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1 time to go through it, then we'll address that at that time.
 2 MS. NEWMAN: Okay. Thank you.
 3 HEARING EXAMINER: Does that --
 4 MR. KISIELIUS: Yes. That works. Thank you.
 5 HEARING EXAMINER: -- work for everyone?
 6 MS. NEWMAN: Thank you.
 7 HEARING EXAMINER: Okay. And we continue with cross.
 8
 9 CROSS - EXAMINATION
 10 BY MR. KISIELIUS:
 11 **Q. Ms. Tobin-Presser, Tadas Kisielius on behalf of the City,**
 12 **and I have just a couple of questions for you.**
 13 **One is just a very precise question. You had -- I think**
 14 **it's Exhibit 242 are the photographs that you introduced?**
 15 A. Oh, yes.
 16 **Q. I was just curious. You testified about 8, 9, and 10. And**
 17 **being from the Oregon, Genesee and Dakota neighborhood, as**
 18 **you had -- or area as you had named it -- and as you said,**
 19 **that's sort of a big one, those are the only ones where you**
 20 **didn't really say where they were taken. So I was just --**
 21 **if you could --**
 22 A. Eight, 9, and 10.
 23 **Q. Yes.**
 24 A. Sorry. I'm trying to find them. Oh, here. Eight, 9, and
 25 10, 30 -- it would be in the 37th, 38th and 39th. Oh, I'm

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1 sorry. Boy, I think 8 is on 40th. I believe -- I know 10
 2 is on 39th. And 6 was actually the other one. Seven is
 3 41st between Edmunds and Hudson.
 4 **Q. Okay.**
 5 A. That was the down slope one. So the -- the ones from
 6 Oregon-Genesee-Dakota are 6, 8, 9, 10, 11.
 7 **Q. Right. And I think for a lot of them you identified. That**
 8 **was just 8, 9, and 10 I hadn't heard.**
 9 A. Oh, yeah. So 8, 9, and 10.
 10 **Q. So 9 is the only one that --**
 11 A. I didn't say 6, either. I mean, I didn't tell you 6. But I
 12 think that is on 37th.
 13 Eight I think is on 40th.
 14 Nine -- I'm sorry. I just -- I didn't make a note of
 15 that. I'm sorry.
 16 **Q. Okay. So more generally, how many non-project action EISs**
 17 **have you reviewed before?**
 18 A. None.
 19 **Q. Okay. Back to the Oregon-Genesee-Dakota neighborhood.**
 20 A. Yes.
 21 **Q. I think at one point earlier in your testimony you said --**
 22 **you made reference to the only change that was reflected in**
 23 **the preferred alternative. And I guess I was -- well, first**
 24 **and foremost I wanted to understand, what were you**
 25 **comparing? Were you comparing the preferred alternative to**

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1 **alternatives 2 and 3?**
 2 A. No. If you look at my exhibit -- okay. If you look at
 3 exhibit --
 4 MS. TOBIN-PRESSER: Ms. Newman, what was the number with
 5 these four charts I prepared?
 6 MS. NEWMAN: It is Exhibit 242.
 7 A. So Exhibit 242, if you look at that, the first section in
 8 that, you can see that's Oregon-Genesee-Dakota. And if you
 9 look at the chart -- not the summary chart, but below that,
 10 you'll see there is a column for initial maps, and you'll
 11 see the column for preferred alternative.
 12 And if you look down the initial map column and compare it
 13 to the preferred alternative, you will see it's all exactly
 14 the same until you get down to those -- I don't know, ten or
 15 so houses that in the initial maps were lowrise 1, and in
 16 the preferred alternative are residential small lot.
 17 So the initial map refers to the map that was released in
 18 October of 2016.
 19 **Q. Okay.**
 20 A. So I don't know what -- then -- then 2 and 3 came out at the
 21 same time as the draft EIS. But the public comment was all
 22 taken with respect to those draft maps that came out in
 23 October of 2016.
 24 **Q. Okay. So when you were testifying to comparisons, several**
 25 **times you talked about differences in the preferred**

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1 **alternative.**
 2 A. Yeah.
 3 **Q. Were you referring to differences between the preferred**
 4 **alternative and those early October 2016 maps?**
 5 A. The first ones that people looked at and commented on versus
 6 what's now being proposed, yeah.
 7 **Q. Okay. As opposed to alternatives 2 and 3?**
 8 A. Correct. Yes.
 9 **Q. Okay. Thank you. So, okay. That's helpful then.**
 10 A. Okay.
 11 **Q. The -- let's stick with these charts for just a second. I**
 12 **want to understand it a little bit better. So I appreciate**
 13 **now the clarification about what the initial maps refers to.**
 14 **Can you turn to the one that is for Edmunds slope area.**
 15 A. Yes.
 16 **Q. So am I reading this correctly? I'm looking now at the**
 17 **summary chart at the top.**
 18 A. Yes.
 19 **Q. And you have 1992 plus, so that's since 1992. The next**
 20 **column, number of years old, you're saying zero to 25 years**
 21 **old?**
 22 A. Right.
 23 **Q. And the third column says zero new homes built --**
 24 A. Right.
 25 **Q. -- with -- since 1992?**

1 A. We evaluated the areas within each of the proposed zoning
 2 alternatives. So that was within -- within the project
 3 extent.
 4 **Q. But no division by land to be in urban villages; i.e., urban
 5 villages as expanded, and all the L and C and NC zones
 6 outside the urban villages?**
 7 A. To my knowledge, we didn't do an evaluation outside of those
 8 areas, only within the -- the project extent.
 9 **Q. Okay. The project extent includes all of it. It's the
 10 division that I'm curious about. How do you define the
 11 project area? Do you need to look at a map?**
 12 A. If I can go back to the --
 13 **Q. The project area will be in section 1 of the EIS or 2.1,
 14 1.2.**
 15 **(Inaudible colloquy)**
 16 **Q. (By Mr. Thaler) Try 2.3, study area. Exhibit 2-1 on page
 17 2.3. So you understand that the dark outlined areas are
 18 urban villages, but that there is significant study area
 19 outside the urban villages?**
 20 A. Yes.
 21 **Q. So the question is, was there any analysis based on that
 22 distinction, in and out?**
 23 A. The analysis that was performed for the tree canopy
 24 assessment was presented in --
 25 **Q. Well, no, for the EIS. Well, no, that's a question. If**

1 **Q. Is there any place in the EIS or the documents directly
 2 referenced by it, the 2016 document being the primary one,
 3 that explain how the leaf-off LiDAR data was accounted for
 4 in the impact assessment?**
 5 A. To my knowledge, those methods were not detailed in the
 6 impact assessment.
 7 **Q. Or in the 2016 document, other than the reference?**
 8 A. Yeah, by reference, the methods are described, but not --
 9 **Q. Okay.**
 10 MR. BRICKLIN: You done?
 11 MR. THALER: Unless you want to feed me something, or
 12 you've got something.
 13 MR. BRICKLIN: We can ask our own.
 14 MS. BENDICH: I have a few.
 15 HEARING EXAMINER: They can ask their own questions.
 16 MS. BENDICH: I have a --
 17 MR. BRICKLIN: We can ask our own.
 18 HEARING EXAMINER: Yeah. Separate parties.
 19 MS. BENDICH: Yes, Your Honor.
 20 MR. THALER: Go for it. I'm done. Thank you very much.
 21 THE WITNESS: Thank you.
 22 CROSS EXAMINATION
 23 BY MS. BENDICH:
 24 **Q. So, Mr. Leech, I just have a few follow-up questions based
 25 on what Mr. Thaler was asking you, if you'll bear with me.**

1 you're doing an analysis of impacts in the study area, and
 2 considering it on this large spatial extent, but you're
 3 relying on a report from somebody else; i.e., the Vermont
 4 group, if that report is limited in terms of the assumptions
 5 and how the data is displayed, then your analysis is going
 6 to be likewise limited, isn't it?
 7 A. No. The data set that was provided to us by Vermont was one
 8 input data layer. Then we were provided -- the city
 9 provided us the data sets, GIS data layers for the various
 10 alternatives. And through the process of an overlay
 11 operation, we -- we can assess the tree canopy cover for the
 12 various alternatives.
 13 **Q. Okay. So the project team could have pulled out an
 14 inside/outside urban village?**
 15 A. Yes. Yeah. It's possible that we, you know, we could've --
 16 could've done more.
 17 **Q. And you could've done the urban village itself, each one?**
 18 A. Yes, those calculations could be made.
 19 **Q. Okay. I think I'm almost done. The 2016 Seattle canopy
 20 assessment -- and my apology if I've asked this -- it was
 21 not peer reviewed, was it?**
 22 A. To my knowledge, no.
 23 **Q. Have you ever worked on a peer-reviewed document? Have you
 24 published?**
 25 A. I have not published a peer-reviewed document.

1 A. Sure.
 2 **Q. You mentioned something about a significant amount of ground
 3 work. I just want to know what that means.**
 4 A. Oh. In terms of an accuracy assessment for remote sensing
 5 methods, there's various ways to assess the accuracy of data
 6 products. In some cases, there is ground data collection
 7 that is ground truthing, to go out in the field and collect
 8 point data, or within fixed radius polygons, various
 9 techniques for collecting data on the ground to confirm or
 10 validate that the areas to be mapped are -- are what -- what
 11 they say they are from the classification.
 12 **Q. But that wasn't done in this case; is that correct?**
 13 A. That's correct.
 14 **Q. And why is that signif- -- I mean, what I want to know is,
 15 why do people even do -- you said to make sure it was
 16 verifiable, I suppose.**
 17 A. Yeah, there's various methods for conducting, kind of
 18 assessing the overall accuracy of data products. So with
 19 traditional remote sensing methods, that was the traditional
 20 approach was to either put people on the ground to collect
 21 the data within the study area, or use high resolution
 22 imagery, different imagery from what's being used in the --
 23 in the classification to confirm that, yes, this is a tree
 24 in that location. So there's different methods to doing
 25 accuracy assessments. And based on the resources available

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1 **Q. Okay. That would be 244. That's the meeting in a box**
 2 **notes? Is that --**
 3 A. Correct.
 4 **Q. Okay. Thank you. And then on that specific exhibit, this**
 5 **is Exhibit 244, the meeting in a box materials, I just want**
 6 **to make sure I'm understanding your testimony. Is it your**
 7 **assessment that only option -- so I'm sorry. I should focus**
 8 **you.**
 9 **You testified at length about the West Seattle Junction**
 10 **Options A, B, C, and D.**
 11 A. Uh-huh, yes.
 12 **Q. D is sort of the unlisted one that you had referred to. So**
 13 **focusing on A, B, and C.**
 14 A. Yes.
 15 **Q. Were you testifying that it's your understanding that only B**
 16 **implements MHA?**
 17 A. B, I would say B most closely aligns. The -- the zoning
 18 proposed in terms of the zoning categories aren't part of
 19 the three options, but it -- LR -- Option A speaks in terms
 20 of the maintaining the height, bulk, characteristics of the
 21 single family areas, which is actually consistent with what
 22 we saw in the comprehensive plan land use policy 3.57 -- I
 23 can't remember -- where it listed those types of cottage
 24 housing, duplexes, triplexes, which is not what's being
 25 proposed under the alternatives 1, 2, or 3 of MHA.

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1 Option C that we discussed actually refers to including
 2 commercial within the single family zones. And so that's of
 3 course not something that is being proposed or considered
 4 under the MHA EIS.
 5 So then Option B, while it doesn't speak in terms of
 6 lowrise 1, 2, or 3, that would be the most closely aligned,
 7 and that's what's been analyzed under the EIS.
 8 **Q. So I want to be real precise here, because you said most**
 9 **closely aligned.**
 10 **Is it your testimony and your understanding that A and C**
 11 **are not consistent with MHA?**
 12 A. That's correct.
 13 **Q. Okay. Thank you. And I'm sorry I'm jumping around here.**
 14 **Just one more question about your charts.**
 15 **When you refer to the boxy, geometric style in your chart,**
 16 **are you referring to -- I'm going to make you jump here, but**
 17 **to page 3.163 --**
 18 A. Yes.
 19 **Q. -- of the comp plan.**
 20 A. Uh-huh. The, the infill housing, single family infill
 21 housing.
 22 **Q. Okay.**
 23 A. I don't know how else to describe it.
 24 **Q. No. I just wanted to make sure I understood your**
 25 **terminology.**

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1 A. Yes. I mean, obviously they don't look exactly like that.
 2 But I think most of us are familiar with that modern style
 3 of house that we've seen.
 4 MR. KISIELIUS: Okay. I don't have any further questions.
 5 HEARING EXAMINER: I have one question I forgot to ask
 6 earlier on. And if there's any objection from the parties,
 7 let me know.
 8 I would like to ask if, for Exhibit 240, which is the map
 9 that was used to describe the four residential areas, if the
 10 witness could actually draw a line around the areas on the
 11 map.
 12 MS. TOBIN-PRESSER: Yeah.
 13 HEARING EXAMINER: And label them 1 through 4, that would
 14 be helpful for me to know.
 15 MS. TOBIN-PRESSER: Yes.
 16 HEARING EXAMINER: I can mostly read the street names,
 17 sometimes not.
 18 And are you just going to -- actually, this one's already
 19 been marked, so if we could use that one.
 20 MS. TOBIN-PRESSER: So you mean the four single family
 21 areas?
 22 HEARING EXAMINER: Yes. The four areas that you
 23 identified.
 24 MS. TOBIN-PRESSER: Did you want me to put it around the
 25 triangle or anything like that?

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1 HEARING EXAMINER: Just your boundaries of the four areas.
 2 MS. TOBIN-PRESSER: All right.
 3 HEARING EXAMINER: A triangle sort of stands out by
 4 itself.
 5 MR. KISIELIUS: Mr. Examiner, would you like the witness
 6 to write down the names that she used when she was --
 7 HEARING EXAMINER: I got that. So -- and I think the
 8 record reflects it. So to match those areas, using the
 9 numbers 1 through 4 to label them.
 10 MS. TOBIN-PRESSER: So just the order I went in, right?
 11 In number 3 I accidentally -- I cross -- scribbled out that
 12 line because (inaudible).
 13 HEARING EXAMINER: That doesn't include the (inaudible) up
 14 to the north? Okay. Did you get a chance to look at that?
 15 MR. KISIELIUS: I did.
 16 MS. NEWMAN: I'd love to.
 17 HEARING EXAMINER: Okay. Thank you. Any redirect?
 18 MS. NEWMAN: No.
 19 HEARING EXAMINER: Thank you.
 20 MS. TOBIN-PRESSER: Thank you.
 21 MS. NEWMAN: Thank you.
 22 HEARING EXAMINER: Appellants' next witness.
 23 MR. ABOLINS: Your Honor, Friends of North Rainier call
 24 Craig Cundiff to the stand. (Inaudible) right there would
 25 be great. There's some water, too, if you need it.

WILSON, Kate

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1 impacted and not being evaluated --

2 **Q. Okay.**

3 A. -- in the study. Such as be shown in those prior examples.

4 And there's actually entire neighborhoods that are not being

5 considered.

6 **Q. And that's because every single area in the city that's**

7 **currently zoned neighborhood commercial is going to be**

8 **upzoned by the MHA proposal?**

9 A. They were selective. What I saw is some that were NC-30

10 they made into -- they kept as 30. Some they went from 30

11 up to 65. So that they selectively chose which ones and

12 really didn't offer an explanation that I could see which

13 ones they chose to -- to increase in height.

14 **Q. Well, is anything that's zoned NC-130 going to be upzoned to**

15 **NC-140 in the whole city?**

16 A. Not everything is, from what I saw.

17 **Q. Oh, the majority of areas?**

18 A. Pretty much the majority, yes.

19 **Q. And --**

20 A. From what I saw.

21 **Q. There's other commercial zones and lowrise zoned where it's**

22 **the same outside of urban villages and urban centers, all of**

23 **those are upzoned to different heights is what you're**

24 **saying?**

25 A. Yes.

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1 **Q. Okay.**

2 A. So say for example, if it's NC-3, which I understand is

3 going up from 40 feet in height, which it is currently up to

4 55 feet with the MHA, there is neighborhood -- I'm sorry,

5 LR3. Did I say NC-3? Strike that.

6 LR3, which is going from 30 feet -- 40 feet to 50 feet.

7 LR3 exists both inside the urban villages and outside the

8 urban villages.

9 **Q. Okay.**

10 A. So height impacts will be far reaching and beyond that --

11 that was included in the study.

12 **Q. And does the EIS talk about this at all, what you've just**

13 **shown us? Does it -- does it have this information in it?**

14 A. They do mention it at one -- they mention a part of it at

15 one document. They kind of dismiss it as an issue as saying

16 that it's something that every city has.

17 **Q. And where -- let's look at that. 3.117?**

18 A. Yes.

19 **Q. Is there -- so is this -- you said they did talk about it.**

20 **Is this the page where they talk about the issues?**

21 A. Yeah. Basically if you look under the part that says edges,

22 read that paragraph. Or I can read it if you like.

23 HEARING EXAMINER: The page number again?

24 MS. NEWMAN: 3.117.

25 **Q. (By Ms. Newman) And so other than that, is there any other**

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1 **place in the EIS that you're aware of where they discuss the**

2 **adjacent -- the idea that single family zones are**

3 **immediately adjacent to zones such as neighborhood**

4 **commercial or lowrise that are above 30 feet high on the --**

5 **outside of the areas that are in the study area?**

6 A. There was the one, again one excerpt that referred to what

7 other cities are doing outside of Seattle, but I don't know

8 where that is.

9 **Q. Okay. Well, let's focus on 3.117. Have you read that**

10 **description that follows the word "edges"?**

11 A. Yes.

12 **Q. And what's your reaction to that?**

13 A. I think it's missing a few of the impacts of edges.

14 MR. KISIELIUS: Mr. Examiner, I'm going to renew my

15 objection. This is now straying into technical expertise

16 about what is included in an edge impact and what is not.

17 HEARING EXAMINER: Ms. Newman?

18 MS. NEWMAN: I just -- I'm still having -- struggling over

19 the idea that -- his architectural expertise is not

20 necessary to be able to describe edge impacts. And I just

21 had intended to have him as a lay witness, just like I had

22 had on my -- I have several lay witnesses, and they're all

23 going to have very similar testimony to this.

24 And I just think that there's not much difference between

25 what he's saying and what they're saying, and there's

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1 nothing about his architectural expertise that's -- it's

2 informing.

3 He's not giving an opinion. He's just describing, as a

4 layperson, a person who lives in a neighborhood, what

5 impacts are.

6 MR. KISIELIUS: If I might, that's not what he was about

7 to testify to. He was about to offer an opinion about what

8 edge effects should be, what you should look at in an

9 analysis.

10 HEARING EXAMINER: Yes. And that's where I'm

11 understanding where the City's objection is based.

12 Mr. Moehring, as taking if we pretend he's not an

13 architect, is certainly permitted to talk about lines on a

14 paper that he's drawn to generally show an area. He an

15 opinion -- as anyone could, on what the EIS itself says.

16 But we have no foundation except his expertise to understand

17 that he has an opinion or -- and the formed opinion on what

18 edge impacts are.

19 MS. NEWMAN: Okay.

20 HEARING EXAMINER: That's a -- I mean, it speaks for

21 itself to me. It's what edge impacts are, because he's --

22 and there hasn't been anything else discussed here except

23 that expertise. So if there's some other reason he's an

24 edge impact commentator, we haven't discussed that.

25 MS. NEWMAN: Well, I was going to -- I mean, what I'd like

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1 HEARING EXAMINER: So if I could get a new cover sheet
 2 from Appellants.
 3 MS. NEWMAN: Yeah.
 4 HEARING EXAMINER: Just the cover sheet. And we will
 5 substitute that. We will take a new sticker and put it on
 6 that new cover sheet when we get it as redacting
 7 (inaudible).
 8 Do we have that available? We ran out. So that actually
 9 is not helpful.
 10 So we'll go with -- we'll get a redacted version tomorrow.
 11 But for purposes --
 12 MS. NEWMAN: You want it to be literally redacted? Or a
 13 brand-new document?
 14 HEARING EXAMINER: Oh, I was just thinking the cover page.
 15 MS. NEWMAN: Right.
 16 HEARING EXAMINER: Just taking out that front -- that --
 17 MS. NEWMAN: Okay.
 18 HEARING EXAMINER: Or even just the credentials actually.
 19 MS. NEWMAN: Yeah.
 20 HEARING EXAMINER: David Moehring would remain.
 21 MS. NEWMAN: Okay.
 22 HEARING EXAMINER: Comma. And does that --
 23 MS. NEWMAN: Yes.
 24 HEARING EXAMINER: -- address that?
 25 MS. NEWMAN: That's fine.

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1 HEARING EXAMINER: And otherwise the bounds of the
 2 testimony and the admission of the exhibit have already been
 3 ruled upon previously.
 4 MS. NEWMAN: Okay. Thank you.
 5 HEARING EXAMINER: 234 is admitted.
 6 (Exhibit No. 245 admitted)
 7 HEARING EXAMINER: Please state your name, and spell it
 8 for the record.
 9 MR. BRADBURD: My name is Bill Bradburd, officially
 10 William Bradburd, B-R-A-D-B-U-R-D.
 11 HEARING EXAMINER: And do you swear or affirm that the
 12 testimony you will provide in today's hearing will be the
 13 truth?
 14 MR. BRADBURD: I absolutely do, yes.
 15 HEARING EXAMINER: Thank you.
 16
 17 WILLIAM BRADBURD Witness herein, having first been
 18 duly sworn on oath, was examined
 19 and testified as follows:
 20
 21 DIRECT EXAMINATION
 22 BY MS. NEWMAN:
 23 **Q. Hi. Mr. Bradburd, could you also give us your address?**
 24 A. Sure. I live at 1640 South Main Street. That's in Seattle.
 25 **Q. What neighborhood do you live in?**

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1 A. It's called Jackson Place. It's the far southwest corner of
 2 the central area where it borders along I-90, I-5, in that
 3 corner there of the world. And it's bounded on the north
 4 end by Jackson Street and to the east side by Judkins Park.
 5 It's also technically part of the 23rd Avenue Union
 6 Jackson Urban Village, which for shorthand purposes in my
 7 discussion today I'll just called it 23rd Avenue Urban
 8 Village. Hopefully everyone's okay with that.
 9 **Q. Yeah. Okay. And how long have you lived there?**
 10 A. I've been in that neighborhood since 2000, February of 2000.
 11 I've watched the kingdom go down from the deck of my new
 12 house.
 13 **Q. Okay. And are you familiar with the MHA proposal that's the
 14 subject of this hearing?**
 15 A. I am very familiar with the MHA proposal, yes.
 16 **Q. And when generally did you become aware of it?**
 17 A. In 2015. At the time I was running for city council, and
 18 had been tracking of course the whole HALA process.
 19 And when MHA came out as a way to address inclusionary
 20 zoning, of course that was very -- of great interest to me
 21 because I ran on housing and afford -- housing
 22 affordability-type platform.
 23 **Q. Okay.**
 24 A. And I've been tracking it pretty detailed ever since.
 25 **Q. And today we're going to talk about the aesthetic and land**

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1 **use impacts in the 23rd -- the way you referred to it the
 2 23rd Urban Village, which is 23rd and Union Jackson --**
 3 A. Uh-huh.
 4 **Q. -- Urban Village.**
 5 MS. NEWMAN: And I want to, again I have an oversized map
 6 from Exhibit 2, it's Exhibit H-10. I'd like to get that
 7 marked, if possible.
 8 **Q. (By Ms. Newman) And do you have that in front of you?**
 9 A. I do. Thank you.
 10 HEARING EXAMINER: This is 246.
 11 (Exhibit No. 246 marked)
 12 **Q. (By Ms. Newman) Okay. Can you describe what -- oh, do you
 13 recognize this?**
 14 A. Oh, yes.
 15 **Q. Did I already say that?**
 16 A. Yes.
 17 **Q. And can you describe what this is?**
 18 A. Well, it's the map that the EIS put out for the preferred
 19 alternatives for the 23rd Avenue Urban Village. And it
 20 shows the existing urban village boundaries. It shows the
 21 proposed expansion areas down to the southern portion.
 22 **Q. And expansion is shown by the dotted line?**
 23 A. The dotted line, correct. It also shows (inaudible) later
 24 some upzoning that's happening outside of the urban villages
 25 that Mr. Moehring a few minutes ago was prevented from

VOLUME 11

AUGUST 20, 2018

Hearing - Day 11

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

August 20, 2018



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BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

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

Hearing, Day 11 - August 20, 2018

Heard before Hearing Examiner Ryan Vancil

Transcribed by: Bonnie Reed, CET
Court-Certified Transcription

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NO.	DESCRIPTION	MARKED	RECEIVED
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240	EIS Appendix X	51	73
241	SCALE Exhibit 192	52	73
242	SCALE Exhibit 193-196	118	145
243	SCALE Exhibit 40	133	145
244	City Exhibit 30	143	145
245	SCALE Exhibit 203	178	222
246	Exhibit H-10	224	

available after he returns from the Northeast United States at the end of the week, or August 30, 31.

MR. KISIELIUS: Mr. Examiner, Tadas Kisielius on behalf of the City.

Our understanding is Mr. Lagerquist is not being offered as an expert witness; rather, it's fact testimony.

MR. THALER: Correct.

MR. KISIELIUS: With that in mind, we have reviewed the declaration, and we don't need to cross examine Mr. Lagerquist.

HEARING EXAMINER: Okay.

MR. THALER: Thank you.

HEARING EXAMINER: Anything else we need to address procedurally?

MR. THALER: The City attorneys wanted to -- apparently in the paper shuffle, Exhibit 217 did not get in their hands. And I just reviewed what that exhibit is with co-counsel, and I will be able to provide a copy of that tomorrow.

UNIDENTIFIED MALE: Thank you.

MS. NEWMAN: Thank you.

HEARING EXAMINER: Okay. Anything else?

MR. THALER: Not from me.

HEARING EXAMINER: All right. Just a short note for the parties. I'm happy to make the Hearing Examiner room available for you to collect your materials here, but we've

-o0o-
August 20, 2018

HEARING EXAMINER: Return for Monday, August 20th, for W-17-006 through 014, continuing with the Appellants' case.

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

MR. THALER: We had arranged to have Gordon Lagerquist -- Toby Thaler, Fremont Neighborhood Council. We had arranged for Gordon Lagerquist to testify by means of a declaration, and the deadline that we had agreed on is August 9th, and it was hopefully received by counsel for the City before 5:00 on August 9th. And I have a copy here for the Hearing Examiner.

HEARING EXAMINER: Okay.

MR. THALER: And I'm not sure how you want to proceed in terms of designating it as an exhibit or how that --

HEARING EXAMINER: We'll just mark it as an exhibit, along with the others. We are on 239.

Any objections?

MR. KISIELIUS: None.

HEARING EXAMINER: All right. Exhibit 239 is admitted. (Exhibit No. 239 admitted)

MR. THALER: And then there's the logistics -- if the City wishes to cross examine Mr. Lagerquist, he would be

had a few people trying to come into the Hearing Examiner staff only area to gather my cart to put things on it, so just make sure whoever is coming knows that this is the record.

And I don't necessarily want documents up here unless you have handed them to me during the hearing. So just make a note.

It's been individuals on both sides, so it's not a big deal, but I just want to -- if we could highlight that for them, that would be helpful.

And with that, we will get started with the appellants.

MR. ABOLINS: Good morning, Your Honor.

HEARING EXAMINER: Morning.

MR. ABOLINS: The Friends of North Rainier call Michael James.

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

MR. JAMES: Yes. My name is Michael James, M-I-C-H-A-E-L, J-A-M-E-S.

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

MR. JAMES: Yes, I do.

HEARING EXAMINER: Thank you.

JAMES, Michael

1 be -- those would be acquired by the city transportation
 2 department because they're improvements for transit
 3 facilities and plaza open space related to the -- the plan.
 4 **Q. And there's a building to the immediate northeast of the Mt.
 5 Baker light rail station on the same block there.**
 6 A. Uh-huh.
 7 **Q. Do you know what that building is?**
 8 A. Yes. So that is the Artspace. That is affordable housing
 9 for artists that live in the area. And that's another --
 10 that's another group that we met with several times to
 11 discuss and get input for the -- the plan.
 12 **Q. And is there a preschool located in that building?**
 13 A. There is. Yeah, there is a preschool.
 14 **Q. And were they involved in your public outreach?**
 15 A. Yeah. So we -- we had a couple meetings at the preschool
 16 where they identified the -- what they -- what they saw as a
 17 need for greater place for the children to -- to be able to
 18 go out and play. They -- they currently have some small --
 19 I'll call them pens. And they can play in there, but they
 20 can't run. They can't climb. They can't do other things.
 21 So they identified and were working with us to -- to
 22 identify what -- you know, an area in the -- a nearby
 23 location for a park site, as well as the types of things
 24 that they would like to see in that park, whether it's a tot
 25 lot or, you know, open space.

1 to the left and then going up the hill through the forest.
 2 **Q. And so is that part of that ring of green you were
 3 referencing?**
 4 A. That's part -- that's part of the ring of green.
 5 And in talking to the folks -- talking to the neighbors in
 6 the south part of the study area south of the park site, as
 7 well as up on Beacon Hill, they -- they had concerns about
 8 some of the transportation connections that we had showed.
 9 So -- because the City actually -- we actually had more
 10 connections through that green space that they were
 11 concerned about because they wanted low impact-type
 12 development. So we actually removed some of those vehicular
 13 connections in that area.
 14 **Q. In the area of the Cheasty Greenspace --**
 15 A. Right.
 16 **Q. -- and forest? And so to what extent did the location of
 17 the Cheasty forest play -- I guess play into the selection
 18 of this park site?**
 19 A. So one -- one of the things I didn't mention earlier is, one
 20 of the things we heard loudly from the community was to make
 21 improvements to what was called the Hanford steps. So the
 22 Hanford steps just come down a little bit south of this park
 23 side, and there's a section of concrete steps. Then they --
 24 then it goes into a section of steps that are basically
 25 railroad ties, mud, or dirt.

1 **Q. So as you were working with the team on identifying the --
 2 and the parks department on identifying appropriate parcels,
 3 to what extent was it important to consider in your job the
 4 fact that this was within an urban village?**
 5 A. That's really -- that's -- it really goes back to the -- the
 6 City's planning and development strategy to concentrate
 7 amenities where the most people can benefit from them.
 8 And so knowing, you know -- you know, experiencing the gap
 9 and hearing about the gap from people that we talked to, we
 10 knew that this was an important part for open space.
 11 But it was -- in my job it was also important because
 12 through the -- the town center and previous work that had
 13 been done in 2011, the neighborhood plans and the town
 14 center plan, which was essentially urban design framework,
 15 said that we really need to connect these -- these
 16 pedestrian networks with viable open space that is also
 17 easily accessible by transit. So this area was -- met all
 18 of those requirements.
 19 **Q. And then you also mentioned Cheasty Greenspace. On this
 20 illustration, where would the Cheasty Greenspace be located?**
 21 A. So as you're looking at the -- at the site, it would be off
 22 to the left. So --
 23 **Q. Like immediately to the left there?**
 24 A. Yeah. So the roadway starts -- well, there's -- I think
 25 there's one more -- no. Actually, yeah. It starts turning

1 So we heard loudly that, hey, we really need to -- to
 2 improve that connection, which would bring folks right down
 3 and have access to this park site which they can easily walk
 4 through to get to the light rail station or to the high
 5 school, et cetera.
 6 **Q. And then to your knowledge, did the parks department take --
 7 I guess part of this team effort, did they actually take
 8 specific steps towards acquiring the parcels for development
 9 as the park?**
 10 A. Yeah. So we were really happy to work with parks. They
 11 submitted an application to the conservation futures
 12 program, and that's operated by King County.
 13 I think most of you guys know, in my experience, King
 14 County is one of the national leaders in land banking,
 15 particularly for open space. They have been doing it for
 16 decades.
 17 And so this was one tool where the parks was, you know,
 18 kind of putting the shovel in the ground saying, hey, yeah,
 19 we've -- we've got some skin in the game, we've got \$300,000
 20 we'd like to match, start identifying the money to acquire
 21 this -- this site.
 22 **Q. And I'm going to refer you to the North Rainier Town Center
 23 Park plan. Do you have that document? This would be
 24 exhibit -- Hearing Examiner Exhibit 42.**
 25 A. I'm not exactly sure. What does that look like?

TOBIN-PRESSER, Christine

1 A. So this is purporting to show what on the left-hand side of
2 the street, the white buildings, is my understanding, are
3 supposed to be existing single family. The yellow buildings
4 on the left side of the street would be what it would look
5 like if lowrise 1 was implemented and the lowrise 1 was
6 along the single family.

7 On the right-hand side of the street it appears that it's
8 all lowrise 2. And so --

9 **Q. What's your reaction to that?**

10 A. My -- my reaction is similar in terms of the fact that this
11 isn't a drawing of anywhere in West Seattle. And again, the
12 lowrise 1 -- the lowrise 1 is all the way in the back of the
13 picture. It doesn't show what it looks like actually next
14 to a single family home. And --

15 **Q. What are the impacts that -- like for example, are
16 daylight -- lack of daylight potential impacts that could
17 happen to a single family home from these?**

18 A. Well, definitely if you have a single-story home next to a
19 30 -- which is a lot of what's -- we talked about in, like,
20 for example, the Oregon-Genesee-Dakota area, a 30-foot home
21 is going to have a lot of impact.

22 But also, under LR1 much more of the lot is taken up. So
23 it -- it's -- I mean, I've used the word "hulking" before,
24 but it's sort of a looming effect, and it -- if it's closer
25 to the property line. And you just can't see that from

1 far more dramatic than what is being depicted here in this
2 picture in that -- on page 3.183 on this drawing.

3 And then the other thing I wanted to say is, there's
4 nothing that depicts the scenario that's shown in
5 pictures -- in Exhibit 241, numbers 5 and 7, which show the
6 actual topography of West Seattle Junction, a lot of the
7 streets. You have a house set very high up on one side, and
8 then perhaps on the other side the house is actually set
9 down from the street.

10 So when -- if you were to have an LR2 building on the side
11 that was set up high, and you had single family on the other
12 side of the street, the impacts of shading on that would be
13 far greater than what you see depicted in this picture. And
14 there's nothing in this EIS that would show that type of
15 scenario.

16 **Q. And so all of these pictures we've been looking at so far
17 show no concept of topography --**

18 A. No.

19 **Q. -- or plot?**

20 A. That's correct. And in West Seattle Junction it's built on
21 a hill. It's very hilly, and so you have a lot of
22 conditions where streets are not flat like that.

23 **Q. And do any of these photos that we've looked at so far and
24 the ones to follow in these graphics show any sort of view
25 impacts?**

1 these pictures.

2 **Q. Okay. Let's see. So are there any other -- do you want to
3 go through each one?**

4 A. Well, I mean, I would want to look at LR -- I don't think
5 there's any LR3 proposed for West Seattle Junction Urban
6 Village. In fact, I know there's not.

7 But I would want to look at lowrise 2 over on 3.183. So
8 that top picture I think is purporting to show what lowrise
9 2 would look like, which is the yellow, in connection with
10 if it was implemented in an area that was single family,
11 which I think the white one is supposed to be showing single
12 family.

13 And again we have the same problem with it being drawings.
14 And again, there's no head-on shots of what it would look
15 like.

16 And there's two things I just want to point out why this
17 is inadequate based on the photos that we previously looked
18 at in Exhibit 241.

19 **Q. Uh-huh.**

20 A. So you'll see in the top photo here on page 3.183, it's
21 purporting to show what lowrise would look like next to a
22 single family.

23 Well, we looked on Exhibit 241-14 at exactly what lowrise
24 2 -- well, it's NC-40, but it's what lowrise 2 would be next
25 to a single family structure. And as you can see, that's

1 A. No. None.

2 **Q. And do they show accurately or analyze the impacts of a
3 lowrise 2 or 3 building on a single family home with respect
4 to lack of daylight?**

5 A. No.

6 **Q. And do they show impacts -- the same kind of juxtaposition
7 impacts with respect to privacy, lack of privacy?**

8 A. No. Nothing.

9 **Q. And do we have any images here that show neighborhood
10 commercial adjacent to -- I'm sorry -- single family homes?**

11 A. No. Because what's being proposed for rezoning the single
12 family areas in the EIS is lowrise 2, which would be
13 equivalent to NC-40. So purportedly this 3.183 page, where
14 it shows LR2 with that single family home, would be the
15 closest depiction --

16 **Q. Okay.**

17 A. -- that you would have of that.

18 **Q. So looking back at Exhibit 240, one thing that I noticed is
19 this is the map of the preferred alternative that we started
20 with at the beginning.**

21 A. Yes.

22 **Q. There's borders shown in the urban village, but there are
23 houses and uses outside of that dark black border, correct?**

24 A. Yes.

25 **Q. And do you know, or do you have any idea what the zoning is**

1 A. Correct.

2 **Q. And so then we're saying zero homes built in the boxy,**

3 **geometric style?**

4 A. Correct.

5 **Q. At all, of any since 1907?**

6 A. Yes.

7 **Q. Okay. And similarly, to read to the one that you were just**

8 **referring to, the Oregon-Genesee-Dakota, we're looking at**

9 **between 2002 and 2010. Is that 11 new homes? Is that**

10 **correct?**

11 A. Yes.

12 **Q. Okay. And one home built in the boxy, geometric style?**

13 A. Correct.

14 **Q. But that's not specific to those years. Do you know when**

15 **the one home built in the boxy, geometric style was**

16 **constructed?**

17 A. It -- it would have been between those years, yeah.

18 **Q. So another quick --**

19 A. Unfortunately, you're right. I didn't note which years

20 those were built in. But as I said in my testimony,

21 anything that was within the last, say, 25 years are the

22 ones that I drove by.

23 So I suppose it's possible that one could have been built

24 in the boxy, geometric style over 25 years ago that I might

25 not have seen.

1 **Q. Okay. So that was another thing I wanted to clarify. So**

2 **this is representative -- let me ask you.**

3 **Was -- to your knowledge, was that constructed under the**

4 **NC zoning?**

5 A. Yes.

6 **Q. Okay. So that's one of the things I wanted to clarify. I**

7 **think you were comparing this photograph to one of the**

8 **exhibits in the aesthetic section.**

9 A. Well, it couldn't be a direct comparison, because there is

10 no existing MHA LR2. This is the closest real example of a

11 40-foot building next to a single family home that I could

12 find. Because LR2 is only 30 feet currently.

13 **Q. Okay. So that leads me to another question. I guess I'm**

14 **wondering, in your testimony, do you believe this is**

15 **representative of what can be built under LR2?**

16 A. Well, certainly the height limit, since it's 40 feet and 40

17 feet.

18 And if you look at the -- I don't know exactly. But when

19 you look at the design portion of the -- I forget what

20 appendix number it is. I guess it's the urban design and

21 neighborhood character study. When you -- and that's Bates

22 stamped 2067, so you're there.

23 So if you look at LR2, the representative of LR2, again,

24 this is -- these are not actual photographs, but it appears

25 to be taking up the portion -- same portion of the lot that

1 But on the other hand, when I went to look at each Zillow

2 piece of data, it -- for the most part, it actually shows a

3 photograph of the home as well, and so none of those past 25

4 years were in that style.

5 **Q. And that's helpful. Thank you. For some of these in the**

6 **Oregon-Genesee-Dakota you stop at 2013. Is there a reason**

7 **for that?**

8 A. Because there weren't any built after that.

9 **Q. Okay. Good. Thanks. So you had testified -- I'm going to**

10 **toggle between these charts and the photographs again.**

11 A. Okay.

12 **Q. So that's Exhibit 242 and 241.**

13 A. Yes.

14 **Q. Photograph number 14 I believe was one showing an apartment**

15 **building.**

16 A. Yes.

17 **Q. Is that one of these that's listed on any of these charts,**

18 **that specific apartment construction?**

19 A. No. These are only single family areas on these four

20 charts.

21 **Q. Okay.**

22 A. This is on 42nd between Genesee and Oregon, which is already

23 rezoned to NC-40.

24 **Q. Under current zoning?**

25 A. Correct.

1 this NC-40 building is taking up, very close to the lot

2 line, 40 feet tall.

3 **Q. And then you had in a couple instances talked about**

4 **apartment buildings that are 40 or 50 feet high.**

5 **What's your understanding of where -- in which zone you**

6 **can construct an apartment building that's 50 feet high?**

7 A. LR3 is my understanding.

8 **Q. Okay. Can you --**

9 A. Under -- under MHA.

10 **Q. Right. And can you do that under LR1 or LR2?**

11 A. No.

12 **Q. Okay. And this is just to clarify again. I think you had**

13 **testified generally -- changing subjects now. Sorry.**

14 **You talked about the City acknowledging inconsistencies**

15 **with the neighborhood plan.**

16 A. Okay.

17 **Q. And you had made the general statement that the City had**

18 **acknowledged it's inconsistent, and then you pointed to --**

19 **Exhibit 243 is that memo. Is that -- that the sole -- when**

20 **you say the City acknowledged it's inconsistent, is your**

21 **understanding of that acknowledgment based on that memo and**

22 **the parts of the text of the EIS to which --**

23 A. The draft EIS, that memo, the final EIS, and the outreach

24 that was proposed that has the red lines of the existing

25 neighborhood plan language.

VOLUME 13

AUGUST 22, 2018

Hearing - Day 13

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

August 22, 2018



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BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

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

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

Transcribed by: Bonnie Reed, CET
Court-Certified Transcription

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WILSON, Kate

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

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

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

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

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1 I --

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

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

4 A. Mm-hmm.

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

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

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

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

9 A. Yes.

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

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

12 A. Yes, it was.

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

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

15 implementing these -- the proposed mitigation measures,

16 which then could improve the potential impacts.

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

18 A. Mm-hmm.

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

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

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

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

23 A. Yes.

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

25 A. Yes.

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

2 discussing what's under 3.5.4?

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

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

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

6 section now.

7 HEARING EXAMINER: Before you do --

8 MR. KISIELIUS: Of course.

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

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

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

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

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

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

15 **3.5.4 were added --**

16 A. Yes.

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

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

19 very early draft.

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

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

22 A. Mm-hmm.

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

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

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

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1 **those protections?**

2 A. Correct.

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

4 **identify that potential impact.**

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

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

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

8 resources.

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

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

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

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

13 **RW3?**

14 MS. BENDICH: Objection; leading.

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

16 MR. KISIELIUS: I just (inaudible).

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

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

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

20 earlier discussed in RW3.

21 HEARING EXAMINER: Sustained.

22 MR. KISIELIUS: Okay.

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

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

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

Page 164

1 **earlier in RW3?**

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

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

4 to historic resources.

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

6 **typology set forth --**

7 A. Oh. Oh.

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

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

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

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

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

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

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

15 **well?**

16 A. Yes, I do.

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

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

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

20 **others common in your experience?**

21 A. Yes.

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

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

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

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

1 individuals. Is the type of coordination that you described
2 as between Mr. Johnson, Ms. Johnson, and Ms. Graham, others
3 on the team including even Mr. Wineman who you haven't
4 personally met, is that common in your experience?

5 A. It's very common, yes.

6 Q. Is -- do -- let me -- more importantly, do you agree with
7 the decisions that were made as a team, regardless of who
8 you might attribute the initial thought to? Do you agree
9 with the decisions that were made?

10 A. Yes.

11 Q. Okay. You've already covered that SEPA review, so I can --
12 look -- I had asked you specifically just now to talk about
13 the -- identify the place for us where the EIS talks about
14 projects that are exempt from SEPA review and that potential
15 impact. I'd like to now focus on projects that will be
16 subject to SEPA review.

17 So Mr. Bricklin asked you whether the City could -- and
18 I'll use the phrase he used in his question -- unwind the
19 rezone, I think was the phrase he used, if SEPA review of a
20 project identifies a building as a historic resource. So
21 I'm going to ask you, could that happen? Would the City
22 unwind a rezone at --

23 A. I've never seen that. Landmarks doesn't have anything to do
24 with what the property's zoned as.

25 Q. Is it --

1 between types of historic resources. So my question to you,
2 is your answer to my preceding question --

3 A. Mm-hmm.

4 Q. -- the same no matter what type of historic resources it is?

5 You were talking about project-level SEPA review.

6 A. It -- it still doesn't -- project-level SEPA review doesn't
7 change depending on what the zoning is.

8 Q. Okay.

9 A. So no.

10 Q. Thank you. Mr. Bricklin asked you about cumulative impacts
11 analysis, and specifically he asked you whether you analyzed
12 the impact from -- and the phrase he used was the
13 development that's going to occur even without MHA together
14 with the additional increment of development under MHA. I
15 want to unpack that. Did you look at the no-action
16 alternative?

17 A. Yes.

18 Q. And does that represent the development that's going to
19 occur even without MHA?

20 A. Yes.

21 Q. And when you looked at the action alternatives, did that
22 cover the growth that will occur throughout the city under
23 MHA?

24 A. Yes.

25 Q. And so is there ever a scenario where you'll have both the

1 A. There's no correlation to zoning and being landmark
2 designated.

3 Q. Let me ask you more directly. Is -- he was focused on could
4 you undo the rezone. Is -- if you say you can't unwind the
5 rezone, is that the same thing as saying you could not
6 protect the resource?

7 A. No.

8 Q. Could you please explain how you still protect the resource
9 even if the zoning doesn't change?

10 A. Correct. The resource is protected under the code that
11 protects landmarks, so it doesn't -- the same process I was
12 trying to explain earlier would apply regardless of the
13 zoning.

14 Q. Okay.

15 A. Yeah.

16 Q. And I think in Mr. Bricklin's questions he didn't
17 distinguish between the types of historic resources --

18 MS. BENDICH: Objection; leading.

19 MR. KISIELIUS: I'm simply trying to identify the
20 testimony that I'm trying to elicit based on what she had
21 asked.

22 HEARING EXAMINER: And he didn't finish the question.

23 MS. BENDICH: I'm sorry.

24 HEARING EXAMINER: Overruled.

25 Q. (By Mr. Kisielius) In his question, he did not distinguish

1 no-action and the action alternatives?

2 A. No.

3 Q. Okay. On that topic that we were just discussing,
4 Mr. Bricklin used a very specific phrase. He used the
5 phrase "historic fabric."

6 A. Mm-hmm.

7 Q. And in some of his other questions he referred to historic
8 fabric, and at the risk of adding yet another phrase to the
9 list of things we need to pay attention to, I'm not sure you
10 ever explained your understanding of that specific phrase.
11 What is historic fabric?

12 A. Sure. Historic fabric, it's a characteristic of an area.
13 It's not a protected class of a historic property. It's a
14 feature of an area. It's used during the evaluation
15 process. When you're doing an inventory, you are looking at
16 is there adjacent cohesive historic fabric of this area
17 you're looking at. So it's -- it's a descriptor; it's not
18 a -- it doesn't come with any particular regulatory
19 protections.

20 Q. Okay. Did you discuss this in the EIS? I guess I'll -- for
21 efficiency, I'm going to ask you to turn to page 3306 and
22 look at the first paragraph.

23 A. Yes.

24 Q. Will you read the first sentence there?

25 A. "Potential decreases to the historic fabric of a

Page 169

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

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

Page 171

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

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

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AUGUST 23, 2018

Hearing - Day 14

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

August 23, 2018



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BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

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

Hearing, Day 14 - August 23, 2018

Heard before Hearing Examiner Ryan Vancil

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1 -o0o-
2 August 23, 2018
3
4 HEARING EXAMINER: Let's start with checking in with the parties on how we're proceeding with witness testimony.
5
6 MR. THALER: Toby Thaler, Fremont Neighborhood Council. I have a proposed statement that we've discussed before. I have discussed with Counsel. This is the statement by a witness who -- we replaced a real estate agent that was on -- who was on --
7
8 HEARING EXAMINER: I'm sorry. Before we get to that, this is a new item. The item --
9
10 MR. THALER: Yes.
11
12 HEARING EXAMINER: -- that we ended the day with yesterday was to discuss how --
13
14 MR. THALER: Ah.
15
16 HEARING EXAMINER: -- the parties would proceed with direct and/or cross of particular witnesses. So if we could address that first and then get to any new issues that have come up.
17
18 MR. THALER: Okay. The only issue I have in that regard is whether Leslie Price needs to be called, if I can't compel the presence of Robert Feldstein.
19
20 HEARING EXAMINER: And I had asked that the parties have communication with each on those.
21
22
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25

1 MR. THALER: And they haven't -- we did discuss it at the end of the day yesterday, but I don't know where we left it, other than they would think about it.
2
3 MR. KISIELIUS: Tadas Kisielius on behalf of the City. I think we -- where we left things was a partial resolution. I'll start more globally before we get to the specifics of the issue Mr. Thaler has identified.
4
5 HEARING EXAMINER: Um-hmm.
6
7 MR. KISIELIUS: As the Examiner pointed out yesterday, we were talking about things in the abstract. We were trying to identify specifics. The problem I think we encountered was that there are three party representatives here out of nine.
8
9 And so in terms of the task at hand, Mr. Wentlandt was specifically identified on one, if not a number of parties' witness lists by name, and so there's absolutely no objection from the City's standpoint with respect to Mr. Wentlandt.
10
11 HEARING EXAMINER: Um-hmm.
12
13 MR. KISIELIUS: The only other two specific instances we were able to discuss yesterday were presented by a counsel who was present, is Mr. Gifford and then Mr. Thaler's issues.
14
15 So starting with Mr. Gifford, I don't think -- well, we're not aware that he was named specifically on anybody's list.
16
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1 HEARING EXAMINER: Let's put him aside for a minute.
2
3 MR. KISIELIUS: Okay. For Mr. Thaler's, he has two witnesses he's identified; one for whom he's got a subpoena that he was going to try to serve. And the other one he has not. Both of them were identified on Mr. Thaler's list.
4
5 I think the City's objection to those witnesses is not grounded in whether or not he specifically called them. Rather, it's grounded in -- there's two issues. First is he's presenting them as rebuttal witnesses to issues where it's not clear that that rebuttal is even necessary, given the fact that he's going to have access to a witness to talk about some of the legislative enactments that he's most interested in present today. And so we're trying to -- the only reason we see that Mr. Thaler would want to call different witnesses would be to elicit what we believe to be irrelevant testimony to the adequacy of the EIS.
6
7 The legislative enactments that we've presented and that Mr. Wentlandt has testified to and will continue to testify to are important in that they shape the scope of the proposal that was in review. But Mr. Thaler, I think, is seeking to elicit testimony about sort of the palace intrigue and backroom politics, which, again, we don't agree with the narrative that is important to him. But we also, more importantly, believe that that is irrelevant to the issues of the adequacy of the appeal.
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WENTLANDT, Geoff

1 **Q. Okay. You had mentioned alternatives. I'm going to come to**
2 **that, but there's another concept I wanted to discuss about**
3 **the proposal.**

4 MR. KISIELIUS: And, Mr. Examiner, I'm about to switch to
5 a different subject. I just want to be --

6 HEARING EXAMINER: Let's just go to 10:30.

7 MR. KISIELIUS: Okay. Great.

8 **Q. (By Mr. Kisielius) Let's talk about urban village expansion**
9 **areas. I think is a -- and maybe another core concept of**
10 **the proposal here that I'd like to ask you about. Other**
11 **witnesses have discussed, and other witnesses will discuss**
12 **some of the impact analyses of these. I just want to talk**
13 **about what they are from a very fundamental level, some**
14 **context and background.**

15 **First, can you identify where the expansion areas are**
16 **depicted? Are they included in Chapter 2 there?**

17 A. They are. They're identified in multiple places, but
18 they're, you know, first identified in detail in a series of
19 maps beginning at Page 2.42 of the EIS.

20 **Q. Okay.**

21 A. Well, yeah, 2.41 and 2.42. Yeah.

22 **Q. And on -- what are those expansion -- well, let's -- just to**
23 **be clear, the expansion area is shown in that dotted, dashed**
24 **line for each of the urban villages?**

25 A. Yes.

1 **here. This will be a new exhibit, Binder 8, City Exhibit**
2 **115. Tab --**

3 MS. NEWMAN: What was it? I'm sorry.

4 **Q. (By Mr. Kisielius) -- Tab 115. Are you there?**

5 A. Yes.

6 MR. KISIELIUS: Okay. Can I have that marked as an
7 exhibit?

8 HEARING EXAMINER: Are we going to use the whole thing?

9 MR. KISIELIUS: No. We can --

10 HEARING EXAMINER: Is there a way to reduce it that's
11 logical?

12 MR. KISIELIUS: Yes. So what I -- I guess what I'd
13 propose is I'll have it marked. I'll have him testify.

14 HEARING EXAMINER: Um-hmm.

15 MR. KISIELIUS: This could be something that triggers more
16 questions later.

17 HEARING EXAMINER: Certainly.

18 MR. KISIELIUS: And then we can ask to admit it and reduce
19 it.

20 HEARING EXAMINER: This is marked as 270. And we can
21 certain move for admissibility with the City if at some
22 point, you know, there's more pages that need be drawn in
23 through cross or direct from appellant. We can add those --

24 MR. KISIELIUS: Okay.

25 HEARING EXAMINER: -- to this as we go.

1 **Q. And we'll get into the variability between the alternatives**
2 **in a second. I want to focus still on this context**
3 **background level. On what are they based, in general?**

4 A. On the concept of a 10-minute walk or walkshed from a
5 frequent transit station.

6 **Q. Okay. And I want to focus a little bit about the -- on the**
7 **origin of these and the process by which they were proposed**
8 **and evaluated by the City. So when were these expansion**
9 **areas first proposed?**

10 A. There's a long history there. At least as far back as 2014
11 when the City was looking at alternatives for the Seattle
12 2035 Comprehensive Plan update.

13 **Q. Okay. And so to get very precise with that, were they**
14 **included in the mayor's recommended 2035 comp plan?**

15 A. They were.

16 **Q. And were they referred by the mayor's office to the Seattle**
17 **City Council Planning Land Use and Zoning Committee?**

18 A. Yeah. So the, you know, urban village boundary expansions
19 were recommended in the mayor's Seattle 2035 Comprehensive
20 Plan update. They were recommended to be indicated on the
21 future land use map. And that was sent to the City Council
22 for their review. And that review starts with the
23 planning -- the PLUZ committee.

24 **Q. Okay. And I'm going to ask you to juggle around here. But**
25 **if you could go to Binder 8 of the (inaudible), which is**

1 MR. KISIELIUS: Thank you.

2 **Q. (By Mr. Kisielius) So can you describe what this document**
3 **is?**

4 A. This is the director's report, the director of the Office of
5 Planning and Community Development, on the mayor's
6 recommended Seattle 2035 Comprehensive Plan.

7 **Q. Okay. And does it describe the urban villages expansion**
8 **areas?**

9 A. It does. I believe if you turn to Page 6 is one -- the
10 first place. There's a description here. In the third
11 paragraph from the bottom of Page 6 it states: A new policy
12 says that the location of very good transit service inside
13 an urban village should influence the village boundary by
14 making the area generally within a 10-minute walk of the
15 transit station part of the village.

16 And I would also highlight or direct attention to Page 8.

17 And the last paragraph on Page 8 says that another change to
18 the FLUM is the addition of dash lines outside the
19 boundaries of those urban villages that have very good
20 transit service, either a light rail station or a RapidRide
21 bus stop that intersects with another frequent bus route.
22 The dashed lines are drawn to incorporate an area that is
23 within approximately a 10-minute walk of the transit
24 service.

25 It also goes on to state that at this time, the dashed

1 lines represent the general area for further study as part
 2 of the City's work on the housing affordability and
 3 liveability agenda.
 4 **Q. Okay. So were the urban village expansion areas reviewed in**
 5 **the EIS for Seattle 2035?**
 6 A. They were.
 7 **Q. Okay. And were they part of the Preferred Alternative for**
 8 **that EIS?**
 9 A. Yes, they were included in the Preferred Alternative.
 10 **Q. Okay. And did a committee or the Council consider those**
 11 **changes?**
 12 A. Yes. The Council reviews the proposed changes to the plan.
 13 Yeah.
 14 **Q. Okay. What did the Council decide to do with that specific**
 15 **part of the proposal?**
 16 A. Ultimately, the Council decided to hold off on the urban
 17 village boundary expansions.
 18 **Q. Okay. Is that documented somewhere?**
 19 A. I think it's in Council memos and documentation of the
 20 discussion at those council meetings.
 21 **Q. Okay. So I'm going to have you stay in Binder 8 there. But**
 22 **if you could turn to Tab 116. So this is City 116.**
 23 MR. KISIELIUS: Can I have that marked?
 24 HEARING EXAMINER: 271.
 25 MS. NEWMAN: I'm sorry. What number?

1 until more detail regarding future urban village boundaries
 2 and zoning is available through ongoing work to implement
 3 the mandatory housing affordability program.
 4 **Q. Okay. And then what does it say in the following sentences**
 5 **about the inclination --**
 6 A. Well --
 7 **Q. -- and the future land use map?**
 8 A. -- following that, it says, During discussion on August
 9 16th, PLUZ was inclined to amend the FLUM and the mayor's
 10 recommended plan only to add cemeteries as unique land use.
 11 So it's basically saying they had some discussion about
 12 this, and they're, at this -- at this point were deciding
 13 not to put those lines on the future land use map.
 14 **Q. Okay. And the specific suggestion was to take that up under**
 15 **MHA?**
 16 A. Yeah. That's what's indicated in the paragraph I read.
 17 **Q. And, then, can you turn to Tab 117.**
 18 MR. KISIELIUS: Can I have that marked, as well?
 19 HEARING EXAMINER: 272.
 20 MR. KISIELIUS: Thank you.
 21 **Q. (By Mr. Kisielius) Can you describe for us what we're**
 22 **looking at here?**
 23 A. Yeah. This is a similar memo from Council's central staff
 24 to the PLUZ committee. It's from September 19th. So it
 25 would have been a meeting after that last one. And it's,

1 HEARING EXAMINER: 271.
 2 MS. NEWMAN: Oh, 116.
 3 MR. KISIELIUS: Oh, the City reference is 116.
 4 **Q. (By Mr. Kisielius) Can you describe what this document is?**
 5 A. So this is a memo prepared by the Council's central staff to
 6 the PLUZ committee. It's from September of 2016, and it's
 7 about their ongoing discussion of the potential amendments
 8 to the Seattle 2035 plan.
 9 **Q. Okay. And can you turn -- there's, I think, a two-page**
 10 **memo, and then there's a chart that follows immediately.**
 11 **And the chart -- I'm going to refer to two page numbers. A**
 12 **page number out of 92, I want you to turn to Page 22 out of**
 13 **92 --**
 14 A. Yeah.
 15 **Q. -- which is also Bates stamp number 008382.**
 16 MR. THALER: Say that again, please.
 17 MR. KISIELIUS: Sure. Page No. 22 of 92. And the Bates
 18 stamp number is 008382.
 19 **Q. (By Mr. Kisielius) Do you see the section numbered 36**
 20 **there, future land use map?**
 21 A. Yes, I do.
 22 **Q. Under the column titled "Discussion" at the second-to-last**
 23 **paragraph, starting, "Councilmembers," could you read that**
 24 **for us?**
 25 A. Councilmembers may want to hold off on making these changes

1 again, discussion of amendments to the Seattle 2035 plan.
 2 **Q. Okay. And I'm going to have you turn again. There's a**
 3 **notation at the bottom of a page number out of 83. Could**
 4 **you please turn to Page 79 of 83.**
 5 A. I'm there.
 6 **Q. Okay. Can you tell us what's going on here on number 190?**
 7 A. Okay. So this is documenting the policy decision. Should
 8 the future land use map include -- it's documenting the
 9 decision about the future land use map. And in that box --
 10 **Q. Can you read the first sentence?**
 11 A. Yeah. I'm on Page 40. Replace the future land use map with
 12 a new version of the map that does not include potential
 13 urban village expansion areas. So this is documenting their
 14 decision not to include those expansion lines on the map at
 15 this time.
 16 **Q. Okay. And is this consistent with the earlier memorandum**
 17 **that you had just described, the one from a week or two**
 18 **before, which is Exhibit 271?**
 19 A. That's right.
 20 **Q. To take up consideration of those things under MHA?**
 21 A. Yeah. Before the -- in that prior memo, they said they were
 22 inclined to hold off. And then this is confirming that,
 23 that they would not add those lines at the time.
 24 **Q. Okay. But, just to be clear, this last one documents that**
 25 **they were not included in Seattle 2035; is that right?**

1 A. That's correct.

2 **Q. Okay. So we've heard some testimony that suggests that**

3 **Council outright rejected these urban village expansion**

4 **areas as part of the comp plan process. Based on these**

5 **documents that you've just described and your observation of**

6 **relevant council meetings and committee meetings, do you**

7 **agree with that testimony?**

8 A. No, I don't agree. It's -- it was really clear that what

9 the Council was saying is that they weren't ready at that

10 time to add the 10-minute walkshed expansions. They wanted

11 further study as a part of MHA implementation to have some

12 more information to make that decision.

13 MR. KISIELIUS: Okay. I'm going to move to admit excerpts

14 of those documents. We don't need all of them. I would

15 move to admit, I think, the first couple pages. Do you want

16 to start -- do them in order?

17 HEARING EXAMINER: Let's start with one at a time. Which

18 documents do we have? Do we have -- is it starting with

19 270?

20 MR. KISIELIUS: 270 and then --

21 HEARING EXAMINER: So for 270, do we want to do the report

22 but not the appendix? Does that work? I don't --

23 MR. KISIELIUS: Mr. Wentlandt testified to -- bear with

24 me. I think that's -- that would be good.

25 HEARING EXAMINER: I think he did 6 and 8.

1 MR. KISIELIUS: Six and 8 --

2 HEARING EXAMINER: Right.

3 MR. KISIELIUS: -- and the report itself is only 17 pages

4 long.

5 HEARING EXAMINER: Um-hmm.

6 MR. KISIELIUS: The segment through the mid -- I guess

7 the --

8 HEARING EXAMINER: So we'll do the report.

9 MR. KISIELIUS: Um-hmm.

10 HEARING EXAMINER: Again, to any party that needs to dig

11 into the appendix at some point, we can come back to that

12 and simply add any pages. For the other two, I don't want

13 to meddle too much.

14 MR. KISIELIUS: Okay.

15 HEARING EXAMINER: I do prefer whole documents, but just

16 not when they're getting to a certain size. We can weed

17 them out.

18 MR. KISIELIUS: Okay.

19 HEARING EXAMINER: So...

20 MR. KISIELIUS: So, then, with that excerpt of 270, I'd

21 move to admit the report in 270 and then Exhibits 271 and

22 272.

23 MS. NEWMAN: No objection.

24 HEARING EXAMINER: 270 through 272 are admitted.

25 (Exhibit Nos. 270, 271, 272 admitted into evidence.)

1 HEARING EXAMINER: And we'll take a break and come back at

2 10:45.

3 (Recess)

4 HEARING EXAMINER: And we're continuing with Mr. Wentlandt

5 on direct.

6 MR. KISIELIUS: Okay.

7

8 DIRECT EXAMINATION (Resumed)

9 BY MR. KISIELIUS:

10 **Q. Mr. Wentlandt, we were just talking about the urban village**

11 **expansion areas, and you had given us some background and**

12 **context about the origin of those and their inclusion in**

13 **MHA. I want to ask you just a few questions about those.**

14 **We've heard some testimony about whether those expansion**

15 **areas are consistent with the City's criteria for**

16 **establishing them. To what would you look? What are the**

17 **criteria for establishing those? Is there a comp plan**

18 **policy that you could point to?**

19 A. Yeah. The -- well, first, you'd always look at the

20 comprehensive plan first. And there's a specific policy in

21 the comprehensive plan about that.

22 **Q. So the comp plan is Exhibit 3, for the record. Do you want**

23 **to point us to a page?**

24 A. Yeah. I would point you to Page 26. It's Bates stamped

25 002396. And there's growth strategy policy 1.12. It

1 says, include the area that is generally within a 10-minute

2 walk of light rail stations or very good bus service in

3 urban village boundaries, except in manufacturing and

4 industrial centers.

5 **Q. So just to tie that together with your understanding of the**

6 **urban village expansion areas, can you explain how those are**

7 **consistent with that policy?**

8 A. The ten proposed urban village boundary expansions and

9 the -- discussed in the EIS are all based on that concept of

10 the 10-minute walk from a light rail station or very good

11 bus service. So it's, you know, very much consistent with

12 that policy.

13 **Q. Okay. And there's been some specific testimony about the**

14 **need to preserve existing neighborhoods or to use**

15 **boundaries. Is that boundary consistent with arterials? Do**

16 **you have a response to that?**

17 A. Well, I believe that testimony was looking at the

18 Steinbrueck Strategies report. And that was an

19 informational report that was, you know, prepared for the

20 City's information. It included some discussion of factors

21 that should be considered when looking at village

22 expansions. That report wasn't, you know, formally adopted

23 by the Council. So the discussion in there, you know,

24 should be considered along with other information. But, you

25 know -- you know, clearly, the comprehensive plan policy

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

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

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

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

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

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

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

10 A. Okay. I see that map.

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

14 A. No, I don't.

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

18 A. Yeah.

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

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

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

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

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

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

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

17 A. Yes.

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

25 A. Um-hmm.

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

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

7 A. Yes.

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

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

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

15 A. Yeah. All right.

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

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

23 **Q. Okay.**

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

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

1 to note that the left column under "Displacement Risk and
 2 Access to Opportunity," it says, Not used explicitly to
 3 influence the location and amount of additional growth.
 4 And in the right column, urban villages, it says all urban
 5 villages. And the point there is that, you know, all the
 6 urban villages are treated more or less in the same manner,
 7 pursuant to the comprehensive plan.
 8 So I want to contrast that summary of Alternative 2 with
 9 Alternative 3. And the description for Alternative 3 begins
 10 on that same page, 2.30. Under Alternative 3, specific MHA
 11 zoning capacity increases will be based on the guiding
 12 principles summarized for Alternative 2 above, plus explicit
 13 consideration of each urban village's location on the
 14 displacement risk and access to opportunity typology.
 15 And so there's another table that's at Exhibit 2-10 on the
 16 following page that here you see for Alternative 3 a
 17 breakout of the four different types of urban villages. And
 18 that's derived from the growth and equity analysis. You can
 19 see in the first line of that table under the header is for
 20 the high displacement risk and low access to opportunity
 21 villages. So those are Rainier Beach, Othello,
 22 Westwood-Highland Park, South Park, and Bitter Lake.
 23 And in the middle of that table it describes how the
 24 development capacity increases are assigned to that category
 25 of urban villages. So apply small development capacity

1 A. With respect to expansion areas?
 2 **Q. Yeah. For Alternative 3.**
 3 A. Oh, Alternative 3 --
 4 **Q. Is it different than Alternative 2?**
 5 A. That's right. So for the first category of urban villages,
 6 the ones with high displacement risk and low opportunity, it
 7 says, Apply a reduced urban village boundary expansion to a
 8 five-minute walkshed or less from frequent transit.
 9 So Alternative 3 considers much smaller urban village
 10 boundary expansions in certain areas.
 11 **Q. And is that also based on the growth and equity --**
 12 A. That's right.
 13 **Q. -- report?**
 14 A. Yeah.
 15 **Q. So sorry. I didn't mean to interrupt. But now you can tell**
 16 **us about the Preferred Alternative.**
 17 A. Okay.
 18 **Q. How does it differ from the prior alternatives?**
 19 A. So Alternative 3 is a variation. It includes features that
 20 are similar to Alternative -- I'm sorry -- the Preferred
 21 Alternative includes features similar to Alternative 3. The
 22 zoning capacity increases do consider displacement risk and
 23 access to opportunity. And they also place greater emphasis
 24 on several features or refinements. And those are greater
 25 emphasis on proximity to transit nodes and modifications

1 increases, resulting in a high proportion of M designations
 2 with limited instances of M1 and no M2 designations.
 3 So, based on the -- you know, because we're considering
 4 displacement risk and access to opportunity here, the
 5 capacity increases are assigned to these urban villages in
 6 a -- in a different way than Alternative 2.
 7 I'll just go through the second line on that same table
 8 and just point out that -- so low displacement risk, high
 9 access to opportunity neighborhoods, you know, like Green
 10 Lake, Wallingford, Roosevelt, the capacity increases are
 11 assigned differently. And it says, Apply large development
 12 capacity increases resulting in a high proportion of MHA M1,
 13 and M2 designations, along with some M designations.
 14 So the intensity and amount of zoning increases is varied
 15 between Alternatives 2 and 3, based on the consideration of
 16 displacement risk and access to opportunity. Yeah.
 17 **Q. So why don't you tell us about the Preferred Alternative**
 18 **now.**
 19 A. So the Preferred Alternative is described on a --
 20 **Q. I'm sorry. Can I --**
 21 A. Yeah.
 22 **Q. Before we leave that, you had talked about Alternative 2**
 23 **and -- excuse me -- yes, Alternative 2 and urban village**
 24 **expansion areas. What does Alternative 3 do with respect to**
 25 **expansion areas? Can you turn to Page 2.32?**

1 based on the presence of environmental constraints. So it's
 2 a refinement variation that's most similar to Alternative 3,
 3 but differs, based on a couple of points of emphasis.
 4 **Q. Okay. So I appreciate that detail. Is it fair to say**
 5 **that -- and I just want to characterize it in one sentence,**
 6 **is that the alternatives differ in where and how extensively**
 7 **the levels of capacity increase are applied?**
 8 A. Yes.
 9 **Q. Okay. I'm going to ask you to turn to Page 2.36 and ask you**
 10 **to describe what was the result in terms of the development**
 11 **capacity increases in the various alternatives.**
 12 A. Yeah. So we've -- at 2.36, we've talked about, you know,
 13 greater or lesser amounts of zoning change. And you can see
 14 this summarized on 2.36 for each of the alternatives. I'm
 15 just going to contrast Alternative 2 and Alternative 3 in
 16 this example. This is for the high displacement risk, low
 17 access to opportunity villages -- Rainier Beach, Othello,
 18 and so forth.
 19 You'll see that in a red graph, Alternative 2 -- in this
 20 case, 69 percent of all the zoning changes are at the M
 21 level, the lowest increase.
 22 Looking to the right of that in the gold chart or the gold
 23 figure, 93 percent of all the capacity increases under
 24 Alternative 3 are at that M, lowest level.
 25 And you can -- you can see how that -- you know, the

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1 with what's being proposed?
 2 A. I think the SEPA regulations say that there should be a
 3 summary of plans and whether they're consistent or whether
 4 the proposal is consistent or inconsistent with those plans.
 5 **Q. Would those include current zoning?**
 6 A. Well, I think it says plans and regulations, so, yes, it
 7 would include --
 8 **Q. Sure.**
 9 A. -- current zoning.
 10 **Q. Okay. So if you have an area that's outside of the EIS**
 11 **urban village that's over 40 feet -- and I know we've gone**
 12 **over this, but do you think that SEPA would suggest that you**
 13 **should say that this is inconsistent with the regulations**
 14 **that the City has?**
 15 A. Let's see. I think the EIS should, you know, provide a
 16 summary of the degree in which the proposal is consistent or
 17 inconsistent with regulations. And I think this EIS does
 18 propose some heights over 40 feet in areas outside urban
 19 villages, and that's disclosed as a, you know, zoning
 20 increase to 55 feet. I don't think it goes any higher than
 21 55 feet, off the top of my head, but the decision-maker can
 22 see that height limit increase proposal.
 23 **Q. Right. But the public -- how is the public supposed to know**
 24 **in the draft EIS that that's inconsistent with current**
 25 **zoning?**

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1 A. Well, it's a zone change. It's a rezone. It's clearly, you
 2 know, a new zone. It's --
 3 **Q. It is.**
 4 A. It's a change to the zoning.
 5 **Q. That is inconsistent with the criteria that the zoning has**
 6 **in it. There's nothing in it that -- obviously we can see**
 7 **that it's a higher thing. But that there are other steps**
 8 **that you have to go through in the -- and I don't have the**
 9 **exact language.**
 10 MS. BENDICH: Did you get that?
 11 MS. NEWMAN: Oh, I'm sorry. I wasn't -- what are you
 12 looking for?
 13 MS. BENDICH: That section on 40 feet.
 14 MS. NEWMAN: Oh. This is my general result under it.
 15 MS. BENDICH: Okay.
 16 **Q. (By Ms. Bendich) It doesn't tell you that these -- that the**
 17 **40 feet may be considered outside of those -- of urban**
 18 **villages. Well, it should be limited to urban villages.**
 19 A. Well, if you read the full statement, there's more to it, I
 20 believe.
 21 **Q. All right. Height limits greater than 40 feet may be**
 22 **considered outside of urban villages where higher height**
 23 **limits would be consistent with adopted neighborhood plans.**
 24 A. And there's more, I think, too.
 25 **Q. And a major institution's adopted master plan or where the**

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1 designation would be consistent with the existing build
 2 character of the area.
 3 A. Yeah.
 4 **Q. Right. And do you disclose that in the EIS -- the draft EIS**
 5 **for the public?**
 6 A. Well, what the EIS discloses are specific locations where
 7 the zoning is proposed to increase beyond 40 feet in height
 8 outside of urban villages. And SEPA doesn't require that
 9 every single regulation or policy be, you know, analyzed in
 10 detail. It requires a summary for a nonproject action. I
 11 think that arguably, the -- you know, there's interpretation
 12 and that even that rezone criteria could -- you know, could
 13 be interpreted in some instances to, you know, support a
 14 change from 40 to 55 feet. Those changes are mostly for
 15 limited areas of NC-40 zoning that are in -- you know, along
 16 some arterials.
 17 One additional story in the context of other buildings
 18 that could be built to 40 feet already in those areas, you
 19 know, would not be too far afield from consistency with that
 20 criteria.
 21 **Q. Is that true along Northeast 65th Street in Ravenna?**
 22 A. I know that there's some multistory buildings in that area,
 23 but I couldn't say, you know, across the board. I couldn't
 24 make a conclusion.
 25 **Q. I believe in your testimony, you said that there were**

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1 seven -- we were looking at Mr. Steinbrueck's
 2 inconsistencies that he had identified. And you've said
 3 that there were seven inconsistencies that you agreed they
 4 were inconsistent. And there was one that was given as an
 5 example. But I'd like to know what each of the seven is.
 6 A. I could do that.
 7 **Q. Okay.**
 8 A. I have -- could I refer to my copy?
 9 **Q. Sure.**
 10 HEARING EXAMINER: Please proceed.
 11 THE WITNESS: Okay. Thank you.
 12 A. So the first one is on the first page of the Exhibit 8. So
 13 North Rainier P9. Begin seat to maintain single-family --
 14 HEARING EXAMINER: Could you just read the numbers,
 15 please?
 16 A. Okay. NR P-9. And then also on the first page, R-LUG1.
 17 On Page No. 3, MJ-P13. And --
 18 **Q. (By Ms. Bendich) Just slow down for a minute. The third**
 19 **page?**
 20 A. Third page, yeah.
 21 **Q. Which one is that?**
 22 A. MJ-P13.
 23 **Q. MJ -- I'm just trying to find that. Oh, Morgan Junction.**
 24 **Okay. All right.**
 25 A. The next one is two down from that, MG-P8.

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1 The next one is the last one on Page 3, W-P1.

2 **Q. What about the one before that, Roosevelt HG1, protect**

3 **and --**

4 HEARING EXAMINER: Let's let him finish this question.

5 MS. BENDICH: Okay. Okay.

6 **Q. (By Ms. Bendich) Are you finished?**

7 HEARING EXAMINER: No. He's got two more.

8 MS. BENDICH: Okay.

9 A. The next page, the top of the page, WSJ-P13 and W/HP-P18.

10 And I believe that's -- I believe that's seven.

11 **Q. (By Ms. Bendich) Okay. And mostly those relate to**

12 **single -- maintaining the single-family zoning, correct?**

13 A. Yeah. It's the ones that can be interpreted explicitly for

14 retention of single-family zoning within urban villages.

15 **Q. And if I could draw your attention to Page 3.**

16 A. Yeah.

17 **Q. The one right up from the bottom regarding Roosevelt --**

18 A. Yeah.

19 **Q. -- HG-1 where it says, Protect and maintain the**

20 **architectural heritage of Roosevelt's craftsman bungalow and**

21 **Tudor-style housing while embracing growth of well-designed**

22 **buildings of an appropriate scale. Are you proposing to**

23 **change that?**

24 A. No. I don't -- I don't think this policy is inconsistent.

25 It's talking about the architectural heritage. It's talking

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1 about embracing well-designed buildings. I don't -- I think

2 that, you know, it's not inconsistent.

3 **Q. Well, if you're going to upzone everything that's**

4 **single-family to potentially RSL or LR1 or LR2 in that area,**

5 **wouldn't that necessarily mean you'd be getting rid of the**

6 **Roosevelt's craftsman bungalows?**

7 A. No.

8 **Q. No? Why not?**

9 A. I mean, taking residential small lot, for example, you can

10 add housing onto an existing lot and preserve the existing

11 home. That's encouraged by the proposed code. You could

12 also design, you know, new --

13 **Q. The code, as it is today, though, applies to ADUs and DADUs,**

14 **isn't that correct?**

15 A. I'm referring to the proposed residential small lot code.

16 And I think that it's also important to note that you could

17 design new buildings, you know, particularly in residential

18 small lot, but lowrise zones, too, that have architectural

19 characteristics of the craftsman style that would be

20 compatible.

21 **Q. And you don't -- would you agree that speculators might not**

22 **agree with you and would want to tear it down and build**

23 **something that has more density and they can sell at a**

24 **higher rate to different -- split up a lot?**

25 A. I don't think that's -- I mean, I think the policy here is

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1 to try to, you know, encourage what the policy is trying to

2 encourage. And, I mean, I don't think your question is

3 really related to this policy.

4 MS. BENDICH: Okay. If you would just take -- let me a

5 take a minute just to go through my notes.

6 **Q. (By Ms. Bendich) I just want to make clear one thing about**

7 **affordable housing where you have low displacement risk and**

8 **high opportunity.**

9 A. Okay.

10 **Q. The purpose -- are you saying that the purpose of this EIS**

11 **was not necessarily to put people into those neighborhoods**

12 **who require affordable housing?**

13 A. Well, the purpose of the EIS was to evaluate -- I mean, I'm

14 trying to answer the question. I mean, the purpose of the

15 EIS was to evaluate different ways to achieve 6200

16 affordable units and additional housing growth. You know,

17 the objectives are as they're written.

18 **Q. Would you agree that the areas that have been identified as**

19 **high risk, particularly people of color, people of lower**

20 **economic wherewithal, should be areas that have high**

21 **opportunity?**

22 A. Well, I think the EIS discusses that, you know, the impacts

23 of having more rent and income-restricted affordable housing

24 in high-opportunity neighborhoods. It discusses, you know,

25 the benefits of that, and it discusses, you know, the

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1 relative between the alternative benefits of having more or

2 less income-restricted affordable units in high-opportunity

3 areas.

4 **Q. And that's because they normally have better schools; is**

5 **that correct? They have better access to jobs; is that**

6 **right?**

7 A. Well, I mean, that's one of the points of looking at

8 high-opportunity areas is that income-restricted housing in

9 those areas provides good access to those amenities.

10 **Q. Is there anything in the EIS that says where -- that these**

11 **6,000 units should go into -- 6200 should go into those**

12 **areas?**

13 A. Well, it does estimate a specific number of the

14 rent-restricted units for each urban village.

15 **Q. So it does an estimate. I'm sorry. I'm not understanding**

16 **which there is --**

17 A. Well -- so do you want me to find it or can I just sort of

18 describe it?

19 **Q. Describe it first.**

20 A. There's a specific projection for where the rent and

21 income-restricted housing units, affordable units, would be

22 distributed and an amount for -- that's projected for each

23 urban village, according to some assumptions.

24 **Q. Okay. And if the area has already been upzoned, wouldn't**

25 **that land be more expensive to put in that affordable**

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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

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

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

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

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

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August 24, 2018

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

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

MR. KISIELIUS: It was Exhibit 239, Toby.

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

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

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

HEARING EXAMINER: Right.

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

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

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MR. KISIELIUS: We have two more items.

HEARING EXAMINER: Yes.

MS. BENDICH: Okay.

(Inaudible colloquy).

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

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

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

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

HEARING EXAMINER: Sure.

(Inaudible colloquy).

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

HEARING EXAMINER: Sure.

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

HEARING EXAMINER: Okay.

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

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appellants --

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

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

MS. BENDICH: Okay.

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

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

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

MS. BENDICH: Oh, okay.

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

MS. BENDICH: Okay, sure.

HEARING EXAMINER: -- to address first.

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

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

MR. THALER: What is it?

JACOBUS, Rick

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1 HEARING EXAMINER: Okay. Redirect.
 2 Or actually, I've got an example question. I'll stick
 3 with my pattern of just asking those now before we go to
 4 redirect. There's just a couple.
 5 Mr. Wentlandt, in Exhibit 8, you indicated you had gone
 6 through Mr. Steinbrueck's list, and we've already identified
 7 the seven that you thought were identified for change in the
 8 EIS. Could you please identify the -- you said there were
 9 about a dozen that actually support the action?
 10 THE WITNESS: Yeah.
 11 HEARING EXAMINER: That way I know the remainder are the
 12 60 that you said were inconsistent or unrelated and --
 13 THE WITNESS: Okay.
 14 HEARING EXAMINER: -- as opposed to all of them.
 15 THE WITNESS: Okay. This is just --
 16 HEARING EXAMINER: You've already indicated LU 7.2 is
 17 consistent.
 18 THE WITNESS: Yeah. So GS1.3. RLUG2. GS1.3 on the
 19 second page. This was a direct quantification of as it was,
 20 you know, listed in the -- shown in the exhibit. So LU7.2
 21 on the second page. CHP4 on the second page. NVHP9 on the
 22 third page and DP17. G/PR-P12. P/P-P9. And I think that's
 23 it.
 24 HEARING EXAMINER: Okay. Thank you. We had Exhibit 244,
 25 (inaudible) asked you about. I'm wondering how that

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1 document informs the EIS or did. In particular, I think you
 2 identified in 244 specific neighborhood plan policies to be
 3 amended.
 4 THE WITNESS: I'm going to have to get the (inaudible).
 5 MS. NEWMAN: I'm sorry; what exhibit?
 6 HEARING EXAMINER: Oh, sorry.
 7 MR. WEBER: (Inaudible). It's our Exhibit 30.
 8 HEARING EXAMINER: So if I recall on this 244, I think it
 9 was on page 4 and 5, these were discussed. I'm just
 10 wondering -- I see that this was discussed as potential
 11 amendment (inaudible) MHA, and I'm just wondering how or if
 12 this is reflected in the EIS?
 13 THE WITNESS: Do you mean these -- which part do you mean?
 14 HEARING EXAMINER: The neighborhood plan policies in
 15 particular. Those were highlighted in your testimony.
 16 THE WITNESS: Right. So they were -- they were not
 17 identified by specific policy in the EIS.
 18 HEARING EXAMINER: Okay.
 19 THE WITNESS: The EIS just described the neighborhood plan
 20 policies that explicitly call for preservation of single
 21 family zoning within an urban village. And there was a scan
 22 done to -- of all the neighborhood plan policies, you know,
 23 to pinpoint which ones those were, and that's what these
 24 are. But these were not listed in the EIS document itself.
 25 HEARING EXAMINER: And so what was in the EIS, though?

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1 THE WITNESS: Just a statement that the neighborhood plan
 2 policies that are proposed for amendment are those that
 3 explicitly call for the preservation of single family zoning
 4 within urban villages.
 5 HEARING EXAMINER: Okay. And this is that list? This is
 6 what that's referring to?
 7 THE WITNESS: Yes.
 8 HEARING EXAMINER: And are you able to quickly tell me
 9 where that statement is in the EIS, the neighborhood plan
 10 policies?
 11 THE WITNESS: F -- well, it's in a couple places, but the
 12 one that I think is the clearest is at Appendix F.
 13 HEARING EXAMINER: Okay.
 14 THE WITNESS: And it is on page F-11.
 15 HEARING EXAMINER: Thank you.
 16 And there was some discussion about changes to rezone
 17 criteria. Are you familiar with the general rezone criteria
 18 in 23.34.008?
 19 THE WITNESS: Yes.
 20 HEARING EXAMINER: Is there any implication of those with
 21 regard to proposed changes? And if you need a reminder, I
 22 can hand you a copy. In particular, I'm wondering about the
 23 neighborhood plan section.
 24 THE WITNESS: Well...
 25 HEARING EXAMINER: I'll go ahead and hand it to you so you

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1 have it.
 2 THE WITNESS: Thank you. So there's no specific mandatory
 3 language discussed in the EIS about this general rezone
 4 criteria D that you have highlighted here.
 5 HEARING EXAMINER: And would there be -- are there in your
 6 understanding of -- since obviously every single code
 7 section was not identified that could be amended as a result
 8 of MHA, do you think that this could be one that could be
 9 amended as a result of it or is that simply not implicated?
 10 THE WITNESS: I'm not sure -- I haven't reviewed this in
 11 detail -- if this would be something that would be -- that
 12 needed to be amended to create consistency between the
 13 proposal --
 14 HEARING EXAMINER: And I guess to be more fair to you, I
 15 didn't want to spring you on -- you don't have to do that
 16 analysis now. Mostly, I'm curious -- you've already
 17 indicated that it's not discussed in the EIS. Do you know
 18 of any discussion now in the implementation or creation of
 19 MHA that implicates this?
 20 THE WITNESS: I don't believe that this -- that there's a
 21 consideration to amend this section of the code.
 22 HEARING EXAMINER: To your knowledge?
 23 THE WITNESS: To my knowledge.
 24 HEARING EXAMINER: Okay. I don't have further questions.
 25 We had an Exhibit 279 that has not been admitted yet.

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1 to a different subject. Did you get through the testimony
 2 on this chart and how it depicts how single family has
 3 changed under the proposal for all the alternatives to
 4 something else? And again, we're talking about 3.129. I
 5 heard you -- let me ask some more targeted questions.
 6 So this pertains to areas within the urban villages,
 7 correct? I'm sorry; you're not on the page.
 8 A. Well, it actually pertains to -- yeah, it does. It pertains
 9 to the areas within the urban villages, yep.
 10 Q. And that's where there would be the rezones of single -- it
 11 applies to that expansion area as well?
 12 A. Yes.
 13 Q. And those are the areas in which you'd have rezones of
 14 single family at least?
 15 A. That's correct.
 16 Q. And so again for each of these, this is the collection of
 17 all four refers to every portion --
 18 A. Yep.
 19 Q. -- just divided up between though the same displacement
 20 risk -- displacement risk and access to opportunity
 21 quadrants that you defined before?
 22 A. Um-hum.
 23 Q. Okay.
 24 A. And for -- you'll see in these graphs for each of the action
 25 alternatives two, three and preferred, there's zero percent

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1 single family.
 2 Q. Okay. Thank you. So let me ask you a question about
 3 something Mr. Thaler raised on a different subject. He was
 4 asking you about cumulative impacts assessments. When
 5 thinking about cumulative impacts, does the City's lead
 6 agency draw the line somewhere in time after which it stops
 7 taking in new projects that have come into the pipeline? I
 8 mean, as a practical matter, do you have to sort of stop it
 9 somewhere?
 10 A. Well, you can only consider cumulative impacts that -- of
 11 things you know about and have a reasonable amount of
 12 information about to -- you know, to consider them.
 13 Q. And Mr. Thaler was asking you about questions related to the
 14 ADU proposal and whether the discussions had started in your
 15 opinion. Was it definite -- sufficiently definite in order
 16 to consider it a proposal that should have been
 17 considered -- another action that should have been
 18 considered as cumulative impact?
 19 A. No. At that time during -- you know, during the time of the
 20 preparation of the EIS, there was just a -- you know, a lot
 21 of uncertainty about what really would be in a potential set
 22 of alternatives around accessory dwelling units. There were
 23 a lot of possibilities for what that could be. But there
 24 wasn't anything certain that was known.
 25 Q. I have one last question and it's on a completely different

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1 subject and it will require you to turn to page 3.327.
 2 A. Okay. I'm at 3.327.
 3 Q. Do you recall yesterday Mr. Thaler was asking you questions
 4 about flood-prone areas, flooding in the South Park area,
 5 and he directed you to review the map on page 3.327?
 6 A. Yes, I do.
 7 Q. So can you look now, is there actually in the key something
 8 called a flood-prone area?
 9 A. Yes, I see that here in the key.
 10 Q. And is that depicted in the South Park area; do you see
 11 that?
 12 A. It looks like it's just to the north and the west of the
 13 South Park area.
 14 Q. And that's that blue patched area?
 15 A. Yes.
 16 Q. And I guess I'd ask the question on the wetlands too; do you
 17 see any there in the South Park area?
 18 A. Let me just look at the map for a minute.
 19 Q. Okay.
 20 A. It looks to me like there's some other few small wetlands in
 21 the -- at the west -- the west portion of the village.
 22 Q. And Mr. Thaler was asking you about the liquefaction-prone
 23 areas as well. Is that the -- I don't know what color --
 24 peach color?
 25 A. Yeah, that's the peachy color and it covers part of the

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1 South Park.
 2 Q. Mr. Thaler asked you a question about whether it was a fair
 3 assumption that the flood-prone areas -- or areas prone to
 4 flooding is the same as or a close approximation to the
 5 areas that are a liquefaction zone. Looking at those
 6 boundaries, is that a fair assumption?
 7 A. No. The flood-prone areas are much smaller area than the
 8 liquefaction-prone areas.
 9 Q. And does it show the liquefaction area stretching from the
 10 word South Park all the way up to Elliott Bay?
 11 A. Yes.
 12 Q. Okay.
 13 MR. WEBER: Thank you, Mr. Wentlandt, I have no further
 14 questions for you.
 15 HEARING EXAMINER: Thank you, Mr. Wentlandt.
 16 THE WITNESS: Thank you.
 17 MR. WEBER: Ready for another witness?
 18 HEARING EXAMINER: We'll take a break, but I just -- who
 19 are we doing?
 20 MR. WEBER: Kevin Ramsey will be next.
 21 HEARING EXAMINER: Okay. All right. And what's the
 22 subject matter?
 23 MR. WEBER: He's talking about housing and socioeconomics.
 24 HEARING EXAMINER: We will come back at 20 to the hour or
 25 at 3:40.

RAMSEY, Kevin

1 **Q. And also the historic trends approach which is --**
 2 A. Exactly; the historic trends approach as well.
 3 **Q. So a number of the appellant witnesses contended that the**
 4 **use of TRAO eligibility to measure displaced households was**
 5 **inappropriate. Did the EIS acknowledge that issue? Can you**
 6 **talk about that?**
 7 A. Yeah. Yeah, definitely. We -- we -- we provide a lot of
 8 transparency about what the -- the TRAO data is and what are
 9 some potential limitations. I think when we first
 10 introduced the -- in the affected environment section,
 11 there's a -- a pretty lengthy -- there's a pretty lengthy
 12 footnote on that, and it's mentioned in the text several
 13 times later on, particularly in the impact analysis where we
 14 talk about the fact that, you know -- most obviously there
 15 could be displaced households earning greater than
 16 50 percent of AMI and still be a, you know, legitimate, you
 17 know, case of physical displacement. We definitely
 18 acknowledge that.
 19 It could be instances -- I think we acknowledge in the
 20 EIS that -- that certain types of people might be less
 21 likely to -- to turn in an application to, you know,
 22 complete the application process for TRAO, and there -- and
 23 there might be some people that were eligible that might not
 24 have been able to benefit from the program. And I know the
 25 City's doing things to try to address that, but it's

1 **reviewed the displacement analysis in the University**
 2 **District EIS?**
 3 A. Uh-huh.
 4 **Q. And are the methodology of that analysis and the methodology**
 5 **for the analysis in this EIS the same?**
 6 A. Pretty much, yeah. Well, they do the same thing as the
 7 parcel allocation approach. They don't have a corollary to
 8 the historic trends. So that's something above and beyond
 9 that we did in this one to come up with a higher-end
 10 estimate. In the U District one they used the parcel
 11 allocation approach. Very similar. I think there was --
 12 there's a couple details in how they rank parcels, but it's
 13 pretty much the same idea that we used in this one.
 14 And they -- they looked at both -- so they used that
 15 method to come up with the amount of -- of demolition, and
 16 they also came up with a higher estimate by -- I believe it
 17 was, like, tripling the amount of expected growth compared
 18 to -- compared to the comp plan to come up with a very high
 19 end -- it was essentially a build-out analysis of -- of the
 20 U District, from what I could tell looking at the notes in
 21 my read of the study, assuming that pretty much all parcels
 22 that could be redeveloped would be. So it was -- it was
 23 kind of unnaturally high, but they wanted to have a very
 24 conservative high-end estimate there.
 25 **Q. Were there differences in the sort of fundamental real**

1 certainly that could've been the case so that they're --
 2 we -- we acknowledge that, you know, while it's a great
 3 source of data, there are limitations, and there's -- and it
 4 likely undercounts the amount of total displacement.
 5 What's really helpful about it, though, is that, again,
 6 it lets us look at the relative difference between
 7 alternatives really effectively because we have complete
 8 data about at least the ones that -- that -- that went
 9 through the application process what was the rate of
 10 displacement that we know occurred in different neighborhood
 11 types. And that allowed us to compare the alternatives.
 12 **Q. And did you -- I think you mentioned this, but did you feel**
 13 **that the historic trends approach which gave a higher**
 14 **estimate compensated for any --**
 15 A. Definitely. Like I said before, historic trends, it's -- it
 16 is -- it is an overestimate, you know, at a very
 17 conservative high end of what the potential demolition could
 18 be. So that is one way in which that would've definitely
 19 compensated for -- and if those percentages are -- derived
 20 from the TRAO analysis are low.
 21 **Q. So a number of appellant witnesses referenced the physical**
 22 **displacement and demolition analysis done in the**
 23 **environmental impact statement for the University District**
 24 **rezone. And they suggested that the City later conceded**
 25 **that that analysis had understated displacement. Have you**

1 **estate conditions in the U District area they were looking**
 2 **at they were specific to the U District and not the same as**
 3 **the general areas that you were looking at?**
 4 A. Sure. We were looking at a much bigger area of the city, so
 5 I don't think that sort of tripled the amount of expected
 6 growth. It makes less sense citywide. You can't -- you
 7 know, the U District has some demand commissions, and the --
 8 and that doesn't apply to every -- you know, all the 27
 9 neighborhoods looked at in the -- in the MHA EIS.
 10 And the MHA EIS does study -- you know, the
 11 alternatives have additional growth associated with the --
 12 with the action alternatives and proposed zoning upground
 13 [sic] so, you know, there's kind of a corollary in the MHA
 14 analysis.
 15 **Q. So in a nutshell, do you regard the -- a critique of the U**
 16 **District analysis as necessarily implying that there's**
 17 **anything wrong with the analysis in this EIS, given the**
 18 **differences in the conditions?**
 19 A. No. I think -- I think the -- you know, the -- the EI --
 20 the MHA, we went -- we went a lot further in the first pass
 21 than they did in the -- in the U District one by -- by
 22 coming up with this higher-end estimate via the historic
 23 trends approach, which, again, as I've said, is quite likely
 24 overstating the amount of demolition. It's also looking at
 25 higher growth scenarios for the action alternatives. So,

1 yeah, I'd say that it's -- that it was, if anything, a more
2 conservative analysis here in terms of the -- making sure we
3 don't understate the amount of displacement or demolition
4 that could've occurred.

5 **Q. So Mr. Reid suggested that when inexpensive rental units are
6 demolished, the people displaced have no place to go, and he
7 said the EIS did not address that. Do you agree?**

8 A. The EIS talks about the issue of displacement extensively
9 and acknowledges that displacement has been occurring in
10 Seattle, and is quite likely to continue occurring under all
11 alternatives. So we definitely talk about the fact that --
12 that displaced households occur.

13 **Q. And with respect to his specific contention that the EIS
14 didn't disclose that people who are displaced have no place
15 to go, does the EIS address the question of whether there is
16 currently market rate housing affordable to low-income
17 people?**

18 A. Yeah, no, it -- it does. Yeah, we look at -- yeah, we look
19 at not only average rents and how average rents have changed
20 over time, but we also took more detail to (inaudible) data
21 from rental market surveys around the time of the analysis
22 to be able to look at not only averages but, you know, the
23 breakdown of how many units are available at different
24 income levels. I think you can probably point me to the
25 right --

1 affordable, but it's -- it's also a smaller overall pool of
2 apartments. There's just much more supply in this larger
3 apartment type than there is in the smaller apartments.

4 **Q. So turning to the overall analysis, did the EIS estimate for
5 each alternative the number of MHA affordable units built or
6 proposed to be built, compared to the number of TRAO
7 eligible households displaced under each of the
8 alternatives?**

9 A. Yes.

10 **Q. And I'm going to point you to page 3.73.**

11 A. Uh-huh.

12 **Q. Exhibit 3.1-42.**

13 A. Uh-huh.

14 **Q. We have a column here, new affordable units built, IZ or
15 MHA. And then we have the ratio of affordable units to
16 displaced households.**

17 A. Uh-huh.

18 **Q. Can you sort of summarize what those results are, what those
19 ratios look like?**

20 A. Sure. So the new affordable units is -- are units that
21 would be built within the study area via either the MHA
22 performance or payment units, or units through the incentive
23 zoning program that exists under no action. So that's why
24 you have some units under the no action alternative as well.
25 And the ratio there is calculated basically compares -- so

1 **Q. Well, yeah, I was going to point you to page 3.31.**

2 A. 3.31. I'll find it here so we can look at it together.

3 **Q. And I was looking particularly at this Exhibit 3.1-23.**

4 A. Yeah, exactly. So this is -- this is one example of -- of
5 that where it's -- it's based on a apartment market survey,
6 and it -- it shows -- and it categorizes all the apartments
7 by their affordability level to different household income
8 levels based on the area median income. And what you can
9 see is that at that lower end of the income spectrum the 0
10 to 60 percent of AMI, only 2.5 percent of the units are
11 affordable.

12 For the 0 to 50 percent of AMI, the group that we've
13 been talking about, it's -- it's 0.3 percent -- or, yeah,
14 0.3 percent of all the units surveyed, the market rate units
15 surveyed would be affordable. So it's a very small stock is
16 the point. You know, there is not a lot of units or -- or
17 many at all that are affordable to lower-income households
18 in Seattle right now. That's the way we show that.

19 **Q. And this exhibit is for complexes with 20 plus units, but
20 the EIS also addresses smaller buildings and (inaudible)?**

21 A. Yeah. The text discussion -- I don't think we show a chart
22 of that, but the text discussion definitely talks about
23 that. There was a second survey of smaller apartment units
24 that had very similar results. I think it's a slightly
25 higher percentage at the -- at the very lowest income that's

1 those middle two columns, displaced households, 50 percent
2 of AMI or less displaced due to demolitions not already
3 permitted, that's -- those are the two different, so via the
4 parcel allocation model and the historic trends approach.

5 So we have the -- you know, we start with the
6 demolition amounts from those two different approaches, then
7 we apply those percentages of the percentage assumed to
8 result in displacement of these lower-income households to
9 get these -- these two different kind of low and high-end
10 estimates of -- of the amount of displaced household --
11 low-income displaced households. You can compare that to
12 the new affordable units built within the study area to --
13 to develop a ratio.

14 So for the no action overall total in the study area,
15 it's a -- it's a 6 -- the ratio of 6. So of new affordable
16 units built, compared to the amount of displaced households
17 at that income level -- and there's 13 in the -- in the
18 preferred alternative, new affordable units built within the
19 study area compared to the high estimate of displaced
20 households. It's low -- it's an even bigger ratio if you
21 take the lower estimate of displaced households.

22 **Q. And I don't think we want to walk through it, but is it also
23 possible through these tables to compare the number of MHA
24 affordable units built to the number of demolitions?**

25 A. Yes.

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Hearing - Day 16

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

August 30, 2018



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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)

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Heard Before Hearing Examiner Ryan Vancil

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1 August 30, 2018

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4 HEARING EXAMINER: Continuing the hearing on Thursday,

5 August 30, 2018. And are we finished with direct or

6 still --

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

8 HEARING EXAMINER: All right. Anything procedural that we

9 need to address before we can continue?

10 MS. BENDICH: You had asked us if we wanted to submit some

11 of the comments -- some of the comments that were filed

12 independently, that we could do that. So I just wanted to

13 know whether we should do it now or --

14 HEARING EXAMINER: Well --

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

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

17 need too.

18 HEARING EXAMINER: Okay. And that -- will that be it

19 then?

20 MS. BENDICH: I have no idea whether others might appear

21 later today to file something. But for me, that's it.

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

23 MS. BENDICH: Okay.

24 HEARING EXAMINER: That makes more sense. So when the

25 appellants are ready to present, then let me know and --

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1 MS. BENDICH: All right.

2 HEARING EXAMINER: -- we can do that --

3 MS. BENDICH: Thank you.

4 HEARING EXAMINER: -- all at one time.

5 MR. THALER: I have a scheduling matter.

6 HEARING EXAMINER: Um-hum.

7 MR. THALER: Robert Feldstein will be appearing. And I

8 believe Mr. Weber is aware, since I've included him in some

9 of the email correspondence, he indicated availability

10 afternoon of Friday the 7th.

11 HEARING EXAMINER: Okay.

12 MR. WEBER: And I think this is Mr. Thaler's witness, so

13 the scheduling of his appearance is really up to Mr. Thaler.

14 I mean, in terms of schedule for the hearing overall, I

15 don't think we know yet exactly how this is going to play

16 out and when the appropriate time would be. But it --

17 HEARING EXAMINER: Right.

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

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

20 so far.

21 MR. THALER: Yes. I assumed that the last day the City

22 would likely be done since I'm only aware of Mr. Wineman

23 being necessary on the 7th for the City. So we'll see.

24 HEARING EXAMINER: All right. We'll see.

25 MR. BRICKLIN: Actually, that reminded me mentioning

RAMSEY, Kevin

1 from how the prospect of new residential development might
2 cause economic displacement that might manifest itself prior
3 to the development?

4 A. I think in the very distinct processes, yeah. I think --
5 you know, that was very much looking at when you have new,
6 rapid transit investment in a neighborhood, that
7 fundamentally changes the character of the neighborhood in
8 terms of its accessibility to jobs and other activities and
9 destinations. So something fundamentally changes about that
10 neighborhood that changes its value in the market and could
11 have effects.

12 In the case of an upzone, that's -- you know, it's more
13 speculative what that's going to do to a neighborhood,
14 particularly when it's upzone paired with, you know,
15 affordable housing requirements. You know, it could have --
16 it could, you know -- if it does bring more development,
17 that could come with more amenities, and that could make the
18 neighborhood more desirable. But that's -- I wouldn't
19 anticipate as much of an anticipatory effect of that as much
20 of -- as much as a lag effect. I think they're just very
21 different things.

22 **Q. So based on your experience, is there a clear road map as to
23 the mechanisms by which new residential development causing
24 economic displacement might happen or how you would analyze
25 that in an EIS with any more certainty than was done here?**

1 we were just discussing before. These are the principal
2 investigators there, the main research scientists at that
3 lab.

4 And they've also done -- in addition to their work on what
5 are the effects of transit investments on displacement,
6 they've also looked more directly at this question that
7 is -- that we're talking about today, which is what are the
8 potential impacts of housing production on displacement,
9 both at the regional as well as the neighborhood scale.

10 **Q. And does this document get cited in the EIS?**

11 A. Yes, it does.

12 **Q. And does it inform your analysis as to the sufficiency of
13 how the EIS looked at these issues?**

14 A. Yeah. I'd say it was actually one of the kind of touchstone
15 projects that we were really looking at in terms of good
16 examples of how to do the type of analysis that we did do in
17 the EIS.

18 **Q. So given what was shown in the correlation and having
19 reviewed the materials relied on by Mr. Levitus as well as
20 all the other materials you reviewed, do you see any need
21 for the EIS to have examined timing issues related to
22 economic displacement resulting from new development in more
23 detail than it did?**

24 A. No. No, I don't. And the fact that we -- there were other
25 studies such as this one that we're talking about here that

1 A. No. No, I haven't seen -- there's a little bit of research
2 on displacement, and I haven't seen anything that looks at
3 displacement occurring in anticipation of growth that will
4 occur in the future. I haven't -- you know, absent of any
5 sort of transit investment or something, I have not seen
6 anything that can really isolate that effect.

7 **Q. So could we turn to -- in the binder there.**

8 A. Sure.

9 MR. WEBER: And, Mr. Examiner, you have Binder 8 as well.
10 We're going to turn to --

11 HEARING EXAMINER: Okay.

12 MR. WEBER: Let's turn to Tab 104 in Binder 8. And I'll
13 have that marked if possible.

14 HEARING EXAMINER: It will be 283. Is that 104, in the
15 tab?

16 MR. WEBER: Yes, Tab 104 in Binder 8.

17 MR. BRICKLIN: Did I hear an exhibit number?

18 MS. BENDICH: 283.

19 HEARING EXAMINER: 283.

20 (Exhibit No. 283 marked for identification)

21 **Q. (By Mr. Weber) Mr. Ramsey, do you recognize this document?**

22 A. Um-hum. Yes.

23 **Q. And can you just tell us what it is?**

24 A. Sure. This is a research brief by the same -- by the
25 primary investigators of the Urban Displacement Project that

1 can -- that used a very similar methodology that we used in
2 the EIS and came to very similar conclusions about the
3 relationships between new housing production, new market
4 rate housing production and displacement, that was, you
5 know, further corroboration that helped cement our
6 confidence in the fact that we did analysis that was -- that
7 was appropriate and came up with findings that have been
8 shown elsewhere.

9 **Q. So shifting gears a little bit, is it possible that in some
10 cases there could be tracts or small areas where there was
11 more growth and more economic displacement at the --
12 together?**

13 A. Yes, there certainly could be instances of that.

14 **Q. And does the EIS acknowledge the potential that this could
15 happen?**

16 A. Yeah.

17 **Q. So I want to have you turn to page 3.48 of the EIS, which is
18 City Exhibit -- Hearing Examiner Exhibit 2 there.**

19 A. Sure. Three point --

20 **Q. 3.48.**

21 A. Oh, almost there. Okay.

22 MR. BRICKLIN: I'm sorry, the page number again?

23 MR. WEBER: Page 3.48 of the EIS.

24 **Q. (By Mr. Weber) So turning to page 3.48, the end of the
25 first paragraph, can you read the sentence that begins,**

1 **Q. Did you happen to look at the EIS that was done for the MHA**
 2 **program in the U District?**
 3 A. Yes.
 4 **Q. There was an analysis there specific to this issue in the**
 5 **U District, right, displacement?**
 6 A. Yes. They looked at displacement in the --
 7 **Q. Right. Specific to the U District, right?**
 8 A. Yes.
 9 **Q. And there was nothing of a similar -- there was no specific**
 10 **analysis, like the one done for the U District, for -- done**
 11 **for Fremont or Capital Hill or any of the other**
 12 **neighborhoods covered in the citywide EIS; is that right?**
 13 A. Not that I saw, and the U District EIS used essentially the
 14 same approach of parcel allocation modeling to measure the
 15 potential demolitions of buildings that we used in the --
 16 for every neighborhood, every parcel in the study area for
 17 this project as well.
 18 **Q. And -- but it analyzed it specifically to data from the U**
 19 **District, correct?**
 20 A. It did. And we used the same data, the same sources to do
 21 the same type of analysis for each neighborhood in the NHA
 22 EIS.
 23 **Q. All right. Enough on that. Let's talk about the issue of**
 24 **this -- the relationship that is reflected in those**
 25 **scattergrams that you referenced, the correlation.**

1 cases, it's showing the opposite. But the key finding is
 2 that --
 3 **Q. So when you say when it's showing the opposite, meaning that**
 4 **people aren't -- low-income people aren't being displaced.**
 5 **In fact, more of them are moving in?**
 6 A. Yeah, at the low income strata, that's what we found, as a
 7 general -- as a general trend.
 8 **Q. All right. So --**
 9 A. And we don't know like exactly who's moving and who's
 10 staying, but, you know, there -- you know, we looked at two
 11 different points in time, and we could -- you know, there
 12 were more low-income households in that number.
 13 **Q. And you used the 50 percent AMI, people under 50 percent AMI**
 14 **income level as your marker for that, right?**
 15 A. For that particular income strata, yes. We looked at other
 16 income strata as well.
 17 **Q. All right. Now, did it occur to you that over time the**
 18 **income level denoted by the 50 percent AMI changes in a**
 19 **given census tract?**
 20 A. Yes, it does.
 21 **Q. So, for instance, one well-known instance in this area, as**
 22 **computer techies and all with their six-digit incomes move**
 23 **into a neighborhood, the income -- average income levels in**
 24 **that neighborhood can go up quite a bit, right?**
 25 A. Yes. But I would clarify that we weren't comparing just to

1 A. Yeah.
 2 **Q. And as I understand it, the -- the basic correlation is that**
 3 **as housing production increases, you see a -- and it varies**
 4 **under the different --**
 5 A. Um-hum.
 6 **Q. -- paradigms, but some correlation between an increase in**
 7 **housing production and an increase in lower income**
 8 **households in that census tract; is that right?**
 9 A. Yes, that was one finding.
 10 **Q. And from that, you gleaned that, therefore, increased**
 11 **production apparently is allowing more low-income people to**
 12 **move into that census tract because their numbers are**
 13 **increasing, right?**
 14 A. We don't -- I don't think -- I don't recall if we surmised
 15 exactly that relationship, but that's certainly -- we -- you
 16 know, the main point of that analysis was we know -- we
 17 know -- we've shown this relationship citywide that more
 18 supply is necessary to deal with the economic displacement
 19 pressures.
 20 The purpose of that analysis was: But, you know, could
 21 this be -- could this be creating kind of systematic
 22 problems at the neighborhood scale? So we analyzed, at the
 23 neighborhood scale: Is there any evidence that more housing
 24 production could be causing more displacement?
 25 And what that analysis showed is that, no, it's -- in many

1 the other incomes within that same little neighborhood. We
 2 were comparing it to area median income, which is looked at
 3 for the entire Seattle region.
 4 **Q. Okay. All right.**
 5 A. Yeah.
 6 **Q. And that's true for Seattle as well, right, as --**
 7 A. Yes. The area median --
 8 **Q. -- as this area has --**
 9 A. -- has increased over time.
 10 **Q. Right. And so somebody with a modest income who maybe at an**
 11 **earlier point in time was at the 55 percent AMI, they, with**
 12 **average incomes rising greatly, that same income might now**
 13 **be 45 percent AMI, right?**
 14 A. I don't know if exactly the -- that calculation of yours is
 15 right, but, yes. You know, if your income's stagnated over
 16 the, you know, the 12-year period that we looked at and did
 17 not increase from inflation or anything, then, yes, it would
 18 go down in terms of -- in comparison to the AMI.
 19 **Q. And are you aware that, in fact, that's been documented**
 20 **generally in the Seattle area, that the average incomes are**
 21 **rising greatly because of the influx of tech workers but**
 22 **that many people are seeing very small, if any, increase in**
 23 **their actual -- their incomes?**
 24 A. That makes sense to me.
 25 **Q. Right.**

1 A. Yeah.

2 **Q. And that phenomenon alone would result in a greater number**

3 **of people below 50 percent AMI in a given tract without any**

4 **new low-income people moving in, wouldn't it?**

5 A. If --

6 **Q. Because of all the people who are --**

7 A. If you're assuming that no one else's income changes and the

8 only change is the influx of high-income people, that would

9 be the --

10 **Q. And did you assess the extent to which that phenomenon**

11 **explains this correlation that you perceived?**

12 A. Um --

13 **Q. That is -- I see a puzzled look on your face. That is, you**

14 **deduced, I gather, that the increase in people below 50**

15 **percent AMI in a given census tract was correlated to**

16 **increased housing stock --**

17 A. Um-hum.

18 **Q. -- production. And you said from that a moment ago, before**

19 **we got into this, that that reflects people are able to --**

20 **low-income people are able to move into this area with this**

21 **increased production.**

22 **And in reality, you never analyzed whether you**

23 **misjudged -- you drew the wrong conclusions from that data**

24 **and the -- that greater number of folks with a 50 percent**

25 **AMI isn't new people moving in. It's just people with**

1 looking at this as an indicator of displacement occurring or

2 not. Like if there is a big loss of households at a certain

3 income scale, that would be an indicator that there's been

4 displacement, that people have been -- at that income scale

5 have been pushed out.

6 **Q. I get that. But because you never analyzed the impact that**

7 **we were just talking about of the rising income changing the**

8 **definition of 50 -- you know, the break point for 50 percent**

9 **AMI, you didn't factor that out. You didn't adjust the data**

10 **to take that into account, and so you don't know whether**

11 **this lack of a correlation, a negative correlation, is real**

12 **or whether it's just a -- been swamped by this change in the**

13 **economics of the region?**

14 A. That would have applied evenly to all census tracts across

15 the city because they all -- they're all subject to the same

16 area median income. So if the -- what you're describing

17 would have applied everywhere in Seattle. It wouldn't have

18 applied just in the areas with new housing production.

19 So it -- because it applies to all census tracts in

20 Seattle, it wouldn't have -- it wouldn't have affected the

21 overall finding of our analysis.

22 **Q. Bottom line is, you didn't make any adjustment to the data**

23 **to account for the changing level of 50 percent AMI as**

24 **incomes in the region went up, right? Is that true? You**

25 **didn't adjust the data to reflect that?**

1 **stagnant wages dropping below the 50 percent AMI number.**

2 A. Well, if all the same -- under the assumption, if all the

3 same households are still there and now they've been

4 recategorized to lower income, the key for our -- the key

5 thing for our analysis is they haven't moved, they haven't

6 been displaced.

7 And that's what the analysis is trying to show: Have

8 these people been displaced or not? And in this -- in the

9 scenario that you're talking about right here, the people

10 haven't been displaced. They might have been recategorized

11 but they haven't been displaced.

12 **Q. But you --**

13 A. So our analysis was looking at displacement.

14 **Q. Right. But you don't know to what extent the increased**

15 **numbers of people below that line is because of the changing**

16 **economics of the region versus whether people are being**

17 **displaced or not?**

18 A. There's a lot of things that we don't know when we use

19 census data to look at two different points of time and

20 simple counts of households at a certain income level. It

21 could be a whole different set of households. We

22 acknowledge that. We don't -- we don't know that it's

23 exactly the same households at both of those points in time.

24 What we're looking at is, you know, is this neighborhood

25 able to support, you know -- or, you know, is there -- we're

1 A. I don't see how an adjustment could have been made to

2 address that.

3 **Q. Okay. By the way, it may be a side point, but I noticed in**

4 **your testimony last week that you described the economic**

5 **displacement as an indirect impact, but you didn't mean by**

6 **that that simply because it was indirect it was any less**

7 **significant, did you? I mean, economic displacement is --**

8 A. It's very significant to people that are economically

9 displaced, yes.

10 **Q. Right. All right. Let's shift to dislocation as a result**

11 **of the actual physical demolition of housing stock.**

12 A. Um-hum.

13 **Q. Mr. Reed testified that -- I read your testimony, and**

14 **actually, I think you may have misunderstood Mr. Reed's**

15 **point. Your testimony, it sounded like you were saying that**

16 **Mr. Reed was assuming or interpreting your analysis to mean**

17 **that whatever the historic demolition was in the past, we**

18 **were just going to carry that forward and not take into**

19 **account higher development rates in the future. Is that**

20 **your critique of his testimony?**

21 A. It was hard to figure out from my read of it, but that's

22 what it seemed like to me.

23 **Q. Okay.**

24 A. But I could have misinterpreted.

25 **Q. I -- yeah. I want to suggest to you that what he actually**

1 testified was that he recognized that you did this, created
 2 a ratio --
 3 A. Um-hum.
 4 Q. -- between the amount of housing and the amount of -- amount
 5 of new housing production and the amount of demolition.
 6 A. Um-hum.
 7 Q. You did that using the TRAO data -- or --
 8 A. No, no.
 9 Q. No, no. You used it using the --
 10 A. We just looked at demolitions --
 11 Q. -- the historic data --
 12 A. -- and permits and -- yeah.
 13 Q. Right. And you recognize that you then applied that ratio
 14 to future projected development expectations. So as
 15 development increased, you apply that same ratio.
 16 A. Um-hum.
 17 Q. I think it was 17 demolitions per a hundred in one setting,
 18 numbers like that. Do you remember those numbers?
 19 A. I don't think that was the right number, but, yes, I know
 20 what you're talking about.
 21 Q. Right. So he recognized that you used -- he knew that you
 22 developed a ratio, demolitions to new housing --
 23 A. Okay.
 24 Q. -- and that you applied it to new -- or forecast for
 25 additional production in the future.

1 A. Um-hum.
 2 Q. -- and assuming that the ratio will be the same in the
 3 future, that that was his criticism of it, the method that
 4 was used? Did you understand that?
 5 A. I -- if I -- that could certainly be the case, yes. I
 6 don't --
 7 Q. All right.
 8 A. I couldn't get that exactly from his testimony, but I
 9 believe you.
 10 Q. All right. Do you recall him testifying that the historic
 11 data was based on a time when -- I think he used the term
 12 low-hanging fruit, that redevelopment occurring on parking
 13 lots that weren't developed or maybe teardown houses that
 14 were old --
 15 MR. WEBER: I'm going to object. I'm not sure this is in
 16 the record. But in any event, once again, he's
 17 characterizing testimony that's in the record.
 18 MR. BRICKLIN: Well, let me -- all right. I'll withdraw
 19 that.
 20 Q. (By Mr. Bricklin) Do you recall him talking about historic
 21 demolition statistics were based on a time when
 22 redevelopment could occur on what he characterized as
 23 low-hanging fruit, easy to redevelop lots?
 24 A. I apologize. I don't recall exactly that comment, but I --
 25 but I can respond to that if you'd like. I'd say that

1 A. Um-hum. Yeah.
 2 Q. His critique was that the ratio that you --
 3 MR. WEBER: I'm going to object. I mean, Mr. Reed's
 4 testimony --
 5 MR. BRICKLIN: I'm going to be asking a question --
 6 MR. WEBER: -- is in the record. I don't think
 7 Mr. Bricklin needs to continue these long characterizations
 8 of testimony that is in the record.
 9 HEARING EXAMINER: I think he'd finished with it and was
 10 getting to a question.
 11 MR. WEBER: Okay.
 12 HEARING EXAMINER: So I -- I agree partly though this is
 13 unique in the sense that this is directly related to a
 14 comment by the witness on another witness's testimony. So
 15 it's laying foundation for that.
 16 MR. BRICKLIN: So --
 17 HEARING EXAMINER: Typically, our questions are a little
 18 shorter.
 19 MR. BRICKLIN: Right. Sorry.
 20 Q. (By Mr. Bricklin) So do you recall seeing that Mr. Reed --
 21 Or hearing. I don't know if you read or listened to the
 22 testimony.
 23 A. I read it.
 24 Q. Read it.
 25 -- criticized that using the ratio from the past --

1 the -- that that's one reason that we used the parcel
 2 allocation model approach to -- rather than just looking at
 3 historic trends, which, again, I agree, might be based on
 4 what was available in terms of lots to redevelop
 5 historically, which may not be available now. That's why I
 6 used a parcel allocation model approach that looked at
 7 what's actually available now.
 8 Q. But the -- but the historic data --
 9 A. Um-hum.
 10 Q. So you're -- I thank you for that. So you're acknowledging
 11 the historic data which creates this ratio may underestimate
 12 the amount of demolition because -- let me just finish the
 13 question --
 14 A. Yeah.
 15 Q. -- because in the historic period, empty lots may have been
 16 available for redevelopment, and going forward there's going
 17 to be less and less of that and there's going to be more and
 18 more displacement of existing housing units. True?
 19 A. I don't agree that the historic approach underestimates
 20 displacement for that reason. No, I don't agree with that.
 21 Q. Okay. And -- but you agree that in the past there were more
 22 vacant lots available; in the future there's going to be
 23 less vacant lots available? Parking lots or spare parcel --
 24 you know, parcels that have two -- double lots that have
 25 only one unit on it so you can put another unit on the other

1 MR. WEBER: Jeff Weber for the City. A few questions on
2 redirect.

3
4 REDIRECT EXAMINATION

5 BY MR. WEBER:

6 **Q. I think this was hinted at by the question that the Examiner
7 just asked, but Mr. Bricklin, I think, was trying to suggest
8 that the correlation analysis didn't look at anything below
9 the citywide level. Is that true?**

10 A. No. The source data for that was tract-level data. So we
11 had 130 or so data points for all the census tracts in the
12 city, and then we did a statistical analysis on what we
13 found across all those tracts, and we also broke it down
14 into different categories of neighborhoods based on the
15 displacement risk and the access to opportunity typology, so
16 that we could see whether the general trends we see in the
17 city, if those also apply in different neighborhood types or
18 if some neighborhood types might be more at risk of economic
19 displacement.

20 **Q. So the EIS does have a statistical analysis that goes down
21 to the census tract level?**

22 A. Yes.

23 **Q. And those maps in Appendix M show the particular boundaries
24 of the census tracts?**

25 A. Yes.

1 25,000 a year in 2000 would be categorized at a different
2 income -- you know, maybe a moderate income level, and in
3 2012 it's at a lower-income level, that may be true. That
4 applies evenly across all census tracts and wouldn't affect
5 the result, the overall results of the correlation analysis
6 because of that.

7 **Q. So moving to the physical demolition questions related to
8 Mr. Reed, first of all, I want to be clear. To the extent
9 that Mr. Reed suggested that the historic trends would
10 approach -- would understate demolition, you disagree with
11 that, correct?**

12 A. I disagree, yeah. I think it overstates.

13 **Q. And the specific issue that Mr. Bricklin was raising about
14 the effective parking lots, first, does the parcel
15 allocation approach to estimating demolitions take account
16 of the question of undeveloped parcels and how that might or
17 might not change over time?**

18 A. Yeah. Like I said before, I think exactly the types of
19 issues Mr. Bricklin brought up as making a historic trends
20 analysis problematic looking forward, that's why we chose a
21 parcel allocation method as the first method of analyzing,
22 because it accounts for the fact that there may be less
23 empty parking lots than there were back in the year 2000,
24 and it accounts for what's actually available for
25 development moving forward. So, yeah, it's a better

1 **Q. And how would you characterize the sort of size of the
2 census tract versus the types of neighborhoods that have
3 been referred to? I know they're not exact, but, I mean,
4 what's -- how granular, so to speak, are the census tract
5 boundaries?**

6 A. Yeah. I'd say they're slightly smaller than what's -- you
7 know, for example, the Fremont one we were looking at,
8 it's -- you know, it's smaller than the full neighborhood
9 that we would often describe as Fremont, but it includes a
10 lot of it there. But it's kind of a -- it's a pretty good
11 proxy for a neighborhood scale for which there is good
12 census data available.

13 **Q. So there was a question about the level at which the results
14 as to demolition were reported. The EIS reported the
15 demolition results at a less than citywide scale, correct?**

16 A. Yes.

17 **Q. So I want to go to Mr. Bricklin's question about the 50
18 percent of AMI maybe becoming 40 percent of AMI, or
19 something like that, based on broader economic trends. Does
20 that dynamic affect the results of the correlation analysis?**

21 A. That dynamic would affect every census tract the same,
22 because it's -- one area median income is the measuring
23 stick used for determining how many households are at
24 different income levels in all census tracts across the
25 city. So while it may be true that a household earning

1 analysis to account for those types of issues. And it came
2 up with a lower estimate of demolitions than historic trends
3 analysis did. That's one reason we're confident that
4 historic trends is a high end estimate, because the more
5 rigorous method that accounts for all of these issues that
6 Mr. Bricklin identified, came up with a lower estimate of
7 demolitions than the historic trends approach.

8 **Q. So there was a question a little unclear about this lag
9 issue. But to the extent that it sounded like Mr. Bricklin
10 was asking you a question about whether the displacement
11 might lag a few years behind the actual new development, do
12 you feel like the correlation analysis accurately enabled
13 the City to capture that general effect?**

14 A. Yeah. Again, we looked at a 12-year time span, and I think
15 that would capture a lot of any lag effects that would
16 occur. So I think it was a big enough time span to account
17 for that sort of thing.

18 **Q. So Mr. Bricklin asked you about whether the EIS disclosed in
19 so many words that older housing was more affordable and
20 older housing was more likely to be demolished. Stepping
21 back, I mean, was the approach embodied in that sort of set
22 of concepts which Mr. Reed advanced, was that, in your view,
23 the appropriate lens through which to address physical
24 displacement, or did the EIS look at it in a different way?**

25 A. I think the way the EIS did the parcel allocation model

DAVIS, Ariel

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1 those cases, it's kind of a broader proposal, and we're
 2 looking at key corridors and arterials that would be
 3 affected. And so it's, again, just kind of a broader look,
 4 rather than a project proposal, which has more detail.

5 **Q. Okay. And what was the scope of your work for this EIS?**

6 A. So we were doing all of the transportation analysis and
 7 travel demand forecasting, so we considered all of the land
 8 use alternatives and came up with forecasts regarding
 9 traffic volumes, transit ridership, mode share, using a
 10 regional travel demand model. We used that information to
 11 identify significant impacts and then also developed
 12 mitigation measures that the City could consider to lessen
 13 the severity of the impacts.

14 **Q. Can you please walk me through the process of how you formed
 15 the methodology that you used to analyze the transportation
 16 impacts of this proposal?**

17 A. Sure. So we looked to the performance standards that the
 18 City has used in the comprehensive plans and in other prior
 19 EISs and developed, in coordination with City staff, impact
 20 thresholds that we were going to use. So kind of the
 21 process starts out with the effect on environment, where we
 22 document the existing conditions of the transportation
 23 system, and then we look to do the future year forecasts.
 24 We use a regional travel demand model and forecast out how
 25 travel will change in the future for the no action

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1 alternative and also for the action alternatives.

2 **Q. Did the EIS analyze potential impacts to areas outside the
 3 MHA implementation area?**

4 A. Yes. So the transportation analysis is inherently quite
 5 comprehensive. It includes -- the model that we're using
 6 includes the entire city of Seattle, rather than just the
 7 MHA study area, and it also includes the surrounding areas.
 8 So in terms of some of the specific metrics that we were
 9 looking at, the mode share and the transit daily boardings
 10 are at the full citywide level. The screenline analysis,
 11 although all the screenlines are included within the city,
 12 there are screenlines along the north and south city limits,
 13 so those speak to impacts to neighboring jurisdictions. And
 14 we also had some analysis of I-90 and 520, so looking at
 15 state facilities to the east.

16 **Q. And now let's turn to the EIS itself, Exhibit 2. And it's
 17 in that binder in front of you. If you could please turn to
 18 page 3.216?**

19 A. Okay.

20 **Q. And does that exhibit show the areas that the transportation
 21 analysis encompassed?**

22 A. Yes.

23 **Q. Now can you turn ahead to page 3.242?**

24 A. Okay.

25 **Q. And can you please walk -- well, let's walk through each of**

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1 **the metrics that you used to identify impacts. First, can
 2 you tell us what "mode share" means?**

3 A. Yeah. So mode share is the proportion of travel that is
 4 used in the cities by mode. So the five modes that we
 5 consider are single occupant vehicle, SOV; high occupancy
 6 vehicle, HOV; transit; walking; and biking.

7 **Q. And what about screenlines?**

8 A. So screenlines are a concept. Essentially, it's an
 9 imaginary line that crosses across parallel arterials --
 10 it's usually a group of parallel arterials -- that a
 11 traveler could reasonably choose among to complete their
 12 trip. And what we measure is looking at the capacity of the
 13 roadways across that screenline and then what the forecasted
 14 traffic volumes are, and we compare the volumes to
 15 capacities, is what we're actually -- the number that you'll
 16 see in the EIS is a ratio of the forecasted volume to
 17 capacity. And that's a pretty common concept that's used in
 18 transportation planning, because it looks at the system kind
 19 of as a whole rather than looking at a single arterial in
 20 isolation.

21 **Q. And can you explain the transit daily boarding metric and
 22 why that was used?**

23 A. Um-hum. So as the city grows, there's going to be more
 24 transit demand. And kind of similar to what we were doing
 25 with the screenlines, we wanted to compare the transit

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1 demand to the capacity that's -- that would be provided. So
 2 for that, we looked to the King County Metro long range
 3 plan, which is called Metro Connects, and the amount of
 4 service that they're planning to provide into the future.
 5 And so we came up with an 80 percent threshold, based on the
 6 amount of capacity that Metro was planning for. So in
 7 essence, if the total daily transit ridership would increase
 8 by more than 80 percent over existing conditions, then that
 9 would be outpacing the service hours that Metro was planning
 10 to provide.

11 **Q. Now, you've referenced a travel demand model. Can you
 12 explain how that travel demand model fits into the analysis?**

13 A. Yeah. So the model is really the foundation for all of the
 14 forecasts that we developed, so it's based on the Puget
 15 Sound Regional Council's regional travel demand model. It
 16 covers the four-county region, so King, Snohomish, Pierce,
 17 and Kitsap. And so that's kind of the regionally accepted
 18 best available tool we have for travel demand forecasting.
 19 The version of it that we used has actually been developed
 20 in more detail within the City of Seattle. In terms of the
 21 zone structure within the city of Seattle and the roadway
 22 network, there's more detail there.

23 **Q. Okay. I'll ask you to refer to City Binder 5 over here, and
 24 please turn to Tab 35.**

25 MS. PARK: And if I could mark this as an exhibit?

WELCH, Nicholas

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1 did, what you can do with any Raster layer like that, is to
 2 take a geography like urban villages and compute the average
 3 score of the cells that fall within that boundary. And
 4 that's what we did, and the urban villages are shown on the
 5 displacement risk and access to opportunity indices.
 6 So we computed the average score for each urban village on
 7 displacement risk and access to opportunity, and then we
 8 ranked the urban villages on those two measures. And that's
 9 what's shown in figure 7 on the vertical axis, the X axis --
 10 sorry, the Y axis, you see urban villages distributed
 11 according to their relative displacement risk score.
 12 And, then, likewise, on the X access, they are distributed
 13 according to their access to opportunity score. And the
 14 nominal score itself, it's a unit list number, it's not
 15 meaningful, but their relative position is what you see in
 16 this exhibit -- excuse me, in this figure -- and they are
 17 grouped into four clusters according to whether they are
 18 relatively higher or lower on each of those two measures.
 19 So the typology that emerged was one that categorized urban
 20 villages in that way.
 21 We obviously present the graphics showing that there is
 22 variation on both of the two indices, but it led to that
 23 typology according to the score for each urban village.
 24 **Q. And so I think it's obvious, but just to make clear, the**
 25 **typology divides these into four different categories: The**

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1 **high displacement risk, low access to opportunity, and then**
 2 **the other three similarly?**
 3 A. That's right.
 4 **Q. So as I'm shifting gears here, I want to ask: You were**
 5 **involved in the preparation of the EIS that is at issue**
 6 **here, correct?**
 7 A. Yes.
 8 **Q. And you were involved in the housing and socioeconomics**
 9 **analysis and other parts of the analysis where this typology**
 10 **was brought forward?**
 11 A. Yes, that's right.
 12 **Q. So can you explain why this typology was brought forward and**
 13 **used in the MHA EIS as an analytical matter?**
 14 A. Well, over the two or three years of public outreach we had
 15 done on MHA, I guess two years or so before the EIS process
 16 began, one of the most common comments and concerns that we
 17 heard from the public was about displacement that people and
 18 communities were experiencing, and the disparities that
 19 people have in access to housing and to opportunity. So
 20 this framework was really a way for us to analyze and
 21 describe the potential impacts of MHA implementation and the
 22 alternatives in that framework, in those -- with respect to
 23 those different phenomena that people were really concerned
 24 about.
 25 **Q. Does the use of this typology also respond to a desire by**

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1 **the City Council to see analysis of this kind?**
 2 A. Yes. There was a resolution, I believe, in February of
 3 2017 -- I think it's Resolution 317333 -- that directed OPCD
 4 to evaluate displacement impacts generally in the MHA
 5 process and with respect to the EIS specifically, including
 6 the use of this sort of framework to do that.
 7 **Q. So how was, in the broadest sense, this typology used in the**
 8 **MHA EIS?**
 9 A. We used it primarily in two ways. The first was as a way to
 10 present results for numerous different analyses that are in
 11 probably every chapter of the EIS wherein the results are
 12 presented for groups of urban villages according to this
 13 typology, results for urban villages with high-displacement
 14 risk and low access to opportunity at a summary level.
 15 That's one way.
 16 The second way was in the formation of the alternatives
 17 themselves, specifically Alternative 3, and then in the
 18 final EIS, the referred alternative.
 19 And in that respect, the typology provided sort of an
 20 overall -- provided overall guidance that we used for
 21 varying the scale of the rezone, according to these
 22 different neighborhood types. We included an Alternative 3
 23 in the preferred alternative, relatively larger rezones in
 24 urban villages with low displacement risk and high access to
 25 opportunity. Likewise, relatively smaller rezones and

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1 smaller urban village expansion areas in urban villages that
 2 have high displacement risk.
 3 **Q. So you indicated this was used in that way. Was it the only**
 4 **thing that was used for purposes of crafting the different**
 5 **alternatives?**
 6 A. No, not at all. I would say it was an overall approach to
 7 how to differentiate the alternatives and, as I said,
 8 general guidance for crafting the zoning proposal included
 9 in each alternative. But we also considered a set of
 10 implementation principles that we had developed through our
 11 community process and hundreds, if not thousands, of public
 12 comments that we received both before the EIS and on the
 13 draft EIS as part of our actual process to develop the
 14 preferred alternative.
 15 **Q. So we heard testimony from Appellant witnesses about the**
 16 **list of limitations that's contained in the growth and**
 17 **equity analysis. Can you explain why you included a list of**
 18 **limitations and -- well, let's start there -- why you**
 19 **included a list of limitations?**
 20 A. Sure. I would say the primary reason -- one of the primary
 21 reasons we included this list of limitations, this
 22 discussion, really, was to encourage caution and to avoid --
 23 to encourage people not to draw narrow conclusions based on
 24 the work we had done here. So, for example, I mean, the
 25 relationship of growth and displacement -- it's a complex

VOLUME 18

SEPTEMBER 4, 2018

Hearing - Day 18

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

September 4, 2018



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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

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

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

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

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

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4 September 4, 2018

5

6 HEARING EXAMINER: We continue the hearing for W-17-006

7 through W-17-014 on this Tuesday, September 4th.

8 Are there any procedural items we need to address before

9 we get started today?

10 MS. NEWMAN: I do have a -- this is Claudia Newman, sorry,

11 for the record, on behalf of SCALE. And an exhibit that we

12 submitted earlier, the Examiner requested that we remove the

13 credentials from the cover page for the author of the

14 document --

15 HEARING EXAMINER: Okay.

16 MS. NEWMAN: -- on the hard copy of that. It was SCALE

17 Exhibit 2 or 3, and I'm just realizing I may not remember

18 which one. I can give you the number in a bit.

19 HEARING EXAMINER: Okay. And we were just replacing the

20 cover sheet?

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

22 HEARING EXAMINER: Okay.

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

24 it to --

25 HEARING EXAMINER: It's 245.

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1 MS. NEWMAN: Okay, I'll send a copy of that to everybody

2 so they have the right version.

3 HEARING EXAMINER: Thank you.

4 MS. NEWMAN: Electronically.

5 HEARING EXAMINER: Anything else we need to address?

6 Okay. Let's get started.

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

8 HEARING EXAMINER: Please state your name and spell if for

9 the record.

10 THE WITNESS: My name is Kevin Gifford, K-E-V-I-I-N,

11 G-I-F-F-O-R-D.

12 HEARING EXAMINER: And do you swear or affirm that the

13 testimony you provide in today's hearing will be the truth?

14 THE WITNESS: I do.

15 HEARING EXAMINER: Thank you.

16

17 KEVIN GIFFORD: Witness herein, having first been

18 duly sworn on oath, was examined

19 and testified as follows:

20

21 DIRECT EXAMINATION

22 BY MR. KISIELIUS:

23 **Q. Good morning, Mr. Gifford.**

24 A. Good morning.

25 **Q. What's your profession?**

Page 8

1 A. I'm a land use planner and GIS data analyst currently working

2 for BERK Consulting.

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

4 A. Primary responsibilities there include preparation of land

5 use plans, policy analyses such as SEPA environmental impact

6 statements as well as various other economic development and

7 land use analysis reports.

8 **Q. Okay. And were you employed in your profession before you**

9 **were with BERK?**

10 A. Yes, I was.

11 **Q. How long have you been in your profession?**

12 A. Approximately twelve years.

13 **Q. Okay. Can you briefly describe your educational background**

14 **and training? And we want to focus here on the items**

15 **relevant to your profession.**

16 A. Sure. I have a background in architectural design and in

17 land use -- or excuse me, urban and regional planning. I

18 hold a bachelor of environmental design and master of urban

19 planning.

20 **Q. Okay. I'd like you to briefly describe your prior**

21 **experiences working on preparing or reviewing EISs. Have**

22 **you been involved in preparing EISs other than this one?**

23 A. Yes. Over -- pretty much for my entire career I've been

24 working in environmental services and working for various

25 jurisdictions in Washington, Oregon and California preparing

GIFFORD, Kevin

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1 **Q. Mr. Gifford, I have a few questions for you. What's the**
 2 **essential differences between the single family and the RSL**
 3 **zone? What's happening under RSL that's not allowed under**
 4 **SF?**
 5 A. I believe and let me -- if I may refer to the --
 6 **Q. Please, yeah?**
 7 A. Off the top of my head, I believe that some of the essential
 8 differences are in the types of housing units that would be
 9 allowed in those zones. My understanding is that the
 10 single-family zone is exclusive to detach single-family
 11 housing. Whereas in the RSL zone, it allows some different
 12 housing types as we discussed as were shown in the urban
 13 design report that you have some more flexibility regarding
 14 bringing in townhomes, cottage, things of that nature. And
 15 there is a -- there's a difference in the allowed density
 16 and lot coverage for that.
 17 **Q. Would the townhome, cottages, tandem, would those be options**
 18 **under single family?**
 19 A. I don't know that right off the top of my head at the
 20 moment. I don't have a copy of the code in front of me.
 21 **Q. I don't want to (inaudible) on the code. I just wanted to**
 22 **know if you had a quick answer --**
 23 A. I believe that one of the -- my understanding is the
 24 intention of expanding the use of RSL was because it allows
 25 more flexibility in housing types and therefore the

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1 single-family zoning is a little more restrictive on what
 2 housing types can be developed there. And the RSL would
 3 therefore promote some additional types that would be more
 4 -- offer some more flexibility from the standpoint of
 5 housing affordability.
 6 **Q. Okay. You characterized -- why don't you tell me, again, so**
 7 **I make sure I don't try to put words in your mouth. The**
 8 **planning goal and use of urban villages by the City and**
 9 **irrespective to it's planning and it's comprehensive plan.**
 10 **What role does this play?**
 11 A. My understanding of the -- my review of the City's
 12 comprehensive plan is that the urban village, urban center
 13 strategy, essentially where the City is directing future
 14 growth, where they believe future density in both commercial
 15 and housing growth should occur in the future and it
 16 essentially targets those areas for additional
 17 intensification of use.
 18 So the idea being that the comprehensive plan establishes
 19 that policy framework to say that these are the areas that
 20 we're going to prioritize for higher density uses. And that
 21 allows for the protection of other areas in the City. So,
 22 for example, if you're going to concentrate future
 23 development in an urban village or an urban center, that
 24 allows other areas of the City that are predominantly lower
 25 density, lower intensity, you know, these predominantly

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1 single-family areas to avoid those kinds of conversions.
 2 The idea is, essentially, don't let the development sprawl
 3 across the City, concentrate it in specific areas. And not
 4 only does that allow for the preservation of those areas, it
 5 makes service provision more efficient and allows -- and in
 6 this sense there's an argument to be made that it could also
 7 promote housing affordability by allowing for greater
 8 density and more housing units in a smaller area.
 9 **Q. And is there a reference to that general framework as you've**
 10 **just described it in the EIS or is that maybe what was**
 11 **referred to in the 2035 EIS?**
 12 A. I believe the 2035 EIS discusses that at some length. I
 13 believe there's a discussion in there simply because of the
 14 fact that EIS was prepared specifically for the
 15 comprehensive plan update. And so the urban village
 16 strategy was an important component of that. Unfortunately,
 17 I don't have a page number for you right off the top of my
 18 head.
 19 **Q. That's fine. And with respect -- you were speaking to our**
 20 **-- in the EIS what we have before us the land use and**
 21 **aesthetics chapters?**
 22 A. Correct.
 23 **Q. And in those -- well, with respect to almost every argument,**
 24 **if not all arguments we've had in the hearing so far,**
 25 **there's been the tension between the level of analysis**

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1 **required for a programmatic EIS and then what may come later**
 2 **in phased review or at project level. In this case is the**
 3 **open is the -- in the analysis for land use and aesthetics,**
 4 **did the City identify any need for additional analysis at**
 5 **the level between the programmatic and the project level?**
 6 A. I'm not aware of that -- I believe the assumption behind --
 7 at least from a SEPA standpoint was that there would be --
 8 obviously that projects that meet the thresholds for SEPA
 9 analysis would undergo that as well as design review as
 10 appropriate. But I don't believe this was done with any --
 11 I'm not aware of any assumption that there would be another
 12 say neighborhood specific or subarea plan or that nature.
 13 Aside from those areas of the City where that's already been
 14 planned for such as uptown or the U Districts or South Lake
 15 Union, I believe.
 16 **Q. So when this programmatic EIS is described as "phased", it's**
 17 **programmatic to the project level? SEPA analysis for the**
 18 **MHA upzone?**
 19 A. Sorry, I'm not entirely sure I understand the question.
 20 **Q. Is there any other phase when -- and I've heard several**
 21 **witnesses, including yourself describe this as essentially**
 22 **as a -- maybe not in the technical term of phasing that we**
 23 **see sometimes for, or maybe it is, under SEPA, but either**
 24 **generally or specifically under SEPA, but when that term of**
 25 **phasing is used, are we talking about programmatic and**

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1 MS. NEWMAN: I can ask him questions about it. I was
 2 going to do that later.
 3 MR. KISIELIUS: I have no objection to 3.1 and --
 4 MS. NEWMAN: I guess I'll just ask --
 5 MR. KISIELIUS: -- 3.3.
 6 MS. NEWMAN: -- okay. I'll ask a few questions about --
 7 **Q. (By Ms. Newman) If you look at page 3.33 in there --**
 8 **A. Yes.**
 9 **Q. -- I notice that you've created -- you -- you were -- did**
 10 **you work on this chapter too?**
 11 **A. Uh, no. Not specifically --**
 12 **Q. Okay.**
 13 **A. -- this chapter.**
 14 **Q. So I see there that there's an entire chapter that's devoted**
 15 **specifically to analyzing the relationship of the proposal**
 16 **to plans and policies; do you see that?**
 17 **A. Yes, I see that.**
 18 **Q. And are you familiar with what that is -- what the**
 19 **requirement in SEPA is that they're -- that this is meeting?**
 20 **Why they're --**
 21 **A. This --**
 22 **Q. -- doing this?**
 23 **A. -- I believe it's intended to ensure that future land use**
 24 **actions are consistent with the City's existing policy**
 25 **framework as well applicable regional policies, such as the**

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1 King County Countywide Planning Policies, Vision 2040, and
 2 the Growth Management Act.
 3 **Q. Okay. And regulations --**
 4 **A. Yes.**
 5 **Q. -- existing. Okay. And you see that they've reviewed the**
 6 **affected environment so the way that that -- from page 3.33**
 7 **to 3- -- this goes on. If you look through all these pages,**
 8 **the CIS lists a number of policies from various plans and**
 9 **such, right; do you see that?**
 10 **A. Yes, I do.**
 11 **Q. And then it discusses impacts starting on page 3.53. And it**
 12 **looks like there's a discussion of those policies. Or,**
 13 **actually, can you describe what you think? Or -- I don't**
 14 **know. You haven't really established that you have a**
 15 **familiarity with this, but do you think you can tell from**
 16 **looking at --**
 17 **A. As I said, I have a --**
 18 **Q. -- it what it is?**
 19 **A. -- I have -- this -- I did not prepare this section.**
 20 **Q. Okay.**
 21 **A. I have a passing familiarity with -- with its contents.**
 22 **Q. All right.**
 23 **A. I've -- I've reviewed that -- that EIS, but it has been --**
 24 **it's been a couple of years.**
 25 **Q. But you said you worked on a number of -- actually strike**

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1 **that. Okay.**
 2 **MS. NEWMAN: So I have no further questions on that. I**
 3 **don't know if I --**
 4 **MR. KISIELIUS: I think my -- I don't have an objection to**
 5 **the sections with which he's familiar and has testified at**
 6 **length to. I'm not so certain we've gotten to -- other than**
 7 **just identifying what's on the page in front of him, we've**
 8 **done a lot with 3.2 that would warrant inclusion. Have not**
 9 **established a probative value with this witness.**
 10 **MS. NEWMAN: It's relevant to questions that I'm going**
 11 **to -- I hadn't gotten an opportunity yet to ask him the**
 12 **questions that I want to ask about his two chapters that he**
 13 **wrote in the MHA EIS about the relationship with the project**
 14 **to neighborhood plans and comp plans, the E- -- he's**
 15 **responsible for that section in the code in the EIS. And**
 16 **this is -- I mean, I can wait until I ask those questions.**
 17 **HEARING EXAMINER: I'll overrule it.**
 18 **MS. NEWMAN: Okay.**
 19 **HEARING EXAMINER: I think I'm indicating from Counsel**
 20 **that there's going to be more -- additional questions. Even**
 21 **if we don't get to those questions, essentially, it will**
 22 **just go to the weight of what value this -- this document**
 23 **has of that.**
 24 **Q. (By Ms. Newman) So you had said that -- when you were**
 25 **testifying earlier -- that you couldn't do the review of the**

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1 **existing environment -- or you didn't do it because it was**
 2 **programmatic EIS. What was your -- what was your reasoning**
 3 **for not --**
 4 **A. The -- so I believe -- I believe what I actually said was**
 5 **that because it's of a -- it was a programmatic document, so**
 6 **we are looking at this in a more generalized manner.**
 7 **Q. Uh-huh.**
 8 **A. And I would also -- I would like to point out that the two**
 9 **examples that you showed, while also programmatic documents,**
 10 **were for a significantly different type of geography. These**
 11 **were for small- -- much smaller subareas than a citywide**
 12 **plan, and the proposal also included, at least on -- I can't**
 13 **speak to the U District since I wasn't involved in the**
 14 **preparation of that, but the -- for the Uptown area there**
 15 **were very specific capacity numbers developed in terms of**
 16 **where development was going to go. So in that sense there**
 17 **was a very specific program of development. Even though we**
 18 **didn't have specific architectural designs or proposed**
 19 **developments for sites, there -- we had a lane capacity**
 20 **analysis prepared for that area, and we were able to assign**
 21 **future growth to those properties with a -- with a level**
 22 **of -- a certain level of certainty.**
 23 **Q. Okay.**
 24 **A. Whereas with the MHA, because of the fact that this is not**
 25 **a -- the purposes of the proposals were slightly different**

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1 and we did not have individual development proposals, we did
 2 not go to that level of detail and provided a more
 3 generalized analysis.
 4 **Q. So wait. You just said "development proposals." That's**
 5 **different from -- you didn't have specific development**
 6 **proposals associated with the programmatic EIS --**
 7 A. No. No.
 8 **Q. -- for Uptown. Okay. I just want to correct that for the**
 9 **record.**
 10 A. Oh, I -- if I --
 11 **Q. It was --**
 12 A. -- if I -- if I misspoke, I meant -- I did not -- I said
 13 that --
 14 **Q. Okay.**
 15 A. -- or I thought I said that we did not have specific
 16 development proposals on the table. These were -- this
 17 is -- this is a policy revision, not an actual development
 18 proposal.
 19 **Q. And so you're claiming that the other EISs were for specific**
 20 **development proposals?**
 21 A. No. I'm not claiming that --
 22 **Q. Okay.**
 23 A. -- either.
 24 **Q. All right.**
 25 A. The -- while these are still programmatic documents --

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1 again, not speaking to the U District because I was not
 2 involved in that but the --
 3 **Q. Right.**
 4 A. -- Uptown area -- we did not have development proposals, but
 5 there was -- there was a -- there was information about
 6 where development was likely --
 7 **Q. Okay.**
 8 A. -- to go, based on the capacity available for specific
 9 sites. So while --
 10 **Q. So I -- that's fine. And so the -- let's see. I think the**
 11 **result here, then, is with this EIS -- is it fair to say a**
 12 **part of the -- the -- the size, the sheer size of the zoning**
 13 **proposal is what's driving the inability to do the specific**
 14 **impact analysis and disclosure of existing environment for**
 15 **each neighborhood?**
 16 MR. KISIELIUS: I'm going to object because the witness
 17 was trying to answer the question in his words. Ms. Newman
 18 cut him off. And then just --
 19 MS. NEWMAN: I'm asking a different --
 20 MR. KISIELIUS: -- asked --
 21 MS. NEWMAN: -- question.
 22 MR. KISIELIUS: -- and then just proposed her explanation
 23 in the form of a question.
 24 MS. NEWMAN: Yeah.
 25 MR. KISIELIUS: If she wants his answer, she should allow

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1 him to finish the question, rather than cutting him off.
 2 MS. NEWMAN: I disagree.
 3 HEARING EXAMINER: So I think the objection needed to be
 4 brought when he was getting cut off. This is a new
 5 questions that's perfectly within the purview of the counsel
 6 to ask. Overrule.
 7 A. Could you repeat the question please?
 8 **Q. (By Ms. Newman) So is it fair to say it's -- the size of**
 9 **the proposal is a driving force behind the inability to do**
 10 **the review of the specific existing environment and impacts**
 11 **to each neighborhood that's being upzoned?**
 12 A. I think the scope of the -- the geographic scope of this, as
 13 I -- as we've said, does create some challenges in order to
 14 be able to cover everything. There is a certain amount of
 15 the -- just in terms of having a document that is readable
 16 and able to be easily understood. One of the reasons we
 17 went with this more generalized approach was because it
 18 would allow decision makers and readers to look at a
 19 category of impacts and then, rather than -- and then be
 20 able to apply that to a -- a parcel that they can look at on
 21 a map, find whatever area that they're particularly
 22 concerned about and make that connection.
 23 The -- I -- I would hesitate to call that a driving force
 24 because this level of detail, given the information that's
 25 available at this time, given the nature of the proposal,

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1 and, again, given that geographic scope and the fact that
 2 there is -- this is not a -- a planned action or some other
 3 sort of SEPA mechanism that would be excusing future
 4 development from SEPA review or design review that it would
 5 normally have to do, it makes this level of -- this level of
 6 analysis appropriate.
 7 **Q. Okay. And you're familiar with the requirement we just went**
 8 **through, the Uptown EIS, that an EIS must include a summary**
 9 **of applicable land use plans and zoning regulations, right?**
 10 **You just -- you actually just described that earlier.**
 11 A. Correct.
 12 **Q. And did you review the public comments on this, the Land Use**
 13 **chapter and the Aesthetics chapters?**
 14 A. I did. I did help formulate some of the responses to -- to
 15 the comments.
 16 **Q. Okay. And were you present at the public meetings?**
 17 A. No, I was not.
 18 **Q. Oh. Was it your understanding that the neighborhood plans**
 19 **and neighborhood planning was a significant issue raised**
 20 **repeatedly by the public?**
 21 A. I was aware there were comments, that the people had
 22 expressed concern regarding the neighborhood plans, yes.
 23 **Q. Okay. And why did they say that the content of the**
 24 **neighborhood plans mattered so much to the people who lived**
 25 **in the neighborhoods?**

1 **impacts. So your conclusion is minor aesthetic impacts in**
 2 **the Lowrise 1 zone; is that --**
 3 A. Yes.
 4 **Q. Okay. And, again, this is just generally -- this -- is this**
 5 **your -- fair to say that's your entire analysis of the**
 6 **impacts associated with the development regulation changes**
 7 **in the Lowrise zone -- 1 zone?**
 8 A. Mmm, I believe so. I think we have additional -- I mean,
 9 there's additional analysis of that throughout the rest of
 10 this -- throughout the rest of this section. I mean, then
 11 we have the graphics that were described --
 12 **Q. Uh-huh.**
 13 A. -- earlier showing the development typologies as well.
 14 **Q. Okay. But this CIS does not analyze impacts of an increase**
 15 **of FAR that would go above and beyond those numbers; is that**
 16 **right?**
 17 A. Above and --
 18 **Q. You're assuming that the FAR will only increase by that much**
 19 **when they adopt the MHA proposal?**
 20 A. Uh, yes. Whatever we've said. If we've said they're the --
 21 I believe on -- in the exhibit it says they're increasing
 22 the maximum FAR by up to 0.3, so that would be the upper
 23 limit of the ES analysis for that zone, yes.
 24 **Q. Okay. And do you know what the existing FAR is that's**
 25 **allowed in a Lowrise zone, say, for a townhouse?**

1 full advantage of that FAR adjustment.
 2 **Q. And so why bother giving the FAR increase at all, if there's**
 3 **no advantage? I'm con- --**
 4 A. I didn't say that there's no advantage. What I said was
 5 that it may -- that other regulations -- interlocking
 6 regulations and site conditions may --
 7 **Q. But the goal is to have them fully -- I mean, we should**
 8 **expect, when we're considering impacts, that the increase**
 9 **will be what the increase is --**
 10 A. The goal --
 11 **Q. -- that's allowed.**
 12 A. -- right. The goal there is to -- is to provide for
 13 additional development capacity --
 14 **Q. Right.**
 15 A. -- on that site and offer additional flexibility of housing
 16 types.
 17 **Q. So you had mentioned that FAR is a ratio of the total floor**
 18 **area of building to the area of lot, right?**
 19 A. Yes.
 20 **Q. And do you know that -- currently under the code do you know**
 21 **what -- when we say the total floor area, what actually is**
 22 **included in that calculation to know what the total floor**
 23 **area is?**
 24 A. I couldn't quote the formula to you verbatim at this moment.
 25 **Q. Do you know that exterior corridors, breezeways, and**

1 A. In Lowrise 1?
 2 **Q. Uh-huh.**
 3 A. I do not have the -- I don't have that number in front of me
 4 right this moment, though.
 5 **Q. Would it surprise you if I said it was 0.9 for a non-green**
 6 **building?**
 7 A. Uh, no, I would not -- it wouldn't surprise me.
 8 **Q. Okay. And so if you have a 0.9 FAR and you increase it by**
 9 **0.3, this might be -- I don't know if you're good at**
 10 **percentages, but that's a 33 percent increase in FAR; does**
 11 **that sound about right?**
 12 A. That sounds roughly correct, yes.
 13 **Q. So that's a third -- a full third of a building larger than**
 14 **what's allowed there in LR1?**
 15 A. That would be -- that would increase the amount of
 16 building -- of building square footage that would be allowed
 17 on that site by that amount, yes.
 18 **Q. Yes. And --**
 19 A. Or that is -- that is still subject to height limits and --
 20 again, these are -- this is not a stand-alone regulation so
 21 FAR and height limits often work in tandem. So if you
 22 increase a height limit, but you still have an FAR limit,
 23 whichever one your bump up against first is going to control
 24 that. So if you're not increasing development height
 25 commensurately for that site, you may not be able to take

1 **stairways that provide building circulation and access to**
 2 **dwelling units or sleeping rooms are actually included**
 3 **currently in the code in the gross floor area?**
 4 A. I was not aware of that specific provision, but that sounds
 5 like a --
 6 **Q. Yeah.**
 7 A. -- fairly standard way of calculating that measure.
 8 **Q. And are you aware of -- or does the EIS tell us whether**
 9 **that's going to change with the MHA proposal? What is**
 10 **exactly included in gross floor area and what's not?**
 11 A. It's -- my understanding of the proposal is that it's not
 12 making any changes to the code that would change how the
 13 City measures any of these metrics.
 14 **Q. And so you're saying that the proposed -- as far as the way**
 15 **your impact analysis was performed, you're assuming that the**
 16 **proposal will include exterior corridors, breezeways,**
 17 **stairways and the like in the gross floor area.**
 18 MR. KISIELIUS: Objection, we're -- he's already testified
 19 that he's not familiar with the specific regulation she's
 20 asking about. She asking some very detailed questions about
 21 a proposal that he has no familiarity with.
 22 MS. NEWMAN: First of all, I think the person who wrote
 23 this should have more familiarity with it. But I just am
 24 trying to say that the EIS, because he doesn't know,
 25 therefore, assumed that the actual calculation for gross

1 precisely about the geographic scale and that leading to
2 differences. You started to talk about a difference
3 explanation, and Ms. Newman cut you off. So I'd like to ask
4 you to return to that explanation. You were talking
5 about -- I think you were referring to the Uptown, because
6 that was the one you were more familiar with, and describing
7 the development; what you knew, your background, what you
8 knew about the development that might arise there. Could
9 you describe how that informed that analysis and led to a
10 different approach than what you have here?

11 A. Sure. So the Uptown EIS was looking at a -- again, at a
12 much smaller geographic area than the Seattle 2035 or the
13 MHA EIS. And, again, I guess what I was trying to explain
14 was that while we didn't have specific development proposals
15 in front of us -- like, we didn't have specific
16 architectural designs on specific properties. A land use
17 capacity analysis had been done for the study area, so we
18 did know which properties were more likely to redevelop or
19 which were vacant and were ripe for development right away.

20 And so based on the way the City crafted the
21 alternatives for that particular EIS, the architect that was
22 on the team essentially assigned development capacity to
23 these properties based on their -- based on the capacity
24 that was available for the -- under the zoning, and how
25 ready for development they were. So we essentially had an

1 urban villages contained in the neighborhood plan policy
2 section of the comprehensive plan may conflict with elements
3 of the proposed action concerning changes to single-family
4 zones within urban villages. Amendments to these policies
5 are docketed, and policies would be modified to remove
6 potential inconsistencies. Potential impacts of these
7 policy amendments is considered in this EIS."

8 Q. Okay. You were also testifying about -- I think Mr. Thaler
9 was asking you a lot about the residential small lot. And
10 although I think I saw you looking at this, I just wanted to
11 make sure this is what you were looking at. Can you turn to
12 page F -- the first page of Appendix F?

13 A. Yes.

14 Q. And does that describe what you were -- what your
15 understanding is of the changes to the residential small lot
16 zone?

17 A. Yes. This table -- or this -- you know, this exhibit here,
18 basically essentially is consolidating three different
19 flavors, if you will, of residential small lot zoning into a
20 single zone, and also consolidating the proposed density
21 limits and height limits for that zone. And then there's a
22 footnote here which is what I was referring to in my earlier
23 testimony, that the proposed RSL zone would have a maximum
24 FAR limit of .75, where the existing RSL zones have none.

25 Q. I think I attributed that question to Mr. Thaler. I think

1 estimate for every property in the subarea of roughly how
2 much development we were going to fit on there in terms of
3 building square footage.

4 And so then the architect basically prototyped out some
5 rough building envelopes, which then we used for -- to
6 inform the land use and aesthetics analysis. So, again,
7 while we didn't have specific development proposals, we
8 couldn't say exactly how a building was going to be designed
9 on that property, we had a little bit more information about
10 where in the subarea those were likely to occur than the MHA
11 or the 2035 -- Seattle 2035 Comp Plan EISs have, because of
12 the fact that there is -- it's just a much larger area and
13 much less certainty about the location of future
14 development.

15 Q. Okay. I have just a couple more questions, and all of them
16 are going to be around Appendix F. So can you turn to that?

17 MR. KISIELIUS: And, Ms. Johnson, I'm not going to use the
18 screen anymore if you needed to turn that off.

19 Q. (By Mr. Kisielius) Okay. So let's start with some testimony
20 you gave about the nature of the proposal as it pertains to
21 neighborhood plans. Can you turn to F-11? The bottom of
22 that page there. Does this inform your understanding of
23 the -- whether or not there will be amendments to the
24 neighborhood plan policy?

25 A. Yes. This paragraph states, "Several policies in individual

1 it was Ms. Newman. She also asked you about lot coverage.
2 Can you now go to the second part of that appendix, that
3 urban design and neighborhood character study?

4 A. Yes.

5 Q. And starting on page 12 of that study. So can you
6 describe -- first and foremost, I think the next couple
7 pages, the 12, 13, 14, 15, are housing prototypes?

8 A. They are.

9 Q. The proposed MHA RSL, is it accurate to say that those are
10 the assumptions upon which the prototypes are based?

11 A. Yes.

12 Q. And can you tell us what it says for lot coverage under
13 proposed MHA RSL for each of those?

14 A. For the cottages prototype it states a lot coverage of
15 30 percent.

16 Q. I'm sorry. Looking at the --

17 A. Sorry.

18 Q. -- proposed MHA RSL, the different --

19 A. Oh, sorry. Lot coverage, 50 percent.

20 Q. And how about for attached townhomes proposed in the
21 (inaudible) zone?

22 A. For attached townhomes, also 50 percent. Same for stacked
23 housing, and also for tandem housing. Yeah, appear to all
24 be 50 percent.

25 Q. Okay. And let's focus on then -- last question for you --

VOLUME 19

SEPTEMBER 7, 2018

Hearing - Day 19

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

September 7, 2018



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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

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

Hearing, Day 19 - September 7, 2018
Heard before Hearing Examiner Ryan Vancil

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-o0o-
September 7, 2018

HEARING EXAMINER: Good morning.
MS. BENDICH: Good morning.
HEARING EXAMINER: Continuing the hearing on this Friday, September 7th, with presentation from the City's next witness.
MR. WEBER: Thank you. The City calls Richard Weinman.
HEARING EXAMINER: Please state your name and spell it for the record.
THE WITNESS: Richard Weinman, R-I-C-H-A-R-D, W-E-I-N-M-A-N.
HEARING EXAMINER: 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.

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

DIRECT EXAMINATION

BY MR. WEBER:

Q. Good morning, Mr. Weinman.

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A. Good morning.
Q. Could you begin by stating your profession?
A. Yes. I've worked as a land use and environmental consultant since 1979, almost 40 years. The focus of my practice has been on land use planning, permitting and SEPA/NEPA compliance.
Q. Can you briefly describe your educational background and training?
A. I have a bachelor's degree in English from New York University, a masters degree in English from Brandeis University, a JD from UPS, Seattle University School of Law. I have a certificate in mediation from University of Washington School of Law. I am licensed as an attorney, but I do not practice law.
Q. Where are you currently employed?
A. I currently have a solo land use and environmental consulting practice which I started in 2006 after working in a 15-person firm doing the same type of work, named Tucker Weinman & Associates, which is located in Kirkland. I was at that firm for 20 years.
Prior to that -- I've been consistently involved in the land use arena since 1979. I published a land use newsletter for a while. I actually started as the director of a nonprofit doing land use research on growth management programs and regulatory programs.

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Q. I'm going to ask you to briefly describe your prior experience working on preparing a review and EISs. Have you been involved in preparing EISs other than this one, and how many?
A. Yes. About 75 percent or so of my work as a consultant over this almost 40-year period has involved review and/or preparation of EISs. I don't have an exact count, but I've worked on over 200 EISs on a wide variety of both project and non-project actions.
Q. Can you describe some of those EISs?
A. Yeah. Starting with the projects, they've addressed just about every type of development type, ranging from big ugly infrastructure projects and light rail, road projects, Seattle monorail, to all sorts of development, including shopping centers, master plan development projects, resorts and communities, mining projects, wind farms, prisons, hospitals, schools, just about -- mixed used developments, brownfield new development, just about every type of project.
Q. In what capacity were you involved?
A. I have worked as project manager managing the preparation of the document and the consultant team. I do some technical analysis, most typically on land use and policy-related issues. I -- sometimes I wear multiple hats on the same project; sometimes I'll have a more focused role than just

WEINMAN, Richard

1 on one or the other of those bullets or both of those
 2 bullets when you said that the alternatives that have been
 3 mentioned by the proponents that do not involve upzoning
 4 would not approximate the objectives of the proposal?
 5 A. Neither one. I'm focused on the second bullet.
 6 **Q. The second bullet? All right. Well, I missed the boat**
 7 **entirely. All right.**
 8 **So the second bullet is: "Increase overall production of**
 9 **housing to help the current and projected high demand."**
 10 **All right. And do you recognize that there's more than**
 11 **one way to increase the production of housing other than --**
 12 A. Sure.
 13 **Q. -- upzoning?**
 14 A. Sure.
 15 **Q. And so is your testimony that those alternatives aren't**
 16 **reasonable because the City had basically already decided to**
 17 **do the upzoning and that's what they wanted to consider?**
 18 A. No. I mean, I do have a little bit of historical context
 19 here having worked on Northgate -- the Northgate rezone
 20 where the City at that point was still looking at extending
 21 the incentive zoning program. But I think seeing that it
 22 wasn't producing the kinds -- the number of units that it
 23 wanted and was looking in another direction. So --
 24 **Q. Are you saying that -- are you saying that upzoning is the**
 25 **only feasible means of stimulating the production of more**

1 **Q. Reasonably related to it or reasonably -- or that could**
 2 **feasibly attain or approximate the proposal's objectives?**
 3 A. Both. I think the rules say both.
 4 **Q. Where is --**
 5 A. Mr. --
 6 **Q. Where is the related to portion?**
 7 A. Mr. Weber asked me a question --
 8 **Q. Take a look at 445.**
 9 A. No, it's 440 -- wait a second -- it's 197-11-442(4), the
 10 last sentence: "The EIS content may be limited to a
 11 discussion of alternatives which have been formally proposed
 12 or which are, while not formally proposed, reasonably
 13 related to the proposed action."
 14 **Q. And I'm sorry, you said 440?**
 15 A. 442.
 16 **Q. 442, I'm sorry. All right. And so it's your view that in**
 17 **determining whether an alternative is reasonably related,**
 18 **you don't make reference to the objectives of the proposal,**
 19 **but rather you make reference to the proposal itself?**
 20 A. Well, I'm assuming the proposal --
 21 **Q. The proposal is one means --**
 22 A. -- means --
 23 **Q. -- of attaining the objectives, right?**
 24 A. The proposal is the way that the lead agency proposes to
 25 meet its objectives.

1 housing?
 2 A. No, I'm not.
 3 **Q. Okay. So you would agree that there are other options**
 4 **available for increasing overall production of housing other**
 5 **than the upzone that's addressed in this EIS?**
 6 A. Yeah, I can imagine some other approaches, theoretically.
 7 **Q. And so -- give me an example.**
 8 A. Reducing permit processing time.
 9 **Q. Right. And reducing permitting fees?**
 10 A. Reducing permitting fees. Reducing environmental
 11 requirements.
 12 **Q. And would you agree that alternatives that stimulate an**
 13 **increased overall production of housing would meet that**
 14 **objective even if they weren't mirroring the MHA proposal,**
 15 **true?**
 16 A. I'm not arguing that there are not other possible approaches
 17 that could generate affordable housing. I'm not saying
 18 that.
 19 **Q. But you're saying that the City -- you used the term "baked**
 20 **in," that the City had -- was focused on this MHA proposal**
 21 **and therefore it was reasonable to limit the EIS to that; is**
 22 **that your testimony?**
 23 A. I think the rules say that it is reasonable to limit the
 24 alternatives to a proposal and alternatives that are
 25 reasonably related to it.

1 **Q. All right. We've spent enough time on that.**
 2 **You said you were of the belief that the petitioners were**
 3 **arguing about the wisdom of the proposal, not the adequacy**
 4 **of the alternatives. Do you recall that testimony?**
 5 A. Yeah. I don't know about the word "wisdom." I think they
 6 don't like this approach for whatever reason.
 7 **Q. Do you recognize that maybe they have both of those views;**
 8 **that is, they don't like this approach and they think the**
 9 **EIS alternatives are inadequate? It's not just one or the**
 10 **other?**
 11 A. Yeah, I guess it's possible. Although I think Mr. Levitus
 12 was much more experienced and focused on the techniques and
 13 the metrics of affordable housing programs and has much less
 14 experience with SEPA. I guess he has some experience with
 15 SEPA, but I don't get the sense that he is into the kinds of
 16 details that we're talking about.
 17 **Q. Apart from Mr. Levitus, I'm speaking just more generally**
 18 **about the petitioners. Do you agree that the petitioners**
 19 **have indicated that they -- while they may have concerns**
 20 **about the wisdom of the proposal, they also are concerned**
 21 **about the adequacy of the EIS's discussion of alternatives.**
 22 **Those are -- they can have both of those views, right?**
 23 A. Yeah, you're talking about the appellants in general?
 24 **Q. Right.**
 25 A. Yes.

1 A. That --
 2 **Q. So the question is, then: Have you seen that similar**
 3 **judgment call made in other EISs?**
 4 A. I have not. I have not run into that situation before.
 5 **Q. And even outside of the area of historic resources on some**
 6 **other type of...**
 7 A. Well, yeah, I guess it would have been possible -- I'm sure
 8 somewhere along the way I had an incomplete data set and,
 9 you know, an option is to document, you know, the fact that
 10 the data set is incomplete in a footnote or a notation on
 11 the map. But, you know, still it's likely that some people
 12 are going to miss that notation or footnote and claim that
 13 the data is incomplete and misleading. So I think that is a
 14 tough call, you know, regardless of whichever way that they
 15 had gone.
 16 HEARING EXAMINER: Redirect.
 17 MR. WEBER: Thank you.

REDIRECT EXAMINATION

BY MR. WEBER:

21 **Q. So, Mr. Weinman, a couple of questions on redirect.**
 22 **Mr. Bricklin asked you a series of questions about the**
 23 **appropriate level of detail of analysis in light of the**
 24 **significance of the impact, the intensity of the impact, the**
 25 **magnitude of the impact.**

1 A. Yes, definitely.
 2 **Q. So he also asked you about this idea that non-project**
 3 **actions are on a spectrum of generality. And I want to ask**
 4 **you specifically with respect to an area-wide rezone, which**
 5 **you've testified this is, whether you've got concerns about**
 6 **whether the analysis was appropriate given that this was a**
 7 **non-project action involving an area-wide rezone?**
 8 A. Yes, I do. I mean, I think there are instances which I
 9 thought I pointed out in my responses to a question on
 10 direct that, using the aesthetics analysis as an example,
 11 that even though the analysis was not site specific and, you
 12 know, used -- you know, typical, you know, situations where
 13 there, you know, could be impacts, that there was
 14 substantial detail in the analysis.
 15 **Q. Just to clarify, you started your answer by saying, yes, I**
 16 **do. You didn't mean, yes, I do have concerns. You were --**
 17 A. Oh, no, I agree that it was sufficiently detailed.
 18 **Q. Okay. So Mr. Bricklin asked you about alternatives that**
 19 **were omitted, and you did obviously testify about some**
 20 **alternatives that you didn't think needed to be evaluated.**
 21 **I take it that you felt that the direction given by the**
 22 **series of enactments by the council was what was meaning**
 23 **that those alternatives -- for example, alternatives that**
 24 **didn't involve increase in development capacity, didn't need**
 25 **to be evaluated here?**

1 **Is it your view that the level of detail in this EIS was**
 2 **appropriate given the significance, intensity, magnitude of**
 3 **the impacts disclosed here?**
 4 A. Yes. I think he was asking me questions that were, you
 5 know, general and based -- you know, trying to get to how
 6 you deal with large areas, you know, greater impacts and how
 7 greater (inaudible) impacts and how you deal with that in
 8 terms of the level of detail. I was not suggesting that the
 9 level of detail in this EIS was not correct. I think we
 10 were engaging on a general theoretical, you know, SEPA
 11 level.
 12 **Q. So similarly he asked you some questions about the baseline**
 13 **information and the affected environment.**
 14 **Do you think the EIS discussion of baseline and existing**
 15 **conditions was accurate and complete enough to inform the**
 16 **decision maker here?**
 17 A. Yes, I do.
 18 **Q. Mr. Bricklin also asked you whether the alternatives were**
 19 **discussed at the appropriate level given the level of**
 20 **abstraction. And I'm not sure it was entirely sure what he**
 21 **meant by "abstraction." But I just want to ask you,**
 22 **accepting his premise that there could be various levels of**
 23 **abstraction, do you think the alternatives were discussed at**
 24 **the appropriate level, given the overall context in which**
 25 **this proposal arose and was placed?**

1 A. I think based on that section of the WAC that we talk
 2 through that had been done before, is a level of planning
 3 that limits a range of alternatives.
 4 **Q. So Mr. Bricklin then asked you some questions about sort of**
 5 **reshaping the alternatives to put more development capacity**
 6 **in one place and less in another.**
 7 **Is it the case that there's perhaps an almost infinite**
 8 **number of combinations and potentialities of how you could**
 9 **allocate development capacity in a situation like this?**
 10 A. Yeah, definitely. I think he was trying to get me to say
 11 that there was too much outside of urban villages. But, you
 12 know, I think that there are an almost infinite number, you
 13 know, of ways to, you know, slice and dice it. And I think
 14 it's difficult, you know, to get to a point of saying, you
 15 know, one approach, you know, numerically is -- you know, is
 16 too much when, you know, the language -- when the policy
 17 language in the code -- rather in the comprehensive plan
 18 talks in terms of, you know, most or the majority.
 19 **Q. So going to the specific question he raised, he was, I**
 20 **think, suggesting that there are many, many reasonable**
 21 **alternatives. And I guess my question for you is --**
 22 MR. BRICKLIN: Objection. I don't think that's a fair
 23 characterization of the question.
 24 MR. WEBER: Okay. Well, then I'll rephrase it.
 25 **Q. (By Mr. Weber) So the extent that there could be different**