewing the housing levy, which happened in August of 2016, I believe. So to the extent you're referring to MHA, at some point, yes, that involved the process of creating maps.

Q. And that process occurred before the city council had approved or adopted the 2035 comprehensive plan; isn't that correct?

A. Let me think about those dates for a moment. I believe the Seattle 2035 comprehensive plan was adopted by council in 2016. And I don't know exactly which month in 2016 --

Q. Well, let me just refresh your recollection, it was October of 2016. So at what point was OPCD making up the maps, it was before that, wasn't it?

A. I want to clarify. Are there specific maps you're referring to?

Q. Yeah, the kind of zoning map that we now have in our binder

WELCH, Nicholas

1 potential changes?

2 **Q. Well, you talk about we got public comment back and -- let's**

3 **put it this way. During the comment period, there were**

4 **members of the public who objected to this 10-minute**

5 **expansion -- 10-minute walk zone expansion. And the lines**

6 **on the Roosevelt Urban Village map that were dotted lines;**

7 **isn't that correct?**

8 A. Yes, we received comments in opposition to the expansion.

9 **Q. And Roosevelt Urban Village is not one of those that was**

10 **changed based on those comments, the expansion area was not**

11 **changed; is that correct?**

12 A. Well, to clarify here, the first draft that we published in

13 October of 2016 included an expansion area. The draft EIS

14 alternatives, Alternative 2 and Alternative 3 studied

15 different expansion areas. And then the Preferred

16 Alternative included an expansion area. So there are

17 changes among those various zoning maps that we put out at

18 different times and on which we got public input. Likewise,

19 the zoning choices within that expansion area, aside from

20 the boundary delineation itself also changed across those

21 different --

22 MS. BENDICH: I'm going to object. I didn't ask about the

23 zoning changes.

24 **Q. (By Ms. Bendich) I'm just talking about the line on the map**

25 **expanding into the neighborhood east of 15th Avenue**

1 **is other cultural displacement litigation, correct?**

2 A. Correct.

3 **Q. So Mr. Thaler asked you about analysis of mitigation on page**

4 **3.97. I'd like to ask you about that and more precisely**

5 **about the discussion in the EIS of the intended benefit of**

6 **mitigation. Is the understanding of the intended benefit of**

7 **that mitigation informed by the preceding impact analysis?**

8 A. Yes, it is.

9 **Q. So for example, please turn to page 3.78 there's a bullet**

10 **point, the first one that starts with the phrase sensitivity**

11 **to loss of culturally significant businesses.**

12 A. Yes.

13 **Q. Does that bullet describe the importance of those culturally**

14 **significant businesses to households and racial ethnic**

15 **minority communities?**

16 A. Yes, it does.

17 **Q. And then flipping back to page 3.97, there's a sentence that**

18 **describes the mitigation on that page as "actions that**

19 **support the retention of existing cultural businesses or**

20 **institutions and actions that would support the creation of**

21 **new cultural businesses or institutions". Does that passage**

22 **on page 378 inform why the EIS would identify that kind of**

23 **mitigation?**

24 A. Yes.

25 **Q. In other words, does the paragraph on page 3.78 explain the**

1 **Northeast.**

2 A. Between the first draft that we put out and the draft EIS

3 alternatives and the preferred alternatives, there were

4 different boundary expansion areas studied.

5 **Q. All of them, however, went to the east of 15th Avenue**

6 **Northeast; isn't that correct?**

7 A. Yes, they did.

8 **Q. And all of those were on small neighborhood streets where**

9 **the expansion took place; isn't that correct?**

10 A. They included small neighborhood streets, yes.

11 MS. BENDICH: Okay. Let me just look at my notes and I'm

12 probably finished. I think that's it.

13 THE COURT: Redirect.

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

15 **BY MR. WEBER:**

16 **Q. Good morning, Mr. Welch. I have a couple questions on**

17 **redirect. Going back to yesterday's proceeding. Mr. Thaler**

18 **asked you about the limitations of the tenant relocation**

19 **assistance ordinance data that the EIS used in the physical**

20 **displacement analysis, particularly as to the racial**

21 **composition of those who were physically displaced. Was**

22 **there any data set that the city could have used that**

23 **addressed that issue in the physical displacement context?**

24 A. No.

25 **Q. Can you turn to page 3.97 of the EIS? So the heading here**

1 **intended benefit of mitigation that seeks to preserve or**

2 **create those new culturally significant businesses?**

3 A. Yes, it does.

4 **Q. So yesterday Mr. Bricklin asked you a number of questions**

5 **suggesting that the EIS only analyzed the relationship**

6 **between new development and economic displacement at a**

7 **city-wide level. Do you agree?**

8 A. No.

9 **Q. Did the EIS contain statistical analysis of that**

10 **relationship at a census tract level?**

11 A. Yes.

12 **Q. How does that statistical analysis relate to the EIS'**

13 **acknowledgement that there could be specific instances where**

14 **new development might lead to economic displacement in a**

15 **specific neighborhood?**

16 A. Well, we used a census tract level of analysis to explore a

17 general relationship, general trend and pattern that is sort

18 of in a systemic sense with respect to economic

19 displacement. But at the same time we acknowledge that at

20 smaller geographies it's a complex phenomenon and that we

21 don't always understand fully. And so we acknowledge that

22 economic displacement could occur where there's new

23 development at that smaller scale.

24 **Q. And was there any clear road map for how to further address**

25 **that?**

BRAND, Jesseca

Page 41

1 where we were sort of all call. We worked with ethnic media
 2 to try to let folks know that it was happening. Then as it
 3 progressed and we had more sort of content and information
 4 to share and to get feedback on, we did mailing to 88,800
 5 households, which is all of the study area, making sure
 6 folks knew that this conversation was happening. We also
 7 translated that mailer into the top six languages so that
 8 people, regardless of language access, could participate.
 9 Do you want me to keep going through the year?
 10 **Q. That would be great, thank you.**
 11 A. And then we had a series of public meetings, again kind of
 12 this in-person opportunities. And they were -- we tended to
 13 do them in batches of 5, making sure that we were in
 14 northeast, northwest, southeast, southwest and central. And
 15 each of those meetings, as they progressed, we tried to do
 16 them in a different neighborhood with large venue, lots of
 17 information and opportunity to talk with staff. We also did
 18 door to door efforts within the urban village and expansion
 19 areas.
 20 **Q. What does that mean, like canvassing?**
 21 A. Canvassing, yes. So we hired a firm to knock on
 22 single-family homeowners' doors so that they could
 23 understand what was happening, ask questions and then also
 24 be able to go to an upcoming meeting that was in their
 25 neighborhood or nearby.

Page 42

1 We had throughout this process also an online component,
 2 an online dialogue platform where thousands of people came
 3 and were able to not just put comment but actually see what
 4 their neighbors were talking about and to respond to those.
 5 **Q. And so that's different than a website?**
 6 A. Yeah.
 7 **Q. It's an interactive tool?**
 8 A. Yeah, it's called consider.it HALA consider.it And that
 9 basically was just -- it changed over the process to make
 10 sure that it was relevant to the subject we were talking
 11 about at that moment. And then we also did a lot of direct
 12 engagement with underserved communities going to where they
 13 already meet. So an example of that would be at the
 14 Goodwill. We would show up when they were doing citizenship
 15 classes. We would be there for an hour and a half. They'd
 16 learn about what the City was doing, give feedback. And it
 17 would be in language. So that's an example of some of those
 18 popup type items. And then we also had a website that we
 19 tried to keep very current and available.
 20 Finally, we started what we called the HALA hotline, which
 21 was a direct phone number for that. And we would answer
 22 questions. We still get questions on the HALA hotline, it's
 23 still up and ready. And then HALA info, obviously, the
 24 Email address. So, again, trying to get folks who thought
 25 it was important to show up in person or had the opportunity

Page 43

1 to show in person. People who wanted to do it at home, at
 2 night, on their own time online. People who needed to talk
 3 with someone over the phone, over Email. We heard a lot
 4 from folks in all of those ways. And then just sometimes
 5 just one way was a person's particular interest.
 6 **Q. Okay. And you said you translated documents for -- did you**
 7 **use translators as well in any other capacity?**
 8 A. Yeah. So we worked with our community liaison, which are
 9 trusted advocates that the City contracts with. And we
 10 actually use the same batch of translators from beginning to
 11 end so that if you were coming to the conversation in
 12 Spanish you had from beginning to end the same -- you know,
 13 MHA was said the same way every time, zoning was said the
 14 same way every time.
 15 In-person translation happened at several of our meetings.
 16 So people that would either greet them at the door and walk
 17 them through the information, answer questions, sometimes it
 18 was translating our answers back. Sometimes they were able
 19 to answer the questions on their own.
 20 **Q. Okay. I'm going to ask you some more details about that but**
 21 **just generally, you've categorized the different outreach**
 22 **efforts. Are those the range of measures that you used and**
 23 **the efforts of outreach, are those what you would consider**
 24 **to be typical for a city planning effort in your experience?**
 25 A. No, they're above and beyond.

Page 44

1 **Q. Okay.**
 2 A. And the idea was this was a big conversation and it required
 3 a lot of opportunities for people to be involved.
 4 **Q. I'm going to ask you -- you've got a couple binders in front**
 5 **of you, the one that's opened is the Exhibit 2, which is the**
 6 **EIS. And I'm going to ask you to turn to Appendix B, B as**
 7 **in boy. While we're getting there, can you just describe**
 8 **what is Appendix B?**
 9 A. So this is a summary of community input that we received
 10 throughout the process of HALA.
 11 **Q. Okay.**
 12 A. Or MHA, sorry.
 13 **Q. Okay. And I'll ask you to turn to page 3, and for the**
 14 **Examiners's benefit, the page numbers don't begin until page**
 15 **4. So if you find that one and turn backwards, it's**
 16 **probably easier to do it that way. So I'm looking at the**
 17 **page it starts thank you in big letters at the top. Is this**
 18 **page an accurate summary of the outreach efforts undertaken**
 19 **by the City?**
 20 A. Yeah, these are the big high level.
 21 **Q. Okay.**
 22 A. So one I should probably highlight is also that we went to
 23 nearly 200 --
 24 MS. BENDICH: Objection, no question --
 25 THE WITNESS: Oh, sorry.

1 done.

2 **Q. When you started undertaking community engagement, were you**

3 **aware that the MHA proposal would always involve upzoning**

4 **all single-family area within urban villages?**

5 A. I believe so.

6 **Q. Okay. And are you aware that the West Seattle Junction has**

7 **a neighborhood plan that provides for maintaining the**

8 **integrity of single-family areas?**

9 A. I'm aware of the West Seattle Junction Neighborhood Plan.

10 I'm not aware of the policies that you're referring to.

11 **Q. So at the time you undertook the engagement with respect to**

12 **MHA, you -- strike that. So I think what you just said is**

13 **you're not aware that West Seattle Junction has a**

14 **neighborhood plan to maintain the single-family areas within**

15 **it's urban villages. Is that what you're testifying to?**

16 A. I don't know the policies within the West Seattle Junction

17 Neighborhood Plan well enough to be able to say if there is

18 a specific policy.

19 **Q. Have you ever heard from anyone that there is such a policy?**

20 MR. KISIELIUS: Objection, she's already asked and

21 answered.

22 MS. TOBIN-PRESSER: No, she's saying she's not aware that

23 West Seattle Junction plan has that policy. I'm asking her

24 if anyone has ever advised her of that fact.

25 THE COURT: If they would have advised her of it, then she

1 **Q. I don't know. I'm looking at this and there's a number of**

2 **events and there's some that I'm familiar with that**

3 **happened. And I'm just confirming with you that this is**

4 **intended to be -- to tell the public that these are the**

5 **events that took place with respect to community engagement**

6 **regarding MHA. Is that what this is?**

7 A. Yes.

8 **Q. Now the MHA maps that showed the proposed upzones initially**

9 **came out in October of 2016, correct?**

10 A. Yes.

11 **Q. Okay. And many of the events listed on this Appendix B took**

12 **place prior to October 2016, is that right?**

13 A. Yes.

14 **Q. And were any of them specific to the West Seattle Junction**

15 **Urban Village?**

16 A. Events that happened before the --

17 **Q. The maps came out in October of 2016.**

18 A. I could read through this, I don't recall.

19 **Q. Yeah. I'll just point you to the ones I see. So in**

20 **November of 2015, I see a November 12 comprehensive plan**

21 **meeting in West Seattle?**

22 A. Um-hum.

23 **Q. Was that specific to the West Seattle Junction?**

24 A. No, that would have been a quadrant meeting.

25 **Q. And so that was actually about Seattle '35 Comprehensive**

1 would be aware of it.

2 MS. TOBIN-PRESSER: Well, she may or may not be aware that

3 it's true. I'm just asking if someone has ever said to her,

4 hey, the West Seattle Junction Neighborhood Plan has a

5 policy to maintain it's single-family areas, not whether

6 she's read it herself.

7 THE COURT: But you didn't ask her whether she read it,

8 you asked her if she was aware of it.

9 MS. TOBIN-PRESSER: But I think she answered that she had

10 not read it, was the rest of her answer.

11 THE COURT: No, she said she wasn't aware of what's in the

12 policies.

13 MS. TOBIN-PRESSER: Okay.

14 THE COURT: Sustained.

15 **Q. (By Ms. Tobin-Presser) If you could turn to Appendix B that**

16 **you were previously looking too, yes. And you previously**

17 **looked at page 16. So if you could just turn back to that.**

18 **So does this purport to list all the actions undertaken to**

19 **obtain community input about the MHA proposal?**

20 A. So on page 16 is a calendar of events that we attended.

21 **Q. Okay. And are these the -- does this purport to list all of**

22 **the events that were undertaken in an effort to obtain or to**

23 **have community engagement with respect to MHA?**

24 A. So this is a list of events. Can you ask it in a different

25 way?

1 **Plan rather than the MHA proposal; isn't that correct?**

2 A. Yes.

3 **Q. And so then in December I see Southwest Community Council.**

4 **Do you see that?**

5 A. Yes.

6 **Q. And do you know what that was?**

7 A. I don't recall.

8 **Q. By looking at Southwest Community Council, would you think**

9 **that that was directed specifically to the West Seattle**

10 **Junction Urban Village?**

11 A. No.

12 **Q. And then in February 4th, I see telephone town hall, south**

13 **and then slash West Seattle. Do you see that?**

14 A. Yes.

15 **Q. And would that have been directed specifically to the West**

16 **Seattle Junction Urban Village?**

17 A. No.

18 **Q. And then in March I see something that says West Seattle**

19 **views?**

20 A. Yes.

21 **Q. And would that have been directed specifically to the West**

22 **Seattle Junction Urban Village?**

23 A. No.

24 **Q. And in August, I see August 21st West Seattle Farmers**

25 **Market, do you see that?**

1 A. Yes.

2 **Q. And would that have been directed specifically to the West**

3 **Seattle Junction Urban Village?**

4 A. No.

5 **Q. And then in September, I see CityScoop, West Seattle on**

6 **September 25th.**

7 A. Yes.

8 **Q. And that actually took place down on Alki, did it not?**

9 A. Yes.

10 **Q. And would that have been specific to West Seattle Junction**

11 **Urban Village?**

12 A. No.

13 **Q. And so -- but some of these events took place within**

14 **legislative district one, correct, or all of them?**

15 A. Council district one, is that what you're asking?

16 **Q. Yes.**

17 A. Yes.

18 **Q. And isn't it correct that the most likely place to engage**

19 **with the West Seattle Junction Urban Village would be at an**

20 **event in it's neighborhood?**

21 A. (No response.)

22 **Q. So if you're trying to engage with West Seattle Junction**

23 **Urban Village residents, wouldn't the most likely place**

24 **where that engagement would take place would be in the**

25 **actual neighborhood in which they live?**

1 A. Well, I think it depends. I mean I think if we're talking

2 about those that are engaging online. If we're talking

3 about those that are calling in. If we're talking about

4 people who attend meetings, I can't necessarily say that

5 it's more likely. I saw a lot of folks going to meetings

6 throughout the City, whether it was closest to them and they

7 skipped it or whether it was -- they chose to travel. So

8 the likelihood question is -- I don't know that I can

9 answer.

10 **Q. So do you think, for example, the West Seattle Junction**

11 **Urban Village would be more likely to attend an event in the**

12 **West Seattle Junction Urban Village or at Save the Mount**

13 **Baker Community Club?**

14 A. I think what I'm saying is it depends. It could be that

15 they have some event that they want to go to that's on the

16 night in the junction, and then they would want to go to

17 Mount Baker to make sure that they were getting the

18 information. So I don't know that while we're trying to hit

19 all of the locations, I don't know that that is the reason

20 that people attend meetings.

21 **Q. Do you think in general it's easier for someone to attend a**

22 **meeting closer to their home or farther from their home?**

23 A. In general, closer.

24 **Q. Okay. So in these events that I've just pointed out, the**

25 **pre-map events that took place in Council District 1, isn't**

1 it correct there were materials provided to attend these?

2 A. Yes.

3 **Q. And in some cases, the materials sought community response**

4 **in the form of a survey or something of that sort?**

5 A. Yes.

6 **Q. Okay. And isn't it correct that none of the materials**

7 **provided actually stated that the city was planning on**

8 **rezoning all single-family areas in the West Seattle**

9 **Junction Urban Village?**

10 A. Specific to the West Seattle Junction Urban Village?

11 **Q. Let's start with that, yes.**

12 A. I don't believe that we had anything specific to that.

13 **Q. Are you aware of any materials that say that the city is**

14 **planning on eliminating single-family zoning within the West**

15 **Seattle Junction Urban Village?**

16 A. So the exhibit that we just -- which I don't remember where

17 it is, the five pager that we used that livability night out

18 and other places. There is a -- could somebody help me out

19 on what that is --

20 **Q. I know what you're talking about.**

21 A. Okay.

22 **Q. But that wasn't provided in any of the events that we just**

23 **talked about, though, is it?**

24 A. (No response.)

25 **Q. It was a big map you said?**

1 A. Yeah, and it was also used as a handout. So I'm not sure,

2 but there are two bullets on there that talk about

3 single-family within urban villages being --

4 **Q. Sorry, I didn't mean to interrupt you. So I think you're**

5 **intimately familiar with the fact that I personally have**

6 **done a number of public records request to the City,**

7 **correct?**

8 A. Yes.

9 **Q. And that I asked for copies of the materials that were**

10 **handed out at particular events. So if I didn't receive**

11 **that in response to events with respect to district one,**

12 **would it be likely that that would have been provided at a**

13 **district one event?**

14 MR. KISIELIUS: Objection, we're asking questions about

15 the sufficiency of a response to a public records request,

16 which is irrelevant to this proceeding.

17 MS. TOBIN-PRESSER: Well, I think we're trying to

18 understand whether or not this particular document was

19 provided at district one events.

20 THE COURT: I'll allow the question, overruled.

21 A. Can you repeat it, I'm sorry.

22 **Q. (By Ms. Tobin-Presser) So you were involved in responding**

23 **to public records request, is that right? And if that**

24 **particular document wasn't provided in response to a public**

25 **request for handouts and information provided to the public**

1 **Q. Well, that was a well attended event, correct?**
 2 A. Yes.
 3 **Q. And now after that event, you held one of these open houses**
 4 **in Southeast Seattle to further engage with the community,**
 5 **correct? Was that in like February, February 4th?**
 6 A. February 4th, oh, yes.
 7 **Q. And so as opposed to the room full of people that we invited**
 8 **you to, this was your attempt -- this was the City, through**
 9 **you attempting to effectively engage in it's own way on the**
 10 **MHA impacts, correct?**
 11 A. Yes.
 12 **Q. And --**
 13 A. Although I would say both are important. So I don't know
 14 that the City was looking to just engage at the meetings
 15 they hosted.
 16 **Q. Sure, but I would expect that the one that you were**
 17 **proposing to hold was very important because it was the one**
 18 **you were organizing for that very purpose. Your open houses**
 19 **were a pretty important component of outreach to the**
 20 **community, correct?**
 21 A. No, I absolutely agree with that. I guess I don't want to
 22 put them as more important or less important than the work
 23 that is done in community by community.
 24 **Q. So equally important with the one that we hosted?**
 25 A. Yeah, I think we were interested in getting feedback at all

1 **Q. You got the marked up one, don't you?**
 2 A. I don't think so.
 3 **Q. Oh, I've got it right here.**
 4 MR. ABOLINS: Now would it be appropriate for me to hand
 5 the Hearing Examiner with a copy of this at this point?
 6 MR. KISIELIUS: No, we would object because, again, this
 7 is an Email dated February 2nd, 2017, that was not
 8 identified on any exhibit list to my knowledge.
 9 MR. ABOLINS: But I'd like -- well, I'll lay some
 10 foundation here before I offer it.
 11 THE COURT: So just to clarify the rules. If an item was
 12 not on the exhibit list, the only reason it can come in is
 13 for purposes of impeachment or rebuttal. This is not a
 14 rebuttal witness, so it can't come in for rebuttal at this
 15 time. So unless you're impeaching the statement of the
 16 witness, then it's not coming in as an exhibit. You can use
 17 it for memory refreshment just as we had a moment ago with
 18 Ms. Tobin-Presser, and that was fully appropriate use of the
 19 document.
 20 MR. ABOLINS: I'll lay some foundation on the impeachment.
 21 **Q. (By Mr. Abolins) Yeah, you were testifying on the**
 22 **importance of proper notice to the community, effective**
 23 **notice and that you took that seriously.**
 24 A. Um-hum.
 25 **Q. So this January 26 Email, does that appear to be an**

1 levels.
 2 **Q. Okay. And then so in -- and it sounds like you took your**
 3 **job pretty seriously or at least in your testimony in making**
 4 **sure there was good notice to the members of the communities**
 5 **who were impacted, correct?**
 6 A. Yes.
 7 **Q. In fact if that notice were not effective, then a lot of**
 8 **voices aren't being appropriately heard by the city,**
 9 **correct?**
 10 A. Yes.
 11 **Q. And do you recall on -- isn't it true that when you were**
 12 **providing a notice of that February 4th event and sending it**
 13 **out to the residents of Southeast Seattle to tell them about**
 14 **the impact in their particular neighborhoods from the MHA,**
 15 **you did not even get the name of the North Rainier Urban**
 16 **Village correct. Do you recall that?**
 17 A. With -- so when we were inviting folks to the Royal Room, we
 18 invited them through the postcard. There wasn't, in my
 19 memory, a list of communities within that.
 20 **Q. I'd like to refresh your memory, if I may. This is an Email**
 21 **that I think -- if you turn to page -- the second page, do**
 22 **you see that January 26th Email that you had sent out?**
 23 A. Um-hum.
 24 **Q. Do you have one that's marked up?**
 25 A. I --

1 invitation to open houses on the HALA proposals by you?
 2 A. Yes.
 3 **Q. And this is the invitation to the February 4 open house in**
 4 **the Royal Room that you're referring to, correct?**
 5 A. Yes.
 6 **Q. First of all, does this refresh your memory about, you know,**
 7 **that you did in fact use Emails as one of your tools for**
 8 **getting outreach to the community?**
 9 A. Yes.
 10 **Q. And I'll refer you to -- so you -- so I'll ask this question**
 11 **again. When you're doing outreach to the community,**
 12 **particularly a community who has many people who may have**
 13 **language difficulties, it's important to be correct in your**
 14 **description of what's going on, correct?**
 15 A. Agreed.
 16 **Q. And it's also important not to have, you know -- you want to**
 17 **make sure you're describing the right neighborhood if you're**
 18 **trying to reach out to citizens in that neighborhood, right?**
 19 A. Agreed.
 20 **Q. And do you think you did a good job in this particular**
 21 **outreach to the citizens of the North Rainier Urban Village?**
 22 A. I do. I think that a mistake was made and then corrected.
 23 **Q. Okay. First of all, what mistake was made?**
 24 A. You pointed out that in this Email that we had called it
 25 North Rainier Avenue.

Page 93

1 guy, he has a lot to do with all of the information.
 2 **Q. Now if – is it your testimony today that you sent – you**
 3 **did make the corrections to this Email and you sent it out**
 4 **with the proper link and the proper name to the urban**
 5 **village?**
 6 A. I do not recall if we actually did that, but I do see that I
 7 said we will send out another Email today.
 8 **Q. Now, if you had, I should have received the corrected one,**
 9 **right?**
 10 A. If you were on our list.
 11 **Q. And up here since I received this one, I was on your list,**
 12 **correct?**
 13 A. Yes.
 14 **Q. And that would have been an ineffective outreach in your**
 15 **opinion if you had not done so, correct?**
 16 A. (No response.)
 17 **Q. You had not done what you said you were going to do?**
 18 A. I don't know that I would characterize it as ineffective. I
 19 think there were a lot of -- we were relying on a lot pieces
 20 to get folks information on this, including a mailer,
 21 including using our community engagement list, including our
 22 newsletter, including our website.
 23 **Q. Well, at least with regard to this particular example of**
 24 **your commitment to that outreach, it's not a good reflection**
 25 **on your commitment, is it?**

Page 94

1 A. It looks as though I said we were going to send out another
 2 Email, so I would assume that we did, but I don't know.
 3 **Q. Would you have evidence of that that you could provide to**
 4 **your counsel if you looked?**
 5 MR. KISIELIUS: Objection, this gets into what we were
 6 talking about yesterday. So we're conducting discovery at
 7 hearing, asking the witness to provide evidence that Mr.
 8 Abolins could have procured himself or presented a witness
 9 earlier and hasn't. He should have done that in his case in
 10 chief.
 11 MR. ABOLINS: Well, I'll make an offer of proof --
 12 THE COURT: Are you asking that she provide that now?
 13 MR. ABOLINS: No.
 14 THE COURT: Or a later period?
 15 MR. ABOLINS: I'll make an offer of proof that I am
 16 surprised at her suggestion that she believes she sent it --
 17 THE COURT: I'm not -- please don't. I've got to rule on
 18 the objection first.
 19 MR. ABOLINS: Okay.
 20 THE COURT: We did get into this yesterday with another
 21 representative of the appellants. This is not the
 22 opportunity to get in additional information that isn't
 23 already in the record. You can ask them as a courtesy
 24 whether the City will provide it or not at this point. But
 25 as far as getting an item into the evidentiary record based

Page 95

1 on the schedule that we've set aside, the City has the right
 2 to say, no, we won't provide that.
 3 **Q. (By Mr. Abolins) Ms. Brand, in order to vindicate your**
 4 **position that this correction had in fact been sent out, can**
 5 **I ask you to work with your counsel to supply a copy?**
 6 MR. KISIELIUS: Objection, again, he's asking the witness
 7 to supply evidence through us to him. It's the same exact
 8 issue.
 9 THE COURT: You need to ask counsel. And I think they're
 10 saying no unless I'm misinterpreting what the counsel is
 11 saying.
 12 MR. ABOLINS: Okay. Is the answer no?
 13 MR. KISIELIUS: We will convene after the break. We're
 14 not going to talk about this. This is improper discovery.
 15 MR. ABOLINS: Okay, I'm done.
 16 THE COURT: Additional cross?
 17 MS. BENDICH: Okay, thank you.
 18 C R O S S E X A M I N A T I O N
 19 BY MS. BENDICH:
 20 **Q. Ms. Brand, I'm Judith Bendich, I'm from Friends of**
 21 **Ravenna-Cowan, which has filed an appeal in this case. And**
 22 **after the MHA EIS was issued, what was your involvement?**
 23 A. I was supportive of outreach efforts that they did for the
 24 EIS, helped them brainstorm ways in which we could get more
 25 people involved in it and continued to do the larger

Page 96

1 engagement strategy.
 2 **Q. Would you agree that it's helpful -- I know you sent out**
 3 **lots of information stuff, but isn't it really better that**
 4 **the individual have an actual opportunity to read the draft**
 5 **EIS in it's entirety rather than just getting handouts from**
 6 **your group?**
 7 A. I think it depends on the individual.
 8 **Q. Was the draft EIS translated into any other languages a part**
 9 **from English?**
 10 A. No.
 11 **Q. And how many copies were distributed to libraries throughout**
 12 **the City?**
 13 A. I don't know.
 14 **Q. So if you -- I think if you turn to the first page of the**
 15 **EIS or near the first page of the EIS, you'll find it was**
 16 **distributed only to the Seattle downtown public library. If**
 17 **you were doing the outreach to the community, wouldn't you**
 18 **want it to be in more libraries throughout the City?**
 19 MR. KISIELIUS: I'm going to object because Ms. Bendich
 20 asked the question where it was distributed. The witness
 21 said, I don't know. Ms. Bendich then testified to a fact.
 22 And now we're asking questions about Ms. Bendich's fact.
 23 The witness said she doesn't know. The witness earlier
 24 testified that she's not responsible for the SEPA specific
 25 issues, she's talked about general outreach.

GRAHAM, Sharese

Page 117

1 299.
 2 MS. BENDICH: No objection.
 3 THE COURT: 299 is admitted.
 4 (Exhibit No. 299 admitted into evidence)
 5 **Q. (By Ms. Park) Ms. Graham, what role did you have in the**
 6 **preparation of the EIS, this EIS?**
 7 A. I was the project manager for ESA's portion of preparation
 8 of EIS chapters for the MHA program.
 9 **Q. And which chapters were you more directly involved in as a**
 10 **contributing author?**
 11 A. As well as managing the day to day activities for all of the
 12 chapters we prepared, I was the contributing author for the
 13 parks and open space chapter and for the public services and
 14 utilities chapter and for the biological resources.
 15 **Q. All right. Well, let's dive into the EIS itself, it's**
 16 **Exhibit 2 and it's in that binder in front of you. Let's**
 17 **start with the biological resources chapter, which is**
 18 **Chapter 3.6, turn there. I apologize, it's not tabbed, so**
 19 **it takes a bit of time to get there.**
 20 A. I'm there.
 21 **Q. Are you there?**
 22 A. Yes.
 23 **Q. Okay. Now, were you present for Mike Leech's testimony on**
 24 **the tree canopy impact analysis?**
 25 A. I was.

Page 118

1 **Q. And do you agree with Mr. Leach's opinion that the tree**
 2 **canopy impact analysis was reasonably detailed in the scope**
 3 **and adequate for this type of a non-project EIS?**
 4 A. I do, especially for not having a president for doing any
 5 tree canopy impact analysis in an SEIS or in an EIS.
 6 **Q. And do you agree with Mr. Leach's opinion that for a**
 7 **non-project or programmatic EIS, it was appropriate to not do**
 8 **a separate assessment of tree canopy impacts for each urban**
 9 **village?**
 10 A. I do.
 11 **Q. And can you explain why?**
 12 A. The data that we received from the University of Virginia
 13 came to us at a city-wide scale. And with the absence of
 14 having any criteria or methodology for doing a SEPA
 15 analysis, we used our best professional judgment in
 16 analyzing the data that was given to us and thought it was
 17 very appropriate to continue to look at a city-wide scale
 18 for the potential impacts from the rezone.
 19 **Q. Thank you.**
 20 A. Um-hum.
 21 **Q. In reviewing the actual alternatives, did you find that the**
 22 **alternatives differed in the acreages of tree canopy that**
 23 **would be impacted?**
 24 A. Yes, they did.
 25 **Q. If you could turn to page 3.329 of the EIS?**

Page 119

1 A. Okay.
 2 **Q. And specifically, Exhibit 3.6-5. Does that exhibit show the**
 3 **acreage of tree coverage under Alternative 2?**
 4 A. It does.
 5 **Q. And if you could turn to page 3.335. And hold onto that and**
 6 **also turn to page 3.339, it's just a couple pages.**
 7 A. Yep.
 8 **Q. And do those pages and the exhibits on those pages show the**
 9 **acreage of tree coverage under Alternative 3 and the**
 10 **Preferred Alternative?**
 11 A. Yes, they do.
 12 **Q. And do these exhibits show differences in tree coverage**
 13 **between Alternatives 2, 3 and the Preferred Alternative?**
 14 A. Yes, they do.
 15 **Q. And before we move on, quickly, do you recall Mr. Leach's**
 16 **testimony about the corrections to the percentages shown for**
 17 **the Preferred Alternative?**
 18 A. Yes, I do. That was a typo that the high and low scenario
 19 shown in the far right two columns for the Preferred
 20 Alternative should have -- the acreages are correct but the
 21 percentages should have been 20.09 and I believe 20.0.
 22 THE COURT: If I could ask you to pause there just a
 23 moment. That and I believe there were two other similar
 24 items for the historical resources chapter. If the City
 25 doesn't -- I guess I'd like to hear at some point, it

Page 120

1 doesn't have to be now, as to how those or if those would be
 2 addressed at some point before you all leave and I have to
 3 figure that out. Just let me know if that's something that
 4 I should be addressing in my decision or if the City has a
 5 response to that or the appellants do. I just want to make
 6 sure I get that out while we're on it.
 7 MS. PARK: Yes.
 8 THE COURT: Thank you, Ms. Park.
 9 MS. PARK: Thank you.
 10 **Q. (By Ms. Park) Ms. Graham, do you concur with the overall**
 11 **conclusion that the potential impacts to tree canopy cover**
 12 **would not be significant?**
 13 A. I do.
 14 **Q. And can you explain?**
 15 A. I believe that the methodology we used was very conservative
 16 for determining what those impacts could be. We -- as
 17 standard with the SEPA process, we assumed complete full
 18 build out over the 20-year planning period of the potential
 19 change in zoning. And with that, the tree -- the full
 20 conversion of the tree canopy covers to that new zone. So
 21 given that in reality, you know, it may not develop 100
 22 percent.
 23 We figured going the full distance is the most
 24 conservative estimate. In addition, the numbers show less
 25 than one-half percent difference reduction of tree canopy

Page 121

1 coverage from the existing to that full build out in 20
 2 years. And in our professional opinion, that just is not a
 3 significant change.
 4 **Q. Thank you. Going back briefly to the numbers, the**
 5 **percentages of tree canopy acreage that were shown for the**
 6 **Preferred Alternative. Does the change in the number that**
 7 **Mr. Leech testified to, does that change your analysis or**
 8 **the conclusions or the text that describes the impacts?**
 9 A. The typo?
 10 **Q. Yes.**
 11 A. No, it doesn't. As a matter of fact, what we're
 12 showing -- what is shown in the document is actually showing
 13 worse conditions. So the -- showing a greater loss of tree
 14 canopy than what the numbers actually are.
 15 **Q. Okay, thank you.**
 16 A. Um-hum.
 17 **Q. And how did you determine the threshold of significance for**
 18 **tree loss?**
 19 A. Technically there wasn't an actual threshold determined.
 20 Like I said, it was our professional judgment, and just in
 21 our experience, performing SEPA analyses and looking at, you
 22 know, Mike's experience analyzing data at that scale and
 23 that level in conversation with city staff, we determined
 24 that that amount of tree canopy loss, which is, again, I
 25 said less than one-half of one percent over the 20 year

Page 122

1 planning period, did not constitute a significant impact.
 2 **Q. And for this analysis, for the tree coverage analysis, does**
 3 **the city have a level of service standard?**
 4 A. No, it doesn't, nor is there one for any other discipline
 5 that I know. I mean I don't know of any other tree canopy
 6 assessment that has been done for a SEPA document. So no
 7 other jurisdiction has done one that I know of.
 8 **Q. Okay. Now there's been some testimony regarding gaps in the**
 9 **current tree ordinance and it's enforcement. Assuming there**
 10 **are gaps and those gaps have affected the existing tree**
 11 **canopy. Would those gaps be reflected in the existing tree**
 12 **coverage? And would you like me to repeat?**
 13 A. Yeah, if you wouldn't mind. I think I know what you're
 14 asking.
 15 **Q. No, sure, I appreciate the clarification. So there's been**
 16 **some testimony from witnesses to the affect that there are**
 17 **gaps in the tree ordinance and it's enforcement.**
 18 A. Right.
 19 **Q. So let's assume that there are gaps and that those gaps have**
 20 **affected the existing tree canopy. Would those gaps be**
 21 **reflected in the analysis of existing tree coverage?**
 22 A. Yes. So what we're looking at for the existing tree canopy
 23 cover is what is in place today given the regulations that
 24 have been in place to date. So kind of the historical story
 25 of how trees have been protected in the City of Seattle. So

Page 123

1 it shows realistically what is there now reflects what has
 2 been protected. So if there are gaps, then those would show
 3 as well.
 4 **Q. And does the EIS disclose or discuss potential gaps or let's**
 5 **say potential areas for improvement in current tree**
 6 **regulations?**
 7 A. It does.
 8 **Q. All right. Now, I'd like to move on and talk about**
 9 **environmental critical areas or ECAs, so still within the**
 10 **same chapter. Did you hear Ilon Logan's testimony regarding**
 11 **ECAs?**
 12 A. I did.
 13 **Q. And do you agree with Ms. Logan's conclusion that the ECA**
 14 **impact analysis was reasonably detailed in scope and**
 15 **adequate for a non-project EIS?**
 16 A. I did.
 17 **Q. And can you explain your opinion?**
 18 A. I believe the methodology we used for the determination of
 19 impacts to critical areas is along the same lines as what we
 20 do for most of our programatic project level EISs, using GIS
 21 data to characterize and quantify the amount of critical
 22 areas within a study area and then overlaying that with the
 23 potential areas of impact given, I think, that's a pretty
 24 standard procedure for determining impacts to lawyers.
 25 **Q. Now if you could turn to the EIS and look at page 3.324.**

Page 124

1 **And I'll also ask you to hold that page and flip to 3.331**
 2 **and 3.337. Do you have all three?**
 3 A. I do.
 4 **Q. Do the exhibits on those pages show the differences between**
 5 **the action alternatives impacts to ECAs?**
 6 A. They do.
 7 **Q. And do you agree with the overall conclusion that the**
 8 **identified potential adverse impacts to ECAs are not**
 9 **significant?**
 10 A. I do.
 11 **Q. And why is that your opinion?**
 12 A. Mostly because of the regulations that are currently in
 13 place, the City's critical areas code protects critical
 14 areas from potential impacts during development and provides
 15 mechanism for mitigation should impacts not be voidable.
 16 **Q. Okay.**
 17 A. That code is not subject to change under this program.
 18 **Q. Now let's switch topics and move to talk about mitigation**
 19 **measures. If you could turn to 3.340. And could you please**
 20 **talk about or summarize the mitigation measures for ECAs and**
 21 **for trees?**
 22 A. Sure.
 23 MS. BENDICH: Actually, I'm going to object that it's
 24 repetitive from what other witnesses have already testified
 25 to. We've been through this.

Page 129

1 MS. PARK: The document's helpful in terms of explaining
 2 the mitigation measure. And to that extent, I don't think
 3 the date is strictly necessary. It's helpful to explain the
 4 mitigation measures that are discussed in the EIS, but we
 5 acknowledge it's not a document in the EIS itself.
 6 MS. BENDICH: I'll withdraw the objection.
 7 THE COURT: Okay, 300 is admitted.
 8 (Exhibit No. 300 admitted into evidence)
 9 **Q. (By Ms. Park) Ms. Graham, and we can move on from that**
 10 **document. How does the level of discussion of mitigation**
 11 **measures in this EIS compared to other non-project EIS that**
 12 **you've worked on?**
 13 A. I would say that it's on par or more detailed than most of
 14 the programatic EISs I've work on.
 15 **Q. And we're about to move onto the open space and reaction**
 16 **chapter, but before we do, was there anything else you want**
 17 **to add regarding the biological resources chapter?**
 18 A. No, thank you.
 19 **Q. So let's move onto the open space and reaction chapter,**
 20 **which is Chapter 3.7?**
 21 A. Okay.
 22 **Q. Were you also involved in the preparation of this chapter?**
 23 A. I was.
 24 **Q. And can you walk us through a general outline as to how**
 25 **potential adverse impacts to open space and reaction were**

Page 130

1 **analyzed in the EIS?**
 2 A. Sure. The ESA received from the City a GIS data file that
 3 included all of the parks and open space properties that the
 4 City owns within the study area. And we were able to
 5 overlay that with the potential rezone areas to determine
 6 the amount of park space that is currently inventoried in
 7 the City. We were then able to use the data from the
 8 alternatives to determine a level of service as outlined in
 9 the City's 2017 park's plan and determine what those impacts
 10 from the additional population would be.
 11 **Q. Okay. And you may have said some of this already, but,**
 12 **could you explain specifically how you established the**
 13 **baseline or the existing conditions regarding parks and open**
 14 **space?**
 15 A. Right. So we took that GIS layer again and overlaid it with
 16 the existing study area which are all of the urban villages
 17 and expansion areas that are part of this program. And we
 18 are able to calculate the amount of acreage in parks and
 19 open space that is currently in that study area.
 20 **Q. Now, did the City's level of service with respect to parks**
 21 **and open space change in 2017?**
 22 A. It did. So when we started the project, the draft EIS was
 23 using the previous plan. And the previous calculation for
 24 level of service. And between the draft and the final EIS,
 25 the City adopted a new parks plan. And that was adjusted

Page 131

1 for in our analysis. So we were using the new standard.
 2 **Q. All right. And if you could turn to City binder 6 on the**
 3 **chair next to you, and tab 70?**
 4 MS. PARK: And if I can have this marked as an exhibit?
 5 THE COURT: Marked as 301.
 6 (Exhibit No. 301 marked for identification)
 7 **Q. (By Ms. Park) Ms. Graham, can you identify what that**
 8 **document is?**
 9 A. This is the 2017 Parks and Open Space Plan.
 10 **Q. And can you please turn to pages 53 and 54, specifically the**
 11 **last sentence at the bottom of page 53 and continuing onto**
 12 **page 54?**
 13 A. Yes, would you like me to read it?
 14 **Q. Yes.**
 15 A. With growth protections anticipating 120,000 new residents
 16 in the next 17 years, the 2017 Parks and Open Space Plan
 17 proposes to change the city-wide acceptable guideline of
 18 3.33 acres per 1,000 residents to a new 8 acres per 1,000
 19 residents level of service that is needed to help provide
 20 reactional opportunities as we move forward.
 21 **Q. So does that describe the change in Seattle's level of**
 22 **service standards for parks and open space?**
 23 A. It does.
 24 **Q. And we'll come back to that document later. So if you could**
 25 **just set it aside, but turn back to EIS and page 3.344.**

Page 132

1 A. Yes.
 2 **Q. And does that show the new level of service that's being**
 3 **used in the EIS impacts analysis?**
 4 A. Yeah, the last paragraph in Exhibit 3.7-1.
 5 **Q. Okay. Now can you turn ahead to page 3.346, Exhibit 3.7-2?**
 6 A. Yes.
 7 **Q. So under existing conditions at the time of impacts**
 8 **analysis, did Seattle meet the city-wide level of service**
 9 **standard of 8 acres of parkland per 1,000 residents?**
 10 A. City-wide, yes, it did.
 11 **Q. And turning to the next page, 3.347?**
 12 A. Um-hum.
 13 **Q. And Exhibit 3.7-3. Was the baseline a condition of parks**
 14 **and open space measured for each urban village?**
 15 A. It was. Although we adjusted the level of service standard
 16 to what we call a more neighborhood friendly sale instead of
 17 8 acres per 1,000. We adjusted for .8 acres per 100
 18 residents just so the numbers weren't showing quite so many
 19 decimal points.
 20 **Q. And does that exhibit also identify the underserved urban**
 21 **villages under existing conditions?**
 22 A. It does, the far right column there.
 23 **Q. And can you explain why those particular urban villages were**
 24 **identified as being underserved?**
 25 A. The 2017 parks and open space plan identifies underserved

Page 137

1 **conditions for that urban village?**
 2 A. Yes. So North Rainier is under high displacement risk and
 3 high access to opportunity, towards the bottom of the table.
 4 And this shows that there are 1.53 acres of parkland per 100
 5 residents, which meets the current level of service of .8
 6 acres per 100 residents. Under the no action alternative
 7 with the additional growth under the existing zoning that
 8 would be reduced to 1.09 acres per 100 residents. Under
 9 alternative 2 with the additional growth presumed with that
 10 scenario, it lowers to 0.64 which would not meet the level
 11 of service. And, likewise, with alternative 3, it also
 12 would not meet the level of service.
 13 But under the Preferred Alternative, I'm assuming, because
 14 of the expansion areas that are included in that scenario,
 15 the level of service is 1.17, which does meet the LOS.
 16 **Q. So just to clarify, for the specific example of North
 17 Rainier Urban Village, your analysis shows that the no
 18 action alternative and the Preferred Alternative show that the
 19 urban village meeting the LOS standard. But under
 20 alternatives 2 and 3, the urban village would not meet
 21 the -- it's not anticipated to meet that standard.**
 22 A. That's correct.
 23 **Q. Okay. Does that exhibit, Exhibit 3.7-5 also identify North
 24 Rainier Urban Village as underserved based on the 2017 plan?**
 25 A. It does.

Page 138

1 **Q. And does that exhibit also assess the impacts of -- impacts
 2 of parks and open space in areas outside of the urban
 3 villages?**
 4 A. Yes, the last line of the table looks at all the varies
 5 outside of those designated urban villages.
 6 **Q. Okay. Now, can you please turn to 3.352 of the EIS?**
 7 A. Um-hum.
 8 **Q. And Exhibit 3.7-6. What does that exhibit show?**
 9 A. This shows the changes in park availability in those
 10 underserved urban villages, so all those marked in the
 11 previous table with Xs.
 12 **Q. Okay. I'm sorry, did you say that was for --**
 13 A. Sorry, for the no action alternative, correct.
 14 **Q. What about the following exhibits, Exhibits 3.7-7, 7-8 and
 15 7-9?**
 16 A. Shows the same information for alternatives 2, 3 and the
 17 Preferred Alternative.
 18 **Q. Okay. And do the action alternatives differ in terms of
 19 open space impacts?**
 20 A. They do.
 21 **Q. Now does the EIS' impacts analysis consider conceptual park
 22 projects?**
 23 A. No, they do not.
 24 **Q. And what would be considered a conceptual park
 25 project -- well, let's start with that.**

Page 139

1 A. From a SEPA perspective, a conceptual project is one that
 2 doesn't have a schedule or timeline for construction and
 3 doesn't have any identified funding.
 4 **Q. Okay. And why are conceptual park projects typically not
 5 included in an EIS analysis?**
 6 A. Because there's no certainty as to when it might actually
 7 get built. There's no guarantee that it would actually
 8 become a reality before the project is implemented.
 9 **Q. Now, in your experience when is it appropriate to include a
 10 proposed park project in an impact analysis of parks and
 11 open space?**
 12 A. When those known quantities of funding and scheduled timing,
 13 we know when it's going to be constructed, then we can
 14 reasonably include it as part of our assessment.
 15 **Q. Okay. At the time you prepared this parks and open space
 16 analysis, did you or anyone on your team identify any park
 17 projects within the North Rainier neighborhood that had
 18 identified funding sources or completion schedules?**
 19 A. No, we did not.
 20 **Q. There's been some testimony regarding the North Rainier Town
 21 Center Park in particular. What's your understanding of the
 22 status of the North Rainier Town Center Park?**
 23 A. As far as I know, there isn't a schedule for completion or
 24 funding for that project as of yet.
 25 **Q. Okay. And can you explain how does the exclusion of**

Page 140

1 **conceptual parks or parks without funding or completion
 2 schedule affect the impacts analysis?**
 3 A. Not including them gives us what we would consider a
 4 worst-case scenario. It's a more conservative approach
 5 assuming that the existing acres of parkland stays the same.
 6 If we start including conceptual projects, we run the risk
 7 of over estimating the amount of park space available when
 8 they may not actually happen in real life.
 9 **Q. Okay. Now, would a change in zoning preclude parcels from
 10 becoming parkland in the future?**
 11 A. No, it would not. The City does not have a specific zone
 12 for parks and open space. So there -- the change in zoning
 13 doesn't preclude that use on the existing parcels.
 14 **Q. Okay. Now, can you please turn to page 3.356? Does the EIS
 15 identify mitigation measures to address the identified
 16 impacts to the availability of parks and open space?**
 17 A. It does.
 18 **Q. And can you quickly walk us through the identified
 19 mitigation measures?**
 20 A. Yes.
 21 **Q. It's a big block of text.**
 22 A. It is, yeah. So after identifying the deficiencies, it
 23 briefly describes the mitigation strategies that were
 24 outlined in the comp plan EIS, including incentives and
 25 other regulatory tools to encourage and force developers to

Page 141

1 set aside publically accessible, usable open space. Some of
 2 that may be transfer development rights, any impact fees
 3 that can be imposed upon new developments or set aside for
 4 inclusion of parks and open space in the development or in
 5 the area.
 6 And then it identifies -- here we identify additional
 7 mitigation measures that include a strategy the City has
 8 identified as better uses of existing park lands and other
 9 city-owned property. So we're offering additional
 10 activities, longer service hours, parks staying open longer,
 11 ways to -- strategies and ways to get more people to access
 12 the parks that currently exist.
 13 **Q. Okay. And, again, with respect to the discussion of**
 14 **mitigation measures for parks and open space, how does**
 15 **that -- the level of discussion in this EIS compared to**
 16 **other non-project EIS that you've worked on?**
 17 A. I would say it's very comparable.
 18 **Q. And are the identified impacts to availability of parks and**
 19 **open space considered to be a significant impact in the EIS?**
 20 A. Yes, it is.
 21 **Q. And is that impact summarized on page 3.357?**
 22 A. It is, under significant, unavoidable adverse impacts.
 23 **Q. Okay. In your opinion is the parks and open space impacts**
 24 **analysis reasonably detailed and adequate for a non-project**
 25 **EIS?**

Page 142

1 A. I believe it is.
 2 **Q. All right. Now let's turn out to the next chapter, chapter**
 3 **3.8 regarding public services and utilities. Were you also**
 4 **involved in the preparation of the impact analysis on public**
 5 **services and utilities?**
 6 A. I was.
 7 **Q. What public services and utilities were analyzed in the EIS?**
 8 A. The public services that were covered include police and
 9 fire and emergency, medical services, public schools. And
 10 the utilities included water, sewer, drainage systems and I
 11 believe power, yes, electricity.
 12 **Q. Okay. Can you describe how you established the existing**
 13 **conditions for those public services and utilities?**
 14 A. For the most part, we -- the light on the Seattle comp plan
 15 existing conditions with verification of any updates that
 16 possibly happened with -- from the service providers
 17 websites and in some cases contact with the public service
 18 providers themselves.
 19 **Q. Okay. Now I'd like to focus in on some of the services and**
 20 **utilities. First, on the issue of public -- I'm sorry,**
 21 **police services, how did you determine existing conditions**
 22 **with respect to average police response times?**
 23 A. Again, we summarized what was listed in the 2035 Comp Plan
 24 for the existing precincts and what the overall response
 25 times are. And we verified this by what was published

Page 143

1 currently on their website.
 2 **Q. Okay. In your opinion is it common to use an existing**
 3 **environmental document such as a comp plan EIS for another**
 4 **proposal?**
 5 A. Yes, especially for another programatic city-wide program
 6 that's done at the same scale, especially -- and because it
 7 was completed in such a recent time frame.
 8 **Q. And for -- on the issue of police services, specifically,**
 9 **what did you do to update the data that you had from the**
 10 **comp plan EIS?**
 11 A. Again, we check the current status on the website for
 12 updates to their -- basically their annual summary of
 13 response times and service provided.
 14 **Q. And were you here for the testimony of Ms. Janine Rees?**
 15 A. I was.
 16 **Q. And do you recall her testimony regarding a report from**
 17 **Berkshire Advisors?**
 18 A. I do.
 19 **Q. And during your work on researching for updated data since**
 20 **the comp plan EIS, did that report from Berkshire Advisors**
 21 **come up?**
 22 A. No, it did not.
 23 **Q. Now, the EIS states the average response time target for**
 24 **police services is 7 minutes. Is that a standard that's set**
 25 **by the City?**

Page 144

1 A. Yes, I believe it is.
 2 **Q. Does the EIS disclose whether the City is currently meeting**
 3 **that standard?**
 4 A. It does.
 5 **Q. And is that at page 3.360?**
 6 A. Yes. So at the last sentence of the page there, it says the
 7 police -- Seattle Police Department established an average
 8 emergency response time target of 7 minutes, which it
 9 currently meets.
 10 **Q. Does the EIS disclose existing capacity considerations with**
 11 **respect to police services?**
 12 A. It does.
 13 **Q. And where is that discussion?**
 14 A. So the previous four paragraphs before that also on page
 15 3.360 starting with the Seattle 2035 Comprehensive Plan made
 16 the following observations with respect to existing capacity
 17 identifies the south precinct station is currently near
 18 capacity for staffing space. Increased staffing in the
 19 north precinct over the next 20 years would be accommodated
 20 at a planned facility. And then no other growth related
 21 needs had currently been identified in the other precincts.
 22 **Q. Okay. Now, let's turn to the issue of fire and emergency**
 23 **services, starting at page 3.361. So, again, was the data**
 24 **for existing conditions with respect to fire and EMS,**
 25 **emergency medical service, response times also from the comp**

1 plan EIS?
 2 A. It was, also, again, with verification from their website
 3 and their annual summary report.
 4 **Q. Now, Ms. Rees testified that the Seattle Fire Department**
 5 **used to publish response times for every fire station and**
 6 **every individual unit, but that data is no longer available.**
 7 **Even assuming that that data were available, however, in**
 8 **your opinion, is it appropriate for a non-project EIS to**
 9 **look at existing services on a city-wide basis?**
 10 A. It is appropriate when we're talking about a city-wide
 11 program, yes.
 12 **Q. And can you please turn to page 3.361?**
 13 A. Yes.
 14 **Q. I think you're there already. Does the EIS disclose that**
 15 **certain areas would experience increases in service demands?**
 16 A. It does.
 17 **Q. Okay. Now let's turn to the issue of sewer and storm water.**
 18 **So, I'll let you get to that section. So Ms. Rees testified**
 19 **that the most recent plan to address sewer needs is the 2006**
 20 **waste water system master plan. Can you turn to page 3.368**
 21 **under the capital projects heading?**
 22 A. Yep.
 23 **Q. Does the EIS discuss that 2006 plan?**
 24 A. It does.
 25 **Q. And does that section of the EIS mention other plans as**

1 A. It is.
 2 MS. PARK: And I move to admit what's been marked as
 3 Exhibit 302.
 4 THE COURT: Any objections?
 5 UNIDENTIFIED SPEAKER: No objection here.
 6 THE COURT: Exhibit 302 is admitted.
 7 (Exhibit No. 302 admitted into evidence)
 8 **Q. (By Ms. Park) And you can set that aside for now. Does the**
 9 **EIS disclose potential existing capacity issues with respect**
 10 **to sewer services?**
 11 A. It does.
 12 **Q. And do you know if the City has more recent plans addressing**
 13 **storm water needs?**
 14 A. Specifically storm water, yes. The City's -- the City has
 15 to update their MPDS permit every year. And along with that
 16 the storm water management plan is also updated on an annual
 17 basis.
 18 **Q. So do you know what the most recent or current storm water**
 19 **management plan is?**
 20 A. Right now it's 2017, at the time of this VIS (inaudible) is
 21 the 2016 plan.
 22 **Q. Okay. Can you please turn to page 3.372 of the EIS? And**
 23 **does the EIS identify areas with capacity constrained storm**
 24 **water drainage systems?**
 25 A. Yes.

1 well?
 2 A. It does. So the capital projects to reduce combined sewer
 3 overflows is also identified in the 2015 plan to protect
 4 Seattle's waterways. And the City also identifies that the
 5 City is working with King County on their long-term control
 6 plan.
 7 **Q. Okay. And if you could turn to City binder number 7, tab**
 8 **76.**
 9 MS. PARK: And if I could have that marked as an exhibit.
 10 THE COURT: This would be 302.
 11 (Exhibit No. 302 marked for identification)
 12 **Q. Ms. Graham, are you familiar with that document?**
 13 A. I am.
 14 **Q. And what does that say about what the City is doing to**
 15 **manage CSOs?**
 16 A. Actually this is a King County program that the City is
 17 working with -- it's a joint program, but this specifically
 18 is from King County. And it identifies the program needs,
 19 the specific areas, the specific overflow, infrastructure
 20 that needs updating and what they plan -- what their program
 21 plans to -- how they plan to schedule those upgrades needed.
 22 **Q. And does it also describe the long-term control plan?**
 23 A. It does, yes.
 24 **Q. Is that the same King County long-term control plan that's**
 25 **referenced in the EIS?**

1 **Q. Does the EIS also disclose increased demand on utilities as**
 2 **an impact?**
 3 A. It does, yes.
 4 **Q. Now, can you walk us through the impacts that were**
 5 **identified and were common to all alternatives with respect**
 6 **to all of the public services and utilities?**
 7 A. Sure. So for utilities, I'll just list it there, it
 8 identifies any amount of growth development under any of the
 9 alternatives can create additional pressure on existing
 10 infrastructure. And it does specifically call out those
 11 urban villages that have large amounts of informal drainage.
 12 And as identified earlier in the document, those are areas
 13 that don't have either combined sewer overflows or dedicated
 14 storm water pipes, the open ditches and the more informal
 15 drainage areas that flow to streams.
 16 Additionally, there are additional development pressures
 17 put on public schools. As communities grow, the number of
 18 children obviously increases. And it identifies all of the
 19 schools that have -- that are currently at or near capacity.
 20 **Q. And with respect to, for example, Seattle public utilities**
 21 **or Seattle City Light, does the EIS disclose what methods**
 22 **are in place to manage the pressures of increased**
 23 **development?**
 24 A. It does. There's a specific reference. So on page 3.372,
 25 the last full paragraph before the bulleted list at the

1 bottom there. All projects must comply with the minimum
 2 requirements in the Seattle storm water code, even where
 3 drainage control review is not required.
 4 All -- basically, the beginning of that paragraph as well,
 5 SPU and Seattle City Light have methods in place to ensure
 6 development is not endorsed without identification of demand
 7 and availability of utilities, including meeting fire code
 8 requirements between developments, which means any new
 9 development has to prove that -- or provide for utilities
 10 and infrastructure before the development can actually be
 11 approved.
 12 **Q. Okay. And if you can turn back to page 3.366 to**
 13 **page 3.71 -- start with 3.366?**
 14 A. Yes.
 15 **Q. Is this the section that discusses in more specificity some**
 16 **of the methods that SPU and SEL have to monitor development?**
 17 A. It does. The second paragraph there talks about their
 18 demand forecasting and their process for upgrading
 19 infrastructure as demand increases.
 20 **Q. Okay. Now I'd like to walk you back -- go back to the**
 21 **impacts analysis.**
 22 A. Um-hum.
 23 **Q. And have you explain some of the difference between some of**
 24 **the alternatives. First, do the alternatives differ in**
 25 **terms of their impacts on fire and emergency services?**

1 approximately 5,184 housing units to urban villages that
 2 Fire Station 31 serves, which is approximately 719 more
 3 units in the service area. So it shows that Alternative 3
 4 would have -- of those three would have the greatest impact
 5 on the station that's already constrained.
 6 **Q. Okay. And now I'd like to talk about the mitigation**
 7 **measures. If you could turn to page 3.383?**
 8 A. Um-hum.
 9 UNIDENTIFIED SPEAKER: Say it again?
 10 MS. PARK: 3.383.
 11 **Q. (By Ms. Park) And is that where the mitigation measures are**
 12 **discussed?**
 13 A. It is.
 14 **Q. And can you summarize the mitigation measures that are**
 15 **discussed?**
 16 A. Yes. So it talks about mitigation measures for schools to
 17 address capacity needs. The Seattle Public School District
 18 adjusts and re-asses the need for additional classroom space
 19 annually and takes steps such as reconfiguring non-classroom
 20 spaces within the schools to accommodate additional
 21 students.
 22 And then on a 3 to 6 year basis under the BEX program they
 23 evaluate their capital planning needs for actual additional
 24 schools, facility space and that -- because that is adjusted
 25 at a more frequent basis than the planning horizon here of

1 A. They do somewhat, yes. So the alternatives differ in the
 2 location of density of development which slightly shifts the
 3 development -- the pressure on public services and where
 4 that demand might increase. And as we identified earlier
 5 for specifically fire, Fire Station 31 was the area that was
 6 identified as being capacity constrained.
 7 **Q. Um-hum.**
 8 A. And it specifically points for each alternative how many
 9 more residents would be covered under that fire station or
 10 that fire station would respond to that much more density.
 11 **Q. Okay.**
 12 A. And for example, under the no action alternative,
 13 it's -- let me see specifically -- for Alternative 1, but
 14 for Alternative 2 --
 15 **Q. Let's focus on Alternative 2, one of the action**
 16 **alternatives. What's the impact on Alternative 2 on the**
 17 **specific example of Fire Station 31?**
 18 A. Oh, yes. So alternative -- on page 3.379 under fire and
 19 emergency services. It states Alternative 2, in the middle
 20 of the paragraph, Alternative 2 has the potential to add a
 21 total of 4,465 housing units, 965 more than Alternative 1 to
 22 urban villages that Fire Station 31 serves.
 23 **Q. Um-hum.**
 24 A. And if you turn to page 3.380 under fire and emergency
 25 services, Alternative 3 has the potential to add

1 20 years. It's somewhat self-mitigating that they adjust
 2 their capital facility needs as needed as development
 3 happens and populations grow. It also -- the EIS also
 4 summarizes the mitigation identified in that comp plan on
 5 page 3.385.
 6 **Q. And can you walk through some of the mitigation measures,**
 7 **let's say for storm water drainage impacts?**
 8 A. Yes. It states that the City can strengthen tools and
 9 regulations to ensure the systematic storm water drainage
 10 and permits are made at the time of the small scale infill
 11 developments and areas of informal drainage. As I discussed
 12 before, there are permitting regulations in place that
 13 ensure that larger developments have infrastructure in place
 14 before they're approved for storm water, water and sewer.
 15 But this is a measure that specifically addresses those
 16 small developments that would sometimes otherwise not fall
 17 under those same regulations. But it's a mitigation that
 18 suggests that more informal tools -- it is more appropriate
 19 for storm water developments could be established.
 20 And then the last one is a -- potentially establishing
 21 late comer agreements for sidewalk and drainage improvements
 22 in which developers pay into kind of -- almost like an in
 23 lieu fee program to fund those replacements when the City
 24 has the capacity to build them.
 25 **Q. And, again, how does the level of discussion of mitigation**

Page 153

1 **measures in this chapter compare to other non-project EISs**
 2 **that you've worked on?**
 3 A. It, again, is very comparable to others I've seen.
 4 **Q. Okay. And in your opinion is the public services and**
 5 **utilities impact analysis in this Chapter 3.8 reasonably**
 6 **detail and adequate for a non-project EIS?**
 7 A. It is.
 8 **Q. All right. Now, can you please turn to Chapter 3.9 of the**
 9 **EIS?**
 10 A. Yes.
 11 **Q. Did ESA also work on the impacts analysis relating to air**
 12 **quality?**
 13 A. We did.
 14 **Q. And what was your role in the preparation of the air quality**
 15 **analysis?**
 16 A. As the project manager for the sections that ESA authored, I
 17 provided overall guidance for coordination with the City and
 18 a high level senior review of the chapter.
 19 **Q. So your involvement was more at high level analysis as**
 20 **opposed to getting into the actual research analyzing the**
 21 **data?**
 22 A. Correct. I did not do any of the air quality analysis, nor
 23 did I actually write any of this chapter. It was more
 24 reviewing for consistency with SEPA and the rest of the
 25 document.

Page 154

1 **Q. Okay. So recognizing that your role was a little more**
 2 **limited in this analysis, I'd like to ask you some questions**
 3 **to address points raised by one of the appellant's witness,**
 4 **Jennifer Scarlet. She raised some points regarding what was**
 5 **discussed in the EIS. And were you here for Ms. Scarlet's**
 6 **testimony?**
 7 A. I was.
 8 **Q. Now does the EIS disclose studies regarding the impacts of**
 9 **air quality to health?**
 10 A. It does.
 11 **Q. And can you turn to page 3.396? And is that one of the**
 12 **areas where the EIS discusses health impacts?**
 13 A. Yes, it does, under sources of air pollution, it talks about
 14 the department of health standards, the risk assessment that
 15 they performed.
 16 **Q. Now, Ms. Scarlet specifically raised concerns about**
 17 **supposedly lack of health impact data for the South Park**
 18 **data. Does the EIS have any discussion of this health**
 19 **impact data for the South Park area here?**
 20 A. It does. Specifically it calls that Georgetown and South
 21 Park as areas near commercial, industrial and having
 22 exposure to highway sources, air quality, impact sources.
 23 **Q. And was that referencing a department of health study?**
 24 A. It was.
 25 **Q. In that area? Okay. Now, can you please turn to page 3.404**

Page 155

1 **of the EIS? And does the EIS disclose which urban villages**
 2 **are within 200 meters of a major highway realign or port**
 3 **terminal?**
 4 A. It does, they're listed there in the middle of the page.
 5 **Q. And the South Park is identified as one of the urban**
 6 **villages within the 200 meter buffer?**
 7 A. It is.
 8 **Q. And does the EIS disclose these urban villages location as a**
 9 **potential impact?**
 10 A. It does. The sentence just after the bulleted list, the
 11 potential increased exposure to cancer risk is considered a
 12 potential moderate adverse impact related to air quality.
 13 **Q. Okay, thank you. Now, before we wrap up, I just want to ask**
 14 **you a couple general questions about the EIS' analysis.**
 15 **First, are there subjects in which the EIS looked at impacts**
 16 **beyond the MHA implementation area, for example, on a**
 17 **city-wide or regional scale?**
 18 A. Several of them, yes. For example, the -- under public
 19 services, the analysis of impacts to the school district
 20 looked at impacts to the hole school district. They looked
 21 at the service boundaries within each of the school service
 22 areas. They had drawn specific boundaries, and those are
 23 not equivalent to the urban villages. But we did look at
 24 the growth within the urban villages impact on those
 25 district service areas. So it was more of a city-wide look

Page 156

1 for that.
 2 Another one would be the air quality and greenhouse gas
 3 emissions. Just in general, those analyses are always done
 4 on a regional scale. Although there is often monitoring
 5 data specific locations if you're talking about impact from
 6 growth in an area, it's always looked at at a regional or in
 7 some cases even state-wide or global scale like greenhouse
 8 gas emissions are.
 9 **Q. Okay. Now, we've also had some questions of other witnesses**
 10 **about the EIS' discussion about the intended benefits of**
 11 **mitigation. So if a reader wanted to understand the**
 12 **intended benefits of mitigation, should the reader's**
 13 **understanding be limited to the mitigation section alone or**
 14 **should the reader's understanding be informed by other parts**
 15 **of the analysis?**
 16 MR. BRICKLIN: Object to the form in terms of whether
 17 she's referring to the sections of the EIS she's been
 18 testifying about or every mitigation section about the EIS?
 19 MS. PARK: I'll clarify that. It just refers to the EIS
 20 sections that she's talked about.
 21 MR. BRICKLIN: Thank you.
 22 A. So could you restate that?
 23 **Q. (By Ms. Park) I'll repeat the question, yeah. So if a**
 24 **reader wanted to understand the intended benefits of**
 25 **mitigation, should a reader's understanding be limited to**

1 the -- what's in the mitigation section alone or should a
2 reader's understanding be influenced and informed by other
3 parts of the analysis such as the impacts analysis?

4 A. I would certainly hope that they would have read the
5 analysis too. For example, the -- in the biological
6 resources section in the discussion of tree canopy, one of
7 the mitigations is suggesting increases in the tree
8 protection measures themselves. In order to understand how
9 that would specifically affect tree canopy, you'd have to
10 look at the tree canopy analysis to know what impacts were
11 identified and the fact that we identify them would be a
12 loss in tree canopy from potential future development. That
13 correlates to the need for greater tree protection. Under
14 public services, we suggest, so for storm water suggesting
15 the -- let me go back to --

16 Q. I guess if it's helpful to refer back to the mitigation
17 sections.

18 A. Right. So on page 3.385.

19 Q. Um-hum.

20 A. The recommendations for addressing storm water drainage
21 impacts in areas of informal drainage could be considered by
22 the City. You'd have to understand what informal drainage
23 impacts there would be from the project. And for that
24 matter what informal drainage means entirely. So you'd have
25 to -- you would have to have read the previous section to

1 that we have livability that is concurrent with our growth
2 in such environments, correct?

3 A. I don't recall reading that as a core purpose, but I do
4 believe that is important and considered in SEPA.

5 Q. And then the FEIS that you worked on refers to the open
6 space provisions of the City's comprehensive plan, correct?

7 A. Correct.

8 Q. Why is that?

9 A. Because it is one of the over-arching policy documents that
10 the City has for development in -- within the urban villages
11 with the rest of the City.

12 Q. And do you agree it is important in an environmental impact
13 statement for the City decision makers to be aware of the
14 comprehensive plan provisions and what they say about
15 guiding growth and mitigating environmental impacts?

16 A. Could you restate that, please?

17 Q. Do you agree that the environmental impact statement should
18 address the role of the comprehensive plan as it pertains to
19 environmental issues such as open space?

20 A. Yes, I do.

21 Q. As far as the urban village neighborhoods, the environmental
22 impact statement doesn't address the specific open space
23 goals and policies of the neighborhood plans as they are
24 reflected in the comprehensive plan, isn't that true?

25 A. That is true.

1 understand what the impact is and that informal drainage are
2 areas of usually single-family development where there isn't
3 the build out infrastructure that there is in some of the
4 more denser developments.

5 Q. Okay. So that prior discussion of the informal drainage is
6 contained in the impacts analysis section?

7 A. Correct, and informs the mitigation, correct.

8 Q. Okay, thank you. Now, do you believe the EIS used
9 reasonable and standard methods to assess and disclose the
10 potential impacts of the proposal?

11 A. I do.

12 Q. And do you stand behind the conclusions and the analysis in
13 the EIS?

14 A. I do.

15 MS. PARK: Thank you. No further questions.

16 THE COURT: Cross.

17 CROSS EXAMINATION

18 BY MR. ABOLINS:

19 Q. Good afternoon.

20 A. Good afternoon.

21 Q. Would you agree that open space is an essential element of
22 livability for those who reside in a dense urban
23 environment?

24 A. I do.

25 Q. And in fact one of the core purposes of SEPA is to ensure

1 Q. The proposal to change the developability and the density at
2 specific parcel levels throughout a particular urban village
3 neighborhood from the standpoint of someone reviewing the
4 EIS is silent with regard to how those increases in
5 developability might impact specific open space features
6 within that neighborhood, correct?

7 A. I don't believe we talk about developability at all.

8 Q. Let me rephrase the question. Someone reading this EIS and
9 trying to understand the relationship of the proposed
10 upzones to specific parcels throughout a neighborhood would
11 have no idea of the specific open space features that are
12 called out for in that comprehensive plan for that
13 neighborhood, would they?

14 A. (No response.)

15 Q. The document doesn't say anything about that.

16 A. About the specific --

17 Q. Goals --

18 A. -- neighborhood plans, no, we don't talk about those
19 specifically.

20 Q. And the features of a particular urban village as they
21 relate to livability?

22 A. We don't cover that in this chapter, no.

23 Q. I'm going to hand you your declaration that you filed or the
24 City filed on it's behalf in response to our motion for
25 summary judgment. Do you recall preparing this document?

VOLUME 18

SEPTEMBER 4, 2018

Hearing - Day 18

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

September 4, 2018



206.287.9066 | 800.846.6989

1325 Fourth Avenue, Suite 1840, Seattle, Washington 98101

www.buellrealtime.com

email: info@buellrealtime.com



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 18 - September 4, 2018
Heard before Hearing Examiner Ryan Vancil

Transcribed by: Chastity Feezle, WA-CRL
Court-Certified Transcription

APPEARANCES

On Behalf of Respondent City of Seattle:
TADAS KISIELIUS
JEFF WEBER
Seattle City Attorney's Office
701 Fifth Avenue, Suite 2050
Seattle, Washington 98104-7097

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

APPEARANCES

On Behalf of Appellant Fremont Neighborhood Council:
TOBY THALER
Attorney at Law
Post Office Box 1188
Seattle, Washington 98111-1188

On Behalf of Appellant Friends of Ravenna-Cowen:
JUDITH BENDICH
Attorney at Law
1754 Northeast Sixty-Second Street
Seattle, Washington 98115-6821

On Behalf of Appellant Seattle Coalition for
Affordability, Livability & Equity:
CLAUDIA NEWMAN
Bricklin & Newman, LLP
1424 Fourth Avenue, Suite 500
Seattle, Washington 98101-2258

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

EXAMINATION INDEX

WITNESS: PAGE:

KEVIN GIFFORD
Direct Examination by Mr. Kisielius..... 7
Examination by Hearing Examiner..... 108
Cross-Examination by Ms. Newman..... 116
Cross-Examination by Mr. Thaler..... 209
Redirect Examination by Mr. Kisielius..... 232

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

Page 5

EXHIBIT INDEX

NO.	DESCRIPTION	MARKED	ADMITTED
305	Mr. Gifford's resumé	9	10

Page 7

MS. NEWMAN: Okay, I'll send a copy of that to everybody so they have the right version.

HEARING EXAMINER: Thank you.

MS. NEWMAN: Electronically.

HEARING EXAMINER: Anything else we need to address? Okay. Let's get started.

MR. KISIELIUS: The City would like to call Kevin Gifford.

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

THE WITNESS: My name is Kevin Gifford, K-E-V-I-N, G-I-F-F-O-R-D.

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

THE WITNESS: I do.

HEARING EXAMINER: Thank you.

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

DIRECT EXAMINATION

BY MR. KISIELIUS:

Q. Good morning, Mr. Gifford.

A. Good morning.

Q. What's your profession?

Page 6

-o0o-
September 4, 2018

HEARING EXAMINER: We continue the hearing for W-17-006 through W-17-014 on this Tuesday, September 4th.

Are there any procedural items we need to address before we get started today?

MS. NEWMAN: I do have a -- this is Claudia Newman, sorry, for the record, on behalf of SCALE. And an exhibit that we submitted earlier, the Examiner requested that we remove the credentials from the cover page for the author of the document --

HEARING EXAMINER: Okay.

MS. NEWMAN: -- on the hard copy of that. It was SCALE Exhibit 2 or 3, and I'm just realizing I may not remember which one. I can give you the number in a bit.

HEARING EXAMINER: Okay. And we were just replacing the cover sheet?

MS. NEWMAN: Yeah, just the cover sheet --

HEARING EXAMINER: Okay.

MS. NEWMAN: -- of that. And I'm going to send a copy of it to --

HEARING EXAMINER: It's 245.

Page 8

A. I'm a land use planner and GIS data analyst currently working for BERK Consulting.

Q. Okay. And what are your primary responsibilities at BERK?

A. Primary responsibilities there include preparation of land use plans, policy analyses such as SEPA environmental impact statements as well as various other economic development and land use analysis reports.

Q. Okay. And were you employed in your profession before you were with BERK?

A. Yes, I was.

Q. How long have you been in your profession?

A. Approximately twelve years.

Q. Okay. Can you briefly describe your educational background and training? And we want to focus here on the items relevant to your profession.

A. Sure. I have a background in architectural design and in land use -- or excuse me, urban and regional planning. I hold a bachelor of environmental design and master of urban planning.

Q. Okay. I'd like you to briefly describe your prior experiences working on preparing or reviewing EISs. Have you been involved in preparing EISs other than this one?

A. Yes. Over -- pretty much for my entire career I've been working in environmental services and working for various jurisdictions in Washington, Oregon and California preparing

GIFFORD, Kevin

1 environmental documents. I've prepared programmatic EISs
2 for probably, I would say, somewhere in the neighborhood of
3 maybe a dozen or so. And I've worked for multiple
4 jurisdictions in the Puget Sound as well as eastern
5 Washington.

6 **Q. Okay. And let's focus on those -- those dozen or so**
7 **programmatic non-project EISs. In what capacity were you**
8 **involved in those?**

9 A. Mostly as either -- obviously, earlier in my career I was
10 working as, like, a supporting author, but I've spent most
11 of my time working as lead author for land use aesthetics
12 and public services section mostly focusing the last few
13 years on land use and aesthetics, specifically urban design
14 issues and land use compatibility.

15 The last few years I've served as project manager for
16 several of those as part of the consultant team working
17 closely with city staff and project managers on that end.

18 **Q. Okay. I'm going to ask you -- there is a binder on the**
19 **chair next to you, Binder 7.**

20 A. Okay.

21 **Q. If you could turn to Tab 83, so this is City Exhibit 83.**

22 HEARING EXAMINER: Marked as 305.

23 THE WITNESS: Okay.

24 **Q. (By Mr. Kisielius) Mr. Gifford, is this your resumé?**

25 A. Yes, it is.

1 **Q. Okay. I'm going to ask you about both of those sections,**
2 **the land use impact analysis and the aesthetic impact**
3 **analysis.**

4 A. Uh-huh.

5 **Q. But we'll start with the land use impact analysis. And just**
6 **for your reference, that Binder No. 2 over there is the**
7 **entirety of the EIS, the final EIS, if you want to -- we'll**
8 **be referring to it.**

9 A. Yep.

10 **Q. And maybe we can start by opening up to 3.110. Before we**
11 **get to the impacts, I want to start just basic questions**
12 **about your methodology. So how did you characterize land**
13 **use impacts? Were there types of land use impact that you**
14 **focused on?**

15 A. Yes. So the EIS basically -- it sort of categorizes land
16 use impacts into three general buckets here. We talk about
17 intensification of use, we talk about increases in density
18 and we talk about changes in scale.

19 These -- we chose these particular categories because we
20 felt this is -- these were sort of basic concepts that any
21 person who is experiencing, who sees a development or is,
22 you know, walking through a neighborhood, that they can
23 identify. These are directly relevant to how a person
24 experiences a space and how they -- how changes in land use
25 would affect them.

1 **Q. And does it accurately reflect your educational background**
2 **and your professional training and experience that we've**
3 **just discussed?**

4 A. Yes, it does.

5 MR. KISIELIUS: I'd ask to admit Exhibit 305.

6 MS. NEWMAN: No objection.

7 HEARING EXAMINER: Any objections? 305 is admitted.

8 **Q. (By Mr. Kisielius) You can put that binder back. We're not**
9 **going to use that anymore.**

10 A. Just one moment to wrestle it closed.

11 MS. NEWMAN: No more City exhibits for the rest of the --

12 MR. KISIELIUS: Well, we'll see.

13 MS. NEWMAN: Okay.

14 MR. KISIELIUS: I guess -- just not from that binder --

15 MS. NEWMAN: Okay.

16 MR. KISIELIUS: (Inaudible).

17 **Q. (By Mr. Kisielius) So let's focus -- you've talked about**
18 **your work experiences generally. Let's focus on this**
19 **specific proposal. What were your responsibilities for the**
20 **EIS that's the subject of this appeal?**

21 A. I was the lead author and task lead for the land use and
22 aesthetics chapters. I served -- I reviewed the work of
23 other consultants at my firm, but I was -- also served as
24 the lead author so I wrote significant chunks of those
25 sections.

1 **Q. I'm going to ask you some more detailed questions about each**
2 **of those three categories. But just to confirm, is it**
3 **common in your profession to characterize land use impacts**
4 **for non-project actions using those three?**

5 A. Yes, it is. Non-project actions are usually -- usually
6 involve some sort of policy change. They're not related to
7 a specific development proposal, and so as a result, it's
8 very common to generalize the types of impacts that you
9 might see.

10 And that way decisionmakers can say, "Okay, well, these
11 are the impacts we might see." And that let's them isolate
12 certain items of concern for additional study in the future
13 at the project level.

14 **Q. Okay. So you -- you mentioned those three categories. I**
15 **see them on pages 110 and 111. Without reading all of it,**
16 **can you just generally describe what's meant by**
17 **intensification of land use?**

18 A. Yes, so intensification of use specifically is talking about
19 if you're changing the land uses on a site or in the case
20 of -- if you're talking about zoning, what land uses are
21 allowed on a site that would be significantly different from
22 what you're currently seeing.

23 So an example of this would be if you were changing the
24 zoning on a site that is currently Single Family Residential
25 to allow commercial uses or mixed-use development, this

1 would introduce a factor that is not currently present in
2 the neighborhood and could be seen as an adverse impact to
3 existing development.

4 **Q. Okay. Let's go to the second of the three. Can you explain
5 what it means to have density increase?**

6 A. Density increase is simply if you're -- well, for -- to put
7 it very simply, it's more development in the same amount of
8 space so if you're increasing the density limit in the
9 zoning code to allow more residential units, if you're
10 increasing the floor area ratio that's allowed which would
11 allow for additional development on the same size of site or
12 you're allowing greater lot coverage or something of that
13 nature.

14 **Q. Okay. And finally, the third of the three. Can you explain
15 what it -- what you mean by scale change?**

16 A. Well, that's -- that's related to the previous item that I
17 just mentioned. So, for example, if you're increasing the
18 allowed building height or the allowed floor area ratio,
19 that allows for the construction of different building
20 types. So if you're converting from, say, a Single Family
21 Residence or a Lowrise development to something that's a
22 Midrise or Highrise, that's development at a different
23 scale.

24 One way to kind of think of scale is just, you know, how
25 far back do you have to stand from something in order to --

1 the idea that impacts may not be confined to the area that's
2 currently under study or that's being rezoned.

3 Areas in proximity may also experience some negative
4 effects. So at the edge of a subarea or a zoning district,
5 lower intensity areas just outside that study area may
6 experience some impacts of that upzoning.

7 **Q. Okay. Also noticed on that page we've got something that
8 says, "Pressure for further zoning changes." Did you
9 consider that, and can you describe --**

10 A. Yes.

11 **Q. -- what that is?**

12 A. Right. So zoning changes -- so the existing zoning in an
13 area is often examined when making decisions about whether
14 or not to rezone a property. So for example, if you're
15 trying to -- if you're looking at rezoning a particular
16 section of a neighborhood, you look at the zoning that's
17 around it to see if the new zoning would be appropriate.

18 The idea of pressure for further zoning changes is the
19 idea of sort of like the creeping frontier, that if you
20 rezone something, well, then it becomes that much easier to
21 rezone the next property and so on and so forth.

22 This is one of the reasons why the City had -- the City
23 Comprehensive Plan enacts policies regarding the urban
24 villages specifically to try to keep that from happening.
25 So we acknowledge that that is certainly -- in a general

1 to really get a sense of it. So if you're talking about
2 taller buildings, buildings set closer to the sidewalk,
3 those are generally considered to be at a larger scale than
4 something like a single-family home.

5 **Q. Okay. And you talked about these three. Is this the full
6 extent of the types of land use impacts, or did you look at
7 others?**

8 A. We looked at others. These are -- this is not exclusive.
9 The EIS does have a discussion in here -- I believe it's --
10 I forget the exact page number, but we do have a discussion
11 in there about other factors that may -- that may occur.

12 These are simply -- this is how we kind of defined our
13 metric for assessing this, but we do recognize that there
14 are other location-specific factors that may occur such as
15 proximity to green space, open space, whether there is a
16 prevailing architectural character in the neighborhood such
17 as the historic district or -- or even if it's not
18 recognized as such, an area that has a cohesive
19 architectural design and things of that nature.

20 **Q. Okay. Let's turn to page 3.117 and maybe talk about a few
21 more. You've mentioned a couple there. Can you describe
22 what's meant by edge effect?**

23 A. So edge effects or transition -- and sometimes referred to
24 as transition impacts, these kind of refer to the edge of --
25 so if you're rezoning a particular area on the map, this is

1 sense when you're dealing with land use policy changes, that
2 is something that is a potential impact.

3 We did not examine that on a neighborhood-by-neighborhood
4 or street-by-street basis because of the City's existing
5 policies specifically aimed at stopping that.

6 **Q. Okay. What about topography? I guess I'd ask you to switch
7 to page 3.118.**

8 A. So topography is something specifically in -- it can -- it
9 can have a number of effects on land use impact. It can
10 either exacerbate or mitigate in some cases.

11 So for example, if you have taller development that's
12 perched on the top of a hill or some other type of rise,
13 that can actually make that much more prominent visually, so
14 that can have aesthetic impacts. It can produce shading
15 issues and things of that nature.

16 On the other hand, you know, sometimes if the development
17 is at the bottom of a hill, the development that's at the
18 top of that same hill could potentially -- that could act as
19 a buffer.

20 So we do recognize that there are locations within the
21 city that have fairly steep topography, topographical
22 changes. And so, therefore, that is something that could on
23 a location-by-location basis influence the land use impacts
24 one way or another.

25 **Q. Okay. And just one more to talk about. Maybe the -- did**

1 you consider block pattern and access when assessing land
2 use impacts?

3 A. Yes. So the idea that Seattle's got quite a few areas where
4 street patterns are sort of in -- not necessarily on a
5 strict grid. There are discontinuous streets. There are
6 very, very narrow streets. And the topography issues that I
7 mentioned before can also exacerbate that.

8 So the idea there is that if you have restricted access to
9 a particular site upzoning that area could create additional
10 traffic. It could create access issues and cause problems
11 for any future development that's in there. So the EIS
12 recognizes that that is something that may occur in specific
13 locations.

14 Q. Okay. And we'll get into some examples of all of these
15 later. I'm just staying at that kind of typology level.

16 A. Uh-huh.

17 Q. You touched on this, but I want to ask you to confirm. Is
18 your analysis of these types of impacts limited to just the
19 study area, or did you consider properties nearby even if
20 they weren't in the study area?

21 A. We did -- we did look at properties nearby. So for example,
22 if we -- if we identified that an urban village in an
23 expansion area or an upzone within a particular urban
24 village was going -- would be likely to have some of these
25 effects on areas immediately outside, so even if those were,

1 impacts that we could potentially see from making those
2 changes."

3 Q. Okay. And we've had some testimony about the suffixes, the
4 rezone suffixes M, M1 and M2. Can you just briefly describe
5 how you use those rezone suffixes to assess the range of
6 impacts?

7 A. Well, they provide -- those suffixes provided sort of a
8 shorthand for us. The idea that the M1 zones -- because of
9 how the City structured the proposal, the M, M1, M2 suffixes
10 basically allowed us a way to sort of create categories of
11 impact based on the level or sort of the magnitude of change
12 that was anticipated to the zoning code.

13 Because M zones were generally going to be -- M zone
14 changes were going to be between similar zones, those are
15 generally considered to be of lower impact. Whereas, an M1
16 or an M2 you would get usually more significant impacts in
17 those locations because you're introducing new uses, you're
18 significantly increasing heights, things of that nature.

19 But they're not -- it's not a -- it's not an exclusive
20 rubric. It's not saying that all impacts within those zones
21 are specifically alike. It simply just provided a useful
22 shorthand framework for us to discuss in general terms.

23 Q. Okay. And so did you do a little bit more of a detailed
24 look at specific zone changes?

25 A. We did.

1 say, Single Family properties that were not considered part
2 of the study area, we -- the EIS does acknowledge that, and
3 that is a -- that is part of our analysis, yes.

4 Q. Okay. And again, staying at the higher level here, is it
5 common in your profession to generalize the land use impacts
6 in this way?

7 A. Yes, it is. As I said earlier, because you're --
8 non-project actions are often at the policy level, and there
9 is no -- when there is no specific development design
10 proposed, it's quite common to generalize these at this
11 level.

12 Q. Okay. So let's kind of dive into the analysis of the
13 proposal. How did you then assess whether each of these
14 three types of impacts is present and what they mean? So
15 did you look at changes in the types of land use categories?

16 A. Yes, we did. So we essentially compiled a list of every
17 zoning change that was proposed so from -- from this
18 particular zone to this type zone, regardless of its
19 location, and then identified what was changing between
20 those zones, whether it is a height increase or an increase
21 in allowed density or increase to floor area ratio or
22 something of that nature or if there was a change to
23 development -- other developmental regulations that were
24 attached and simply went through that list of potential
25 rezones and identified, "Okay, these are the types of

1 Q. Let's turn to page 3.113. And I'd like you to please walk
2 us through the three tables that kind of go in sequence
3 there on 3.113, 3.114 and 3.115, and let's start on the
4 first one on 3.113. Can you tell us what this table
5 explains?

6 A. Sure. So as I mentioned a moment ago, this is -- this table
7 shows the individual zoning changes proposed. This was
8 specifically for the M tier category, and the other two
9 tables deal with the M1 and M2 or respectively.

10 So for each row here in the table, we take a look at -- so
11 for example, if you're going for -- from a Single Family to
12 Residential Small Lot and then the single -- the right-hand
13 column identifies the types of land use impacts that we
14 anticipate for that type of zoning change.

15 So using the categories that I described earlier, you
16 know, we talk about density, we talk about intensification
17 of use, we talk about changes of scale.

18 And so for each one of these we talk about essentially,
19 "Okay, what would be the impact on density, what would be
20 the potential changes of use and how would the scale of
21 development change for that specific rezoning?" And this
22 table goes through also changes from Lowrise 1 to Lowrise 1M
23 and Lowrise 1 to Lowrise 2 so on and so forth.

24 Q. Okay, so just to -- this covers the -- what you characterize
25 as the M tier zoning increases?

1 A. Yes, that's correct.
 2 **Q. Okay. And can you turn to 3.114?**
 3 A. Yes. And so this table, Exhibit 3.2-4, is essentially the
 4 same concept but it's for the M1 tier rezones, and 3.2-5 on
 5 the following page is for the M2 tier.
 6 **Q. Okay. And I noticed you have for each of those -- you know,**
 7 **the three categories, density, use and scale --**
 8 A. Uh-huh.
 9 **Q. -- for each zoning change. So can you make some**
 10 **generalizations? If you had more than one type of impact of**
 11 **those three categories present due to a proposed change,**
 12 **what did that say about the severity of the impact?**
 13 A. That generally indicated a more severe impact. So if you
 14 only had one of -- if you essentially only triggered one of
 15 those categories, if you were only going to be experiencing
 16 just a density change or just a scale change or, you know,
 17 just an intensification of use, that would be less severe
 18 than if you were going to be experiencing more than one of
 19 those.
 20 **Q. Okay. All right, so now let's switch to the impacts**
 21 **thresholds, staying kind of on the methodology basis here.**
 22 **Did you characterize the severity or degree of potential**
 23 **land use impact?**
 24 A. We did. Often in EIS preparation, EISs generally concern
 25 themselves with, you know, in SEPA vocabulary sort of

1 **Can you tell us what page that's described on?**
 2 A. Oh, sure. That is -- the impacts threshold begins on page
 3 3.115 and continues on to 3.116.
 4 **Q. And I want to return back to something you mentioned**
 5 **earlier, some of the location-specific factors that could**
 6 **lead to a greater degree of land use impact. Does -- you**
 7 **had mentioned proximity of low intensity uses to more**
 8 **intensity of uses. Does that lead to a greater degree of**
 9 **land use impact?**
 10 A. Yes, it would. So for example, if you don't have any sort
 11 of buffer or transition between a low intensity land use
 12 such as Single Family or Residential Small Lot, and then you
 13 put, you know, a Highrise Commercial development right next
 14 to that, you know, that's obviously going to be a much more
 15 significant impact.
 16 **Q. Okay. And you had talked about edge effect. There's a**
 17 **description there on 3.116, lack of height or scale**
 18 **transition. Could you describe how that relates to edge**
 19 **effect and what that does to the intensity of the impact?**
 20 A. Right. So it's a similar concept the idea of creating
 21 transitions between different intensities of use. So the
 22 idea of there being that -- this is often done with
 23 graduated height limits to make sure that -- you know, to
 24 protect lower intensity areas, the areas next to them you
 25 don't immediately jump up to the maximum height. You sort

1 significant impacts. And for this one we felt -- we felt it
 2 was necessary to sort of get a little bit more granular than
 3 just significant or nonsignificant, so we implemented a way
 4 of looking at this where we simply -- we would say there is
 5 either a minor or a moderate or a significant impact. And
 6 these were essentially based on looking at levels of
 7 intensity, levels of use, those same categories that we
 8 discussed earlier.
 9 So for example, a minor impact, these would generally
 10 apply to rezones that would result in a similar level of
 11 intensity as to what's currently allowed and would not --
 12 not generally introduce any new uses to the area that are
 13 not currently allowed there.
 14 Moderate impacts would allow a greater amount of -- or
 15 excuse me, a moderate impact would result if a rezone would
 16 allow a greater increase in development intensity so, you
 17 know, greater height, greater density. But the permitted
 18 land use again -- or it's still similar. So if you were to
 19 say, for example, going from a Single Family to a, you know,
 20 Lowrise or Midrise structure, it's still residential but
 21 it's not -- but it's definitely more intense.
 22 And a significant impact is if we're talking about we're
 23 introducing both new uses, we're getting more intensity and
 24 you're sort of stacking multiple types of impacts there.
 25 **Q. Okay. And I noticed you were pointing at the pages there.**

1 of have these adjacent areas where things will get
 2 progressively taller in order to create a better transition
 3 and protect those areas.
 4 **Q. Okay. And you had already described proximity of high**
 5 **intensity uses to public open space and also proximity of**
 6 **development to -- near areas of consistent architectural**
 7 **character. Are those also described there on page 116?**
 8 A. Yes, they are.
 9 **Q. Okay. So before we get to your impact analysis for each of**
 10 **the alternatives, can you clarify some of the assumptions in**
 11 **the analysis? Here I'd have you turn to page 3.118. Should**
 12 **we expect these types of impacts right away upon**
 13 **implementation of the proposal?**
 14 A. No. I mean, obviously, you know, even in a city like
 15 Seattle where the development market is moving very quickly
 16 and there's a lot of pressure for development, these things
 17 still take time to occur. Especially if -- you know, in
 18 areas where you have smaller lots and property consolidation
 19 is required, that takes time to accomplish.
 20 And so the idea is that this is -- this analysis was done
 21 looking at a long-term growth target so the idea that all of
 22 this development would not occur overnight. This would be
 23 phased in gradually over -- we're looking at a twenty-year
 24 time horizon.
 25 **Q. Okay. And again, this might sound obvious, but do the**

1 zoning changes alone create these impacts?
 2 A. No, they don't. It's -- the zoning itself does not create
 3 an impact. It's the development that follows that would
 4 create an impact.
 5 **Q. And so some people have referred to that as an indirect**
 6 **impact. Do you agree with that characterization?**
 7 A. I -- not exactly, because the idea is that there's still --
 8 developers still have agency. We don't know what the market
 9 is going to do. So and there are -- there are examples of
 10 properties that are zoned for higher intensity that do not
 11 develop.
 12 So the idea there being that I don't know that I would
 13 necessarily call that an indirect impact. I think that the
 14 development itself later would be more -- would be a more
 15 direct impact.
 16 **Q. Okay. So given that, given that the zoning itself is not**
 17 **change -- is not creating the direct impact, did you still**
 18 **look at the impacts and assess whether they were -- using**
 19 **your typology there, whether they were minor, moderate or**
 20 **significant?**
 21 A. Yes. I mean, the idea there is that specifically for one of
 22 the -- one of the particular -- particularities of a
 23 non-project action is that you sort of have to look at the
 24 what could be possible. And so the idea is we definitely
 25 looked at what would -- looking at what this would be if

1 **Q. And is that described there on 3.118?**
 2 A. Yes, it is.
 3 **Q. Okay. So now let's get into the -- out of the methodology**
 4 **and into the actual analysis, and I want to start by**
 5 **comparing alternatives based on the tiers of zoning change.**
 6 **In general, can you please compare the various**
 7 **alternatives based on the distribution tiers of zoning**
 8 **change? In other words, I'm -- you're focused on M1 and**
 9 **M2 --**
 10 A. Sure.
 11 **Q. -- and to which degree those are present in the**
 12 **alternatives.**
 13 A. Sure, so there's -- there's an exhibit for this on 3.120.
 14 So basically looking at the types -- the tiers as you
 15 described there, this exhibit kind of shows we looked at the
 16 different -- I believe Wentland testified a bit to some of
 17 the growth and equity framework that was used looking at
 18 urban villages of different displacement risks and access to
 19 opportunity.
 20 And so we kind of looked at how the different alternatives
 21 would affect these based on the M1 -- or excuse me, M, M1
 22 and M2 tiers. So the idea here being that the Preferred
 23 Alternative in total would generally have the highest level
 24 of M tier rezones out of the alternatives identified and the
 25 lowest amount of M2s.

1 built out under this particular proposal.
 2 **Q. Okay. And still talking about this incremental development,**
 3 **what does that do to the degree of impact?**
 4 A. So I think if you -- it would sort of -- sort of create a
 5 type of mitigation for that. The idea that the development
 6 would occur gradually over time rather than all at once, the
 7 impacts would be spread out over a longer period of time and
 8 would create some form of mitigation for that.
 9 **Q. Okay. And what did you assume about the rate and pattern of**
 10 **growth over the twenty-year planning horizon for purposes of**
 11 **the EIS?**
 12 A. So it's not -- basically the EIS assumes -- and this is
 13 on -- again on page 3.118 that the development is -- I just
 14 want to make sure. Sorry, just clarifying what we stated
 15 here. That it's not anticipated to occupy all the sites in
 16 the city or even a majority of them during that -- during
 17 that horizon because the growth targets are looking at a
 18 longer timeframe than that.
 19 **Q. Okay. And what would it do to the degree of impact if**
 20 **growth occurs faster or is more concentrated?**
 21 A. So if the growth would occur more quickly or more rapidly,
 22 that would increase the level of impact because these would
 23 be occurring -- these developments would be occurring much
 24 more rapidly, and that would increase the level of
 25 transition from one type of land use to another.

1 So the idea there being that most of the zoning changes
 2 would be to -- would be to zoning categories that are
 3 similar to what is existing. That's not to say that there
 4 wouldn't be an intensification, but it essentially means
 5 that there would be fewer drastic changes from existing
 6 zoning and there would be a relatively reduced amount of the
 7 M1 and M2 type rezones.
 8 **Q. Break that down for me. Which -- are you looking at that**
 9 **top set of three bands?**
 10 A. That's correct.
 11 **Q. And which one is the Preferred Alternative?**
 12 A. Preferred Alternative is the bottom one there in green.
 13 **Q. Okay. So the -- which one -- which corresponds to the M**
 14 **change?**
 15 A. Is the dark green bar there of 78 percent.
 16 **Q. Okay, M1?**
 17 A. And then M1 is the next bar over at 20 percent, and M2 is
 18 the last little bar there at 1 percent.
 19 **Q. So then the comparison that you're making is between the two**
 20 **bars that appear before?**
 21 A. That's correct.
 22 **Q. Okay. Let's -- you had mentioned this growth and equity**
 23 **analysis, and we've had some testimony about that. I don't**
 24 **want to get into too much detail but can -- how did that**
 25 **typology -- the growth and equity analysis typology, the**

1 high displacement, low displacement, high opportunity, low
2 opportunity, how did that figure into your land use impact
3 analysis generally?

4 A. Well, because of that -- that analysis and the idea of
5 protecting populations that were particularly susceptible to
6 displacement, we knew that was a lens that the City really
7 wanted to use for this analysis.

8 So that allowed us to basically setup a framework for our
9 analysis where when we talked about the geographic
10 distribution impacts we would collect the urban villages
11 into those general categories, so the impact analysis is
12 basically framed around that.

13 So when we go village by village, we talk specifically
14 about, "Here is the zoning distribution for villages in this
15 displacement risk and opportunity category," and then we go
16 village by village to describe what those impacts would be.

17 And that way then we can sort of tease out which areas --
18 which of those categories, specifically, would be likely to
19 have the most impact per alternative. That way we can
20 compare for each alternative where those impacts are like --
21 which populations are likely to bear the brunt of those
22 impacts.

23 Q. And has that been shown in the rest of Exhibit 3.2-6?

24 A. Yes, it is.

25 Q. Okay. I want to switch now to the -- some of the more

1 directly subject to rezone that could be impacted. So can
2 you please turn to 3.148?

3 MR. THALER: 3.148?

4 MR. KISIELIUS: Yes.

5 THE WITNESS: Okay.

6 Q. (By Mr. Kisielius) Do you see the paragraph there for
7 Greenwood Phinney?

8 A. I do.

9 Q. Can you please read the sentence that begins -- it's sort of
10 the last complete sentence there, "Moderate land use
11 impacts"?

12 A. Yes. "Moderate land use impacts on Single Family zones
13 adjacent to the urban village could occur where height
14 increases could allow for buildings that would increase
15 shadowing onto adjacent Single Family areas or create
16 increased density or activity in close proximity to
17 single-family homes."

18 Q. So is that -- is that a description of the edge effect that
19 you've described earlier?

20 A. Yes, it is.

21 Q. I'm going to -- we're going to go through a couple examples
22 on these. Just I realized that maybe a little framework and
23 context would be helpful. So you said you had done some
24 neighborhood specific descriptions. Did you do them for
25 each of the alternatives?

1 detailed analysis. So when looking at the impacts of the
2 alternatives on each of the urban villages, did you consider
3 just the categories of zoning changes we just talked about,
4 the M, M1, M2, or did you also highlight some more
5 neighborhood-specific issues?

6 A. There is a description of neighborhood-specific issues in
7 the EIS, yes.

8 Q. Okay. So let's -- let's dig into some examples. We talked
9 about edge effect in the context -- earlier sort of in a
10 more abstract level. Did you talk about edge effect in the
11 context of specific neighborhoods?

12 A. We did.

13 Q. So --

14 MS. NEWMAN: What was that?

15 THE WITNESS: We did, yes.

16 Q. (By Mr. Kisielius) And we heard some testimony that the
17 proposal will exacerbate impacts in the form of edge
18 effects, and Mr. Steinbrueck said that the -- the EIS did
19 not sufficiently analyze that. Do you agree?

20 A. No, I don't.

21 Q. Let's -- let's talk about some examples. I recall that
22 Mr. Moehring, I hope I'm saying his name right, testified
23 about the map on page H-43, which refer -- relates to
24 Greenwood Phinney, and described that as an area where there
25 would be zones with increased heights adjacent to zones not

1 A. Yes, we did.

2 Q. Okay. And so it looked at specific neighborhood issues
3 related to each of the alternatives as they might change
4 between the alternatives?

5 A. That's correct.

6 Q. Okay. So back on edge effect, Ms. Derr testified about the
7 impact of changes to residential properties outside --
8 excuse me, the impact of changes on residential properties
9 outside the urban village that will not be directly changed
10 by MHA but might experience an impact because they're
11 adjacent to those properties.

12 Could you please turn to page 3.147? She was referring to
13 Queen Anne, so I'm going to ask you to -- do you see the
14 paragraph describing Upper Queen Anne at the bottom of the
15 page?

16 A. Yes.

17 Q. Can you please read the last sentence that starts, "Moderate
18 land use impacts"?

19 A. "Moderate land use impacts on Single Family zones adjacent
20 to the urban village could occur where height increases
21 could allow for buildings that would increase shadowing on
22 adjacent Single Family areas or increase density and
23 activity in close proximity to single-family homes."

24 Q. Okay. And does that describe the edge impact analysis in
25 that specific neighborhood?

1 A. Yes, it does.
 2 **Q. Maybe one more. Can you -- let's turn to 3.139. I'm**
 3 **focusing on Morgan Junction. Can you please read the last**
 4 **sentence that --**
 5 A. Transitions?
 6 **Q. Yes.**
 7 MS. NEWMAN: What page are we on?
 8 MR. KISIELIUS: 3.139.
 9 **Q. (By Mr. Kisielius) You can go ahead.**
 10 A. "Transitions to Single Family areas at the edges of the
 11 village would be reduced in several locations where Lowrise
 12 1 or 2 zones would be located adjacent to Single Family
 13 zoned areas."
 14 **Q. Okay. And is that also discussion of edge effect?**
 15 A. Yes, it is.
 16 **Q. Let's maybe take a different kind of impact. You had talked**
 17 **about topography. Did you talk about topography in the**
 18 **context of specific neighborhoods?**
 19 A. In certain locations, yes.
 20 **Q. So let's turn to 3.135 and Eastlake, the bottom there. Can**
 21 **you please read the last sentence on 3.135 that flips over**
 22 **to the next page?**
 23 A. "Impacts of the resulting height increase from this change
 24 could be heightened due to the topography that slopes down
 25 towards Lake Union."

1 **focus you here on Wallingford.**
 2 A. Uh-huh.
 3 **Q. Are you familiar with Wallingford's East Fremont?**
 4 A. Yes, I am.
 5 **Q. Okay. Does the description of Wallingford include specific**
 6 **discussion of block pattern and access? I'd ask you to**
 7 **focus on the sentence kind of midway through that starts,**
 8 **"Lowrise 2 and Lowrise 3 zoning."**
 9 A. Yes.
 10 **Q. Do you see that?**
 11 A. Yes, I do. "Lowrise 2 and Lowrise 3 zoning would be located
 12 along the frontages of Midvale Avenue North which has a
 13 narrow right of way which could increase the severity of a
 14 major land use change due to complications for vehicle
 15 circulation to markedly larger scale buildings."
 16 **Q. Can you describe how that's addressing block pattern and**
 17 **access?**
 18 A. As I described earlier, if you have extremely narrow right
 19 of ways or discontinuous streets that would impair
 20 circulation, that creates a problem because of the fact
 21 that -- if you're making major land use change, there is the
 22 potential there that you're going to get increased traffic,
 23 increased pedestrian circulation and that could -- those
 24 street conditions could impair access.
 25 **Q. Okay. I want to take through some of the other categories**

1 **Q. Okay, so is that -- you had earlier talked about topography**
 2 **being both something that could mitigate or something that**
 3 **could exacerbate. Which one is that?**
 4 A. Right. That would be an exacerbate. That would be an
 5 instance where the topography would exacerbate the effect.
 6 **Q. Okay, maybe one more here. Let's turn to the discussion of**
 7 **Ravenna on 3.148, and I'd ask you to read the last sentence**
 8 **beginning, "Moderate land use impacts."**
 9 A. "Moderate land use impacts could result however" -- excuse
 10 me, "could result. However, topographical separation from
 11 lower-scaled areas to the west and compatibility with other
 12 high-intensity commercial retail uses across 25th Avenue
 13 Northeast would be expected to lessen potential land use
 14 impacts."
 15 **Q. So that's an example of the other kind of effect that**
 16 **topography can have?**
 17 A. Correct.
 18 **Q. Okay. What about block pattern and access? Did you think**
 19 **about that in the context of specific neighborhoods?**
 20 A. I believe we did, yes.
 21 **Q. Let's turn to 3.134.**
 22 MR. THALER: I'm sorry, 3?
 23 MS. BENDICH: 134.
 24 MR. KISIELIUS: 134.
 25 **Q. (By Mr. Kisielius) And are you familiar -- so I'm going to**

1 **you had mentioned earlier. So let's go on to proximity of**
 2 **low intensity uses to more intensive uses. I think Ms. Derr**
 3 **testified about her concerns related to a proposed NC-75**
 4 **zoning near Queen Anne Avenue North and West Galer Street.**
 5 **Can you turn to page 3.147?**
 6 A. Okay.
 7 **Q. And we're -- the discussion -- could you read the first**
 8 **that's at the bottom of the page of the first two sentences**
 9 **of the Upper Queen Anne discussion?**
 10 A. "Land use impacts under the Preferred Alternative would be
 11 similar to Alternative 3 with limited exceptions. The
 12 extent of proposed NC-75 zoning near the intersection of
 13 Queen Anne Avenue North and West Galer Street would be
 14 extended one parcel to the east and could create increased
 15 scale and density impacts."
 16 **Q. Okay. So is that describing the impact in that vicinity due**
 17 **to the NC-75 zoning?**
 18 A. Yes.
 19 **Q. How about Crown Hill? Let's go to 3.136. I'm going to ask**
 20 **you the same question. Does that description include**
 21 **specific discussion of proximity of low intensity uses to**
 22 **more intensity uses?**
 23 A. Yes, it does.
 24 **Q. Can you read the sentence in the middle of that paragraph**
 25 **that begins, "The potential for use impact is notable here"?**

1 A. "The potential for use impact is notable here as commercial
 2 uses would be allowed to abut streets with existing
 3 residential character and use patterns."
 4 **Q. Okay. And does that describe the same impact category?**
 5 A. It does.
 6 **Q. All right. Going to the next category, how about height or**
 7 **scale transition between zones allowing similar uses? Let's**
 8 **talk about Rainier Beach, page 3.143. Does the description**
 9 **of Rainier Beach include specific discussion of height or**
 10 **scale transition between zones allowing similar uses?**
 11 A. Yes, it does.
 12 **Q. Could you tell us where?**
 13 A. I believe right there at the beginning of the paragraph.
 14 "In the area adjacent to and east of the Rainier Beach light
 15 rail station, Preferred Alternative would rezone blocks
 16 closest to the station along MLK Jr. Way South to SMRB-125M1
 17 with a 125-foot height limit while several blocks to the
 18 east alongside Henderson Street would be rezoned to SMRB-85M
 19 with an 85-foot height limit."
 20 **Q. Could you read the next sentence?**
 21 A. "This represents a greater increase in building height and
 22 allowed development intensity in this area than either
 23 Alternative 2 or Alternative 3 resulting in moderate to
 24 significant land use impacts."
 25 **Q. Okay. And so does that describe that potential impact?**

1 A. Yes, it does.
 2 **Q. -- proximity of high intensity uses to public open space?**
 3 A. It does, yes.
 4 **Q. So we're going to keep going through these examples. I**
 5 **guess I want to confirm, is there -- is this intended to be**
 6 **read alone, or can you -- can you learn more about each of**
 7 **these examples by going to the specific maps? We've had a**
 8 **lot of testimony about the maps in Exhibit H. Those are the**
 9 **ones I'm referring to.**
 10 A. Right. So this -- so these are generalized descriptions,
 11 but if you take a look at the specific maps in Appendix H,
 12 those provide detailed maps of the rezoning areas.
 13 So for example, that section that I just read where you're
 14 describing, you know, these particular areas that are going
 15 to be rezoned from this to this in proximity to such and
 16 such, you can go to the maps and find those areas and see
 17 exactly what the rezones are, where they're located and what
 18 they're adjacent to.
 19 **Q. Okay. And we'll dig into the maps in just a little bit. I**
 20 **just want to keep going with some more examples here.**
 21 **You had talked about a different kind of potential impact.**
 22 **Impacts due to development in the proximity of areas of**
 23 **consistent, established architectural character or building**
 24 **form. So did you talk about that in the neighborhood**
 25 **specific context as well?**

1 A. Yes, it does.
 2 **Q. Different category of impact now. Proximity that you -- you**
 3 **had mentioned earlier proximity of high intensity uses to**
 4 **public open space. Are there examples of that in**
 5 **neighborhood-specific context in here?**
 6 A. Yes, there are.
 7 **Q. Let's talk about Ravenna on page 3.148. Is it addressed**
 8 **there?**
 9 A. Yes, it is.
 10 **Q. Could you tell us where?**
 11 A. On the -- I believe it's the second sentence. "An area is
 12 proposed for Neighborhood Commercial zoning with a 75-foot
 13 height limit between 25th Avenue Northeast and the
 14 Burke-Gilman Trail creating potential for intensification of
 15 use and scale impacts."
 16 **Q. Okay. And is that describing that impact?**
 17 A. Yes, it is.
 18 **Q. How about Wallingford 3.146? Could you please read the**
 19 **sentence in the middle of that paragraph that begins,**
 20 **"Several blocks of existing Single Family zoning"?**
 21 A. "Several blocks of existing Single Family zoning at the
 22 edges of existing Multifamily or Commercially zoned areas or
 23 in proximity to open-space resources would be changed to LR2
 24 resulting in the potential for some significant impacts."
 25 **Q. Okay. Does that describe the -- that specific impact of --**

1 A. Yes.
 2 **Q. Can you turn back to page 3.145 and focus on Roosevelt?**
 3 A. Yes, they're at the end of the first paragraph.
 4 **Q. Okay, why don't you start with the line that says, "However,**
 5 **the Preferred Alternative," a little bit further back.**
 6 A. Right. "However, the Preferred Alternative would convert
 7 some Single Family zones near the edge of the village to
 8 Residential Small Lot zoning which would provide a more
 9 gradual transition to areas outside the village and reduce
 10 impacts to areas north of Ravenna Park or Roosevelt High
 11 School which have established urban forms and architectural
 12 character. The large development capacity increases would
 13 be located in the western central portion of the village
 14 near the future light rail station."
 15 **Q. So let's step back. We've kind of drilled into some very**
 16 **specific examples of these types of land use impacts. Are**
 17 **there more examples of these types of impacts throughout?**
 18 A. Yes, there are.
 19 **Q. But did you intend for this neighborhood specific discussion**
 20 **to be comprehensive of all the places where these issues**
 21 **could arise?**
 22 A. No.
 23 **Q. Okay, so in other words -- well, to what discussion in the**
 24 **EIS would you point to understand the nature of the impact**
 25 **if not specified in one these paragraphs?**

1 A. The Impacts Comment to All Section at the beginning there
2 has a sort of -- contains that overview. It describes those
3 different types of land use impacts.

4 And I think that's -- as you mentioned a few moments ago,
5 the maps are pretty integral component of this because the
6 idea being that these neighborhood-by-neighborhood
7 discussions are designed to call out particularly important
8 locations and impacts.

9 Whereas, the maps in conjunction with that discussion of
10 Impacts Comment to All, that allows a decisionmaker or any
11 member of the public to take a look at those maps, find a
12 property or an area where they're particularly concerned
13 about what's going to be happening there, and then they can
14 immediately -- looking at that zoning change, they can go
15 back to those tables that I walked through earlier and
16 identify exactly the types of impacts that would be
17 anticipated in those areas.

18 **Q. Okay. And I'm going to turn to the maps in just a second.
19 But just to ask you to emphasize, you said that these were
20 meant to specify something. I think you used the word
21 important. Is that why you specified certain impacts in
22 some of these paragraph descriptions?**

23 A. Correct. These were the areas where we felt that local
24 conditions warranted a little bit additional detail in
25 describing what impacts may occur.

1 **because I'm going to ask you to sort of keep your finger on
2 that place and then go back to the neighborhood-specific
3 text on 3.146.**

4 A. Okay.

5 **Q. And this is why I'm only asking you to do it for one
6 example.**

7 A. Okay.

8 **Q. But can you tell us once you get there how to read the map
9 in conjunction with the neighborhood specific description on
10 3.146?**

11 A. Sure, one second here.

12 **Q. Sure.**

13 A. Okay, so for example, looking at that paragraph on 3.146,
14 about halfway through the paragraph there's a sentence that,
15 you know -- I believe this is the one I read earlier. It
16 says, "Several blocks of existing Single Family zoning at
17 the edges of Multifamily or Commercially zoned areas or in
18 proximity to open-space resources would be changed to LR2."

19 So looking at this map on page H-80, so you can take a
20 look here and see -- so -- so for example in the northwest
21 portion of the village there, you can see several areas that
22 are labeled Single Family/LR2M1, so you can see that that's
23 one area that's under consideration.

24 In the northeast corner there, adjacent to the area that's
25 marked as -- marked in green as a park, then you can also

1 **Q. Okay. And in your professional experience and opinion, is
2 the approach that you took here, that combination of
3 generalized impact discussion, specific impact discussion
4 and mapping, is that approach sufficient for an EIS for a
5 non-project action like this one?**

6 A. Yes, I believe it is.

7 **Q. Okay. Let's talk a little bit about the mapping now, and I
8 believe it's tabbed out. You're looking for Appendix H
9 there.**

10 Now, we may toggle between some pages here because I think
11 a second ago you said it's possible for somebody to -- to
12 explore in more detail an area of concern, and I'd like to
13 pick an example. Can you turn to page H-80?

14 A. Just a moment while I'm wrestling with tabs here.

15 **Q. Yeah, take your time. I think there's little stickies that
16 have the appendix number on -- or letter on them.**

17 A. Right here? Sorry what page was that again?

18 **Q. H-80, which is -- corresponds with Exhibit H-79.**

19 A. Okay, H-80.

20 **Q. So let's -- can you use this -- and first of all tell us
21 what we're looking at here, which of the alternatives and
22 which urban village?**

23 A. Sure, this is a map of the proposed zoning for the Preferred
24 Alternative in the Wallingford urban village.

25 **Q. Okay. And so -- this may be a challenge for you here**

1 see it says Single Family/LR2M1. So again, these areas show
2 that first -- that first label that's on there shows the
3 existing zoning, and then the second label shows what it's
4 become potentially changed to under that alternative.

5 **Q. Okay. And again, the -- it's -- is there corresponding text
6 to the neighborhood-specific description for each of the
7 alternatives?**

8 A. Yes, there is.

9 **Q. And those would highlight -- would they highlight
10 differences between those alternatives?**

11 A. They do, yes.

12 **Q. Okay. How about stepping back one level of abstraction? Is
13 the table of M -- you were focused on a change. I think you
14 said -- you used M1 as the suffix.**

15 A. That's correct.

16 **Q. Remind me again what the change was from?**

17 A. From Single Family to Lowrise 1, and that was -- that was an
18 M1 -- or excuse me, to Lowrise -- yes, Lowrise 1, excuse me.

19 **Q. But can you --**

20 A. Sorry, I think it was an M, yes, M1.

21 **Q. Can you go to page 3.114 now and describe how that table
22 could be used to further inform what's depicted on the map?**

23 A. Yes, so the top row of that table there on the left-hand
24 column you see the zone change, and we specifically call out
25 zone change from Single Family to LR1 with an M1 suffix.

Page 45

1 The right-hand column then identifies the types of land
 2 use impacts that are likely to result as -- from that
 3 change. And it specifically describes that that change
 4 would allow an increase in the density of households in that
 5 area.
 6 There is a potential to change that land use from the
 7 current Single Family pattern to a Multifamily type
 8 development, but the potential to change scale would be
 9 relatively similar due to similar height limits and FAR
 10 requirements.
 11 **Q. Okay. I'm going to have some -- we're going to come back to**
 12 **some of the land use discussion. I want to switch, though,**
 13 **quickly to mitigation.**
 14 A. Sure.
 15 **Q. So let's turn to pages 3.155 through 3.158.**
 16 HEARING EXAMINER: Are we still holding that spot?
 17 MR. KISIELIUS: Oh, I'm sorry. You can take your
 18 finger --
 19 MS. NEWMAN: Sorry, what was that last page you said?
 20 MS. BENDICH: 55 to 8.
 21 MR. KISIELIUS: 3.155 through 158.
 22 THE WITNESS: Okay.
 23 **Q. (By Mr. Kisielius) So can you -- I want you to just**
 24 **generally describe the categories of mitigation that you**
 25 **addressed here.**

Page 46

1 A. So it's fairly common practice in -- in a SEPA EIS to
 2 describe mitigation sort of three categories. We usually
 3 talk about incorporated plan features. At least from a
 4 non -- from a non-project action standpoint, we look at
 5 incorporated plan features, we look at regulations and
 6 commitments and then we look at other recommended mitigation
 7 measures that could be implemented.
 8 Incorporated plan feature is essentially -- that's
 9 essentially components of the proposal itself that would
 10 mitigate potential impacts.
 11 So for example, in this situation -- so for example, if
 12 you're proposing a zoning change that allows increased
 13 height or increased floor area ratio, if you are at the same
 14 time as in -- as this proposal is in certain cases
 15 implementing additional development standards to provide
 16 upper-story setbacks or other design guidelines, that could
 17 be viewed as an incorporated feature that would mitigate.
 18 **Q. Okay. And let's -- let's pause there. Because before we**
 19 **get to the next category of types of mitigation, I think**
 20 **there's two that -- you mentioned one. I just want to ask**
 21 **you to point out what you were talking about upper-level**
 22 **setbacks. Could you point out where that is described as**
 23 **part of the proposal? (Inaudible).**
 24 A. So on the bottom -- I believe you can start on the bottom of
 25 page 3.156.

Page 47

1 **Q. Uh-huh.**
 2 A. There's a paragraph there that says, "Additionally the
 3 Preferred Alternative would include the following mitigation
 4 features." That first bullet describes some
 5 location-specific development standards in the new -- in the
 6 Seattle Mixed Use Northgate zone that would be created and
 7 the Seattle Mixed Rainier Beach station area. That includes
 8 specific setback standards in Rainier Beach.
 9 **Q. And it occurs to me I think the -- we'll talk about the**
 10 **other ones in the Aesthetics Chapter in a second.**
 11 A. Sure.
 12 **Q. Can you focus, though, on the bullet point -- different**
 13 **mitigation, I want to just flag now.**
 14 A. Uh-huh.
 15 **Q. The second to last bullet point that begins, "In October of**
 16 **2017," do you see that --**
 17 A. Oh, yes.
 18 **Q. -- Chapter 3.156?**
 19 A. Right, okay. So, "In October 2017 City Council passed
 20 Ordinance 125429 making amendments to the design review
 21 program." So these amendments included a lower threshold
 22 for design review for lots that were rezoned from Single
 23 Family within five years of the Ordinance date. So that
 24 lowered threshold will mitigate some of the land use impact
 25 for existing Single Family zones where MHA is implemented.

Page 48

1 **Q. Okay, we're going to come back to that. I just thought as**
 2 **an example I wanted to have you flag that so that we can**
 3 **come back to it. You just described -- so these are all**
 4 **part of the proposal itself. Is there --**
 5 A. That's correct.
 6 **Q. What's the next category of mitigation that you --**
 7 A. So regulations and commitments consists of basically other
 8 requirements. They're not part of the proposal, but they're
 9 either City -- either City regulations or other commitments
 10 that the -- that the proponent needs to abide by.
 11 So in a -- in a project-specific sense, sometimes it may
 12 include a development agreement or something of that nature.
 13 For a city that's implementing a policy change, that usually
 14 indicates regulations that are currently on the books.
 15 So for example, in this case we indicate that Chapter
 16 23.41 of the Seattle Municipal Code establishes requirements
 17 for design review, and therefore, even though we already
 18 talked about design review just a moment ago and that there
 19 were some amendments to that, the rest of that chapter still
 20 applies to any projects that would occur subsequent to
 21 adoption of this program.
 22 **Q. Okay. And what's that last category?**
 23 A. Other possible mitigation measures. So these are mitigation
 24 measures that are recommended by the preparers of the EIS.
 25 They are not part of the proposal, and they are not

1 necessarily binding. But these are measures that are
 2 recommended by the preparers to highlight actions that the
 3 proponent could take to further mitigate impacts that have
 4 been identified in the analysis.

5 **Q. So it's -- let's just give an example. Maybe start with the**
 6 **first one there.**

7 A. Sure. So one of the first -- so that first bullet there
 8 under Possible Mitigation Measures suggested, "Amend zoning
 9 regulations in urban villages to explicitly address
 10 transitions to surrounding areas particularly Single Family
 11 Residential areas adjacent to urban village boundaries."

12 **Q. You can keep going.**

13 A. "Options include transitional height limits and particular
 14 setbacks that would apply to parcels that are adjacent to
 15 urban village boundaries. Design standards as described in
 16 the Mitigation Measure Section of Section 3.3 Aesthetics may
 17 also provide mitigation."

18 **Q. Okay. So is the discussion of land use mitigation in all of**
 19 **these categories limited to what's included on these four**
 20 **pages or is it also informed by the preceding analysis?**

21 A. It's informed by the preceding analysis.

22 **Q. So let's focus on that last example as you gave there. Is**
 23 **that -- the amending zoning regulations in urban villages to**
 24 **address transitions, is that informed by the analysis of**
 25 **edge effect?**

1 oftentimes EISs won't actually separate them out into
 2 separate chapters. Sometimes the land use chapter will sort
 3 of subsume the -- what -- the content of the aesthetics
 4 chapter and talk about it in terms of land use compatibility
 5 and things of that nature.

6 In this section -- in this EIS, we decided to break them
 7 into separate sections so that -- they have a lot of related
 8 concepts. So for example, changing land use, for example,
 9 if you're upzoning and creating additional density or
 10 additional -- allowing additional height, in addition to
 11 land use impacts we've been talking about, that could also
 12 potentially result in aesthetic impacts.

13 So this -- splitting these into two chapter areas allowed
 14 us to sort of separate the land use stuff from looking at
 15 height, bulk, scale, those more aesthetic issues.

16 **Q. So is it fair to say your discussion of land use impacts**
 17 **addresses things you might talk about in aesthetics?**

18 A. Yes.

19 **Q. Okay. Let's talk about the terminology you used in the**
 20 **characterization of the aesthetic impact. How did you**
 21 **characterize impacts to aesthetics?**

22 A. So looking at aesthetics, again, we tried to look at how an
 23 individual would experience new development that would occur
 24 under any of these alternatives.
 25 And based on sort of the experience of a visitor or a

1 A. Yes, it is. This is -- these are not intended to be just
 2 catchall. Like we -- these are not like -- this isn't a
 3 standard menu that we choose from. The idea is that these
 4 mitigation measures are tailored to what was identified in
 5 the impact analysis.

6 So specifically because of the fact that the impact
 7 analysis identifies edge effects as a potential impact and
 8 the idea that increased development intensity within an
 9 urban village has the potential to affect development
 10 outside of it, this is -- we -- we recommended this type of
 11 mitigation measure and similar measures specifically to
 12 address those issues.

13 **Q. And so the understanding of the intended benefit, is that**
 14 **informed by the impact analysis?**

15 A. That's correct.

16 **Q. So is this level of description of mitigation comparable to**
 17 **and typical of a non-project action in your professional**
 18 **experience?**

19 A. Yes, it is.

20 **Q. Okay. Let's talk about now the aesthetics impact analysis,**
 21 **and I want to start you with some -- maybe some conceptual**
 22 **questions. Can you describe the relationship between the**
 23 **land use impact analysis and the aesthetic impact analysis?**
 24 **Are they connected?**

25 A. Yes, they're -- they're very closely related. And

1 resident, the things that are going to be most apparent and
 2 have the most direct effect on their life, so to speak,
 3 would be to -- just the bulk of a building, the height of a
 4 building and essentially those -- the changes in scale. So
 5 again, there is some overlap there between how we described
 6 impacts to land use and how we described this to aesthetics.

7 We also had a section of this analysis that deals with the
 8 potential for view blockage and for shading effects, because
 9 that's -- while -- again, while that flows out of a land use
 10 policy change, that's much more specific to sort of
 11 livability issues and aesthetic impacts.

12 **Q. Okay. Let's table those for a second --**

13 A. Okay.

14 **Q. -- and focus on development intensity.**

15 A. Uh-huh.

16 **Q. So what -- what is development intensity?**

17 A. So development intensity, as we described before, is this
 18 idea of, like, how the site is used. If the site is -- how
 19 much of the site is covered by development. How tall is the
 20 building that's on it. How bulky, for lack of a better
 21 term, is the building. This sense of visual mass that
 22 occurs from --
 23 So for example, you know, just a concrete box with no
 24 modulation of its facade, no setbacks, nothing of that
 25 nature, is visually just much more massive and more -- and

1 bulkier than something that has a little bit more -- a
 2 little more interest. And so we definitely took a look at
 3 just how much of that space is being consumed by
 4 development.

5 **Q. Okay. And I notice you mentioned building height and FAR**
 6 **limits. We've had some testimony about floor area ratio,**
 7 **but can you just briefly just define what that is?**

8 A. Sure. So floor area ratio is -- it's a ratio of the total
 9 floor area of the building to the area of the lot. So for
 10 example, if you have a building that covers the entirety of
 11 the lot and it's one floor high, that's an FAR of 1. If you
 12 make that same building two floors, that's an FAR of 2 and
 13 so on and so forth.

14 That way -- essentially, it's a way of looking at
 15 essentially measuring that sort of intensity of the use,
 16 how -- how intensely are you using that site and how much
 17 building square footage are you squeezing onto -- into a
 18 particular area.

19 **Q. Okay. So now let's talk about baseline conditions. Can you**
 20 **describe how you assessed baseline conditions?**

21 A. So baseline conditions were -- essentially, we took a look
 22 at what the existing height limits were across the city. We
 23 looked at the existing -- those existing controls on
 24 intensity and also tried to look at what were the
 25 predominant development types in different areas across the

1 The idea here being that since this was -- again, since it
 2 was a citywide proposal and the fact that there is phased
 3 review and the idea that there is a -- this is not excusing
 4 future development from its own SEPA analysis, allowed us
 5 basically to say, like, these are -- to basically look at
 6 those generalized buckets.

7 And in keeping with the process that we talked about
 8 earlier where a decisionmaker could identify a particular
 9 location and find out exactly what the proposed zoning
 10 change was by alternative and then see what those impacts
 11 were, then we followed that similar methodology here.

12 **Q. Okay. So let's turn to page 3.162 and 3.163. You were**
 13 **starting to talk about typologies, and I don't remember**
 14 **exactly the phrase you used. But at least in the section**
 15 **under Urban Form you used the phrase common built form.**
 16 **What does that mean, common built form?**

17 A. The idea there was to look for urban form characteristics
 18 that would unify these -- that would unify these different
 19 areas.

20 So for example, we could look at the portions of the city
 21 that are predominantly Single Family in nature or
 22 predominantly Multifamily or Commercial in nature and
 23 identify elements of the urban form that are common to those
 24 areas, you know, recognizing that there is plenty of local
 25 variation.

1 city.

2 **Q. Is it fair to call this a qualitative look?**

3 A. Yes.

4 **Q. So why did you do it that way?**

5 A. Again, because of the non-project nature of this action and
 6 the fact that it was a citywide general policy, we opted for
 7 sort of an overall survey of development types rather than
 8 doing a sort of a street-by-street, block-by-block
 9 exhaustive list.

10 The idea here is to -- we wanted to look at types of
 11 development kind of in keeping with the way we approached
 12 the land use chapter. We wanted to say, "Well, okay, you've
 13 got specific types of (inaudible), Single Family or
 14 Multifamily Lowrise or Highrise Commercial," and basically
 15 group things by building typology.

16 **Q. Okay. And I want to ask you more about that building**
 17 **typology, but first, is -- is it -- in your professional**
 18 **experience and opinion, is that level of review, that**
 19 **qualitative level of review, of baseline conditions common**
 20 **for non-project actions like this?**

21 A. It is. It depends on the scale of the proposal and how
 22 large the study area is sometimes. If you're dealing with
 23 proposals that are specific to a neighborhood or specific to
 24 a subarea, sometimes you can get a little bit more -- you
 25 can get a little more granular with that.

1 That, you know, the single-family homes in one
 2 neighborhood may not look exactly like the homes in another,
 3 but they're unified by certain concepts in terms of the --
 4 roughly the amount of lot coverage that occurs or, you know,
 5 roughly the same height, the same street pattern of, you
 6 know, sidewalks and curb cuts and things of that nature.

7 And so those were sort of common built form elements that
 8 we looked at and that flowed through the other typologies as
 9 well.

10 **Q. Okay. And is that what's meant to be depicted on the images**
 11 **in Exhibits 3.3-2 through 3.3-5?**

12 A. That's correct.

13 **Q. Okay. And we've heard -- we've heard some testimony about**
 14 **some of these. I want to ask you for your response. I**
 15 **think several people have said these images don't match**
 16 **existing conditions in their neighborhood, and some have**
 17 **even said it doesn't describe their neighborhood at all.**
 18 **Let's focus on the Single Family one at the top there on**
 19 **the 3.3-2. One of those people was describing Wallingford**
 20 **and said that this does not describe the neighborhood at**
 21 **all. Do you agree with that characterization?**

22 A. I wouldn't agree that it doesn't describe it at all. I
 23 think that's -- I think that's a strong statement. Again,
 24 as I mentioned a moment ago, the idea here was to identify
 25 common elements. And so while this may not look exactly

1 like a single -- that building may not look like a
2 single-family home on a particular lot in Wallingford, that
3 pattern of development, the idea of, you know, single-family
4 homes setback from the street with yards, with individual
5 driveways, that is -- those are common elements that unite
6 them and make them distinct from other areas where you may
7 have greater Mixed -- Mixed Use or more Multifamily type
8 development or Commercial development.

9 **Q. Okay. So would you -- do you think this is generally**
10 **consistent even with Wallingford?**

11 A. In that sense, yes.

12 **Q. Okay. Ms. Tobin-Presser took issue with the next depiction,**
13 **the infill single-family housing. She went through an**
14 **exercise to see how many had been built in that style that's**
15 **depicted there in West Seattle Junction urban village.**

16 **Does her critique about how many have previously been**
17 **built in that neighborhood make you question your reasoning**
18 **for including that image here?**

19 A. No. The concept here was to basically look at what was
20 allowed. Because of the fact that just because this
21 particular form had not been built previously, part -- what
22 part of the role of the EIS is to take a look at sort of the
23 maximum of what can be done to sort of bookend -- bookend
24 the impacts.

25 And the idea here is that this form of housing is allowed

1 as a non-project, citywide policy action, this level of --
2 we believe that this level of review was appropriate and
3 that individual developments that would occur in these areas
4 later are still going to have to -- you know, if they meet
5 the appropriate thresholds, go through SEPA, they're still
6 going to have to go through design review and things of that
7 nature.

8 So this is -- we're looking at, again, more of a
9 generalized qualitative review of what type of development
10 is on the ground and what could potentially result as a
11 result of these policies.

12 **Q. Okay. And in your professional experience and opinion, is**
13 **that a reasonable approach for a non-project action like**
14 **this one?**

15 A. Yes, it is.

16 **Q. Let's go back to something you just mentioned which is**
17 **design review and design guidelines. Did -- your analysis**
18 **incorporated the City's design review process and design**
19 **guidelines. Can you explain why?**

20 A. Well, as I mentioned, because of the fact that, you know,
21 this is -- this EIS is basically just the first step in
22 environmental review for development under MHA. The City
23 has -- I mean, this is -- this is a process the City has
24 established that is current -- that currently applies
25 citywide.

1 under current zoning regulations. And so the idea going
2 forward would be to, say, "Well, we have to" -- "even under
3 the No Action Alternative, if this is currently allowed, we
4 need to take a look what could potentially be built."

5 And given the development pressures in the city, there
6 is -- we believe that it is more likely that this type of
7 development may occur more often in the future simply as
8 people try to maximize how much they can build on a
9 property.

10 **Q. Okay. So did you mean for it to capture what had been built**
11 **in all instances?**

12 A. No.

13 **Q. Okay. Why wouldn't you use specific photographs from every**
14 **single neighborhood in this -- in this section?**

15 A. Aside from the size of the document that would result from
16 that, I think there's also the idea that, again, trying to
17 keep this in generalizable terms.

18 I mean, the more specific you get in a description of
19 this, then -- if you get very, very specific in a particular
20 area, yes, you're going to describe the impacts there very,
21 very clearly, but the idea then that those conclusions and
22 that analysis would not generalize well to other areas of
23 the city.

24 And I think the idea of being here of looking at -- and,
25 again, because this -- because of the nature of the document

1 And the idea being that any project that would result
2 under this -- under this proposal would then have to go --
3 go through that design review process. Whether it's
4 administrator design review or have to go before the design
5 review board, the idea being that this EIS is simply one
6 component of a larger process.

7 And so, therefore, we incorporated into this analysis
8 because of the fact that, you know, we're assuming that
9 that -- that review is going to occur at a later date when
10 more -- when you actually have a project specific design.

11 I think that's, you know, one of the first things we have
12 to acknowledge here is that this is a citywide policy.

13 There are no designs currently proposed, and that's what
14 that design review process is for.

15 **Q. Okay. And you can turn to page 3.164 and assuming a couple**
16 **of pages if it will help, but can you summarize the design**
17 **review process and thresholds? There's been a lot of**
18 **testimony about sort of what are the thresholds. And just**
19 **is that summarized on those pages?**

20 A. It is. So the -- the design review process essentially
21 based on the size of a development. I believe the -- it
22 used to be -- for residential projects, it used to be based
23 on the number of dwelling units and was recently amended to
24 look at also, like, now the square footage of the
25 development.

1 MR. KISIELIUS: So we're moving relatively quickly. I
2 think we're -- it's safe to say we're about halfway,
3 HEARING EXAMINER: Okay. We're going to take a break, and
4 we'll come back at 10:30.

5 (Recess)

6 HEARING EXAMINER: All right. Continue.

7 **Q. Mr. Gifford, we were talking about the aesthetic chapter.**
8 **And I want to turn now to the impact analysis. You can turn**
9 **page 3.169 and refer to the text as needed to answer some of**
10 **the questions. I think earlier you had categorized**
11 **different types of impacts that you looked at. And in the**
12 **sections addressing impacts common to all alternatives,**
13 **there are two headings. I think one says development**
14 **height, scale and character. Another one says view of**
15 **structure and shading. Did those headings refer to the two**
16 **types of aesthetic impact that you focused on in this**
17 **chapter?**

18 A. Yes.

19 **Q. And I'll ask you describe again briefly the development**
20 **height, scale and character and is that intended to capture**
21 **the types of things we were talking about earlier with**
22 **respect to intensity?**

23 A. Yes. So development, height, scale and character, this
24 section permanently talks about impacts that would result
25 from reasons that allow a greater building height or a

1 why this -- you know, one of the reasons, again, why we
2 divided these two chapters is so that land use can talk more
3 specifically about what's the land being used for. Whereas
4 this chapter focuses more on how is somebody going to
5 experience that, what is that change in the building form
6 going to do to a resident or visitor's experience.

7 **Q. Okay. And we had talked earlier about the baseline**
8 **conditions being qualitative. Is the impact analysis**
9 **similarly qualitative?**

10 A. It is.

11 **Q. So you didn't do a site specific analysis?**

12 A. No, we didn't. I think that while we're able to tell from
13 the zoning maps precisely where the zoning is going to
14 change and precisely where height limits is going to change,
15 building -- and we can make some assumptions about
16 building -- changes to build form and building typology, the
17 precise design of any given project is an unknown. We don't
18 know exactly how much -- based on a number of factors, we
19 can't assume for any given site exactly how much development
20 is going to occur there or exactly how it's going to look.
21 So that's one of the reasons why we do a generalized
22 analysis.

23 And the site context and the precise architectural design
24 of a particular project, that gets reviewed later. That's
25 essentially what individual SEPA reviews for and what the

1 greater density of development on a site or through the
2 changes of use. So this deals again with things more like
3 height -- what's commonly referred to as height, bulk and
4 scale.

5 **Q. Okay. And just to reiterate, can you explain why you based**
6 **your analysis on anticipated changes to building form?**

7 A. So one of the things about the building form that's
8 particularly important to address in an analysis of this
9 kind is that, again, simply talking about in terms of
10 density or in a change of use is not always sufficient. So
11 we want to focus on form a bit because the fact
12 that -- okay. If you say you're going to pack more housing
13 units into a given area or if you're going to increase or
14 change the use inside of a building but you're not really
15 changing the envelope of that building, you're not changing
16 the way the site is used, then you're not really generating
17 much of an aesthetic impact.

18 But, however, if the envelope of that building changes, if
19 it's large, if it gets taller, then you're talking about
20 you're changing the experience of a resident or a visit to
21 that area. They're going to have -- they're going to be
22 experiencing a building potentially that's no longer in
23 scale with the human form, something that's taller and could
24 potentially result in, you know, shading facts or view
25 blockage or things of that nature. And so I think that's

1 design review process is for is to ensure that those
2 projects then are appropriate for their context and respond
3 to the site correctly.

4 **Q. Okay. And on that point, we heard some testimony from Mr.**
5 **Hill that the City should be able to predict development**
6 **that would occur pursuant to MHA. So do you agree that the**
7 **City should know exactly where the development will occur?**

8 A. No. I think that might be a bit of an oversimplification.
9 As I just said --

10 MS. NEWMAN: I'm going to object sorry, belatedly, over
11 that being a misrepresentation of Mr. Hill's testimony about
12 exactly where the development's going to occur.

13 **Q. (By Mr. Kisielius) So we're going to get back to Mr. Hill's**
14 **statement. I guess I was just wondering if you agreed with**
15 **whether the City would know exactly where it might occur?**

16 MS. NEWMAN: If you're not going to characterize his
17 testimony that way, that's fine. If you want to just ask
18 the question.

19 **Q. I thought I did that. Do you agree that the City should**
20 **know exactly where? Do you think the City should know**
21 **exactly where the development will occur?**

22 A. No. As I said, I think it's possible to predict a
23 significant amount of that. You can tell -- again you can
24 see where height limits are going to change. You're going
25 to see where development capacity exists. But again the

1 exact choices the developer is going to make or the market
2 conditions 5, 10, 15, 20 years hence, that makes it very
3 difficult to actually specifically say this is exactly what
4 this building on this site in this neighborhood is going to
5 look like at any given point in time.

6 So this analysis is therefore focussed on using what is
7 knowable to simply say these are the types of impacts that
8 are likely to result -- roughly the building typology that
9 would be allowed and later more detailed phases of reviewed
10 can address those more site specific issues.

11 **Q. So I'm going to ask you to look at a specific sentence on
12 page 3.169 under section 3.3.2 impacts. And I'm going to
13 ask you two read two sentences, I guess. The second
14 sentence beginning given the large scale of the study area
15 and proceeding through the end of the next.**

16 A. Okay. Given the large scale of the study area, impacts to
17 the aesthetics and urban design are primarily discussed in a
18 qualitative and generalized manner. Because MHA is a
19 broadly defined city-wide program, this EIS does not provide
20 a detailed or on-site specific analysis of aesthetic impacts
21 at any specific location; the exact form of a given
22 development cannot be accurately predicted, and any such
23 analysis would be speculative.

24 **Q. Okay. And go ahead and read one more.**

25 A. Rather, the EIS assesses aesthetic impacts of the proposed

1 mean there are so many site specific design choices that
2 have to get made at the time of a project design that that
3 is beyond the scope of what a non-project action would be
4 analyzing. I think the EIS contains as much analysis as we
5 could provide in that area given what's known.

6 **Q. So let's dig into some of the impact analysis now. I think
7 the sentence you just read referred to Appendix F. So I'm
8 going to ask you to turn to that now. I'm going to ask you
9 to turn about 13 pages in. And we've already had some
10 testimony about this document, but I want you to tell
11 us -- well, first of all, are you familiar with it?**

12 A. Yes.

13 **Q. And did you use it in your impact analysis?**

14 A. Yes.

15 **Q. Okay. I want to ask you about how. So can you tell us how
16 you used this document in your aesthetic impact analysis?**

17 A. So this urban design and neighborhood character study was
18 provided to us by the City essentially as a guidebook for
19 how the proposed rezones would impact building form.
20 Basically, it allowed us to see that it contains analysis of
21 the different building typologies that could be built on
22 lots given the proposed zoning criteria.

23 So for example, this document goes through each of the
24 zones. And for each one, for example, looking at
25 residential small lot, basically indicates where those are

1 action based on anticipated changes to building form as
2 described in the MHA Urban Design and Neighbor Character
3 Study in Appendix F.

4 **Q. So before I asked you to read that, you're describing a
5 level of uncertainty. Is that what you meant to capture
6 with that passage you just read?**

7 A. That's correct.

8 **Q. Is that level of uncertainty you've just described common
9 when dealing with non-project actions like this one?**

10 A. Yes, it is.

11 **Q. Okay. So back to what Mr. Hill did say, and here he
12 testified that the City essentially shrugged its shoulders
13 and said we don't know the impacts because of that
14 uncertainty. Do you agree with that characterization?**

15 A. No, I don't. I think that, again, operating within the
16 limits of what is known. I mean the idea is that the City
17 has very clearly delineated where the proposed rezones would
18 occur. That information's captured in the EIS. We know
19 what height limits are proposed. We know the development
20 regulations that would apply.

21 Again, I think we can predict a significant portion of it
22 and we can generalize those impacts. It's basically that
23 last little bit of exactly what is this going to look like
24 that where it becomes speculative. Because on a site by
25 site basis, that information is simply not available. I

1 located in the community and then shows basically some
2 pretty basic mass models of the types of development that
3 could be accommodated on those sites given the development
4 regulations that are proposed and the regulations governing
5 height, FAR and things of that nature.

6 **Q. Okay. So just to be clear is this reference document
7 specific to any location?**

8 A. No, it's not.

9 **Q. Does it accurately depict housing types that could be built
10 under the Preferred Alternative for each of those
11 categories?**

12 A. I believe it does, yes.

13 **Q. And if the Preferred Alternative changed the locations where
14 these housing types might appear, does that change it's use
15 to use a reference document in analyzing aesthetic impact of
16 Preferred Alternative?**

17 A. No, we used the mock ups and the models that are presented
18 here. Essentially to say these are the types of housing
19 units or the types of buildings that are likely to occur in
20 these zones regardless of where they're located. Again
21 there are location specific factors that may influence that
22 such as lot sizes and environmental conditions, things of
23 that nature. But in terms of where they're located
24 throughout the City, that doesn't change what would be
25 allowed on that property.

1 So the Preferred Alternative -- essentially we use these
2 as a way to say -- to develop that matrix of impacts. We
3 say we're going from this particular zone to this zone, that
4 was a guide for us in terms of what types of housing units
5 or building forms were likely to be developed under each of
6 those categories.

7 **Q. Okay. And I want to get back to how you incorporated these**
8 **into the analysis in the EIS, but let's just stay where you**
9 **started, which is residential small lot discussion, which is**
10 **on page 10. And actually, can you just walk us through**
11 **that -- describe the housing type shown here and maybe**
12 **explain a little bit why they were picked.**

13 **A. Sure.** So, again, I didn't prepare this report myself so I
14 can't speak exactly to why the architects who did made
15 certain decisions. But I think basically what this does is
16 it walks through several different housing types that you
17 could fit -- that would be allowed under the standards for
18 residential small lot. So for example, we've got cottages
19 and attached townhomes, stacked housing and tandem housing.
20 And so basically for each of those types, we've got a page
21 here that kind of walks through some of the performance and
22 payment options for the MHA program, summarizes the
23 development standards for this zone, basically talking about
24 what's lot coverage, what's the density limit, what's the
25 maximum FAR that's allowed, things of that nature.

1 **Q. (By Mr. Kisielius) So as you're flipping there, I'm going**
2 **to ask you to please summarize your conclusions in the**
3 **impact analysis. And before we get to the impact specific**
4 **to each alternative, I want to talk more generally. So**
5 **starting on page 3.173. Did you summarize the impacts based**
6 **on the tier zoning change we discussed before?**

7 **A.** In general. As we described before the tiers provide sort
8 of the useful shorthand for this because of the fact
9 that -- because of the way they were designed, reasons
10 within the interior -- between categories that are
11 relatively similar and M1 is more intense, M2 more intense
12 than that. Again, recognizing that there are local
13 conditions that an individual rezones may vary from that
14 somewhat. But in general, that's sort of an ascending scale
15 of impact.

16 **Q. Okay. And is that captured on those pages starting around**
17 **3173?**

18 **A.** Yes, it is. So there's a description there for each of
19 those categories and talks a bit about which zones those
20 would apply to and roughly in general what the impacts would
21 be for those locations.

22 **Q. Okay. And just -- if you could summarize without -- you**
23 **know, give us the thumbnail sketch of each. What's the -- I**
24 **think you've already said ascending in scale, but what are**
25 **the primary aesthetic impacts of the M zoning changes?**

1 And then we have an example of a prototype for each of
2 those types. So the cottages, basically working within
3 those parameters, the architects prototyped out how many
4 cottages could you fit on a lot like this given the lot
5 coverage standards and sizes. And then looking at attached
6 townhomes, same deal. Stacked housing, basically kind of a
7 small multi-family example. And then tandem housing where
8 essentially you're splitting the -- dividing the lot front
9 to back and you have one in front of the other.

10 And again, this is kind of walking through what's allowed,
11 what's listed in the zoning code is allowed uses for this
12 zone. And then basically through the architectural design
13 process, just prototyping out, what could you do with that
14 space. And, again, as I said, this obviously is subject to
15 local conditions. If a lot is larger or smaller, that's
16 going to affect how many units or how many buildings you can
17 fit there. But this helped us as a general guide for the
18 building typologies we were likely to see in those zones.

19 **Q. Okay. Back to your impact analysis.**

20 **A.** Do I get to mark this page?

21 **Q. Only to the extent that it will be helpful to talk about**
22 **some of the later graphics, but I want to talk more**
23 **generally about conclusions in the impact analysis first.**

24 HEARING EXAMINER: Going back to page?

25 MR. KISIELIUS: We'll start with 3.173.

1 **A.** So for the M tier, height -- the height changes are going to
2 be relatively limited for residential areas. For example,
3 you're talking about going from a single family to an RSL or
4 from a Lowrise 1 to Lowrise 2, things of that nature. So
5 you're going between zones of relatively similar heights.

6 At the more intense end when you start getting into more
7 commercial developments, then you've got some more larger
8 height jumps in there. But the idea being here that the
9 building forms are -- you may see some additional sort of
10 bulk to the building, you may get some increased lot
11 coverage, some increased density, but you're not probably
12 going to be seeing, with the exception of those commercial
13 areas that I briefly mentioned, you're probably not going to
14 be seeing like significant jumps in height between those
15 zones.

16 **Q. And does that change when you get into the M1 type zoning**
17 **changes?**

18 **A.** It does. So once you kind of moved up to M1, you're talking
19 about potentially, you know, larger increases in height
20 between those two zones. Some potentially some
21 different -- you know, you're maybe moving from residential
22 to a mixed-use zone or something of that nature. And then,
23 again, into M2, then you're talking about some of the
24 largest increases in height that are included in the
25 proposal.

Page 77

1 **Q. So now I want to turn to the visual representations in**
 2 **Exhibits 3.3-10 through 3.3-22. And I'm going to ask you to**
 3 **describe how these are visual examples of your conclusions**
 4 **that you just described. But I want you to first orient us.**
 5 **So can you tell us what the white buildings represent in**
 6 **here?**

7 A. Sure. So if you're looking specifically at Exhibit 3.3-10,
 8 the white buildings are intended to represent existing
 9 development in a single-family neighborhood. The bluish
 10 buildings in the background there, those are trying to
 11 highlight what -- basically single-family infill, like what
 12 are the building typologies that are allowed under the
 13 current zoning. So again, these are highlighting the
 14 differences between what's currently in existence and what
 15 the zoning code for single family would currently allow.
 16 And this is specifically for the no action.

17 And we wanted to include a graphic like this to make it
 18 clear to the reader that no action -- that the no action
 19 alternative does not necessarily mean no growth. The no
 20 action alternative for a non-project analysis such as this
 21 specifically refers to what policies and regulations are on
 22 the books right now. So we want to make sure to highlight
 23 the differences between existing and what is allowed under
 24 the current regulations.

25 **Q. Okay. And maybe referring to 3.3-11 or 12, can you tell us**

Page 78

1 **what the gold means?**

2 A. So the gold buildings there are showing -- okay. This is
 3 what would be allowed under the proposal. So for example,
 4 this is for -- let's see what alternative this is.
 5 Basically showing that if you're going to go from a -- if
 6 you're going to move from single family to residential small
 7 lot, those gold buildings are what you would be able to
 8 -- they're a prototype of what you would be able to develop
 9 under the RSL regulations.

10 **Q. And is that color coding consistent throughout all of these**
 11 **exhibits?**

12 A. Yes, it is.

13 **Q. And is that described on the preceding page on 3.177?**

14 A. Yes, there's a paragraph there at the bottom of 3.177 that
 15 indicates that white buildings indicate existing contact
 16 structures. Buildings in blue are new infill single family
 17 that would be allowed under existing regulations. And then
 18 the gold are the hypothetical buildings under the proposal.

19 **Q. Okay. So let's focus on RSL. And so that's Exhibit 3.3-10**
 20 **through 3.3-12. What conclusions did these graphics support**
 21 **about the question of whether development under RSL would be**
 22 **aesthetically compatible with older, existing single-family**
 23 **home structures?**

24 A. Well, I think they show that while the overall form is
 25 generally consistent, there is an increase in -- there is

Page 79

1 some increase in height, and there is going to be increase
 2 in intensification of the use of the site. As you can see
 3 in these examples, compared to the existing contexts, these
 4 buildings are set somewhat closer to the street. They're a
 5 little bit -- they're not as -- they don't have as much
 6 modulations of their roof forms or their facades. However,
 7 if you compare them to the blue buildings in 3.3-10, they're
 8 much more similar to those. And I think it's important to
 9 highlight that even though the EIS acknowledges that this
 10 would be different from existing conditions. Compared to
 11 what's currently allowed in any single family zones under
 12 the existing zoning code, they're relatively similar.

13 **Q. Okay. Can you describe the significance of the progression**
 14 **between 3.3-11 and 3.3-12? What are those seeking to**
 15 **depict?**

16 A. It's essentially trying to show how infill development could
 17 proceed over time. So the idea being that if you're looking
 18 at 3.3-11, you notice most of those buildings are white.
 19 You're still seeing a lot of the traditional, single-family
 20 housing forms there with a couple of infill buildings in the
 21 background.

22 And then the idea being when you move to 3.3-12, this is
 23 essentially, you know, looking at after some time has passed
 24 and the MHA has been in place for a while and additional
 25 infill has occurred. Then you're starting to see how the

Page 80

1 neighborhood would transition over the planning period as
 2 more infill occurs onto the proposal.

3 **Q. And so I think the accompanying text uses the phrases**
 4 **distributed pattern and concentrated pattern, which refers**
 5 **to which?**

6 A. The distributed pattern would be the first figure, 3.3-11.
 7 The idea that you would essentially get an infill structure
 8 here and there, but most of the neighborhood or most of the
 9 particular street would still be existing conditions.
 10 Whereas a concentrated pattern would refer to 3.3-12 where
 11 you've got a larger collection of newer infill structures in
 12 one location.

13 **Q. Okay. So Mr. Hill testified that the EIS did not**
 14 **distinguish between aesthetic impacts in what he**
 15 **characterizes two different neighborhood conditions. And**
 16 **the first one was where there's very little development**
 17 **under the new zoning as compared to existing conditions.**
 18 **And the other one is where there's more new development**
 19 **under new zoning. And I think it talked about them -- the**
 20 **first as being sort of jarring or hodgepodge development**
 21 **before the rest of the neighborhood catches up to the**
 22 **subsequent -- the new zoning. Is that what the pairs are**
 23 **intended to communicate?**

24 A. Yes.

25 **Q. So do you agree the EIS doesn't discuss that?**

Page 81

1 A. No, I don't. I think this progression -- se progression of
 2 figures right here addresses that point directly.
 3 **Q. And does that happen throughout with the remaining exhibits?**
 4 A. Yes, it does.
 5 **Q. And I don't mean -- I don't want you to be limited here to**
 6 **RSL, if you want to talk about more, you can, but -- I know**
 7 **you talked about a qualitative analysis. Can you describe**
 8 **what was intended in the notation under them -- under some**
 9 **of these pairs where it says relevant urban villages are?**
 10 A. Yes, so that note there essentially -- because, again, these
 11 are our development prototypes -- and this is similar to the
 12 approach we took in the land use chapter where we described
 13 types of impact and then tied to those to specific zoning
 14 changes. This is similar to that saying, okay, well, this
 15 zone or this zoning change is going to be present in certain
 16 urban villages. And so for each of these sets of figures,
 17 we've got a notation down there about relevant urban
 18 villages to let the reader know which urban villages this
 19 type of progression would occur in. And that would allow
 20 them to look at the zoning maps specifically for those urban
 21 villages to identify areas that they might be concerned
 22 about.
 23 **Q. So there was criticism of these specific images that we**
 24 **heard that these were generic rather than using specific**
 25 **photographs or locations. Some people express concern that**

Page 82

1 **this doesn't represent their neighborhood. Can you explain**
 2 **why you used these generic descriptions, these non-specific**
 3 **locational depictions?**
 4 A. So these are -- so the use of prototypes -- prototype
 5 development is standard practice for non-project actions.
 6 Again, as I mentioned before, since we don't know exactly
 7 what a development is going to look like, the idea is to try
 8 to develop something that is representative of a particular
 9 building typology.
 10 Other EISs that I've worked on are actually broader still
 11 where you're looking at a maximum building zoning envelope.
 12 So it's more like a glass box that sits on the site and you
 13 can kind of see how tall something could be. The idea here
 14 is that this is trying to highlight those comparisons. So
 15 while these individual -- while the buildings depicted here
 16 may not show a precise house in a precise neighborhood and
 17 show what exactly -- what a new development's going to be,
 18 this will highlight for that particular zoning change the
 19 type of impact that you're likely to see.
 20 So, for example, if you look at, I think, maybe jump ahead
 21 to page 3.183 where we're talking about going from Lowrise 2
 22 to Lowrise 3, sure, those -- yeah, that may not exactly look
 23 like a building that's on the ground right now, but you can
 24 see some indication of how much more intense those zones
 25 are. I think the idea that this was designed to show people

Page 83

1 who may not be able to visualize, okay, what does it really
 2 mean to say you're going to increase the FAR by this much or
 3 increase the lot coverage by this much.
 4 These prototypes allow people to see, you know, be able to
 5 visualize, okay, what's this going to like look like. Even
 6 if the exact building itself doesn't exactly resemble this,
 7 it shows the scale of impact and lets people see the types
 8 of impacts so the decision makers can weigh that as part of
 9 whether or not to adopt this proposal.
 10 **Q. Okay. So now let's get to the discussion of the impacts of**
 11 **each of the alternatives. Do you describe locations where**
 12 **the zoning changes might occur and what their impact will**
 13 **be?**
 14 A. Yes.
 15 **Q. Can you give us an example?**
 16 A. Let me jump in here.
 17 **Q. Why don't you start with 3.203, Preferred Alternative.**
 18 A. Thank you. So on page 3.203 for the Preferred Alternative,
 19 we talk about the M, M1 and M2 zoning changes, kind of walk
 20 through where those are located. Those paragraphs on page 2
 21 of 3 there, list for each category basically where are those
 22 zoning changes concentrated, which urban villages are going
 23 to get the most of those.
 24 So, for example, on that same page, under the M2 heading,
 25 basically say under the Preferred Alternative, largest

Page 84

1 concentration of M2 zoning are going to occur in Roosevelt,
 2 North Beacon Hill, Wallingford, Morgan Junction and the
 3 Admiral Neighborhoods. And there are smaller areas present
 4 in the northern portion of North Rainier, near the future
 5 I-90 light rail station in Othello and Rainier Beach along
 6 the MLK Boulevard. So and this goes for each of those
 7 categories, well, kind of a general description of where
 8 those are located.
 9 And then, if you jump over to the following pages 3.204
 10 and 3.205, we've got a set of maps showing the locations of
 11 those M1 and M2 zones along with the urban village
 12 boundaries. And then on page 3.205, we've got a map showing
 13 where the maximum changes in maximum height would occur.
 14 And highlighting where the largest height increases are or
 15 would occur under the Preferred Alternative.
 16 **Q. Okay. And is that true for all of the alternatives analyzed**
 17 **in the last EIS?**
 18 A. Yes.
 19 **Q. Okay. Let's talk about view impacts because there's been**
 20 **some testimony about that. And there's been some testimony**
 21 **that there was no discussion of the impacts, do you agree?**
 22 A. No, I don't.
 23 **Q. So could you describe the discussion on pages 3.168 and 169?**
 24 A. Sure, no problem. So on page 3.168 there's a discussion of
 25 protected views under the Seattle comprehensive plan and

1 land use code. So Seattle's comp plan and it's municipal
2 code established policies and regulations regarding
3 protection of public views for important landmarks, natural
4 features and views from specific designated viewpoints in
5 the city. So we also outline here some policy language from
6 the comprehensive plan as well as an excerpt assert from the
7 municipal code.

8 One of the things that -- and those are the areas that
9 specifically define where Seattle's scenic view corridors
10 are located and which landmarks are to be protected. One of
11 the things that -- you know, protection of views is always a
12 contentious topic in aesthetic analysis. Part of the issue
13 is that at least under Seattle's framework, private views
14 are not specifically protected. However, we do like to
15 acknowledge that whenever we have a discussion of height or
16 increase in building bulk, that this is a potential -- this
17 could create potential view blockages. And this is
18 something that neighboring properties may experience
19 blockage of views, they may experience increased shading.
20 So in that sense, we do kind of discuss both at the public
21 protected level and also at the private individual level for
22 that type of impact.

23 **Q. And is there discussion of view impacts in the impact
24 analysis that follows?**

25 A. Yes.

1 **Q. So can you describe -- we've already talked about some of
2 the features of the proposal in your earlier discussion
3 about articulation. Can you focus on that second category,
4 regulations and commitments?**

5 A. Yes. So regulations and commitments, again, describes
6 existing regulations that the City would -- the development
7 that occurs under this would need to follow. So we describe
8 here, the first bullet there references a section of the
9 municipal code where policies are established for the
10 protection of public views including the views of manmade
11 and natural landmarks and from specified public parks,
12 viewpoints and scenic routes.

13 The next bullet specifically talks about protecting open
14 spaces -- public open spaces from shading and shadow affects
15 that would be caused by development. And then Chapter 2341,
16 that last bullet there is a reference to a portion of the
17 code that establishes city-wide design review requirements.

18 **Q. Okay. And then that final category, other potential
19 mitigation measures, is that similarly ones the author's
20 recommended?**

21 A. Yes.

22 **Q. And I'm going to ask you the same question I asked you for
23 the land use chapter. Is the understanding of the intended
24 benefit of the mitigation limited to what you have here or
25 is it informed by what procedure?**

1 **Q. Can you give us an example? Let's look at 3.191.**

2 A. So page 3.191 I believe is the tail end of the impacts
3 common to all discussion. And this discussion, in their
4 words, titled view obstruction and shading effects basically
5 describes that under both of -- this was for, specifically
6 for the Alternatives 2 and 3. The Preferred Alternative, I
7 believe, is discussed elsewhere. But it says that under
8 these action alternatives, the MHA implementation would
9 result in these localized height increases, which would
10 increase development intensity and building bulk and
11 therefore these could potentially interfere with protected
12 view corridors and scenic routes.

13 However, again, because of the fact that this is a
14 non-project action and we don't have any development
15 proposals specifically, we don't have a building design,
16 the -- this discussion does basically state that the design
17 review process should take a look at view obstruction and
18 view protection because that's a site specific issue and
19 would have the ability to impose design guidelines and
20 conditions on building permits in order to preserve those
21 views that are in need of protection.

22 **Q. Okay. Let's talk about mitigation on pages 3.210. So did
23 you follow the same categories of mitigation that you
24 described for the land use chapter?**

25 A. Yes.

1 A. No, it specifically responds to the impacts that are
2 identified in the impact analysis.

3 **Q. So can you pick one of the other potential mitigation
4 measures maybe as an example?**

5 A. Okay. Well, I'll just -- the first bullet there basically
6 specifically stating that, you know, for high-rise tower
7 style development, we recommend the location of the tallest
8 portions of the building to reduce scale impacts relative to
9 the most sensitive edges of the property. So one of the
10 ideas here being that if you have a site with a large
11 commercial building on it of significant height, try to
12 locate those portions of the design that would be most
13 impactful to lower intensity uses as far away from them as
14 you can. Again the idea of them trying to apply lower
15 height limits to the portions of the building that are going
16 to cover the most area of the site.

17 So the traditional model being sort of the podium, you
18 know, the larger portion of the building that covers the
19 most site area and then the taller, narrower tower.
20 Basically if you can apply lower height limits to that
21 podium piece, you can reduce the level of impact to
22 surrounding properties because the tower portion is located
23 farther away from them and then you can go taller. So this
24 was a recommendation for one of these concerns about edge
25 effect and about shading of tall buildings onto lesser

1 intensive development.
 2 And then similarly there's, I think the third bullet there
 3 we talk about through the design review process promoting
 4 slimmer building forms so that you are minimizing the size
 5 of the shadow that you're casting and minimizing the amount
 6 of the day that where adjacent development would be shaded
 7 by tall buildings.
 8 **Q. And is the level of description of mitigation in this**
 9 **section comparable to and typical of a non-project action in**
 10 **your experience?**
 11 A. Yes, it is.
 12 **Q. Switch subjects here and ask you to respond to some things**
 13 **that we've heard to the extent we haven't gone over them**
 14 **already. First, we've heard some testimony that the**
 15 **proposal would eliminate all single-family zoning within**
 16 **urban villages. Are you familiar with that testimony?**
 17 A. Yes, I am.
 18 **Q. First, just for context, do you know just rough order of**
 19 **magnitude, under current zoning, what percentage of the land**
 20 **zone single-family residential are within urban villages or**
 21 **urban village boundaries?**
 22 A. I don't have that number in front of me or right off the top
 23 of my head. My understanding is it's -- compared to the
 24 total amount of single-family development in the City, I
 25 believe the amount that's in the urban villages is quite

1 **you just describe how that is considered single family?**
 2 A. So I believe the Appendix showed cottage style, attached
 3 townhomes, as well as some tandem housing. Not every -- I
 4 believe there's also the stacked housing, which I don't
 5 think would -- which wouldn't qualify as a single-family
 6 zone, the other being you have ownership -- these would
 7 likely be ownership units in the case of cottages and tandem
 8 housing, they are separated, detached from each other. And
 9 so each individual occupies their own detached unit. And
 10 even with townhomes, even though they would be attached,
 11 again, they're not -- it's basically essentially ownership
 12 units of individual property there. So that's consistent
 13 with single-family zoning definition.
 14 **Q. And can you turn to Appendix F and go back to that urban**
 15 **design and neighborhood character study and turn the page,**
 16 **Appendix F?**
 17 MS. NEWMAN: What page?
 18 **Q. (By Mr. Kiselius) Sixteen of the study. So on page 16 I'm**
 19 **going to ask you to look at that shaded area with the bullet**
 20 **points.**
 21 A. Okay.
 22 **Q. Can you read the second bullet point?**
 23 A. Allows a variety of housing types, for example, cottages,
 24 small single-family homes and duplexes at the scale of an
 25 existing single-family area.

1 small.
 2 **Q. And so for those that are within urban villages or urban**
 3 **village expansion areas, is it true they will be rezoned**
 4 **under the proposal?**
 5 A. I believe they will all be rezones either to single family
 6 or excuse me, to residential small lot or some other
 7 residential zone. I believe there are some instances of
 8 them being rezoned to commercial, but I don't have the exact
 9 figures.
 10 **Q. Okay. And do you agree that rezone to RSL is the same thing**
 11 **as eliminating single-family zoning?**
 12 A. No.
 13 **Q. Why not?**
 14 A. Well, first of all the City defines residential small lot as
 15 a single-family zone. And a single-family structure is an
 16 allowed use in the RSL zones. So if an RSL lot that
 17 currently contains a single-family structure, that structure
 18 is allowed to remain. There is no imperative for them to
 19 remove that structure or redevelop it if the owner wishes to
 20 keep it. At the same time a single-family structure could
 21 also be developed on an RSL lot as a new use. So in that
 22 sense, I don't think it's fair to characterize it that way.
 23 **Q. Okay. And you've walked us through the depictions of some**
 24 **different housing stock available on RSL that was in**
 25 **Appendix F. You can refer back to it if you need to but can**

1 **Q. So do you agree the housing types are consistent with the**
 2 **scale of the single-family zone?**
 3 A. Yes.
 4 **Q. Okay. So is that specific rezone -- here I'm talking about**
 5 **one of the SF zones to RSL. Is that specific rezone and**
 6 **it's impact analyzed in the EIS?**
 7 A. Yes.
 8 **Q. And there was some testimony that it was unclear where or**
 9 **how much of that specific kind of rezone would occur. Do**
 10 **you agree with that?**
 11 A. No, all of the rezones proposed under all of the
 12 alternatives are mapped in Appendix H. And the -- those can
 13 be looked up. And each of those maps for each urban village
 14 shows exactly what the current zoning on that property is
 15 and what it would be rezoned to under each of the proposed
 16 alternatives.
 17 **Q. And can you turn to Appendix H? I'm going to ask you to**
 18 **look at H2 and 3.**
 19 A. Sorry, H2?
 20 **Q. Yeah.**
 21 A. Okay.
 22 **Q. Does this also show the amount of acres of specific rezones?**
 23 A. Yes, it does. This is -- that page specifically -- it looks
 24 like it's specifically for Alternative 2. And then there
 25 are tables for Alternative 3 and the Preferred Alternative

1 on the following pages.

2 **Q. Okay. And so reading that, the existing zoning on – I**

3 **guess we'll call it the Y access where we start with single**

4 **family is the first column there, the number of single**

5 **families -- acres of single-family zoned to RSL?**

6 A. Yes, that's what it appears to be.

7 **Q. Okay. So there's also been some testimony that the EIS**

8 **didn't sufficiently analyze impacts in areas outside urban**

9 **villages that are not currently zoned single family. I**

10 **think there's been some specific examples of properties and**

11 **areas along arterials like Aurora, Lake City and Rainier.**

12 **Mr. Wentlandt testified to the scope of the study area and I**

13 **didn't want you to revisit all of that. But I want you to**

14 **explain how you looked at this for purposes of explaining**

15 **land use and aesthetic impacts. Do you agree that for the**

16 **purposes of the chapters for which you were involved that**

17 **those areas were not analyzed in the EIS?**

18 A. No, I don't agree with that. They were -- yes, they

19 were -- so for example -- as I described for the land use

20 chapter, because of the fact that we went on sort of a zone

21 by zone basis to talk about, you know, when you're changing

22 the zoning from one zone to another, those are all captured

23 in those exhibits in the land use chapter, those tables that

24 layout the impacts of the different types of rezones. While

25 the focus of the narrative was specifically on areas within

1 A. So basically using this map here on page H102, you can

2 identify -- so for example you have a property here, let's

3 say it's being shown as -- this is specifically for

4 Alternative 2. Let's say you've chosen a property that's

5 specifically being rezoned to neighborhood commercial. And

6 if you know -- and if you know what the existing zoning is

7 on it, you can go back to Chapter 3, find that zone, find

8 the existing zone, and the zone that it's being changed to

9 on one of those tables. And that table then outlines what

10 are the potential for density impacts, use impacts and scale

11 changes on that property based on the proposed rezone.

12 **Q. And so you've referred to those tables. What about the**

13 **discussion about edge effect. Is that relevant as well?**

14 A. Of course.

15 **Q. And there's -- I'll direct you to Page 3.186. And we were**

16 **referring there specifically to land use zone, talking about**

17 **aesthetic impact?**

18 A. 3.186?

19 **Q. Yes.**

20 A. Okay.

21 **Q. Can you look at the discussion of aesthetic impact and the**

22 **transition condition, second paragraph there?**

23 A. Yes. So basically this is referring to the two exhibits on

24 the opposite page, Exhibits 3.3-19 and 3.3-20, basically

25 showing how a neighborhood commercial area -- basically

1 urban villages because that's kind of the primary focus of

2 the proposal, those impacts are documented in the EIS

3 because we have discussed those zoning changes and they are

4 mapped in Appendix H so you can see exactly where they would

5 be occurring.

6 **Q. Okay. And let's just take an example, Lake City -- if we**

7 **were to go to H47, and here I'm referring to page H47,**

8 **exhibit H46?**

9 A. Okay.

10 **Q. Does this depict part of the Lake City way corridor outside**

11 **the urban village?**

12 A. Yes, it does.

13 **Q. And then if we were to turn further -- excuse me, H102.**

14 A. Yes.

15 **Q. Does that also depict the entirety of the Lake City**

16 **corridor?**

17 A. Yes, it does.

18 **Q. So let's talk about how you would use this. Mr. Wentlandt**

19 **had showed the web map, and I'm not going to ask you to**

20 **revisit that. But if you had a specific location somewhere**

21 **along the Lake City way corridor, specific property that was**

22 **rezoned under this proposal that's outside an urban village**

23 **or a property adjacent to something that's being rezoned,**

24 **how would you use these maps to better understand what would**

25 **happen there, even if it's outside the urban village?**

1 showing a neighborhood commercial area along an arterial

2 roadway and how that would form a transition if you had

3 residential areas on one side and commercial areas on the

4 other. Specifically the first one shows single-family

5 zoning and the neighborhood commercial 40 on opposite sides

6 of the street. And then the second image there shows

7 Lowrise 1 juxtapose with a neighborhood commercial 55.

8 **Q. Okay. So given your description here, do you agree that**

9 **those properties outside urban villages were not analyzed in**

10 **the EIS?**

11 A. No, I don't.

12 **Q. Incidentally, can you explain why you included the**

13 **additional detail for the urban villages in text and had**

14 **specific match for the urban villages, why emphasize that?**

15 A. Well, the urban villages were emphasized because that's the

16 framework through which the City's comprehensive plan works.

17 The urban village strategy and the way the comprehensive

18 plan is organized is all centered around urban villages.

19 And that is where the majority of future growth in the City

20 (inaudible) of the majority, I don't have the numbers in

21 front of me were a significant portion of the growth -- of

22 Seattle's future growth is intended to go.

23 And specifically understand MHA, most of the anticipated

24 affordable housing that would be generated under this

25 proposal is designed to go to the urban villages. So as a

Page 97

1 result, the EIS focuses on those areas specifically, but we
 2 do document those areas outside the urban villages that
 3 would be affected.

4 **Q. Okay. So switching topics. We've heard a lot of testimony**
 5 **about the granularity of analysis in the EIS. And I'm going**
 6 **to ask you about that in the land use and aesthetics**
 7 **context. So in some instances, we've heard some testimony**
 8 **that the EIS doesn't discuss land use or aesthetic impacts**
 9 **relevant to individual neighborhoods at all. We've talked**
 10 **about some. Do you agree with those contentions?**

11 A. No.

12 **Q. And I understand in those instances where you've identified**
 13 **a specific neighborhood description like this and the**
 14 **examples we gave, but what about those instances in which**
 15 **the specific condition that somebody might be concerned**
 16 **about might not be called out in the paragraph describing a**
 17 **neighborhood? Do you agree that the analysis is missing?**

18 A. No. The impacts comments to all section that's at the
 19 beginning of the impact analysis for both the land use and
 20 aesthetics chapters provides that overview of conditions
 21 city wide. The neighborhood specific paragraphs that we
 22 included in the impact analysis were specifically there
 23 because we wanted to call out locations where we thought it
 24 was important to do so. Specifically because those local
 25 conditions would either exacerbate or in some cases minimize

Page 98

1 the impacts that would occur or if there were specific
 2 locations that warranted mention.

3 So for example, I think some of the examples we went
 4 through earlier, we highlighted an area where there was an
 5 existing -- there's going to be a zoning change in an area
 6 where there was an established historical architectural
 7 character or areas that were located next to green space or
 8 other important public spaces. So the idea being there that
 9 those were areas that we felt were worthy of specific
 10 mention but the generalized impact analysis applies to the
 11 entire study area.

12 And for folks who were looking for -- if they're worried
 13 about a specific impact on their property or property that
 14 they're concerned about, they can follow the same protocol
 15 that we established that you find it on the map, you find
 16 out what the zoning change that's proposed is and then you
 17 follow it back to the table and see what that -- how that's
 18 described.

19 **Q. How about a decision maker? Does that approach that you**
 20 **just described, a combination of generalized text and maps,**
 21 **does that help the decision maker understand the potential**
 22 **impacts?**

23 A. Yes, I think so.

24 **Q. So focus on the characterization that the EIS lacks the**
 25 **analysis, I want to maybe look at what about adequacy. So**

Page 99

1 **in your opinion, is the approach that is reflected here**
 2 **adequate to inform a decision maker of the potential land**
 3 **use impacts?**

4 A. For a non-project action of this type, yes, I believe it is.

5 **Q. Let's talk about existing conditions. There have been**
 6 **several witnesses who have testified that the existing**
 7 **conditions section of the land use and aesthetics chapters**
 8 **don't specifically describe their neighborhood. So I want**
 9 **to ask you about that. To what information would you direct**
 10 **a reader to understand the existing conditions in various**
 11 **neighborhoods?**

12 A. Well, I think there's some -- one of the things the EIS
 13 calls out in that chapter is that the MHA EIS is an
 14 outgrowth of the City's comprehensive plan. This is working
 15 within the framework of the comprehensive plan's policies.
 16 The comprehensive plan was just updated a couple years ago.
 17 And the Seattle 2035 Comp Plan EIS contains quite a bit of
 18 information on an analysis of that change. You know, the
 19 adoption of that new comprehensive plan. And there's a
 20 reference to the Seattle 2035 Comp Plan at the beginning of
 21 the land use chapter, specifically highlighting existing
 22 conditions. That EIS contains a slightly more detailed
 23 discussion of the existing land uses in various urban
 24 villages across the City.

25 **Q. So I'm going to ask you to turn to page 3.99 and identify**

Page 100

1 **the reference you were just making.**

2 A. So on page 3.99, that's the first page of the land use
 3 chapter. It is the second paragraph under heading 3.2.1
 4 effective environment.

5 **Q. Okay. And so that's the reference that 2035 Comp Plan EIS?**

6 A. Yes.

7 **Q. Okay. There's a big binder next to you, which is City**
 8 **binder 4. And if you go to tab 4, I believe that's Hearing**
 9 **Examiner No. 4 as well?**

10 HEARING EXAMINER: This is already an exhibit?

11 MR. KISIELIUS: Yes. Sorry, my computer froze and I need
 12 to look at it electronically.

13 MS. NEWMAN: What document is this in? I'm just trying
 14 to --

15 MR. KISIELIUS: City Exhibit 4, it's the 2035 -- Seattle
 16 2035 draft EIS.

17 **Q. (By Mr. Kisiellus) Okay. So can you turn to page 3.4-1?**

18 A. Okay.

19 **Q. And does that include some of the background existing**
 20 **environment, existing conditions, discussions you were**
 21 **referring to?**

22 A. Yes, it does. So this -- because this was related to the
 23 comprehensive plan update, it takes a pretty broad lens, but
 24 it starts at sort of the city-wide level. It takes a look
 25 at, you know, the distribution of land use categories in the

1 City and then begins drilling down to urban centers, urban
2 villages, manufacturing industrial centers, and then sort of
3 goes by the categories of the City's hub urban villages and
4 their residential urban villages.

5 It kind of breaks down the different land use types within
6 each of those and describes some examples of the current
7 land use pattern and the building typologies that are
8 present there, includes some photographs of existing
9 conditions from some of these major urban villages. And it
10 also includes several maps of existing land use conditions
11 and the comprehensive plans future land use map.

12 **Q. And so earlier you talked about a reference in MHA EIS and**
13 **talks about the chapter relying on that background**
14 **information. Is that the background information that you**
15 **were referring to?**

16 A. Yes, it is.

17 **Q. So is the understanding of existing conditions in specific**
18 **neighborhoods also informed by the neighborhood specific**
19 **impact analysis in the MHA EIS?**

20 A. Yes.

21 **Q. So you can put the 2035 EIS away. I'm going to ask you to**
22 **show us an example of how. So let's turn to page 3.122 of**
23 **the MHA EIS, this exhibit --**

24 MS. BENDICH: Are you on land use?

25 MR. KISIELIUS: Yes.

1 A. One portion of the urban village expansion at the southeast
2 of the village would be rezoned to low rise, however, this
3 area is almost completely bounded by an existing senior
4 housing complex and low rise and neighborhood commercially
5 zoned lands which would mitigate potential transitions
6 conflicts.

7 **Q. But does it describe that existing condition? And explain**
8 **how it informs the impact analysis?**

9 A. Yes, it does.

10 **Q. Another example that you've already talked about is the**
11 **Roosevelt Urban Village, earlier you used that as an example**
12 **of one that talks about a neighborhood -- let's turn to Page**
13 **3.133.**

14 A. Okay.

15 **Q. And I believe it's -- this sentence that carries over to the**
16 **next page, that's the one you read before. Does that**
17 **describe as an existing condition --**

18 A. Yes, this states in areas including blocks north of Ravenna
19 Park and blocks north of Roosevelt High School, zoning
20 changes to Lowrise 1 and 2 zones have potential for
21 significant land use impact due to the existing condition of
22 consistent established architectural and urban formed
23 character.

24 MS. NEWMAN: What page was that?

25 MR. KISIELIUS: 3.133 through 134, it's that carry over

1 **Q. (By Mr. Kisielius) So can you read just on that page the**
2 **first sentence of each of the urban villages shown on that**
3 **page?**

4 A. So the -- so for Othello, it says existing single-family
5 areas near the Othello light rail station would be changed
6 to low rise multi-family presenting potential for density
7 use and scale impacts creating moderate impacts and
8 significant impacts in some blocks being rezoned to Lowrise
9 3.

10 **Q. Without -- I reviewed them all and I'm going to ask you a**
11 **more generalized question, which is, do all refer to**
12 **existing conditions?**

13 A. Yes, they do.

14 **Q. And does that inform a reader's understanding of existing**
15 **conditions in addition to the comp plan EIS?**

16 A. Yes, it would.

17 **Q. Okay. Another example, a specific example, Ms.**
18 **Tobin-Presser identified a concern about a senior living or**
19 **retirement home that's currently in the West Seattle**
20 **Junction Neighborhood and testified that there's no**
21 **acknowledgement of that existing condition. Can you please**
22 **turn to page 3.124?**

23 A. Okay.

24 **Q. And can you read the last sentence of the description for**
25 **West Seattle Junction?**

1 sentence.

2 **Q. (By Mr. Kisielius) So, again, these are just examples, but**
3 **is this approach, this general description in the comp plan**
4 **EIS that's incorporated in the neighborhood specific detail,**
5 **is that general approach adequate to inform the reader of**
6 **the existing conditions for purposes of understanding**
7 **impact?**

8 A. Yes. In a policy level analysis like this, yes, it is.

9 **Q. And in your experience and opinion, is it typical for a**
10 **non-project EIS like this one to include more detail like**
11 **the kind that is requested by some of the appellant**
12 **witnesses?**

13 A. I think it depends on the type of proposal being made.
14 Again, I think it's very typical for non-project actions to
15 include detail on areas where -- of localized impacts where
16 that's warranted. But I think in terms of doing an
17 exhaustive review of both existing conditions and projected
18 impacts on every property in a study area, at this level of
19 action, no, I would not say that's typical.

20 **Q. I have just a couple more questions for you. And I'm going**
21 **to ask you to take a look at two exhibits -- I'm going to**
22 **hand of both of them to you, they're Examiner's Exhibits 241**
23 **and 249. These are SCALE exhibits, one is the West Seattle?**
24 **Set of photographs --**

25 MS. NEWMAN: So those are already hearing examiners?

1 HEARING EXAMINER: And I apologize.
 2 MR. KISIELIUS: 241 and 249, Examiner's Exhibits. I
 3 believe those are SCALE 192 and SCALE 162 respectively.
 4 **Q. (By Mr. Kisielius) I want to tie a couple things together.**
 5 **So the one that's marked 241, which is SCALE 192, I'm going**
 6 **to ask you to turn to the very end of that exhibit?**
 7 MS. NEWMAN: Still finishing up.
 8 HEARING EXAMINER: The end of 241?
 9 MR. KISIELIUS: Yes.
 10 MS. NEWMAN: These are West Seattle photos?
 11 MR. KISIELIUS: Yes.
 12 HEARING EXAMINER: A specific photo?
 13 MR. KISIELIUS: Yeah, I was going to look at what is, I
 14 believe, number 14 I believe on that one, it shows a picture
 15 of a -- yes.
 16 MS. NEWMAN: The last of the bunch.
 17 MR. KISIELIUS: Yes.
 18 MS. NEWMAN: Okay, I'm there.
 19 **Q. (By Mr. Kisielius) So I want to go back to something you**
 20 **testified about, which is some of the mitigation that's**
 21 **incorporated in the proposal itself. And you had earlier**
 22 **testified about upper level setbacks and articulation.**
 23 **Given that, is the larger building shown in that picture**
 24 **likely to be representative of what would be allowed in low**
 25 **rise or mid rise?**

1 whole I would say I don't think this is quite accurate.
 2 **Q. Now, I want you to compare more generally what Mr. Hill**
 3 **prepared here to what you relied on in your analysis in**
 4 **Exhibits 3.3-10 through 3.3-22. Which is more accurate in**
 5 **your professional opinion?**
 6 A. I believe the print types that were developed for the EIS
 7 would be more accurate than this. I obviously cannot speak
 8 precisely on Mr. Hill's technique and exactly how he did
 9 this. But this does not appear to be something that was
 10 basically, you know, inch accurate, scale, digital model of
 11 a building prototype placed on the site. The prototypes
 12 that were used for the EIS were designed by -- my
 13 understanding from the City is that they were designed by an
 14 architectural firm. They were located in a 3D digital model
 15 on a representative lot and that the images that were
 16 generated were essentially exports from that model using
 17 scaled distances and camera angles, which is a technique
 18 that is commonly used in these types of analyses. And which
 19 it's fairly standard practice. And we think that that's one
 20 of the best ways to represent these types of developments
 21 because of the fact that -- we believe they're more accurate
 22 than simply an image on a page.
 23 I think there's sometimes some misapprehension about
 24 images of those type. I think a lot of people believe that
 25 they're simply mock ups or something that somebody just drew

1 A. No, I don't believe so. This does not reflect any upper
 2 level setbacks, which the -- which under the proposal
 3 Lowrise 1 and Lowrise 2 would be required to have. And in
 4 addition, because of the fact that it's right next to -- you
 5 know, right adjacent to a single family home, several of the
 6 mitigation measures that were recommended in the aesthetic
 7 section would also require some, you know, some additional
 8 setbacks and some facade modulation when placed next to a
 9 single-family home like that.
 10 **Q. Okay. And let's turn to Exhibit 249, SCALE 162, that would**
 11 **be the Wallingford photographs that Mr. Hill presented.**
 12 **Okay. So in that exhibit there are some photographs towards**
 13 **the end, pages 19 of 19, the very very end.**
 14 A. Last page?
 15 **Q. Yes. And, again, I'm going to ask you, given what you know**
 16 **about the development regulations, do you think these images**
 17 **accurately depict the potential built -- anticipated built**
 18 **condition?**
 19 A. I don't believe so. I think looking at some of these, it
 20 appears that there are some upper level setbacks in certain
 21 locations, but I don't believe that these are necessarily
 22 accurate. It looks like a lot of them are -- appear to be
 23 on the side streets instead of on the main boulevard here.
 24 So I think that -- and it's difficult to tell here exactly
 25 how far the setback from the street would be. But on the

1 on a page. But there's a significant amount of effort that
 2 goes into making sure that those are accurate and that they
 3 are scaled appropriately and that they represent something
 4 that a viewer on that street corner or along that sidewalk
 5 would actually see if that was developed. So I would say
 6 that this is -- this exhibit here is not quite up to that
 7 level of accuracy.
 8 **Q. Okay. More generally have you heard anything in the**
 9 **appellant's testimony that you've reviewed that causes you**
 10 **to question any of the conclusions or analysis in the**
 11 **portions of the FEIS that you drafted and worked on?**
 12 A. No.
 13 **Q. And do you believe that you used reasonable and standard**
 14 **methods of your profession to assess and disclose the**
 15 **potential land use and aesthetic impacts of the proposal?**
 16 A. Yes, I do.
 17 **Q. And do you stand behind the conclusions in the EIS that you**
 18 **reviewed or helped prepare?**
 19 A. I do.
 20 **Q. Thank you. I have no further questions for you.**
 21 MR. KISIELIUS: So much faster than (inaudible).
 22 MS. NEWMAN: That's always good when that happens.
 23
 24
 25

EXAMINATION
 BY THE HEARING EXAMINER:

1 A. If you're -- are you referring specifically to -- well, it
 2 is an M2 tier, so we did identify that as being one of the
 3 higher -- I guess the highest classification in terms of
 4 changes. There are other reasons that would cause a greater
 5 height increase, but, yes, you're correct that that's the
 6 highest tier of this rezoning that's identified.

7 **Q. Do you know if there's any text that discusses the impacts**
 8 **of that change?**

9 A. I think there might be if you give me a moment to find that,
 10 get it back out of the appendix.

11 MR. THALER: Is it possible, is that screen queued up?
 12 THE CLERK: Do you want me to pull it up?
 13 MR. THALER: I'm going to go there in a couple of minutes.
 14 THE CLERK: Just tell me when.
 15 MR. THALER: Okay.

16 **Q. (By Mr. Thaler) You should be able to find it. That looks**
 17 **right.**

18 A. So the preferred alternative, which I believe is the map
 19 that you had me looking at there.

20 **Q. Yes.**

21 A. Several blocks -- states, "There will be several blocks of
 22 existing single-family zoning at the edges of existing
 23 multifamily or commercially-zoned areas that would be
 24 changed to LR2. And that could potentially result in some
 25 significant impacts."

1 in the scrivener. So my question is --
 2 HEARING EXAMINER: What is the error?
 3 MR. THALER: The error is that that description of the
 4 edge -- or of the impacts of the upzone in those three
 5 blocks of East Fremont is not accurately described.
 6 HEARING EXAMINER: Is the error in the text or in the map?
 7 MR. THALER: That's a good question.

8 **Q. (By Mr. Thaler) Do you think that's an error in the text or**
 9 **in the map?**

10 A. One moment. I'm re-reading this par- -- this paragraph to
 11 make sure I'm clear on -- on its meaning here. So I'm not
 12 sure it's necessarily -- so I'm not sure it's necessarily an
 13 error in -- that it's a typographical error or that -- I
 14 think one of the things -- that sentence in there
 15 specifically that you're referring to where it says,
 16 "Several blocks of existing single-family zoning at the
 17 edges of existing multifamily or commercially-zoned areas or
 18 in proximity to open space resources would be changed to
 19 LR2, resulting in potential or significant impacts," those,
 20 I believe, actually -- that does, I believe, accurately
 21 describe --

22 **Q. The other areas.**

23 A. -- several other locations --

24 **Q. Yes, exactly.**

25 A. -- in the -- in that -- in that urban village.

1 **Q. Okay. So looking at the Wallingford UV map exhibit, page**
 2 **79, this doesn't precisely fit that description, does it?**
 3 **This is going to LR3. And I'll actually -- while you're**
 4 **going back to it, Exhibit H-79, I realize this is kind of a**
 5 **gotcha, that it's a technical glitch, I get that. But is it**
 6 **not true that it is a technical glitch?**

7 A. One moment while I get there.

8 **Q. There are at least three other blocks that go to -- of**
 9 **single family going to LR2. Actually, I see four. I'm**
 10 **staring at it here on the screen. 5, 6, but that's not one**
 11 **of them, is it? 7; I've identified 7 separate blocks where**
 12 **Wallingford LR single family is going to LR2 adjacent to NC.**
 13 **But this isn't one of them, is it? This is going all the**
 14 **way to LR3.**

15 A. The map does -- the map appears -- does appear to be
 16 labeled. Again, it's very small, but -- in this copy, but
 17 it does appear to say LR3.

18 **Q. Oh, I've zoomed to 300 percent, and it's LR3.**

19 A. Okay.

20 HEARING EXAMINER: And what should it be?
 21 MR. THALER: Huh?
 22 HEARING EXAMINER: What should it be? Let's --
 23 MR. THALER: I have no idea. I didn't write the EIS. The
 24 question is, the text doesn't reflect what the map shows.
 25 And I acknowledged it's kind of a gotcha. There's an error

1 **Q. Okay. So then the question is, the impact of this**
 2 **particular upzone is not discussed in the EIS?**

3 A. That particular paragraph does not specifically -- does not
 4 appear to specifically mention that block. However, I
 5 believe if you refer to the tables in the land use
 6 chapter -- I don't have the exhibit number right in front of
 7 me because I'm trying to flip back and forth here -- but I
 8 believe the table does specifically -- will call out any
 9 area that is going to be rezoned from single -- from single
 10 family to LR3 and describe the impacts that would be
 11 associated with such a rezone.

12 **Q. Are you aware that this area has extensive tree canopy?**

13 MR. KISIELIUS: Objection. We're getting into areas that
 14 are not this witness' expertise.
 15 MR. THALER: All right. I'll withdraw the question. I'll
 16 move on.

17 **Q. (By Mr. Thaler) Going back to the northwest sector at 100**
 18 **and -- you have to remind me -- 107. Okay. This is where I**
 19 **want the --**

20 MS. BENDICH: He wants to --
 21 THE CLERK: Oh, sorry.
 22 (Inaudible colloquy)

23 **Q. (By Mr. Thaler) So looking down at the canal areas, like the**
 24 **Aurora bridge and the Fremont bridge and that big triangle,**
 25 **do you see that?**

1 So in the context of what she's drawn here, this is --
 2 I would not disagree with the fact that increased height of
 3 a building on a slope could potentially block views of a
 4 property's upslope or block shading downslope. And the EIS
 5 acknowledges that that could be the case in certain
 6 locations where those topographical conditions occur.
 7 **Q. And what level of detail does the EIS get into on that**
 8 **specific type of location, specific impact?**
 9 A. The EIS keeps that analysis fairly general. Again,
 10 deferring to the -- because of the fact that the
 11 location-specific conditions can make such a large change,
 12 the EIS calls this out as a potential -- as a potential
 13 effect, but leaves that more specific analysis to project
 14 level SEPA review or design review because of the fact that
 15 there are so many other factors to consider that are
 16 specific to individual development proposals or to
 17 individual properties.
 18 **Q. And does -- I think in your earlier testimony on direct, you**
 19 **had given some specific examples of neighborhoods where it's**
 20 **also called out in a little bit more detail.**
 21 A. Yes. I believe East Lake was one of those. I know there
 22 were several, but I forget exactly which ones we walked
 23 through.
 24 **Q. But let's focus more on what you were just testifying to,**
 25 **which is the more generalized level of discussion. Do you**

1 property for -- to sort of set a baseline. Then we would
 2 need to build a digital model of the proposed building at a
 3 40-foot height and the proposed building at a 65-foot
 4 height, and run a site-specific shading analysis for both of
 5 those and compare them to each other in order to determine
 6 whether it was really that last 15 feet that caused the
 7 impact, and to verify whether or not the 40-foot caused any
 8 impacts or not.
 9 **Q. And would you typically do that level of analysis for a**
 10 **non-project action like this one?**
 11 A. Not at this scale, no. We've done -- we've done shading
 12 impacts and digital modeling of that nature for some area
 13 plans and some neighborhood projects, but something at the
 14 geographic scale of a city, no, that would not normally be
 15 done.
 16 **Q. Okay. I'd like to ask you about some of the mapping**
 17 **questions that came up, and I'm going to take them out of**
 18 **order.**
 19 MR. KISIELIUS: But if I could have that in the meantime?
 20 THE CLERK: Oh, sure.
 21 MR. KISIELIUS: Thanks.
 22 **Q. (By Mr. Kisielius) So first let's go maybe in reverse order**
 23 **and start with one of the ones that Mr. Thaler asked you**
 24 **about. I think he called it a "gotcha," so I want to**
 25 **explore the gotcha here. Can you go back to -- I'm sorry to**

1 think that level -- that generalized level of discussion of
 2 that location-specific impact was appropriate?
 3 A. For a programmatic EIS at this geographic scale, yes, I do.
 4 **Q. Okay. And I want to unpack this a little bit more. I think**
 5 **Ms. Newman's hypothetical had a lot of assumptions, so I**
 6 **want to unpack that a little bit. I think in the version to**
 7 **the right there, she asked you to assume that there was a**
 8 **single-family home, that it was currently zoned neighborhood**
 9 **commercial 40, and that it would be rezoned to neighborhood**
 10 **commercial 65. Does that sound about right?**
 11 A. Yes.
 12 **Q. And I think the assumption even went as far as saying,**
 13 **assume that there are going to be no shading impacts to the**
 14 **downslope property, and that you might not even have shading**
 15 **impacts to downslope property because it was built up to the**
 16 **NC 40, but it would -- I think the words were "block the**
 17 **sun" -- if it went up to 65. Is that (inaudible)?**
 18 A. I believe that's what I heard, yes.
 19 **Q. So that last 15 feet of development potential, what level of**
 20 **site-specific study would be needed to confirm that**
 21 **assumption?**
 22 A. Well, essentially we would have to do a site-specific
 23 shading study, of which I have done a fair number, and we
 24 would essentially have to model the existing building on the
 25 subject property, the existing building on the affected

1 do this to you. You're going to have to toggle between big
 2 chunks of pages. But can you go back to page H-80 -- excuse
 3 me, H-78, H-79, and H-80? Those are the three maps for
 4 Wallingford.
 5 A. Okay.
 6 **Q. Mr. Thaler had you looking at the properties there that went**
 7 **from single family to LR3, and I think it's between sort of**
 8 **that Midvale Avenue, little chunk there, between Stone Way.**
 9 **I want to go back to the earlier alternatives and have you**
 10 **describe how that area changes from alternative 2 to**
 11 **alternative 3, and then ultimately to the preferred**
 12 **alternative.**
 13 A. Okay. So let me just make sure I'm looking at the right
 14 space here.
 15 **Q. If you need help, I can pull it up on this.**
 16 A. I think I've got it. I think so --
 17 HEARING EXAMINER: If you can pull it up and get me on the
 18 right --
 19 MR. KISIELIUS: Sure. Bear with me. Oh, I'm sorry. I'm
 20 waiting for the TV to turn on.
 21 MS. BENDICH: You need to push it in more I think.
 22 THE CLERK: It might not be on.
 23 MR. KISIELIUS: There we go.
 24 MS. BENDICH: Oh, there we go.
 25 MR. KISIELIUS: And I still have to get to the right page

1 here.

2 **Q. (By Mr. Kisielius) Okay. So I'm going to go back to the**

3 **preferred alternative which is the map, Exhibit H-79 on page**

4 **H-80. And I believe Mr. Thaler was asking you about the**

5 **property, if we follow Midvale Avenue down, and in this area**

6 **that goes from single family to LR3.**

7 A. Could you actually scroll up just a little bit more? Sorry.

8 It's kind of cut off for me from back here. Sorry. The

9 other way.

10 **Q. Oh, sure.**

11 A. Thank you.

12 **Q. So looking at this area, LR3, single family to LR3 is an M2**

13 **change, I think is the one he was asking about.**

14 A. Yes, I believe that's correct.

15 **Q. So let's go back. Let's go back two pages to the prefer--**

16 **excuse me, to -- I'll zoom in again. In alternative 1 --**

17 **excuse me, alternative 2, can you tell us what that same**

18 **location is shown as here?**

19 A. It appears alternative 2 would resume that same location

20 from single family to LR1 with an M1 tier suffix.

21 **Q. Okay. And then let's go to the next one, alternative 3.**

22 **Sensitive mouse here. Now, what happens in alternative 3,**

23 **looking at the same area?**

24 (Inaudible colloquy)

25 A. Thank you. It appears to be going from single family to LR3

1 **Q. This is the alternative 2 description.**

2 A. I'm sorry. I'm on the wrong page. 3.123 you said, right?

3 **Q. Correct. Yep.**

4 A. I'm sorry. One second. There we go.

5 **Q. Do you see the Wallingford description?**

6 A. I do.

7 **Q. And can you tell us what it says about impacts of free zones**

8 **of single family to low-rise?**

9 A. So, "Blocks resisting single-family zoning in transition

10 areas at the edges of neighborhood commercial corridors

11 would be changed to low-rise multifamily, resulting in some

12 moderate land use impacts. Impact locations include the

13 south frontage of North 47th Street, west frontage of

14 Meridian Avenue North, the east frontage of Midvale Avenue

15 North, and the west frontage of Interlake Avenue North."

16 **Q. And does that capture some of that area that we just talked**

17 **about, the Midvale area?**

18 A. I believe that does capture some of it.

19 **Q. And is it consistent if it's going -- I think you said, and**

20 **the map went to LR1. Is that consistent -- is that**

21 **description of modern impacts consistent with that change?**

22 A. Yes, because that was an M1 tier suffix.

23 **Q. Okay. Can you turn to page 3.134? This is now alternative**

24 **3. Does the description that a company's -- the second map**

25 **that we looked at -- and again, just to remind us, that was**

1 with an M2 suffix.

2 **Q. What about the geographic boundary of what's being changed**

3 **from single family to LR3? Is it bigger?**

4 A. It is -- it extends farther to the south. Compared --

5 compared to the preferred alternative, it is -- basically

6 extends on a long strip running south all the way to the

7 southern boundary of the urban village.

8 **Q. Okay. And now let's finally go to the preferred alternative**

9 **which is the one that Mr. Thaler asked you about. I think**

10 **you just described it, but --**

11 A. All right. So the difference here is that that northern

12 portion that's kind of tucked up into the corner there by --

13 south of North 45th Street, that's still being rezoned to

14 LR3, similar to alternative 3, but south of North 43rd

15 Street, rather than having that strip that continues all the

16 way down, that area goes back to being zoned LR1, which is

17 consistent with alternative 2.

18 **Q. So now that we've gotten the description on the maps, I'm**

19 **going to ask you to go back to the descriptions of the urban**

20 **villages in the same sequence. And to do that I'm going to**

21 **have to take this off, because this is my notes, and I**

22 **don't -- but I will direct you to some specific pages here**

23 **so you don't have to be digging. Can you start with page**

24 **3.123?**

25 A. Okay.

1 **the change -- included the change to LR3, but relatively**

2 **extensive.**

3 A. Right.

4 **Q. Does that address that?**

5 A. Yes, it does. It states that, "Changes from single family

6 to LR2 and LR3 zones would occur at transitions behind

7 existing neighborhood commercial zones. The area between

8 Stone Way North and Aurora Avenue North would have a high

9 concentration of such changes."

10 **Q. Keep going.**

11 A. Let's see. "While this area is already characterized by a

12 mix of small multifamily and single-family structures, the

13 proposal would create potential for focused significant land

14 use impacts here."

15 **Q. And one more sentence.**

16 A. "Low-rise 2 and low-rise 3 zoning would be located along the

17 frontages of Midvale Avenue North, which has a narrow

18 right-of-way, which could increase the severity of a major

19 land use change due to complications for vehicle circulation

20 and markedly" -- excuse me -- "markedly larger scale

21 buildings."

22 **Q. Okay. Does that reflect the map that you described?**

23 A. I believe it does, yes.

24 **Q. Can you go back now to the paragraph that Mr. Thaler asked**

25 **you about on 3.146, and just read the first sentence?**

1 A. "Similar to alternative 3, all areas of existing
 2 single-family zoning within the urban village would be
 3 changed to low-rise multifamily zones. But in the preferred
 4 alternative, most of these would be LR1 zones."
 5 **Q. So to understand the potential impact, is it helpful to look**
 6 **at all three paragraphs?**
 7 A. Yes.
 8 **Q. And so in that map of the preferred alternative where the**
 9 **scope of that LR3 change decreased significantly, is that**
 10 **consistent with the sentence that describes it as saying,**
 11 **most -- "But the preferred alternative, most of these would**
 12 **be LR1 zones"?**
 13 A. Yes.
 14 **Q. Go to a couple more map questions. So let me ask you, just**
 15 **to be very clear, do you think that there was an error in**
 16 **the text or the associated maps?**
 17 A. No. I think this is -- again, I think it was just simply
 18 that that area -- that sentence that I read previously, that
 19 was specifically to those -- that was trying to get more at
 20 the issue of the LR2 zones that were in proximity to the
 21 open -- the open space areas, and -- and those public
 22 spaces. It was not necessarily an error that the LR3 zone
 23 was not specifically mentioned there, because as you said,
 24 it's helpful to read those paragraphs in conjunction and to
 25 sort of follow the thread of how the alternatives change

1 **Q. Okay. And I'm going to zoom out here for a second. And do**
 2 **you recognize Ravenna-Cowen Park South there?**
 3 A. Let's see. Yes, I can see that.
 4 **Q. Okay. Ms. Newman asked you a couple questions about not**
 5 **just what is the zoning, but what do you know about what's**
 6 **there on the ground. And so can you explain, first and**
 7 **foremost, whether or not the existing land use condition is**
 8 **described in the EIS for the 2035 -- Seattle 2035, the comp**
 9 **plan?**
 10 A. Yes. That EIS contains a map of existing land use
 11 categories for every property in the city.
 12 **Q. And so let's then turn -- I think she asked you whether**
 13 **there was more specific text describing this area in the**
 14 **EIS. And I know you were put on the spot, but I'm going to**
 15 **ask you to turn to page 3.134. Actually, it starts on**
 16 **3.133.**
 17 A. Under the Roosevelt heading?
 18 **Q. Yes. Do you see the sentence that begins -- and it's the**
 19 **very end of 3.133, "In areas including"?**
 20 A. Yes. "In areas including blocks north of Ravenna Park and
 21 blocks north of Roosevelt High School, zoning changes to
 22 low-rise 1 and 2 zones have potential for significant land
 23 use impact due to the existing condition of consistent
 24 established architectural and urban form character."
 25 **Q. And is this area north of the park, would you include that**

1 from one to the other, especially with the preferred
 2 alternative, since that is developed after the initial
 3 review and after comments have been received and the City's
 4 had a chance to revisit some of the issues raised in the EIS
 5 analysis.
 6 **Q. Okay. I'm now going to load up this web view to ask you**
 7 **about a couple of the specific properties that Ms. Newman**
 8 **asked you about. Let's see if I can get this in here. I'll**
 9 **try to do this without my notes. So Ms. Newman first**
 10 **started off with this property on 22nd Avenue Northeast.**
 11 **And so first and foremost, if you -- I think we had talked**
 12 **about there being some more information for the areas that**
 13 **are shaded. I think the question was raised, how do you**
 14 **know what the existing zoning is for areas like this**
 15 **property that you started with outside of the colored areas.**
 16 **Can that be derived from clicking on the current zoning for**
 17 **the same location?**
 18 A. Yes, it can.
 19 **Q. Can you explain how, if we're looking at this parcel right**
 20 **here?**
 21 A. So basically you've -- essentially, just by reading the
 22 color that it's shaded, and then looking at -- in the legend
 23 that pops up right there. So you can see that that area is
 24 shaded a light yellow color. That corresponds to the
 25 single-family category in the legend.

1 **as part of the existing condition description that's noted**
 2 **there?**
 3 A. Yes.
 4 **Q. How about 3.145? And, again, I think we're toggling between**
 5 **different descriptions of the neighborhood between the**
 6 **alternatives.**
 7 A. Yes. This is, I believe, the preferred alternative.
 8 **Q. So do you see in that same paragraph discussion of areas**
 9 **north of Ravenna Park with established urban forms and**
 10 **architectural character?**
 11 A. Yes. This paragraph's comparing the preferred alternative
 12 to alternative 3. It begins with the statement talking
 13 about their similarities, and then qualifies that by
 14 stating, "However, the preferred alternative would convert
 15 some single-family zones near the edges of the village to
 16 residential small lot zoning which would provide a more
 17 gradual transition to areas outside the village and reduce
 18 impacts to areas north of Ravenna Park or Roosevelt High
 19 School which have established urban forms and architectural
 20 character.
 21 **Q. Okay. Bear with me. I need to check my notes again. I**
 22 **apologize. The problem with going high tech. Okay. And**
 23 **then let's look at -- she also asked you about -- I have a**
 24 **property address here. She asked you about something nearby**
 25 **that was zoned neighborhood commercial. And I believe the**

1 in each urban village, those are the ones that we felt rose
2 to the level of significance that they needed to be
3 addressed, or where one alternative potentially created an
4 impact on those spaces, and wanted to -- we wanted to make
5 sure that we clarified in the other alternatives how those
6 alternatives affected that same feature. It was not
7 necessarily intended to be an exhaustive list.

8 So the generalized approach that we included in there
9 also essentially to say that when you're looking at the
10 maps, the areas that fit those zoning -- fit that zoning
11 pattern -- so if it's making a change from this to this, and
12 if there is a particular site-specific factor present, then
13 these are the types of impacts that you could expect.

14 **Q. Okay. Let's talk briefly about I think two of the other**
15 **EISs that Ms. Newman asked you about. I believe they were**
16 **marked as Exhibit 306 and 307. And you probably don't have**
17 **that written down. So 306 is the U District one.**

18 A. U District. Okay.

19 **Q. And 307 is the Uptown one. Ms. Newman asked you to compare**
20 **the land use and the aesthetic impact analyses in each of**
21 **these. You started to describe some of the differences. I**
22 **may want to start with some of the common elements. So can**
23 **you start with -- in both of these, you describe the**
24 **affected environment. So that's 3.1.1 of each of them.**

25 Earlier you had testified that you relied on the

1 I think here now I'm talking about the aesthetic chapter --
2 some photographs depicted on 3.3-4 and 3.3-5 of the U
3 District one, I'm sorry.

4 A. Correct. I've got that.

5 **Q. Yeah. So how many pictures are here?**

6 A. On 3.3-4, there are three photographs. And on 3.3-5, also
7 three.

8 **Q. And does it show the entirety? Does it have a photograph of**
9 **the entirety of the study area?**

10 A. No, it doesn't. It includes a fair chunk of the -- but it's
11 focused around -- specifically around University Way
12 Northeast, I believe.

13 **Q. Okay. Sorry I'm jumping around here, but going back to the**
14 **land use chapter and the analysis, does that also have --**
15 **both of these, do they have -- do they depict land use**
16 **composition acreages by category?**

17 A. I'm sorry. Are you referring to the U District's EIS?

18 **Q. Either one. U District and Uptown.**

19 A. Yes, they do -- they do both break down for each of their
20 subareas and for the study area as a whole, the land use
21 acreages by category, looking at different types of
22 residential development, commercial development, industrial.

23 **Q. And did the MHA EIS do that as well?**

24 A. The MHA EIS again referred to the Seattle 35 -- Seattle 2035
25 Comp Plan EIS, which did do that, yes.

1 characterization of the affected environment that was
2 included in Seattle 2035 EIS, which is Exhibit 4. Can you
3 describe -- and you might have to toggle between them, but
4 if you wanted to look at Exhibit 4 and the discussion of the
5 affected environment, can you describe whether that's
6 comparable to the level of information that's included
7 there? Does it, for example, include a map showing existing
8 land uses?

9 A. Yes, it does. So the Seattle 2035 Comp Plan EIS includes a
10 breakdown of the existing land use distribution citywide in
11 terms of the various land use categories. It also provides
12 a map of the existing land use categories across the city.
13 And then it begins a discussion of the various urban centers
14 and urban villages, including the two subtypes of urban
15 village, the hub urban villages and the residential urban
16 villages, and offers a breakdown of the land use acreage in
17 each of -- in each of those categories as well.

18 And so in that sense -- and it also provides a map of
19 the comprehensive plan future land use map as it existed at
20 that time. So in that sense, it's actually quite similar to
21 the Uptown and U District EISs in providing that same sense
22 of here's a map of the existing uses, and here's a breakdown
23 of acreages and how they're distributed.

24 **Q. Okay. And focusing again -- well, let's look at, more**
25 **specifically, the U District. Ms. Newman had identified --**

1 **Q. Okay. And, again, before we get into the differences, can**
2 **you please -- are there other elements I guess in terms of**
3 **the general approach or specific things you did that you**
4 **found comparable that you wanted just to highlight there?**

5 A. I think that, again, in terms of the -- in terms of the land
6 use analysis -- I'll take a look at -- sorry, just one
7 moment here. So in terms of the organization of the impact
8 analysis, I think that all three of these EISs follow a
9 relatively similar pattern in terms of setting up sort of a
10 general -- general discussion of impacts that are going to
11 be common to all the alternatives, then looking at the
12 different subareas within those and calling out factors that
13 are specific to those locations. Again, in a relatively
14 generalized way.

15 And talking about, again, the -- sort of the land use
16 kind of in aggregate, and approaching it from that
17 standpoint. Aesthetics, I believe, also follows a similar
18 pattern of identifying -- basically kind of walking through
19 those same topics in terms of, you know, height/bulk scale,
20 shading and shadow and that sort of thing. But I think --

21 **Q. I'm sorry. I didn't mean to interrupt you.**

22 A. No. No. That's -- that's fine. I was -- that's about all
23 I -- all I had to say on that.

24 **Q. So I want to then ask you about the differences now. You**
25 **started to describe -- I think Ms. Newman asked you more**

VOLUME 19

SEPTEMBER 7, 2018

Hearing - Day 19

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

September 7, 2018



206.287.9066 | 800.846.6989

1325 Fourth Avenue, Suite 1840, Seattle, Washington 98101

www.buellrealtime.com

email: info@buellrealtime.com



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 19 - September 7, 2018
Heard before Hearing Examiner Ryan Vancil

Transcribed by: Bonnie Reed, CET
Court-Certified Transcription

APPEARANCES

On Behalf of Respondent City of Seattle:
TADAS KISIELIUS
JEFF WEBER
Seattle City Attorney's Office
701 Fifth Avenue, Suite 2050
Seattle, Washington 98104-7097

APPEARANCES

On Behalf of Appellant Fremont Neighborhood Council:
TOBY THALER
Attorney at Law
Post Office Box 1188
Seattle, Washington 98111-1188
On Behalf of Appellant Friends of Ravenna-Cowen:
JUDITH BENDICH
Attorney at Law
1754 Northeast Sixty-Second Street
Seattle, Washington 98115-6821
On Behalf of Appellant Seattle Coalition for
Affordability, Livability & Equity:
CLAUDIA NEWMAN
Bricklin & Newman, LLP
1424 Fourth Avenue, Suite 500
Seattle, Washington 98101-2258

EXAMINATION INDEX

WITNESS: PAGE:
RICHARD WEINMAN
Direct Examination (continued) by Mr. Weber..... 6
Cross-Examination by Mr. Bricklin..... 49
Cross-Examination by Thaler..... 81
Examination by Hearing Examiner..... 88
Redirect Examination by Mr. Weber..... 97
TALIS ABOLINS
Rebuttal Examination by Mr. Thaler..... 107
Cross-Examination by Mr. Kisielius..... 109
Cross-Examination (continued) by Mr. Kisielius..... 123
DAVID WARD
Rebuttal Examination by Ms. Bendich..... 112
Rebuttal Examination by Mr. Bricklin..... 119
Cross-Examination by Mr. Kisielius.....
ROBERT FELDSTEIN
Rebuttal Examination by Mr. Thaler..... 125
BILL REID
Rebuttal Examination by Mr. Bricklin.....

WEINMAN, Richard

Page 5

EXHIBIT INDEX

NO.	DESCRIPTION	MARKED	ADMITTED
308	Weinman Resume	10	11
309	Email	110	125
310	List of Homes Over 75 Years Old	113	119
311	Email	123	125
312	Actions to be Taken After HALA Recommendation	126	128
313	Document from HALA Committee	130	132
314	Memo	132	///
315	Policy Analysis and Consideration	135	///
316	Mandatory Housing Affordability For Residential Development ORD	145	147
317	List of Libraries in City of Seattle	171	

Page 7

1 A. Good morning.

2 **Q. Could you begin by stating your profession?**

3 A. Yes. I've worked as a land use and environmental consultant

4 since 1979, almost 40 years. The focus of my practice has

5 been on land use planning, permitting and SEPA/NEPA

6 compliance.

7 **Q. Can you briefly describe your educational background and**

8 **training?**

9 A. I have a bachelor's degree in English from New York

10 University, a masters degree in English from Brandeis

11 University, a JD from UPS, Seattle University School of Law.

12 I have a certificate in mediation from University of

13 Washington School of Law. I am licensed as an attorney, but

14 I do not practice law.

15 **Q. Where are you currently employed?**

16 A. I currently have a solo land use and environmental

17 consulting practice which I started in 2006 after working in

18 a 15-person firm doing the same type of work, named Tucker

19 Weinman & Associates, which is located in Kirkland. I was

20 at that firm for 20 years.

21 Prior to that -- I've been consistently involved in the

22 land use arena since 1979. I published a land use

23 newsletter for a while. I actually started as the director

24 of a nonprofit doing land use research on growth management

25 programs and regulatory programs.

Page 6

1 -o0o-

2 September 7, 2018

3

4 HEARING EXAMINER: Good morning.

5 MS. BENDICH: Good morning.

6 HEARING EXAMINER: Continuing the hearing on this Friday,

7 September 7th, with presentation from the City's next

8 witness.

9 MR. WEBER: Thank you. The City calls Richard Weinman.

10 HEARING EXAMINER: Please state your name and spell it for

11 the record.

12 THE WITNESS: Richard Weinman, R-I-C-H-A-R-D,

13 W-E-I-N-M-A-N.

14 HEARING EXAMINER: Do you swear or affirm that the

15 testimony you provide in today's hearing will be the truth?

16 THE WITNESS: I do.

17 HEARING EXAMINER: Thank you.

18

19 RICHARD WEINMAN, Witness herein, having first been

20 duly sworn on oath, was examined

21 and testified as follows:

22

23 DIRECT EXAMINATION

24 BY MR. WEBER:

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

Page 8

1 **Q. I'm going to ask you to briefly describe your prior**

2 **experience working on preparing a review and EISs.**

3 **Have you been involved in preparing EISs other than this**

4 **one, and how many?**

5 A. Yes. About 75 percent or so of my work as a consultant over

6 this almost 40-year period has involved review and/or

7 preparation of EISs. I don't have an exact count, but I've

8 worked on over 200 EISs on a wide variety of both project

9 and non-project actions.

10 **Q. Can you describe some of those EISs?**

11 A. Yeah. Starting with the projects, they've addressed just

12 about every type of development type, ranging from big ugly

13 infrastructure projects and light rail, road projects,

14 Seattle monorail, to all sorts of development, including

15 shopping centers, master plan development projects, resorts

16 and communities, mining projects, wind farms, prisons,

17 hospitals, schools, just about -- mixed used developments,

18 brownfield new development, just about every type of

19 project.

20 **Q. In what capacity were you involved?**

21 A. I have worked as project manager managing the preparation of

22 the document and the consultant team. I do some technical

23 analysis, most typically on land use and policy-related

24 issues. I -- sometimes I wear multiple hats on the same

25 project; sometimes I'll have a more focused role than just

1 do one part of it.

2 **Q. So let's now focus on non-project actions. Of your**

3 **experience with EISs, were any for non-project actions other**

4 **than this one?**

5 A. Yes. I have pretty substantial experience on non-project

6 EISs. It's been a focus and interest of mine since the

7 mid-80s. I've spoken and written on the project of

8 pragmatic EIS analysis. I've done at least 50 non-project

9 EISs, and these are documents I was involved in directly

10 managed and/or, you know, wrote and edited. They include,

11 you know, regional, countywide, citywide projects, mostly

12 comprehensive plans and land use actions, subarea plans and

13 area zoning.

14 **Q. And can you give us a sense of how big the study areas were**

15 **for these?**

16 A. The study areas have ranged from a low of about 12 acres for

17 the north city business district in Shoreline to a million

18 and a half acres for several counties, with a number of

19 subarea plans ranging from 35,000 acres to 75,000 acres.

20 And those all involved area wide rezonings as well.

21 **Q. Can you describe the capacity in which you've been involved**

22 **in these non-project EISs?**

23 A. I've been involved as a project manager, as a principal

24 analyst, writer and/or as an editor. More recently, over

25 the past five years in particular, since a serious

1 (Exhibit No. 308 is admitted into evidence.)

2 **Q. (By Mr. Weber) So turning to this EIS, what was your role**

3 **in this EIS? What were your responsibilities?**

4 A. My role was to provide support to the consulting team and

5 the city staff on SEPA-related issues as they came up.

6 Again, not providing legal advice. I was involved in

7 helping to craft, articulate the EIS alternatives. I --

8 although it was not my -- part of my initial scope, I was

9 involved in reviewing, commenting, editing individual

10 sections of the EIS and I provided responses -- for the

11 final EIS, I provided responses to selected comments.

12 Basically, I was there to do whatever I was asked to do. I

13 did not have a specific technical role in the document,

14 though.

15 **Q. So have you been present for witness testimony in this**

16 **appeal, and can you tell us which witnesses you either**

17 **listened to or reviewed the testimony of?**

18 A. Yes. I reviewed the transcript of the testimony of David

19 Sherrard, Mr. Levitus, and Mr. Steinbrueck and community

20 attributes, Chris Mefford. I was present for the hearing

21 from August 22nd through 24th. So I did hear the testimony

22 of Katie and Paula from ESA, Geoff Wentlandt for -- Rick

23 Jacobus, Emily Alvarado and a portion of Kevin -- the

24 housing specialist, yeah.

25 **Q. Okay. So turning to the proposal, just to get us on the**

1 automobile accident, I've tried to focus a little more.

2 I've left the -- I have (inaudible) two others and have

3 focused more on providing strategic advice, doing document

4 review and acting as a resource to public agencies primarily

5 on SEPA compliance. Not giving legal advice, but sharing

6 practice advice as to how to approach analysis and prepare a

7 document.

8 **Q. And have you been involved in non-project EISs for the City**

9 **of Seattle other than this one?**

10 A. Yes. I've been involved in the -- let's see, the U District

11 rezone, the Comp Plan 2035 EIS, Northgate Rezone EIS,

12 Northgate transportation program, and I think there's one

13 more. There might be one more, but I think that's it.

14 **Q. So I've got binder 7 there. If you could turn to Tab 79.**

15 MR. WEBER: If we could have that marked, please.

16 HEARING EXAMINER: That will be marked as 308.

17 (Exhibit No. 308 is marked for identification.)

18 **Q. (By Mr. Weber) Do you recognize that document?**

19 A. Yes, that looks like my resume.

20 **Q. Does that accurately reflect your educational background and**

21 **professional training and experience?**

22 A. Yes, it does.

23 MR. WEBER: Could I move to admit Exhibit 308?

24 MS. BENDICH: No objection.

25 HEARING EXAMINER: 308 is admitted.

1 **same page, can you briefly summarize your understanding of**

2 **the key elements of this proposal?**

3 A. The key elements are to produce 6,200 units of affordable

4 housing through a program that upzones in selected areas,

5 primarily in urban villages, in exchange for the provision

6 of affordable housing either onsite or near the site or

7 through payment of a fee. There was some other elements of

8 the proposal that involved modifications to the (inaudible)

9 of the zoning code and to revision of some subarea plan

10 policies.

11 **Q. So do you recall Mr. Wentlandt's testimony about the origin**

12 **of the proposal and can you summarize who established the**

13 **key elements of the proposal as you've just laid it out?**

14 A. Well, the City established the key elements based on about

15 five years of history of planning and enactments by the city

16 council. It included the HALA process, council adoption of

17 a resolution providing direction for an affordable housing

18 program, and a framework ordinance that provided for the

19 direction.

20 **Q. So based on your experience, does that series of statements**

21 **and enactments, including through legislation, circumscribe**

22 **the alternatives that must be considered in the EIS?**

23 A. Yes, it definitely does. The rules state pretty clearly,

24 I'm just, you know, restating what they say, is that

25 alternatives should consider prior planning that has

1 occurred for the proposal. In my experience, you don't go
 2 back to square one, you pretend that there's a blank slate
 3 and that no one has thought about or, you know, conceded any
 4 of the elements of the proposal. You start from where you
 5 were at the time and incorporate, you know, the planning
 6 processes and consideration that has taken place already.

7 **Q. So have you reviewed the objectives as they're stated in the**
 8 **EIS?**

9 A. Yes, I have.

10 **Q. And are those objectives consistent with the proposal as it**
 11 **came out of that series of enactments?**

12 A. Yes, I think I can trace those objectives directly back
 13 through the council resolution and the framework ordinance
 14 and the HALA process.

15 **Q. So I want to talk about alternatives. We've heard a lot of**
 16 **testimony about the range of alternatives. So were you**
 17 **involved in the formulation of the alternatives in this EIS?**

18 A. Yes, I was.

19 **Q. And were you present for Mr. Wentlandt's testimony about the**
 20 **range of alternatives?**

21 A. Yes, I was.

22 **Q. So do you agree with his testimony that the alternatives**
 23 **differ in the intensity and location of development capacity**
 24 **increases?**

25 A. Yes, they definitely do.

1 alternatives definitely attests to that.

2 Another important policy issue to the City and objective
 3 of the proposal and alternatives is to test the effects of
 4 the alternatives on equity and displacement. I think that's
 5 embedded in the alternatives as well. So it certainly seems
 6 reasonable to include, you know, major city policies as
 7 drivers of EIS alternatives.

8 **Q. So in your opinion, does the EIS contain a reasonable range**
 9 **of alternatives? And if so, why?**

10 MR. BRICKLIN: Objection; calls for a legal conclusion.

11 MR. WEBER: Well, I would say he's got extensive
 12 experience and he's not rendering a legal judgment, he's
 13 simply saying whether in his opinion, having done over 200
 14 EISs, this is a reasonable approach.

15 MR. THALER: And I would add he said twice that he's not
 16 giving legal advice to the City.

17 HEARING EXAMINER: So the question was whether the range
 18 of alternatives was reasonable. Is that the conclusion you
 19 believe that the hearing examiner needs to reach, and that's
 20 what the objection is based on?

21 MR. BRICKLIN: Yes. And more specifically whether
 22 reasonable alternatives were omitted from the analysis.

23 HEARING EXAMINER: Sustained.

24 **Q. (By Mr. Weber) So just to go back to the alternatives for a**
 25 **bit. Do you think these alternatives produced different**

1 **Q. In your experience is that an accepted and reasonable basis**
 2 **for creating meaningful alternatives?**

3 A. It's certainly acceptable and reasonable. And in my
 4 experience, that is a very typical issue to include in
 5 alternatives or, you know, to use as a driver of the
 6 alternatives to show different results on those issues
 7 through alternatives.

8 **Q. How much flexibility does the City have in deciding the**
 9 **bases on which to differentiate alternatives?**

10 A. Significant flexibility. I mean, just based on the language
 11 of the rules. And the City gets to identify the objectives
 12 of the project and it gets to specify the alternatives. I
 13 mean, there are constraints based on other provisions of the
 14 SEPA rules but within that area, they have very broad
 15 flexibility.

16 **Q. And after you reviewed the EIS and the testimony, was the**
 17 **City's approach to differentiating the alternatives and the**
 18 **bases on which it differentiated the alternatives a**
 19 **reasonable approach?**

20 A. Absolutely. I mean, the -- I think those bases come
 21 directly from the comprehensive plan as well as from the
 22 objectives and the council's resolution. I mean, the growth
 23 strategy, you know, really suggests that most development
 24 should be located -- or the majority of development --
 25 should be located in urban centers, and I think one of the

1 **results that can inform decision makers about their options**
 2 **in this situation?**

3 A. Yes. They produce different outcomes in terms of important
 4 policies. In my experience, the differences between
 5 alternatives in an EIS do not need to be dramatic, they
 6 don't need to be completely different; they need to be
 7 different enough so they show a difference in the outcome.
 8 They don't need to produce different results for every
 9 element of the environment. They need to show some
 10 difference that provides information to the decision maker
 11 to help them make a decision. I mean, that can be a broad
 12 range of difference, it can be a narrow range of difference.
 13 I mean, there is -- to make an analogy to a project EIS
 14 situation, there's a type of alternative that's referred to
 15 as a design alternative, whereby a design element or one or
 16 a few significant elements of a proposal will be varied to
 17 show an outcome to help people see what the difference would
 18 be if it went in a different direction or if different
 19 mitigation measures were applied. And I think the
 20 difference between the alternatives here is sort of in that
 21 direction. I mean, again it's not dramatic but it is
 22 significant and shows a difference.

23 **Q. So a number of the appellate witnesses suggested that the**
 24 **EIS needed to consider alternatives that did not involve**
 25 **development capacity increases. In your opinion did the EIS**

1 **you feel that the assumption made in the EIS as to the**
 2 **distribution of the payment units was an appropriate one?**
 3 A. Yes, I do. I mean, the Office of Housing first of all
 4 follows a set of policies established by the City Council
 5 that helps them identify locations for projects. And the
 6 office has history to rely on to show that there has not
 7 been a concentration in particular areas. I mean, to me
 8 that would have been a Chicken Little kind of alternative
 9 that would be intentionally -- you know, it would be
 10 intended to show that there would be a concentration that,
 11 you know, produces additional impacts. And I think that
 12 would be entirely, you know, speculative and, you know, just
 13 kind of oriented to proving a point, not based on, you know,
 14 history or policy.
 15 **Q. So could the City nonetheless have chosen to pursue an**
 16 **approach where onsite performance was more strongly favored**
 17 **or where the payment units were distributed differently?**
 18 A. It could have.
 19 **Q. Was the City required to include such an alternative?**
 20 A. I don't believe so.
 21 **Q. Would your answer be the same even if such an alternative**
 22 **was better in achieving the equity objective than the**
 23 **proposal?**
 24 A. Yes. I don't know of anything that requires one to identify
 25 the best, you know, alternative. You're definitely trying

1 the decision maker to see, to consider and to apply to the
 2 proposal as he or she sees fit. I mean, I don't see a
 3 reason to, you know, also, you know, make that a specific,
 4 you know, purpose or driver of the basic alternatives in the
 5 draft EIS.
 6 **Q. So Mr. Sherrard expressed a view that the SEPA rules did**
 7 **require EIS alternatives to be designed around specific**
 8 **types of environmental impacts. Do you agree with his view**
 9 **of the SEPA rules?**
 10 A. No. Mr. Sherrard is actually a long-time colleague, but I
 11 think in this instance, he has either misread or misquoted
 12 the rule. I have a copy of the rules -- this is my own copy
 13 without any notes in it. I have four tabs that tabs that
 14 sections that I think I'm likely to be asked about today to
 15 refer to, and that is one of them. That is Section
 16 197-11-792, which is the specific section that he misquoted
 17 which reads -- let me just find it now -- okay. This is
 18 197-11-792(2)(b), which is talking about alternatives. It
 19 says: "Alternatives may be: One, no action; two, other
 20 reasonable courses of action; or, three, mitigation measures
 21 not in the proposed action." I think Mr. Sherrard was
 22 misquoting or misreading the "or" as an "and." So I think
 23 this says that you have the option of including mitigation
 24 measures in -- rather, including mitigation measures in the
 25 alternative or not.

1 to find ways to enhance or approve a proposal. But I don't
 2 know that a search for the best, you know, is really an
 3 objective of SEPA.
 4 **Q. So a number of appellate witnesses suggested that the EIS**
 5 **was inadequate because it, in their view, did not include**
 6 **alternatives that were specifically designed to reduce or**
 7 **minimize impacts of certain types, for example, historic**
 8 **preservation.**
 9 **In your experience do non-project EISs typically include**
 10 **alternatives that are designed around each of the various**
 11 **types of impacts evaluated in such an EIS?**
 12 A. No. I think that would be a very, you know, cumbersome and
 13 redundant approach to, you know, initially forming
 14 alternatives. Later on in the process -- and this was true
 15 in the final EIS, the City used the information in the draft
 16 EIS about impacts to some elements of the environment, to
 17 modify its proposal and come up with a new preferred
 18 alternative that was specifically, you know, molded to
 19 address some impacts to critical areas and, I believe, to
 20 historic resources.
 21 But as far as using that as a way to, you know, articulate
 22 alternatives either, you know, from the get-go or in
 23 general, I don't think that's either required or
 24 particularly helpful. I mean, mitigation measures are there
 25 in the document in a section labeled Mitigation Measures for

1 **Q. So we talked a little bit about the bases on which the City**
 2 **differentiated the action alternatives. Could there have**
 3 **been different approaches that the City chose other than the**
 4 **ones it did?**
 5 A. Sure.
 6 **Q. Was it required that the City take a different approach?**
 7 A. No, not at all. Basically the City has wide latitude in the
 8 range of alternatives that it selects as long as it's
 9 consistent with other requirements of SEPA.
 10 **Q. So turning to another issue that the appellants raised.**
 11 **There was suggestion that the development capacity increases**
 12 **could have been allocated in a different way in different**
 13 **alternatives.**
 14 **Could the City have taken a different approach on how it**
 15 **allocated the development capacity increases?**
 16 A. Yeah, it may have. First of all, it did allocate
 17 development capacity increases differently, you know,
 18 between the two program alternatives. And yeah, there were
 19 probably a lot of different ways that it could have. I
 20 think the way that it did do it was based on legitimate
 21 considerations of adopted city policy. One is the way --
 22 MS. BENDICH: Objection as going beyond the scope of the
 23 question.
 24 MR. WEBER: Well, I can rephrase.
 25 **Q. (By Mr. Weber) Actually, I think you've answered the**

1 question.

2 A. Yeah.

3 **Q. I don't think we need to go further with that.**

4 **So we've talked a lot about the appellant's arguments**

5 **about alternatives. And I guess I want to ask you in the**

6 **aggregate having listened to those arguments, would you**

7 **characterize them as arguments about the adequacy of the**

8 **alternatives or arguments about the wisdom of the proposal?**

9 A. I definitely think it's the latter. I mean, I think they do

10 not like the approach that the City is taking, and this is

11 my impression from reading the transcripts and based on the

12 types of issues that they are focused on. They don't like

13 the proposal; they think the City should have gone down a

14 different road. And they are focusing on the metrics of the

15 program or the way that other jurisdictions across the

16 country have approached affordable housing programs and, you

17 know, I think their preference is -- policy preferences for,

18 you know, those approaches permeate their -- you know, their

19 testimony. I think they've wrapped them up as if they are,

20 you know, SEPA issues, but I don't interpret them that way.

21 **Q. So turning to a different subject, the level of specificity**

22 **of the analysis in the EIS. First, there's been testimony**

23 **about the level of sufficiency of the description of the**

24 **proposal and specifically concern expressed about the fact**

25 **that not all amendments to the comprehensive plan and**

1 A. I believe it was.

2 MR. BRICKLIN: Objection; calls for a legal conclusion.

3 MR. WEBER: I think he's already answered.

4 HEARING EXAMINER: I agree.

5 **Q. (By Mr. Weber) Is there sufficient information here to**

6 **inform the decision makers of the potential impacts of the**

7 **proposal?**

8 A. I think there is.

9 **Q. Is the level of analysis in the EIS comparable to what**

10 **you've seen for similar non-project actions?**

11 A. It's at least comparable and in several cases, specifically

12 the growth -- the equity analysis, it's much more detailed

13 than anything I've seen -- either produced myself or seen in

14 a non-project EIS, and it's more detailed than what I've

15 seen in most project-level EISs that have dealt with housing

16 issues.

17 I've worked on several project-level EISs for Hope 6

18 housing redevelopment projects where the displacement of low

19 income populations was a significant issue. And nothing

20 I've seen done in that (inaudible) either by myself or by

21 others is anywhere near as detailed as was in the MHA EIS.

22 **Q. If you had thought that the analysis of a particular impact**

23 **should have been more detailed or was not sufficiently**

24 **thorough, would you have made that comment to the chapter**

25 **authors?**

1 **development regulations were listed in detail.**

2 **In your opinion, did you have sufficient information to**

3 **analyze the impacts of the proposal even if you did not have**

4 **specific mandatory language for every proposed amendment to**

5 **the comprehensive plan or development regulations?**

6 A. Yes, definitely.

7 **Q. And is it typical for an EIS to be conducted with the level**

8 **of detail on those scores that you had here?**

9 A. It's quite common for the analysis to be based on very

10 general information. I mean, I have done -- it's very

11 common -- and I can use the comprehensive plan, EIS as an

12 example and the University District EIS as an example -- to

13 prepare non-project EISs without specific mandatory code

14 language, just to use a bullet list or description of the

15 direction that policy is going in or the kinds of changes

16 that would occur. I mean, it's very, very common for the

17 specific legislative document, you know, to not be produced

18 until after the SEPA process is essentially finished and a

19 proposal actually gets into the legislative hearing process.

20 That's been the case on numerous non-project EISs that I've

21 worked on.

22 **Q. So there's also been testimony about the level of**

23 **sufficiency of the impact analysis. Based on your role in**

24 **reviewing sections of this EIS, do you believe that the**

25 **impact analysis was sufficient for a non-project action?**

1 A. I would have and I did in fact. I mean, I was asked to

2 review most of the -- much of the initial drafts of the EIS

3 and I made copious margin notes, not just editorial notes

4 but substantive comments where I thought detail was lacking.

5 **Q. So I want to look at a specific example on this score. So**

6 **I'm going to hand you what is already in the record as**

7 **Hearing Examiner Exhibit 238.**

8 MR. WEBER: I have a copy for the Examiner, if you'd like.

9 HEARING EXAMINER: It's already an exhibit.

10 MR. WEBER: Okay.

11 HEARING EXAMINER: I don't know if there was a question.

12 MR. WEBER: What's that?

13 HEARING EXAMINER: I don't know what you're referring to.

14 Is this already an exhibit?

15 MR. WEBER: Yes. This is already -- this is Hearing

16 Examiner Exhibit 238.

17 **Q. (By Mr. Weber) So, Mr. Weinman, if you could turn to page 4**

18 **of this document. In the right-hand margin there's a**

19 **comment that is designated RW3.**

20 **Is that a comment that you recovered in a draft of the**

21 **historic resources analysis?**

22 A. Yes, it is.

23 **Q. Can you briefly describe the substance of your comment?**

24 **What was the purpose of this comment?**

25 A. Yeah. So the analysts had identified a metric, an amount of

1 THE WITNESS: My name is Peter Steinbrueck. P-E-T-E-R.
2 Steinbrueck, S-T-E-I-N-B-R-U-E-C-K.

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

6 THE WITNESS: I do.

7 HEARING EXAMINER: Thank you.

8
9 PETER STEINBRUECK: Witness herein, having first been
10 duly sworn on oath, was examined
11 and testified as follows:

12
13 DIRECT EXAMINATION

14 BY MR. BRICKLIN:

15 Q. Well, good morning, Mr. Steinbrueck.

16 A. Good morning.

17 Q. Would you tell the hearing examiner a little bit about your
18 background?

19 A. Sure. First of all, let me say, I'm honored to be here, and
20 I'm here for the good of the city, as I know everyone in
21 this room is, and for the unique and diverse neighborhoods
22 and communities throughout the city. It is my honor. So I
23 called -- to be called upon as an expert witness. And I
24 believe that there's a lot at stake here for the future of
25 the city.

1 I am a licensed architect. I'm a member of the College
2 of Architects of the United States. I am a LOEB fellow with
3 Harvard University Graduate School of Design where I devoted
4 a year to self-study of urban environmental issues, policies
5 and strategies. I am a consultant under Steinbrueck Urban
6 Strategies, specializing and focusing on land use
7 development, comprehensive and neighborhood planning, and
8 urban environmental strategies. I'm a member -- elected
9 member of the Seattle Port Commission, elected this year --
10 or in the -- last year.

11 I served on the Seattle City Council for 10 years. I
12 served as Council president for two. I also chaired the
13 Land Use Development and Urban Planning Committee for four
14 years and oversaw the entire portfolio of the city's
15 comprehensive planning process and land use regulation
16 development standards.

17 Q. When you were on the -- what years were you on the City
18 Council, did you say?

19 A. I served on the City Council from 1997 through 2007.

20 Q. And were you involved with the City Council's Land Use
21 Committee at that time?

22 A. I chaired the Land Use Committee. Land Use and Development,
23 which also included comprehensive planning. I should
24 mention also, I've been a consultant directly to the City of
25 Seattle, former Department of Community -- of DCD, Community

1 Development -- Construction and Development, excuse me, now
2 OCBD, and divided. And I don't know if you want to
3 continue. I --

4 Q. Please.

5 A. I conducted several studies on behalf of the city, including
6 background -- two background reports for the 2035 Seattle
7 Comprehensive Plan, the 19 -- excuse me, 2015 Seattle 2035
8 Urban Village Study, which I have a copy of here, a
9 non-redacted copy, I should say. I also had conducted a
10 extensive study that was unique and innovative in the United
11 States, called the Seattle Sustainable Neighborhoods
12 Assessment Project in 2014.

13 Q. And this was what you did for the City of Seattle?

14 A. That's correct. I've also done preservation studies for the
15 city, and -- and in other areas, yeah, so --

16 Q. All right. Let me hand you --

17 MR. BRICKLIN: I'm not sure how to handle exhibits.

18 Probably to the clerk and same copy to you. This is his
19 resumé. It was Exhibit 21 on our list.

20 (Exhibit No. 6 marked for identification.)

21 Q. (By Mr. Bricklin) Mr. Steinbrueck, I'm handing you a copy of
22 what's been marked for identification as Exhibit 1 --

23 HEARING EXAMINER: 6.

24 Q. (By Mr. Bricklin) Or, no, 6. I'm sorry. 6. Do you
25 recognize this document?

1 A. I certainly do.

2 Q. And what is it?

3 A. It is my curriculum vitae 2018 entailing writings,
4 publications, speaking panels, jury presentations, et
5 cetera.

6 Q. Is that accurate and reasonably complete?

7 A. I would say it's all accurate, but not comprehensive nor
8 complete.

9 Q. All right. Fair enough. You have a long and distinguished
10 career, I know. Yes, it's hard to encapsulate on two pages.
11 All right.

12 MR. BRICKLIN: And how do you want us -- do you want us to
13 move the admission of each exhibit as we go, or --

14 HEARING EXAMINER: Yes, that would be preferable.

15 MR. BRICKLIN: All right.

16 HEARING EXAMINER: If for some reason they're done in a
17 collective, that's fine, but at the end of each one so we
18 don't lose track of them would be helpful.

19 MR. BRICKLIN: All right. Move the admission of
20 Exhibit 1 -- or Exhibit 6, excuse me.

21 MR. JOHNSON: No objection.

22 HEARING EXAMINER: Exhibit 6 is admitted.

23 (Exhibit No. 6 admitted into evidence.)

24 Q. (By Mr. Bricklin) You mentioned your work on studies
25 specific to urban villages. Can you explain a little bit

1 **Q. (By Mr. Weber) And do you know whether there's a similar**
 2 **provision in the City's SEPA regulations?**
 3 A. My recollection is that the language is exactly the same.
 4 **Q. So there has been some suggestion from appellant witnesses**
 5 **that this proposal warrants more detailed analysis because**
 6 **it is different and more complex than other non-project**
 7 **actions. I want to ask you about that.**
 8 **So the first question is: The specific phrase that some**
 9 **appellant witnesses have used to describe what they perceive**
 10 **to be unique about this proposal is, quote, "parcel by**
 11 **parcel rezoning." Do you think that is a**
 12 **distinguishing factor that sets this proposal apart?**
 13 A. No, I don't. I don't think this proposal is different in
 14 that regard from any other area-wide rezoning that I've worked
 15 on. I mean, an area-wide rezoning as I understand it is a
 16 legislative action that rezones property parcel by parcel
 17 over a broad area. That's what it is. I don't see how, you
 18 know, this project is any different or how the phrase
 19 "parcel by parcel" changes or adds anything.
 20 **Q. So I want to ask you about the level of analysis in light of**
 21 **that. Some of the authors of sections of the EIS said their**
 22 **analysis went down to the parcel level, while others said it**
 23 **was done at a broader level.**
 24 **Is it common to have different levels of analysis in that**
 25 **way for different elements of the environment?**

1 transportation, you're not evaluating transportation at the
 2 neighborhood level either. It's based on screen lines which
 3 is a much, you know, broader concept. So you need, you
 4 know, different levels of information, you know, to address
 5 those issues. Some environmentally-critical areas, for
 6 example, occur over a broad area and you only have
 7 information about it that's based on a -- you know, broad
 8 base of information, like liquefiable soils, for example.
 9 So you can't do a real detailed analysis, you know, at a
 10 site-specific level for, you know, issues like that.
 11 Some -- you know, some elements of the environment just
 12 require you to ratchet down to a much, you know, finer scale
 13 that you don't get to in a non-project EIS.
 14 I mean, this project is using phased review. And it's
 15 assumed and it's stated a number of times in the document
 16 that there will be project-level, site-specific
 17 environmental review when development projects are actually
 18 proposed and go through, you know, the review process. I
 19 mean, that seems like the most sensible time, you know, to
 20 try to figure out what's really happening on the ground for
 21 some issues.
 22 **Q. So I want to go back to the issue of geographic scope. Is**
 23 **the geographic scope of this EIS significantly larger than**
 24 **other non-project actions?**
 25 A. Not in my experience. As I said when I was describing my

1 A. Yes, definitely. I mean, I think the rules say that. And
 2 you can devote more time and attention to more significant
 3 issues. You know, I'm not saying that any, you know,
 4 environmental -- that any element of the environment or
 5 impacts are not significant, I mean, if they're found to be
 6 significant. But I'm speaking, you know, relatively.
 7 **Q. And with respect to the level at which the analysis is done,**
 8 **is it typical that for some elements of the environment, the**
 9 **appropriate level of analysis would be at a very broad scale**
 10 **and for other elements of the environment, the appropriate**
 11 **level would be at a more -- even perhaps parcel-by-parcel**
 12 **level?**
 13 A. Well, I don't know if I agree by parcel-by-parcel level for
 14 a non-project EIS but -- because I don't think that's
 15 required for a non-project EIS or -- in my practice I don't
 16 get down to parcel-by-parcel analysis for non-project EISs.
 17 But definitely the level of detail varies depending on the
 18 importance of the issue in the overall scheme of things. It
 19 can vary -- it varies depending on the type and level of
 20 information you have for that particular issue, and for the
 21 geographic scope that seems to make sense for that
 22 particular issue.
 23 I mean, as an example, you know, you're not going to try
 24 to evaluate air quality impacts at, you know, the
 25 neighborhood level, you know. Or in the City's approach to

1 background, I mean, I've worked on area-wide zoning projects
 2 for some areas as large as, you know, 75,000 acres. It's
 3 probably a little large for the City of Seattle. I mean, a
 4 lot of the comparisons that were used by the appellants seem
 5 to focus on the uptown EIS. And that rezoning, you know, that
 6 was only -- I believe it was 200 acres. The University
 7 District rezoning was something like 200 acres. The Northgate
 8 rezoning was about, you know, 90 acres. So I think maybe, you
 9 know, in the City's experience it's dealt with rezonings for
 10 smaller areas. But, you know, in my experience, I've dealt
 11 with very wide rezonings for some areas that are larger than
 12 the city of Seattle. So, you know, it is not at all
 13 uncommon or unusual.
 14 **Q. So putting aside the question of the scale of the proposal,**
 15 **how would you characterize the level of analysis in the EIS**
 16 **compared to other non-project actions which you've been**
 17 **involved with? Is it more detailed or less?**
 18 A. In -- it's at least comparable. And as I think I said in
 19 response to a previous question, in several areas I think
 20 it's, you know, quite detailed and more detailed than what
 21 I'm accustomed to doing or seeing. And the example I gave
 22 was the growth inequity analysis. I mean, I think that the
 23 esthetics analysis, although it uses prototypes and, you
 24 know, doesn't attempt to be a, you know, site-specific,
 25 block-by-block analysis is, you know, quite detailed and

1 specific, you know, through the use of prototypes, which is
 2 a very commonly accepted, you know, way of performing that
 3 type of analysis in a non-project site.

4 **Q. So shifting gears to a different topic, comprehensive plan**
 5 **consistency. I want you to address another allegation.**
 6 **Are you familiar with the testimony from appellant**
 7 **witnesses about the need to describe the consistency with**
 8 **the comprehensive plan?**

9 A. Yes, I am.

10 **Q. And are you familiar with the SEPA regulations on this**
 11 **topic? And I'm referring specifically to WAC 197-11-440 and**
 12 **442.**

13 A. Yes.

14 **Q. In your opinion is the extent of the discussion in the MHA**
 15 **EIS on this topic sufficient to inform a decision maker how**
 16 **the proposal is consistent and inconsistent with the**
 17 **comprehensive plan?**

18 MR. BRICKLIN: Objection.

19 MS. BENDICH: I'm going to have the same objection.

20 MR. BRICKLIN: Same objection regarding sufficiency, if
 21 that's a --

22 MR. WEBER: Well, I can rephrase. This was a question
 23 about informing the decision maker.

24 **Q. (By Mr. Weber) Do you think the information in this EIS on**
 25 **this topic informs the decision maker about how the proposal**

1 **Do you agree with the idea that the analysis with respect to**
 2 **comprehensive plan consistency in this EIS was broader than**
 3 **just the policies that were specifically cited, that it was**
 4 **sort of woven throughout the document in many ways?**

5 A. Yes. I mean, a lot of the -- you know, the rules say you
 6 need to have a summary. It doesn't say that the summary
 7 needs to be in one place, and it doesn't say it needs to be
 8 a policy-by-policy summary. Several sections of the EIS do
 9 include summaries of policies that are relevant to that
 10 particular element of the environment. The biology section
 11 is an example. I think that's woven through the EIS.

12 **Q. So turning to another subject, we heard some testimony about**
 13 **the importance of the neighborhood planning process in the**
 14 **city of Seattle and its purported implications on the**
 15 **environmental review for this proposal. Specifically a**
 16 **number of appellant witnesses testified that they think the**
 17 **City is required to conduct neighborhood-specific EISs for**
 18 **implementation of MHA. Do you agree?**

19 A. No, I don't. I think -- I don't see where support for that,
 20 you know, comes from based on my understanding of the rules
 21 and based on my practice. The rules say specifically --
 22 just saying what the words say, site-specific analysis is
 23 not required. I mean, first of all there is
 24 neighborhood-specific -- what I would consider
 25 neighborhood-specific analysis in the document. I mean,

1 **is consistent and inconsistent with the comprehensive plan?**

2 A. I think it does. I mean, it -- I acknowledge that it's
 3 selective. I mean, it is not a copious examination of
 4 multiple policies, but I don't -- my standard practice is
 5 not to perform an analysis like that policy-by-policy for
 6 jurisdiction-wide, you know, plans or implementation
 7 programs. I mean, I think my approach has been, you know --
 8 there's no standard approach. I mean, sometimes, you know,
 9 depending on what you're dealing with, what the nature of
 10 the change is, it can be very general and at a high level.
 11 Sometimes it is appropriate for it to be more policy by
 12 policy.

13 For citywide action, for a rezoning action like this, I
 14 think a more general approach like the one that was taken
 15 here is pretty standard for a -- and I would distinguish
 16 that from a subarea plan non-project EIS, for example,
 17 where -- or a project-level EIS where it's much more common
 18 to do a policy-by-policy type of analysis.

19 But here, I mean, since the major issues are related to --
 20 some of the major issues are related to how this program and
 21 the way that it functions, which is by directing additional
 22 growth to some urban villages, you know, how that relates to
 23 the comprehensive plan I think is a significant issue. And
 24 I think that is the focus of the policy analysis in MHA.

25 **Q. And you said you had listened to Jeff Wentland's testimony.**

1 many sections call out what's going on in individual urban
 2 villages with regard to each element of the environment.
 3 Granted it's not at the site-specific level, but it doesn't
 4 need to be.

5 To the -- I think the EIS uses the information that is
 6 available about -- you know, at a broad level about what the
 7 characteristics of individual urban villages are to make,
 8 you know, neighborhood-specific conclusions to the extent
 9 that's possible without doing, you know, detailed
 10 on-the-ground, site-specific analysis.

11 HEARING EXAMINER: Mr. Weber, what's our timing on this?

12 MR. WEBER: Probably got another 20 minutes or so, I'm
 13 expecting.

14 HEARING EXAMINER: Okay. Let's take a break and we'll
 15 come back at 20 after.

16 (Recess)

17 **Q. (By Mr. Weber) So, Mr. Weinman, as we were discussing, a**
 18 **number of the appellant witnesses testified that they**
 19 **thought the City was required to conduct**
 20 **neighborhood-specific EISs for implementation of this MHA**
 21 **proposal.**
 22 **What would be the practical implications for the City if**
 23 **that were the case?**

24 A. As a practical matter, I think that would have a chilling
 25 effect on long-range planning and on any citywide actions

1 and certainly would discourage preparation of future EISs
 2 for those actions. I mean, if Uptown is held up as, you
 3 know, the model or the requirement for the level of detail
 4 that is required for a non-project action, you can multiply
 5 the cost of the Uptown EIS -- which was approximately a half
 6 million dollars -- by the 33 neighborhoods in the city,
 7 which would mean a citywide EIS would cost \$16.5 million, or
 8 it could mean that the MHA EIS would cost -- you know, using
 9 the same metric, would cost \$9.5 million or \$13 million,
 10 actually. I mean, there are probably different ways to
 11 calculate that, based on different metrics. So it might be
 12 as low as \$9 million. But, you know, obviously it's an
 13 exorbitant price -- cost that would not be affordable, which
 14 would --

15 MR. BRICKLIN: Objection; lack of foundation regarding the
 16 ability -- the City's ability to afford an adequate EIS. He
 17 hasn't stated he has any knowledge of the City's budget.

18 MR. WEBER: I think he was just, on the basis of his
 19 experience, expressing his opinion as to what the magnitude
 20 of that number was relative to -- but I don't think it's
 21 really the point of his testimony to get at the issue that
 22 Mr. Bricklin was raising in any event.

23 MR. BRICKLIN: I move to strike.

24 MS. BENDICH: Then I would move to strike.

25 HEARING EXAMINER: It's succinct enough that I'll sustain

1 non-project EIS.

2 **Q. So on the topic of urban village expansion areas,**
 3 **Mr. Steinbrueck testified that expanding the urban villages**
 4 **would redirect growth away from existing urban villages. He**
 5 **also said that allowing additional capacity on commercial**
 6 **parcels outside of urban villages also redirects growth**
 7 **outside of existing urban villages. And he said these parts**
 8 **of MHA would be quote, "highly destructive to the urban**
 9 **village strategy. Highly destructive. It would be like**
 10 **pulling back on the urban growth boundaries of King County**
 11 **and allowing more development out in the rural and resource**
 12 **lands," unquote.**

13 **I'd like you to respond. And first, do you agree with his**
 14 **analogy?**

15 A. No, I don't think that analogy is on point. I mean, I
 16 acknowledge his statement and his opinion, but I don't see a
 17 similarity between the boundaries of urban villages and the
 18 urban-rural growth boundary. I mean, the urban-rural growth
 19 boundary is founded based on -- you know, on state law. It
 20 is intended to be relatively permanent and unmovable, and it
 21 is intended to separate two distinctly different areas of
 22 the region and of the county. It's established in the
 23 Growth Management Act, the countywide planning policies,
 24 Vision 20/40, so it's pretty hard and intended to be hard to
 25 move.

1 it.

2 MR. BRICKLIN: I move to strike his statement that it was
 3 affordable, that's nonresponsive. The question was --

4 HEARING EXAMINER: Sorry. Slow down and repeat what
 5 you're saying.

6 MR. BRICKLIN: The question was the dollars that it would
 7 cost, not whether the City could afford those dollars. The
 8 first part of his answer, I'm not moving to strike, he was
 9 answering the question. When he then volunteered the City
 10 couldn't afford it, that was nonresponsive and I'm moving to
 11 strike that part of his testimony.

12 HEARING EXAMINER: That's the only part that we're --

13 MS. BENDICH: That's --

14 HEARING EXAMINER: The objection is sustained --

15 MS. BENDICH: Okay.

16 HEARING EXAMINER: -- and the motion to strike on that is
 17 granted.

18 MR. BRICKLIN: Thank you.

19 **Q. (By Mr. Weber) So do you believe there's anything specific**
 20 **about this proposal that would require the City to conduct**
 21 **neighborhood-specific EISs for its implementation?**

22 A. No, I don't. As I stated previously, I don't see anything
 23 in this area-wide rezone that makes it unique or different
 24 than any other area-wide rezones or that would require a
 25 greater than usual level of detail or analysis in a

1 In contrast, the urban village boundaries are established
 2 solely by the City. There's no policy that I'm aware of
 3 that says they are not intended to be moved or expanded.
 4 The policies in the growth strategy -- in the comprehensive
 5 plan's growth strategy that deal with urban villages say
 6 that, you know, most or a majority of growth should be
 7 located in urban villages. It doesn't say all, which I
 8 think is at heart the substance of Mr. Steinbrueck's
 9 argument. So I see them as being fundamentally different
 10 based on considerations of policy.

11 Plus, the difference in terms of land use between the
 12 urban-rural environments established by the Growth
 13 Management Act and by the countywide planning policies is
 14 totally different than the kinds of changes, impacts or
 15 differences in land use that one encounters between what
 16 happens in an urban village and what happens outside the
 17 urban village. Within the city, all the uses are urban in
 18 character. We're not talking about a marked difference.
 19 We're talking about -- incremental differences in, you know,
 20 the extent, the intensity and a little bit of the types of
 21 land uses, but I don't see that analogy as being on point.

22 **Q. So I'd like to ask you about another allegation. Are you**
 23 **familiar with the testimony from appellant witnesses about**
 24 **the adequacy of the environmental review impacts to small**
 25 **businesses?**

Page 45

1 A. Yes, I am.

2 **Q. Are you familiar with Mr. Wentlandt's testimony about the**

3 **analysis of commercial impacts especially on small**

4 **businesses and culturally important businesses?**

5 A. Yes.

6 **Q. Are you familiar with that analysis in the EIS?**

7 A. Generally, yes.

8 **Q. Do you agree with Mr. Wentlandt's testimony that the**

9 **discussion of that impact informs the decision makers about**

10 **that potential impact?**

11 A. Absolutely.

12 **Q. Do you agree with Mr. Wentlandt's testimony about the extent**

13 **to which SEPA requires an agency to analyze economic impacts**

14 **generally?**

15 A. Yes. It does not, generally.

16 **Q. Do you agree that the analysis in the EIS on this topic of**

17 **small business impacts exceeds what is required by SEPA?**

18 A. It certainly exceeds anything like it that I've seen. I

19 mean, these are indirect impacts. When I've seen or

20 produced analyses that deal with displacement impacts to

21 businesses, it's usually been in a, you know, project

22 specific and more direct impact context. You know, where

23 I've seen analysis of indirect impacts, including in other

24 City EISs, including Uptown, which has been held up as a

25 model, it's a couple of sentences. So this is more -- more

Page 46

1 detailed. And I recall there was testimony about this

2 analysis, and I do recall -- about the insufficiency of this

3 analysis, and I do recall Mr. Jacobus's testimony saying

4 that he felt -- he's an expert and he examined this area of

5 analysis, and he felt that this was cutting edge and that

6 there was no, you know, superior methodology that he could

7 identify.

8 **Q. So I want to shift slightly to the question of economic**

9 **displacement in the residential context. So not physical**

10 **displacement in terms of demolition, but economic**

11 **displacement.**

12 **In your opinion was the EIS required to include analysis**

13 **of economic displacement impacts, and is it typical to find**

14 **such analysis in an EIS?**

15 MR. BRICKLIN: Objection --

16 MS. BENDICH: Objection.

17 MR. BRICKLIN: -- compound, the first part and it calls

18 for a legal conclusion.

19 MS. BENDICH: Ditto.

20 MR. WEBER: I don't agree with that. He's not --

21 MR. BRICKLIN: You asked whether it was required and then

22 you asked whether it was typical. So the required part, I

23 think, is the --

24 MR. WEBER: I think the question of whether it's required

25 is entirely within his expertise as someone who has done

Page 47

1 over 200 EISs.

2 HEARING EXAMINER: And what was the --

3 MR. WEBER: The question was whether the EIS was required

4 to include analysis of economic displacement impacts.

5 HEARING EXAMINER: I'm going to sustain the objection only

6 to the degree that it's a compound because there's two

7 questions. There's whether it's required and/or typical.

8 Those are two separate questions. The rest is overruled.

9 MR. WEBER: Okay. So are you suggesting I can ask both if

10 I ask them --

11 HEARING EXAMINER: Yes.

12 MR. WEBER: Okay.

13 MS. BENDICH: I make a different objection which is

14 foundation. We haven't heard any testimony that

15 socioeconomic analysis was or was not supposed to be

16 included in any of the other EISs that he's done.

17 MR. WEBER: I think Mr. Weinman testified that he listened

18 to extensive testimony on this issue.

19 MS. BENDICH: No, this has to do -- this has to do with

20 his experience in whether these --

21 HEARING EXAMINER: Well, let's let him ask the question

22 first.

23 MS. BENDICH: Okay.

24 HEARING EXAMINER: Right now the question has been removed

25 from the table --

Page 48

1 MS. BENDICH: All right.

2 HEARING EXAMINER: -- and he's got two questions he has to

3 ask, one is required, one is typical, and your objection is

4 to the latter. So let's get there one at a time.

5 **Q. (By Mr. Weber) So Mr. Weinman, in your opinion was the EIS**

6 **required to include analysis of economic displacement**

7 **impacts?**

8 A. No.

9 **Q. Is it typical to find analysis of economic displacement**

10 **impacts in an EIS?**

11 A. Not in a non-project EIS, no.

12 **Q. So have you heard anything in the appellant's testimony that**

13 **you reviewed that causes you to question any of the**

14 **conclusions or analysis in the portions of the FEIS that you**

15 **reviewed or worked on?**

16 A. No, I have not.

17 **Q. Do you believe the EIS used reasonable and standard methods**

18 **of your profession to assess and disclose the potential**

19 **impacts of this proposal?**

20 A. Yes, I do.

21 **Q. As a person responsible for reviewing and assessing chapters**

22 **of the EIS, do you think that the EIS adequately disclosed**

23 **potential impacts?**

24 MS. BENDICH: Objection if it calls for a legal

25 conclusion. It's the adequacy.